

1 A bill to be entitled
2 An act relating to insurance; amending s. 319.30,
3 F.S.; revising the requirements for certain electronic
4 signatures submitted through insurance companies;
5 amending s. 440.12, F.S.; providing that an employee
6 receiving workers' compensation payments may authorize
7 a carrier to transmit compensation payments to a
8 licensed money transmitter; amending s. 440.20, F.S.;
9 specifying that the carrier's transmission of
10 compensation with a licensed money transmitter to the
11 employee's account satisfies the carrier's obligation
12 to pay compensation directly to the employee; amending
13 s. 624.155, F.S.; providing requirements for the
14 delivery of certain violation notices to insurers;
15 revising the circumstances under which an action may
16 not lie; revising the timeframe during which the
17 statute of limitations for certain actions for civil
18 remedy is tolled; amending ss. 624.307 and 624.315,
19 F.S.; authorizing the releases of specified
20 information obtained by the Department of Financial
21 Services and the Office of Insurance Regulation;
22 providing an exception; amending s. 627.062, F.S.;
23 requiring an extension of the office's review period
24 of insurance rate standards under certain
25 circumstances; deleting obsolete language; prohibiting

26 | the office from disapproving a rate for homeowners'
 27 | insurance under certain circumstances; amending ss.
 28 | 627.0651 and 627.410, F.S.; requiring an extension of
 29 | the office's review period of insurance rate standards
 30 | under certain circumstances; amending s. 627.419,
 31 | F.S.; limiting construction of liability insurance law
 32 | in certain circumstances; amending s. 627.70132, F.S.;
 33 | revising the types of claims, supplemental claims, or
 34 | reopened claims under a property insurance policy that
 35 | are barred unless notice is given to the insurer
 36 | within a specified timeframe; revising the timeframe
 37 | of such claims; revising the definition of the terms
 38 | "supplemental claim" and "reopened claim"; amending s.
 39 | 627.7015, F.S.; revising the timeframe for insurers'
 40 | notification of certain mediation program; conforming
 41 | provisions to changes made by the act; amending s.
 42 | 627.714, F.S.; specifying the maximum amount of loss
 43 | assessment coverage for certain unit owners; providing
 44 | an effective date.

45 |
 46 | Be It Enacted by the Legislature of the State of Florida:

47 |
 48 | Section 1. Paragraph (d) of subsection (3) of section
 49 | 319.30, Florida Statutes, is amended to read:

50 | 319.30 Definitions; dismantling, destruction, change of

51 identity of motor vehicle or mobile home; salvage.—

52 (3)

53 (d) An electronic signature that is consistent with
 54 chapter 668 satisfies any signature required under this
 55 subsection, except that an electronic signature on an odometer
 56 disclosure submitted through an insurance company must be
 57 executed using an electronic signature, as defined in s.
 58 668.003(4), that uses a system providing an Identity Assurance
 59 Level, Authenticator Assurance Level, and Federation Assurance
 60 Level, as described in the National Institute of Standards and
 61 Technology Special Publication 800-63-3, as of December 1, 2017,
 62 that are equivalent to or greater than:

63 ~~1.~~ level 2, for each level, for a certificate of
 64 destruction or.

65 ~~2. Level 3, for each level,~~ for a salvage certificate of
 66 title.

67 Section 2. Paragraph (a) of subsection (1) of section
 68 440.12, Florida Statutes, is amended to read:

69 440.12 Time for commencement and limits on weekly rate of
 70 compensation.—

71 (1) Compensation is not allowed for the first 7 days of
 72 the disability, except for benefits provided under s. 440.13.
 73 However, if the injury results in more than 21 days of
 74 disability, compensation is allowed from the commencement of the
 75 disability.

76 (a) All weekly compensation payments, except for the first
77 payment, must be paid by check or, if authorized by the
78 employee, on a prepaid card pursuant to paragraph (b) or
79 deposited directly into the employee's account at a financial
80 institution as defined in s. 655.005 or transmitted to the
81 employee's account with a money transmitter licensed under part
82 II of chapter 560.

83 Section 3. Paragraph (a) of subsection (1) and paragraph
84 (a) of subsection (6) of section 440.20, Florida Statutes, are
85 amended to read:

86 440.20 Time for payment of compensation and medical bills;
87 penalties for late payment.—

88 (1)(a) Unless the carrier denies compensability or
89 entitlement to benefits, the carrier shall pay compensation
90 directly to the employee as required by ss. 440.14, 440.15, and
91 440.16, in accordance with those sections. Upon receipt of the
92 employee's authorization as provided for in s. 440.12(1)(a), the
93 carrier's obligation to pay compensation directly to the
94 employee is satisfied when the carrier directly deposits, by
95 electronic transfer or other means, compensation into the
96 employee's account at a financial institution as defined in s.
97 655.005 or onto a prepaid card in accordance with s. 440.12(1)
98 or transmits the employee's compensation to the employee's
99 account with a money transmitter licensed under part II of
100 chapter 560. Compensation by direct deposit or through the use

101 of a prepaid card or through transmission is considered paid on
102 the date the funds become available for withdrawal by the
103 employee.

