

1 A bill to be entitled

2 An act relating to insurance claims; creating s.  
3 627.4225, F.S.; providing requirements under a  
4 property insurance policy for the post-loss assignment  
5 of claims or policy provisions not related to  
6 liability coverage; providing requirements for an  
7 agreement to assign such claims; providing limitations  
8 on an assignee's rights to collect money from, sue, or  
9 claim a lien on the property of, a policyholder;  
10 amending s. 626.9541, F.S.; revising the timeframe for  
11 the affirming or denying of coverage of claims and  
12 providing a written statement that the claim is being  
13 investigated; revising the timeframe for paying  
14 undisputed benefits owed under first-party property  
15 insurance policies; amending s. 627.062, F.S.;  
16 conforming a provision to changes made by the act;  
17 amending s. 627.70131, F.S.; authorizing an insurer to  
18 require notice of loss within a specified time;  
19 revising the timeframes for an insurer to acknowledge  
20 communications, begin investigations, and pay or deny  
21 claims; authorizing the insurer to limit the scope of  
22 certain repairs; amending s. 627.7142, F.S.; revising  
23 the Homeowner Claims Bill of Rights to conform to  
24 changes made by the act; providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

27  
28 Section 1. Section 627.4225, Florida Statutes, is created  
29 to read:

30 627.4225 Assignment of post-loss claim.—

31 (1) This section sets forth the requirements to assign  
32 post-loss claims under a property insurance policy. This section  
33 does not apply to liability coverages in the policy or to the  
34 assignment of a claim to a subsequent purchaser of the property  
35 who acquires insurable interest following a loss.

36 (2) A policyholder who incurs a covered loss may not  
37 assign a post-loss claim, except for payment of the reasonable  
38 costs incurred for necessary repairs to protect the property  
39 from further damage as provided in the policy, until the  
40 policyholder has given notice of the loss to the insurer or the  
41 insurer's agent as required by the policy.

42 (3) A policyholder may cancel an assignment agreement  
43 without penalty or obligation, except for payment of the  
44 reasonable costs incurred for necessary repairs to protect the  
45 property from further damage, within 3 business days after the  
46 date the agreement is executed or received by the insurer,  
47 whichever is later. However, if the agreement is executed to  
48 perform work resulting from an event for which the Governor has  
49 declared a state of emergency and is executed within 1 year  
50 after such declaration, the insured has 5 business days after  
51 the date the agreement is executed or received by the insurer,  
52 whichever is later, to cancel the agreement.

53       (4) The assignment agreement must contain the following  
54 notice in uppercase 14-point type: YOU ARE AGREEING TO GIVE UP  
55 CERTAIN RIGHTS YOU HAVE UNDER YOUR INSURANCE POLICY TO A THIRD  
56 PARTY. PLEASE READ AND UNDERSTAND THIS DOCUMENT BEFORE SIGNING  
57 IT. YOU HAVE THE RIGHT TO CANCEL THIS AGREEMENT WITHOUT PENALTY  
58 OR OBLIGATION, EXCEPT FOR PAYMENT OF THE REASONABLE COSTS  
59 INCURRED FOR NECESSARY REPAIRS TO PROTECT THE PROPERTY FROM  
60 FURTHER DAMAGE, WITHIN 3 BUSINESS DAYS AFTER THE DATE THIS  
61 AGREEMENT IS EXECUTED OR RECEIVED BY THE INSURER, WHICHEVER IS  
62 LATER. IF WORK IS BEING PERFORMED AS A RESULT OF DAMAGE CAUSED  
63 BY AN EVENT FOR WHICH THE GOVERNOR HAS DECLARED A STATE OF  
64 EMERGENCY AND IS PERFORMED WITHIN 1 YEAR AFTER SUCH DECLARATION,  
65 YOU HAVE 5 DAYS AFTER THE DATE THE AGREEMENT IS EXECUTED OR  
66 RECEIVED BY THE INSURER, WHICHEVER IS LATER, TO CANCEL. THIS  
67 AGREEMENT DOES NOT CHANGE YOUR OBLIGATION TO PERFORM THE DUTIES  
68 UNDER YOUR PROPERTY INSURANCE POLICY.

