

1 A bill to be entitled
 2 An act relating to insurance claims; amending s.
 3 626.854, F.S.; providing that an assignment or
 4 agreement that transfers authority to adjust,
 5 negotiate or settle a claim is void; amending s.
 6 627.405, F.S.; prohibiting assignment of an insurable
 7 interest except to subsequent purchasers after a loss;
 8 amending s. 627.422, F.S.; authorizing an insurance
 9 policy to prohibit assignment of post-loss benefits;
 10 providing exceptions; amending s. 627.70131, F.S.;
 11 decreasing timeframes for acknowledging and paying
 12 claims; amending s. 627.7142, F.S.; making conforming
 13 changes to the Homeowner's Bill of Rights; providing
 14 an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Subsection (16) of section 626.854, Florida
 19 Statutes, is amended to read:

20 626.854 "Public adjuster" defined; prohibitions.—The
 21 Legislature finds that it is necessary for the protection of the
 22 public to regulate public insurance adjusters and to prevent the
 23 unauthorized practice of law.

24 (16) (a) A licensed contractor under part I of chapter 489,
 25 or a subcontractor, may not adjust a claim on behalf of an
 26 insured unless licensed and compliant as a public adjuster under

27 | this chapter. However, the contractor may discuss or explain a
 28 | bid for construction or repair of covered property with the
 29 | residential property owner who has suffered loss or damage
 30 | covered by a property insurance policy, or the insurer of such
 31 | property, if the contractor is doing so for the usual and
 32 | customary fees applicable to the work to be performed as stated
 33 | in the contract between the contractor and the insured.

34 | (b) Any assignment or agreement that purports to transfer
 35 | the authority to adjust, negotiate, or settle any portion of a
 36 | claim to such contractor or subcontractor, or that is otherwise
 37 | in derogation of this section, is void.

38 | Section 2. Section 627.405, Florida Statutes, is amended
 39 | to read:

40 | 627.405 Insurable interest; property.—

41 | (1) No contract of insurance of property or of any
 42 | interest in property or arising from property shall be
 43 | enforceable as to the insurance except for the benefit of
 44 | persons having an insurable interest in the things insured as at
 45 | the time of the loss.

46 | (2) "Insurable interest" as used in this section means any
 47 | actual, lawful, and substantial economic interest in the safety
 48 | or preservation of the subject of the insurance free from loss,
 49 | destruction, or pecuniary damage or impairment.

50 | (3) The measure of an insurable interest in property is
 51 | the extent to which the insured might be damnified by loss,
 52 | injury, or impairment thereof.

53 (4) Insurable interest does not survive an assignment,
 54 except to a subsequent purchaser of the property who acquires
 55 insurable interest following a loss.

56 Section 3. Section 627.422, Florida Statutes, is amended
 57 to read:

58 627.422 Assignment of policies; restrictions on post-loss
 59 assignment of benefits.—

60 (1) A policy may be assignable, or not assignable, as
 61 provided by its terms. Subject to its terms relating to
 62 assignability, any life or health insurance policy under the
 63 terms of which the beneficiary may be changed upon the sole
 64 request of the policyowner may be assigned either by pledge or
 65 transfer of title, by an assignment executed by the policyowner
 66 alone and delivered to the insurer, whether or not the pledgee
 67 or assignee is the insurer. Any such assignment shall entitle
 68 the insurer to deal with the assignee as the owner or pledgee of
 69 the policy in accordance with the terms of the assignment, until
 70 the insurer has received at its home office written notice of
 71 termination of the assignment or pledge or written notice by or
 72 on behalf of some other person claiming some interest in the
 73 policy in conflict with the assignment.

74 (2) A property insurance policy may prohibit the post-loss
 75 assignment of rights, benefits, causes of action, or other
 76 contractual rights under the policy, except:

77 (a) An insured may assign the benefit of payment not to
 78 exceed \$3,000 to a person or entity providing services or

79 materials to mitigate or repair damage directly arising from a
 80 covered loss. The assignment is limited solely to the ability
 81 to be named as a copayee for the benefit of payment for the
 82 reasonable value of services rendered and materials provided to
 83 mitigate or repair such damage. The insured may not assign the
 84 right to enforce payment of the post-loss benefits contained in
 85 the policy.