104 (6) (a) If any installment of compensation for death or
105 dependency benefits, or compensation for disability benefits
106 payable without an award is not paid within 7 days after it
107 becomes due, as provided in subsection (2), subsection (3), or
108 subsection (4), there shall be added to such unpaid installment
109 a penalty of an amount equal to 20 percent of the unpaid
110 installment, which shall be paid at the same time as, but in
111 addition to, such installment of compensation. This penalty
112 shall not apply for late payments resulting from conditions over
113 which the employer or carrier had no control. When any
114 installment of compensation payable without an award has not
115 been paid within 7 days after it became due and the claimant
116 concludes the prosecution of the claim before a judge of
117 compensation claims without having specifically claimed
118 additional compensation in the nature of a penalty under this
119 section, the claimant will be deemed to have acknowledged that,
120 owing to conditions over which the employer or carrier had no
121 control, such installment could not be paid within the period
122 prescribed for payment and to have waived the right to claim
123 such penalty. However, during the course of a hearing, the judge
124 of compensation claims shall on her or his own motion raise the
125 question of whether such penalty should be awarded or excused.

126 The department may assess without a hearing the penalty against
127 either the employer or the carrier, depending upon who was at
128 fault in causing the delay. The insurance policy cannot provide
129 that this sum will be paid by the carrier if the department or
130 the judge of compensation claims determines that the penalty
131 should be paid by the employer rather than the carrier. Any
132 additional installment of compensation paid by the carrier
133 pursuant to this section shall be paid directly to the employee
134 by check or, if authorized by the employee, by direct deposit
135 into the employee's account at a financial institution or by
136 transmission to the employee's account with a money transmitter
137 licensed under part II of chapter 560.

138 Section 4. Subsection (3) of section 624.155, Florida
139 Statutes, is amended to read:

140 624.155 Civil remedy.—

141 (3) (a) As a condition precedent to bringing an action
142 under this section, the department and the authorized insurer
143 must have been given 60 days' written notice of the violation.
144 Notice to the authorized insurer must be delivered to the name
145 and address designated by the insurer under s. 624.422(2).

146 (b) The notice shall be on a form provided by the
147 department and shall state with specificity the following
148 information, and such other information as the department may
149 require:

150 1. The statutory provision, including the specific

151 language of the statute, which the authorized insurer allegedly
152 violated.

153 2. The facts and circumstances giving rise to the
154 violation.

155 3. The name of any individual involved in the violation.

156 4. Reference to specific policy language that is relevant
157 to the violation, if any. If the person bringing the civil
158 action is a third party claimant, she or he shall not be
159 required to reference the specific policy language if the
160 authorized insurer has not provided a copy of the policy to the
161 third party claimant pursuant to written request.

162 5. A statement that the notice is given in order to
163 perfect the right to pursue the civil remedy authorized by this
164 section.

165 (c) No action shall lie if, within 60 days after the
166 authorized insurer receives the ~~filing~~ notice pursuant to
167 paragraph (a), the damages are paid or the circumstances giving
168 rise to the violation are corrected.

169 (d) The authorized insurer that is the recipient of a
170 notice filed pursuant to this section shall report to the
171 department on the disposition of the alleged violation.

172 (e) The applicable statute of limitations for an action
173 under this section shall be tolled for a period of:

174 1. Sixty days after the date on which appraisal is invoked
175 by any party in a residential property insurance claim; and

176 2. Sixty-five ~~65~~ days after the date on which ~~by the~~
177 ~~mailing of~~ the notice required under ~~by~~ this subsection or the
178 ~~mailing of a~~ subsequent notice required under ~~by~~ this subsection
179 is mailed.

180 (f) A notice required under this subsection may not be
181 filed within 60 days after appraisal is invoked by any party in
182 a residential property insurance claim.

183 Section 5. Subsection (4) of section 624.307, Florida
184 Statutes, is amended to read:

185 624.307 General powers; duties.—

186 (4) The department and office may each collect, propose,
187 publish, and disseminate information relating to the subject
188 matter of any duties imposed upon it by law. Aggregate
189 information published or disseminated by the department or
190 office under this subsection may include information covered by
191 a notice of trade secret under s. 624.4213(1), unless the
192 information can be individually extrapolated, in which case the
193 information may not be published or disseminated by the
194 department or the office.