69       (5) Within 3 business days after the agreement is  
70 executed, the assignee must deliver a copy of the executed  
71 assignment agreement to the insurer or the insurer's agent at  
72 the address required by the policy for delivery of such  
73 agreements. Delivery shall be by:

74       (a) Certified mail, return receipt requested;

75       (b) Personal, overnight, or electronic delivery, with  
76 evidence of delivery in the form of a receipt or other paper or  
77 electronic acknowledgment by the insurer or the insurer's agent;  
78 or

79           (c) As required by the policy.

80           (6) By executing an assignment agreement, the assignee  
 81 agrees to comply with all duties after loss, as provided in the  
 82 policy, that are applicable to the claim and the resulting  
 83 benefits of coverage.

84           (7) An assignment agreement may not:

85           (a) Divest the policyholder of his or her obligation under  
 86 the policy to comply with all relevant duties after loss;

87           (b) Divest the policyholder of the right to determine the  
 88 scope of repairs;

89           (c) Authorize the assignee to perform any services not  
 90 specifically approved by the policyholder in a separate contract  
 91 defining the scope and estimated cost of such repairs; or

92           (d) Authorize the assignee to receive payment that exceeds  
 93 the cost for services and materials as provided under the  
 94 policy.

95           (8) A policyholder who assigns the right to receive the  
 96 benefit of payment under the policy is not liable to the  
 97 assignee for services and materials for which the insurer is  
 98 liable, and the assignee may not collect or attempt to collect  
 99 money from, maintain any action at law against, or claim a lien  
 100 on the real property of, a policyholder or report a policyholder  
 101 to a credit agency for payment for which the insurer is liable  
 102 under the policy. However, this subsection does not prohibit the  
 103 assignee from collecting or attempting to collect money from,  
 104 maintaining an action at law against, or claiming a lien on the

105 real property of, a policyholder or reporting a policyholder to  
 106 a credit agency for payment of the amount of the insurance  
 107 deductible or any amount attributable to services and materials  
 108 ordered by the policyholder which are not covered under the  
 109 insurance policy.

110 Section 2. Paragraph (i) of subsection (1) of section  
 111 626.9541, Florida Statutes, is amended to read:

112 626.9541 Unfair methods of competition and unfair or  
 113 deceptive acts or practices defined.—

114 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE  
 115 ACTS.—The following are defined as unfair methods of competition  
 116 and unfair or deceptive acts or practices:

117 (i) Unfair claim settlement practices.—

118 1. Attempting to settle claims on the basis of an  
 119 application, when serving as a binder or intended to become a  
 120 part of the policy, or any other material document which was  
 121 altered without notice to, or knowledge or consent of, the  
 122 insured;

123 2. A material misrepresentation made to an insured or any  
 124 other person having an interest in the proceeds payable under  
 125 such contract or policy, for the purpose and with the intent of  
 126 effecting settlement of such claims, loss, or damage under such  
 127 contract or policy on less favorable terms than those provided  
 128 in, and contemplated by, such contract or policy; or

129 3. Committing or performing with such frequency as to  
 130 indicate a general business practice any of the following:

131 a. Failing to adopt and implement standards for the proper  
132 investigation of claims;

133 b. Misrepresenting pertinent facts or insurance policy  
134 provisions relating to coverages at issue;

135 c. Failing to acknowledge and act promptly upon  
136 communications with respect to claims;

137 d. Denying claims without conducting reasonable  
138 investigations based upon available information;

139 e. Failing to affirm or deny full or partial coverage of  
140 claims, and, as to partial coverage, the dollar amount or extent  
141 of coverage, or failing to provide a written statement that the  
142 claim is being investigated, upon the written request of the  
143 insured within 20 ~~30~~ days after proof-of-loss statements have  
144 been completed;