86 (b) For the limited purpose of compensating a public
 87 adjuster for services authorized by s. 626.854(11). The
 88 assignment is only for compensation due to the public adjuster
 89 by the insured and not for the remainder of the benefits due to
 90 the insured under the policy. Nothing in this paragraph changes
 91 the obligations, if any, of the insurer to issue the insured a
 92 check for payment in the name of the insured or mortgage holder.

93 (c) For payment of an attorney representing the insured,
 94 wherein the assignment contemplates only that the benefits are
 95 paid to the attorney representing the insured, and that the
 96 attorney will disperse the funds to repair the property at the
 97 direction of the insured.

98 (3) Any post-loss assignment of rights, benefits, causes
 99 of action, or other contractual rights in contravention of this
 100 section renders the assignment void.

101 Section 4. Subsections (1), (2), (3), and (4) and
 102 paragraph (a) of subsection (5) of section 627.70131, Florida
 103 Statutes, are amended to read:

104 627.70131 Insurer's duty to acknowledge communications

105 regarding claims; investigation.—

106 (1) (a) Upon an insurer's receiving a communication with
107 respect to a claim, the insurer shall, within ~~14~~ 7 calendar
108 days, review and acknowledge receipt of such communication
109 unless payment is made within that period of time or unless the
110 failure to acknowledge is caused by factors beyond the control
111 of the insurer which reasonably prevent such acknowledgment. If
112 the acknowledgment is not in writing, a notification indicating
113 acknowledgment shall be made in the insurer's claim file and
114 dated. A communication made to or by an agent of an insurer with
115 respect to a claim shall constitute communication to or by the
116 insurer. If a residential property insurer receives a
117 communication in writing from a third party identified in s.
118 627.422(2) (a)-(c) with respect to the claim requesting that the
119 insurer acknowledge the existence of a policy of insurance on
120 the property, the insurer shall respond within 7 days of the
121 request answering the communication. If the insurer's
122 acknowledgment is not in writing, a notification indicating
123 acknowledgment shall be made in the insurer's claim file and
124 dated.

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

129 (c) This subsection shall not apply to claimants
130 represented by counsel beyond those communications necessary to

131 provide forms and instructions.

132 (2) Such acknowledgment shall be responsive to the
 133 communication. If the communication constitutes a notification
 134 of a claim, unless the acknowledgment reasonably advises the
 135 claimant that the claim appears not to be covered by the
 136 insurer, the acknowledgment shall provide necessary claim forms,
 137 and instructions, including an appropriate telephone number.

138 (3) Unless otherwise provided by the policy of insurance
 139 or by law, within 10 working days after an insurer receives
 140 proof of loss statements, the insurer shall begin such
 141 investigation as is reasonably necessary unless the failure to
 142 begin such investigation is caused by factors beyond the control
 143 of the insurer which reasonably prevent the commencement of such
 144 investigation.

145 (4) For purposes of this section, the term "insurer" means
 146 any residential property insurer.

147 (5) (a) Within ~~90~~ 45 days after an insurer receives notice
 148 of an initial, reopened, or supplemental property insurance
 149 claim from a policyholder, the insurer shall pay or deny such
 150 claim or a portion of the claim unless the failure to pay is
 151 caused by factors beyond the control of the insurer which
 152 reasonably prevent such payment. Any payment of an initial or
 153 supplemental claim or portion of such claim made ~~90~~ 45 days
 154 after the insurer receives notice of the claim, or made more
 155 than 15 days after there are no longer factors beyond the
 156 control of the insurer which reasonably prevented such payment,

157 | whichever is later, bears interest at the rate set forth in s.
 158 | 55.03. Interest begins to accrue from the date the insurer
 159 | receives notice of the claim. The provisions of this subsection
 160 | may not be waived, voided, or nullified by the terms of the
 161 | insurance policy. If there is a right to prejudgment interest,
 162 | the insured shall select whether to receive prejudgment interest
 163 | or interest under this subsection. Interest is payable when the
 164 | claim or portion of the claim is paid. Failure to comply with
 165 | this subsection constitutes a violation of this code. However,
 166 | failure to comply with this subsection does not form the sole
 167 | basis for a private cause of action.