195 Section 6. Subsection (4) is added to section 624.315,
196 Florida Statutes, to read:

197 624.315 Department; annual report.—

198 (4) The office may include information covered by a notice
199 of trade secret under s. 624.4213(1) in the report under
200 subsection (1) or make the information available under

201 subsection (2), unless the information can be individually
202 extrapolated, in which case the information may not be published
203 or disseminated by the department or the office.

204 Section 7. Paragraphs (a) and (j) of subsection (2) of
205 section 627.062, Florida Statutes, are amended to read:

206 627.062 Rate standards.—

207 (2) As to all such classes of insurance:

208 (a) Insurers or rating organizations shall establish and
209 use rates, rating schedules, or rating manuals that allow the
210 insurer a reasonable rate of return on the classes of insurance
211 written in this state. A copy of rates, rating schedules, rating
212 manuals, premium credits or discount schedules, and surcharge
213 schedules, and changes thereto, must be filed with the office
214 under one of the following procedures:

215 1. If the filing is made at least 90 days before the
216 proposed effective date and is not implemented during the
217 office's review of the filing and any proceeding and judicial
218 review, such filing is considered a "file and use" filing. In
219 such case, the office shall finalize its review by issuance of a
220 notice of intent to approve or a notice of intent to disapprove
221 within 90 days after receipt of the filing. The notice of intent
222 to approve and the notice of intent to disapprove constitute
223 agency action for purposes of the Administrative Procedure Act.
224 Requests for supporting information, requests for mathematical
225 or mechanical corrections, or notification to the insurer by the

226 office of its preliminary findings does not toll the 90-day
227 period during any such proceedings and subsequent judicial
228 review. The rate shall be deemed approved if the office does not
229 issue a notice of intent to approve or a notice of intent to
230 disapprove within 90 days after receipt of the filing.

231 2. If the filing is not made in accordance with
232 subparagraph 1., such filing must be made as soon as
233 practicable, but within 30 days after the effective date, and is
234 considered a "use and file" filing. An insurer making a "use and
235 file" filing is potentially subject to an order by the office to
236 return to policyholders those portions of rates found to be
237 excessive, as provided in paragraph (h).

238 3. If the last day of the 90-day timeframe for the
239 issuance of a notice of intent under subparagraph 1. ends on a
240 weekend or a holiday specified in s. 110.117, the closure of the
241 office's review period shall be extended until the conclusion of
242 the next business day.

243 ~~3. For all property insurance filings made or submitted~~
244 ~~after January 25, 2007, but before May 1, 2012, an insurer~~
245 ~~seeking a rate that is greater than the rate most recently~~
246 ~~approved by the office shall make a "file and use" filing. For~~
247 ~~purposes of this subparagraph, motor vehicle collision and~~
248 ~~comprehensive coverages are not considered property coverages.~~

249 (j) With respect to residential property insurance rate
250 filings:7

251 1. The rate filing must account for mitigation measures
252 undertaken by policyholders to reduce hurricane losses.

253 2. The office may not disapprove a rate for homeowners'
254 insurance solely because the rate filing uses a modeling
255 indication that is the weighted or straight average of two or
256 more models currently found to be accurate or reliable pursuant
257 to s. 627.0628.

258
259 The provisions of this subsection do not apply to workers'
260 compensation, employer's liability insurance, and motor vehicle
261 insurance.

262 Section 8. Paragraph (a) of subsection (1) of section
263 627.0651, Florida Statutes, is amended to read:

264 627.0651 Making and use of rates for motor vehicle
265 insurance.—

266 (1) Insurers shall establish and use rates, rating
267 schedules, or rating manuals to allow the insurer a reasonable
268 rate of return on motor vehicle insurance written in this state.
269 A copy of rates, rating schedules, and rating manuals, and
270 changes therein, shall be filed with the office under one of the
271 following procedures:

272 (a)1. If the filing is made at least 60 days before the
273 proposed effective date and the filing is not implemented during
274 the office's review of the filing and any proceeding and
275 judicial review, such filing shall be considered a "file and

276 use" filing. In such case, the office shall initiate proceedings
277 to disapprove the rate and so notify the insurer or shall
278 finalize its review within 60 days after receipt of the filing.
279 Notification to the insurer by the office of its preliminary
280 findings shall toll the 60-day period during any such
281 proceedings and subsequent judicial review. The rate shall be
282 deemed approved if the office does not issue notice to the
283 insurer of its preliminary findings within 60 days after the
284 filing.

285 2. If the last day of the 60-day timeframe for the
286 office's notification or review finalization under subparagraph
287 1. ends on a weekend or a holiday specified in s. 110.117, the
288 closure of the office's review period shall be extended until
289 the conclusion of the next business day.