145 f. Failing to promptly provide a reasonable explanation in  
146 writing to the insured of the basis in the insurance policy, in  
147 relation to the facts or applicable law, for denial of a claim  
148 or for the offer of a compromise settlement;

149 g. Failing to promptly notify the insured of any  
150 additional information necessary for the processing of a claim;

151 ~~or~~

152 h. Failing to clearly explain the nature of the requested  
153 information and the reasons why such information is necessary;

154 or-

155 i. Failing to pay personal injury protection insurance  
156 claims within the time periods required by s. 627.736(4)(b). The

157 office may order the insurer to pay restitution to a  
 158 policyholder, medical provider, or other claimant, including  
 159 interest at a rate consistent with the amount set forth in s.  
 160 55.03(1), for the time period within which an insurer fails to  
 161 pay claims as required by law. Restitution is in addition to any  
 162 other penalties allowed by law, including, but not limited to,  
 163 the suspension of the insurer's certificate of authority.

164 4. Failing to pay undisputed amounts of partial or full  
 165 benefits owed under first-party property insurance policies  
 166 within 60 ~~90~~ days after an insurer receives notice of a  
 167 residential property insurance claim, determines the amounts of  
 168 partial or full benefits, and agrees to coverage, unless payment  
 169 of the undisputed benefits is prevented by an act of God,  
 170 prevented by the impossibility of performance, or due to actions  
 171 by the insured or claimant that constitute fraud, lack of  
 172 cooperation, or intentional misrepresentation regarding the  
 173 claim for which benefits are owed.

174 Section 3. Subsection (10) of section 627.062, Florida  
 175 Statutes, is amended to read:

176 627.062 Rate standards.—

177 (10) Any interest paid pursuant to s. 627.70131(6)  
 178 ~~627.70131(5)~~ may not be included in the insurer's rate base and  
 179 may not be used to justify a rate or rate change.

180 Section 4. Section 627.70131, Florida Statutes, is amended  
 181 to read:

182 627.70131 Notice of loss; insurer's duty to acknowledge

183 | communications regarding claims; investigation.—

184 |       (1) An insurer may require notice of loss to be reported  
 185 | as soon as practicable, but not less than 72 hours, after the  
 186 | insured knew or should have known that the loss occurred.

187 |       (2)~~(1)~~(a) Upon an insurer's receiving a communication with  
 188 | respect to a claim, the insurer shall, within 10 ~~14~~ calendar  
 189 | days, review and acknowledge receipt of such communication  
 190 | unless payment is made within that period of time or unless the  
 191 | failure to acknowledge is caused by factors beyond the control  
 192 | of the insurer which reasonably prevent such acknowledgment. If  
 193 | the acknowledgment is not in writing, a notification indicating  
 194 | acknowledgment shall be made in the insurer's claim file and  
 195 | dated. A communication made to or by an agent of an insurer with  
 196 | respect to a claim shall constitute communication to or by the  
 197 | insurer.

198 |       (b) As used in this subsection, the term "agent" means any  
 199 | person to whom an insurer has granted authority or  
 200 | responsibility to receive or make such communications with  
 201 | respect to claims on behalf of the insurer.

202 |       (c) This subsection does ~~shall~~ not apply to claimants  
 203 | represented by counsel beyond those communications necessary to  
 204 | provide forms and instructions.

205 |       (3)~~(2)~~ Such acknowledgment shall be responsive to the  
 206 | communication. If the communication constitutes a notification  
 207 | of a claim, unless the acknowledgment reasonably advises the  
 208 | claimant that the claim appears not to be covered by the



209 insurer, the acknowledgment shall provide necessary claim forms,  
 210 and instructions, including an appropriate telephone number.