168 | Section 5. Section 627.7142, Florida Statutes, is amended
 169 | to read:

170 | 627.7142 Homeowner Claims Bill of Rights.—An insurer
 171 | issuing a personal lines residential property insurance policy
 172 | in this state must provide a Homeowner Claims Bill of Rights to
 173 | a policyholder within 14 ~~7~~ days after receiving an initial
 174 | communication with respect to a claim, unless the claim follows
 175 | an event that is the subject of a declaration of a state of
 176 | emergency by the Governor. The purpose of the bill of rights is
 177 | to summarize, in simple, nontechnical terms, existing Florida
 178 | law regarding the rights of a personal lines residential
 179 | property insurance policyholder who files a claim of loss. The
 180 | Homeowner Claims Bill of Rights is specific to the claims
 181 | process and does not represent all of a policyholder's rights
 182 | under Florida law regarding the insurance policy. The Homeowner

183 Claims Bill of Rights does not create a civil cause of action by
 184 any individual policyholder or class of policyholders against an
 185 insurer or insurers. The failure of an insurer to properly
 186 deliver the Homeowner Claims Bill of Rights is subject to
 187 administrative enforcement by the office but is not admissible
 188 as evidence in a civil action against an insurer. The Homeowner
 189 Claims Bill of Rights does not enlarge, modify, or contravene
 190 statutory requirements, including, but not limited to, ss.
 191 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does
 192 not prohibit an insurer from exercising its right to repair
 193 damaged property in compliance with the terms of an applicable
 194 policy or ss. 627.7011(5)(e) and 627.702(7). The Homeowner
 195 Claims Bill of Rights must state:

196 HOMEOWNER CLAIMS

197 BILL OF RIGHTS

198 This Bill of Rights is specific to the claims process and does
 199 not represent all of your rights under Florida law regarding
 200 your policy. There are also exceptions to the stated timelines
 201 when conditions are beyond your insurance company's control.
 202 This document does not create a civil cause of action by an
 203 individual policyholder, or a class of policyholders, against an
 204 insurer or insurers and does not prohibit an insurer from
 205 exercising its right to repair damaged property in compliance
 206 with the terms of an applicable policy.

207 YOU HAVE THE RIGHT TO:

- 208 1. Receive from your insurance company an acknowledgment
 209 of your reported claim within ~~14~~ 7 days after the time you
 210 communicated the claim.
- 211 2. Upon written request, receive from your insurance
 212 company within ~~30~~ 15 days after you have submitted a
 213 complete proof-of-loss statement to your insurance company,
 214 confirmation that your claim is covered in full, partially
 215 covered, or denied, or receive a written statement that
 216 your claim is being investigated.
- 217 3. Within ~~90~~ 45 days, subject to any dual interest noted
 218 in the policy, receive full settlement payment for your
 219 claim or payment of the undisputed portion of your claim,
 220 or your insurance company's denial of your claim.
- 221 4. Free mediation of your disputed claim by the Florida
 222 Department of Financial Services, Division of Consumer
 223 Services, under most circumstances and subject to certain
 224 restrictions.
- 225 5. Neutral evaluation of your disputed claim, if your
 226 claim is for damage caused by a sinkhole and is covered by
 227 your policy.
- 228 6. Contact the Florida Department of Financial Services,
 229 Division of Consumer Services' toll-free helpline for
 230 assistance with any insurance claim or questions pertaining
 231 to the handling of your claim. You can reach the Helpline
 232 by phone at... (toll-free phone number)..., or you can seek
 233 assistance online at the Florida Department of Financial

234 Services, Division of Consumer Services' website
 235 at...(website address)....

236 YOU ARE ADVISED TO:

- 237 1. Contact your insurance company before entering into any
 238 contract for repairs to confirm any managed repair policy
 239 provisions or optional preferred vendors.
- 240 2. Make and document emergency repairs that are necessary
 241 to prevent further damage. Keep the damaged property, if
 242 feasible, keep all receipts, and take photographs of damage
 243 before and after any repairs.
- 244 3. Carefully read any contract that requires you to pay
 245 out-of-pocket expenses or a fee that is based on a
 246 percentage of the insurance proceeds that you will receive
 247 for repairing or replacing your property.
- 248 4. Confirm that the contractor you choose is licensed to
 249 do business in Florida. You can verify a contractor's
 250 license and check to see if there are any complaints
 251 against him or her by calling the Florida Department of
 252 Business and Professional Regulation. You should also ask
 253 the contractor for references from previous work.
- 254 5. Require all contractors to provide proof of insurance
 255 before beginning repairs.
- 256 6. Take precautions if the damage requires you to leave
 257 your home, including securing your property and turning off
 258 your gas, water, and electricity, and contacting your
 259 insurance company and provide a phone number where you can

PCS for HB 669

ORIGINAL

2015

260 | be reached.

261 | Section 6. This act shall take effect July 1, 2015.

262 |