290 Section 9. Subsection (2) of section 627.410, Florida
291 Statutes, is amended to read:

292 627.410 Filing, approval of forms.—

293 (2)(a) Every such filing must be made at least 30 days in
294 advance of any such use or delivery. At the expiration of the 30
295 days, the form filed will be deemed approved unless prior
296 thereto it has been affirmatively approved or disapproved by
297 order of the office. The approval of such form by the office
298 constitutes a waiver of any unexpired portion of such waiting
299 period. The office may extend the period within which it may
300 affirmatively approve or disapprove such form by up to 15 days

301 by giving notice of such extension before expiration of the
 302 initial 30-day period. At the expiration of such extended
 303 period, and in the absence of prior affirmative approval or
 304 disapproval, such form shall be deemed approved.

305 (b) If the last day of the initial 30-day period, or the
 306 last day of the 15-day extension authorized by the office, under
 307 paragraph (a) ends on a weekend or a holiday specified in s.
 308 110.117, the closure of the review period shall be extended
 309 until the conclusion of the next business day.

310 Section 10. Subsection (10) is added to section 627.419,
 311 Florida Statutes, to read:

312 627.419 Construction of policies.—

313 (10) A secondary legal authority does not constitute the
 314 law or public policy of this state if its statement of the law
 315 relating to liability insurance is in conflict with:

316 (a) The Constitution of the United States or the State
 317 Constitution;

318 (b) A statute of this state;

319 (c) This state's case law precedent; or

320 (d) Other common law that may have been adopted by this
 321 state.

322 Section 11. Section 627.70132, Florida Statutes, is
 323 amended to read:

324 627.70132 Notice of property insurance ~~windstorm or~~
 325 ~~hurricane~~ claim.—Except for a sinkhole loss as defined in

326 627.706(2), a claim, supplemental claim, or reopened claim under
327 an insurance policy that provides property insurance, as defined
328 in s. 624.604, ~~for loss or damage caused by the peril of~~
329 ~~windstorm or hurricane~~ is barred unless notice of the claim,
330 supplemental claim, or reopened claim is ~~was~~ given to the
331 insurer in accordance with the terms of the policy within 3
332 years after the date of loss ~~the hurricane first made landfall~~
333 ~~or the windstorm caused the covered damage~~. For purposes of this
334 section, the term "supplemental claim" or "reopened claim" means
335 any additional claim for recovery from the insurer for losses
336 ~~from the same hurricane or windstorm~~ which the insurer has
337 previously adjusted pursuant to the initial claim. This section
338 does not affect any applicable limitation on civil actions
339 provided in s. 95.11 for claims, supplemental claims, or
340 reopened claims timely filed under this section.

341 Section 12. Subsection (2) and paragraph (e) of subsection
342 (9) of section 627.7015, Florida Statutes, are amended to read:

343 627.7015 Alternative procedure for resolution of disputed
344 property insurance claims.—

345 (2) ~~At the time of issuance and renewal of a policy or at~~
346 ~~the time a first party claim within the scope of this section is~~
347 ~~filed by the policyholder,~~ The insurer shall notify the
348 policyholder of its right to participate in the mediation
349 program under this section and shall choose any of the following
350 times to provide the notification:

- 351 (a) Upon the issuance and renewal of a policy; or
 352 (b) At the time the policyholder:
 353 1. Disputes a claim; or
 354 2. Files a first-party claim within the scope of this
 355 section.

356
 357 The department shall prepare a consumer information pamphlet for
 358 distribution to persons participating in mediation.

359 (9) For purposes of this section, the term "claim" refers
 360 to any dispute between an insurer and a policyholder relating to
 361 a material issue of fact other than a dispute:

362 (e) With respect to a property ~~windstorm or hurricane~~ loss
 363 that does not comply with s. 627.70132.

364 Section 13. Subsection (2) of section 627.714, Florida
 365 Statutes, is amended to read:

366 627.714 Residential condominium unit owner coverage; loss
 367 assessment coverage required.—

368 (2) The maximum amount of any unit owner's loss assessment
 369 coverage that can be assessed for any loss shall be an amount
 370 equal to that unit owner's loss assessment coverage limit in
 371 effect 1 day before the date of the occurrence that gave rise to
 372 the loss. Such coverage applies to any loss assessment
 373 regardless of the date of the assessment by the association. Any
 374 changes to the limits of a unit owner's coverage for loss
 375 assessments made on or after the day before the date of the

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376 | occurrence do ~~are~~ not apply ~~applicable~~ to such loss.

377 | Section 14. This act shall take effect upon becoming a

378 | law.