211 ~~(4)~~~~(3)~~ Unless otherwise provided by the policy of  
 212 insurance or by law, within 7 ~~10~~ working days after an insurer  
 213 receives proof of loss statements, the insurer shall begin such  
 214 investigation as is reasonably necessary unless the failure to  
 215 begin such investigation is caused by factors beyond the control  
 216 of the insurer which reasonably prevent the commencement of such  
 217 investigation. An insurer may limit the scope of repairs that  
 218 may be undertaken without prior approval before the insurer  
 219 conducts an onsite inspection. However, the insurer must allow a  
 220 policyholder to make any repairs necessary to protect the  
 221 property from further damage.

222 ~~(5)~~~~(4)~~ For purposes of this section, the term "insurer"  
 223 means any residential property insurer.

224 ~~(6)~~~~(5)~~(a) Within 60 ~~90~~ days after an insurer receives  
 225 notice of an initial, reopened, or supplemental property  
 226 insurance claim from a policyholder, the insurer shall pay or  
 227 deny such claim or a portion of the claim unless the failure to  
 228 pay is caused by factors beyond the control of the insurer which  
 229 reasonably prevent such payment. Any payment of an initial or  
 230 supplemental claim or portion of such claim made 60 ~~90~~ days  
 231 after the insurer receives notice of the claim, or made more  
 232 than 15 days after there are no longer factors beyond the  
 233 control of the insurer which reasonably prevented such payment,  
 234 whichever is later, bears interest at the rate set forth in s.

235 55.03. Interest begins to accrue from the date the insurer  
 236 receives notice of the claim. The provisions of this subsection  
 237 may not be waived, voided, or nullified by the terms of the  
 238 insurance policy. If there is a right to prejudgment interest,  
 239 the insured shall select whether to receive prejudgment interest  
 240 or interest under this subsection. Interest is payable when the  
 241 claim or portion of the claim is paid. Failure to comply with  
 242 this subsection constitutes a violation of this code. However,  
 243 failure to comply with this subsection does not form the sole  
 244 basis for a private cause of action.

245 (b) Notwithstanding subsection (5) ~~(4)~~, for purposes of  
 246 this subsection, the term "claim" means any of the following:

247 1. A claim under an insurance policy providing residential  
 248 coverage as defined in s. 627.4025(1);

249 2. A claim for structural or contents coverage under a  
 250 commercial property insurance policy if the insured structure is  
 251 10,000 square feet or less; or

252 3. A claim for contents coverage under a commercial tenant  
 253 policy if the insured premises is 10,000 square feet or less.

254 (c) This subsection does ~~shall~~ not apply to claims under  
 255 an insurance policy covering nonresidential commercial  
 256 structures or contents in more than one state.

257 Section 5. Section 627.7142, Florida Statutes, is amended  
 258 to read:

259 627.7142 Homeowner Claims Bill of Rights.—An insurer  
 260 issuing a personal lines residential property insurance policy

261 in this state must provide a Homeowner Claims Bill of Rights to  
 262 a policyholder within 10 ~~14~~ days after receiving an initial  
 263 communication with respect to a claim, unless the claim follows  
 264 an event that is the subject of a declaration of a state of  
 265 emergency by the Governor. The purpose of the bill of rights is  
 266 to summarize, in simple, nontechnical terms, existing Florida  
 267 law regarding the rights of a personal lines residential  
 268 property insurance policyholder who files a claim of loss. The  
 269 Homeowner Claims Bill of Rights is specific to the claims  
 270 process and does not represent all of a policyholder's rights  
 271 under Florida law regarding the insurance policy. The Homeowner  
 272 Claims Bill of Rights does not create a civil cause of action by  
 273 any individual policyholder or class of policyholders against an  
 274 insurer or insurers. The failure of an insurer to properly  
 275 deliver the Homeowner Claims Bill of Rights is subject to  
 276 administrative enforcement by the office but is not admissible  
 277 as evidence in a civil action against an insurer. The Homeowner  
 278 Claims Bill of Rights does not enlarge, modify, or contravene  
 279 statutory requirements, including, but not limited to, ss.  
 280 626.854, 626.9541, 627.4225, 627.70131, 627.7015, and 627.7074,  
 281 and does not prohibit an insurer from exercising its right to  
 282 repair damaged property in compliance with the terms of an  
 283 applicable policy or ss. 627.7011(5)(e) and 627.702(7). The  
 284 Homeowner Claims Bill of Rights must state:

HOMEOWNER CLAIMS

BILL OF RIGHTS

287 This Bill of Rights is specific to the claims process and does  
 288 not represent all of your rights under Florida law regarding  
 289 your policy. There are also exceptions to the stated timelines  
 290 when conditions are beyond your insurance company's control.  
 291 This document does not create a civil cause of action by an  
 292 individual policyholder, or a class of policyholders, against an  
 293 insurer or insurers and does not prohibit an insurer from  
 294 exercising its right to repair damaged property in compliance  
 295 with the terms of an applicable policy.

296 YOU HAVE THE RIGHT TO:

- 297 1. Receive from your insurance company an acknowledgment  
 298 of your reported claim within 10 ~~14~~ days after the time you  
 299 communicated the claim.
- 300 2. Upon written request, receive from your insurance  
 301 company within 20 ~~30~~ days after you have submitted a  
 302 complete proof-of-loss statement to your insurance company,  
 303 confirmation that your claim is covered in full, partially  
 304 covered, or denied, or receive a written statement that  
 305 your claim is being investigated.
- 306 3. Within 60 ~~90~~ days, subject to any dual interest noted  
 307 in the policy, receive full settlement payment for your  
 308 claim or payment of the undisputed portion of your claim,  
 309 or your insurance company's denial of your claim.
- 310 4. Free mediation of your disputed claim by the Florida  
 311 Department of Financial Services, Division of Consumer  
 312 Services, under most circumstances and subject to certain

313 restrictions.

314 5. Neutral evaluation of your disputed claim, if your  
 315 claim is for damage caused by a sinkhole and is covered by  
 316 your policy.

317 6. Contact the Florida Department of Financial Services,  
 318 Division of Consumer Services' toll-free helpline for  
 319 assistance with any insurance claim or questions pertaining  
 320 to the handling of your claim. You can reach the Helpline  
 321 by phone at...(toll-free phone number)..., or you can seek  
 322 assistance online at the Florida Department of Financial  
 323 Services, Division of Consumer Services' website  
 324 at...(website address)....

325 YOU ARE ADVISED TO:

326 1. Contact your insurance company before entering into any  
 327 contract for repairs to confirm any managed repair policy  
 328 provisions or optional preferred vendors.

329 2. Carefully read any agreement that assigns the benefit  
 330 of payment or other rights under your policy to a third  
 331 party. You retain the obligation to comply with all duties  
 332 under your insurance policy related to the loss.

333 ~~3.2.~~ Make and document emergency repairs that are  
 334 necessary to prevent further damage. Keep the damaged  
 335 property, if feasible, keep all receipts, and take  
 336 photographs of damage before and after any repairs.

337 ~~4.3.~~ Carefully read any contract that requires you to pay  
 338 out-of-pocket expenses or a fee that is based on a

339 percentage of the insurance proceeds that you will receive  
340 for repairing or replacing your property.

341 ~~5.4.~~ Confirm that the contractor you choose is licensed to  
342 do business in Florida. You can verify a contractor's  
343 license and check to see if there are any complaints  
344 against him or her by calling the Florida Department of  
345 Business and Professional Regulation. You should also ask  
346 the contractor for references from previous work.

347 ~~6.5.~~ Require all contractors to provide proof of insurance  
348 before beginning repairs.

349 ~~7.6.~~ Take precautions if the damage requires you to leave  
350 your home, including securing your property and turning off  
351 your gas, water, and electricity, and contacting your  
352 insurance company and provide a phone number where you can  
353 be reached.

354 Section 6. This act shall take effect July 1, 2016.