

By Senator Fasano

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1 A bill to be entitled
2 An act relating to property insurance; amending s.
3 627.70131, F.S.; defining the term "claim-related
4 document"; requiring an insurer to disclose to a
5 claimant certain information relating to policy
6 coverage, that the claimant may request and obtain all
7 claim-related documents, and whether there are any
8 time requirements that would result in an insurer
9 denying a claim; creating s. 627.70133, F.S.;
10 incorporating provisions transferred from s.
11 627.70131, F.S., relating to the payment of claims;
12 creating s. 627.70191, F.S.; providing for the
13 extension of the period of coverage for additional
14 living expenses resulting from a state of emergency;
15 amending s. 627.062, F.S.; conforming a cross-
16 reference; providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Section 627.70131, Florida Statutes, is amended
21 to read:

22 627.70131 ~~Insurer's duty to acknowledge~~ Communications
23 regarding claims; required notices; investigation.—

24 (1) As used in this section, the term:

25 (a) "Agent" means any person to whom an insurer has granted
26 authority or responsibility for receiving or making
27 communications with respect to claims on behalf of the insurer.

28 (b) "Claim-related documents" means all documents,
29 instructions, and telephone numbers that relate to the

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30 evaluation of claims for damages, including repair and
31 replacement estimates and bids, appraisals, scopes of loss,
32 drawings, plans, reports, third-party findings on the amount of
33 loss, covered damages, cost of repairs, and all other valuation,
34 measurement, and loss adjustment calculations of the amount of
35 loss, covered damage, and cost of repairs. The term does not
36 include attorney work products or documents subject to an
37 attorney-client privilege, documents that indicate fraud by the
38 insured, or documents that contain medically privileged
39 information.

40 (c) "Insurer" means a residential property insurer.

41 ~~(2)(1)(a)~~ Upon an insurer's receiving a communication with
42 respect to a claim, the insurer shall, within 14 calendar days,
43 review and acknowledge receipt of such communication unless
44 payment is made within that period of time or unless the failure
45 to acknowledge the claim is caused by factors beyond the control
46 of the insurer which reasonably prevent such acknowledgment. If
47 the acknowledgment is not in writing, a notation ~~notification~~
48 indicating acknowledgment of the communication must ~~shall~~ be
49 made in the insurer's claim file and dated. A communication made
50 to or by an agent of an insurer with respect to a claim
51 constitutes ~~shall constitute~~ communication to or by the insurer.

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

56 ~~(e)~~ This subsection does ~~shall~~ not apply to claimants
57 represented by counsel beyond those communications that are
58 necessary to provide claim-related documents ~~forms and~~

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59 instructions.

60 (3)-(2) Such Acknowledgment of a communication must shall be
61 responsive to the communication.

62 (a) The insurer must disclose to a claimant all benefits,
63 coverage, time limits, or other provisions of an insurance
64 policy issued by that insurer which may apply to the claim
65 presented by the claimant. If additional benefits might
66 reasonably be payable upon receipt of additional proofs of
67 claim, the insurer shall immediately communicate this fact to
68 the insured and cooperate with and assist the insured in
69 determining the extent of the insurer's additional liability.

70 (b) If the communication constitutes a notification of a
71 claim, unless the acknowledgment reasonably advises the claimant
72 that the claim appears not to be covered by the insurer, the
73 acknowledgment must inform the claimant that, upon request, he
74 or she may obtain copies of all claim-related documents. Within
75 15 calendar days after receiving such request, the insurer shall
76 provide the insured with copies of all claim-related documents
77 shall provide necessary claim forms, and instructions, including
78 an appropriate telephone number. This paragraph does not alter
79 discovery rights in matters that are subject to litigation.

80 (4) Except where a claim has been settled by payment, an
81 insurer must provide written notice of any statute of limitation
82 or other time requirement upon which the insurer may rely to
83 deny a claim.

84 (a) Such notice must be given to the claimant at least 60
85 days before the expiration date. However, if the notice of claim
86 is first received by the insurer within that 60 days, notice of
87 the expiration date must be given to the claimant immediately.

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88 (b) With respect to a first party claimant in a matter
89 involving an uninsured motorist, notice must be given at least
90 30 days before the expiration date. However, if the notice of
91 claim is first received by the insurer within that 30 days,
92 notice of the expiration date must be given to the claimant
93 immediately.

94 (c) This subsection does not apply to a claimant who is
95 represented by counsel on the claim matter.

96 (5) ~~(3)~~ Unless otherwise provided by the policy of insurance
97 or by law, within 10 working days after an insurer receives
98 proof of loss statements, the insurer shall begin such
99 investigation as is reasonably necessary unless the failure to
100 begin such investigation is caused by factors beyond the control
101 of the insurer which reasonably prevent the commencement of such
102 investigation.

103 (6) If, within a 6-month period, the company assigns a
104 third or subsequent adjuster to be primarily responsible for a
105 claim, the insurer shall provide the insured with a written
106 status report in a timely manner. The status report must include
107 a summary of any decisions or actions that are substantially
108 related to the disposition of a claim, including, but not
109 limited to, the amount of losses to structures or contents, the
110 retention or consultation of design or construction
111 professionals, the amount of coverage for losses to structures
112 or contents, and all items of dispute.

113 ~~(4) For purposes of this section, the term "insurer" means~~
114 ~~any residential property insurer.~~

115 ~~(5) (a) Within 90 days after an insurer receives notice of~~
116 ~~an initial, reopened, or supplemental property insurance claim~~

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117 ~~from a policyholder, the insurer shall pay or deny such claim or~~
118 ~~a portion of the claim unless the failure to pay is caused by~~
119 ~~factors beyond the control of the insurer which reasonably~~
120 ~~prevent such payment. Any payment of an initial or supplemental~~
121 ~~claim or portion of such claim made 90 days after the insurer~~
122 ~~receives notice of the claim, or made more than 15 days after~~
123 ~~there are no longer factors beyond the control of the insurer~~
124 ~~which reasonably prevented such payment, whichever is later,~~
125 ~~bears interest at the rate set forth in s. 55.03. Interest~~
126 ~~begins to accrue from the date the insurer receives notice of~~
127 ~~the claim. The provisions of this subsection may not be waived,~~
128 ~~voided, or nullified by the terms of the insurance policy. If~~
129 ~~there is a right to prejudgment interest, the insured shall~~
130 ~~select whether to receive prejudgment interest or interest under~~
131 ~~this subsection. Interest is payable when the claim or portion~~
132 ~~of the claim is paid. Failure to comply with this subsection~~
133 ~~constitutes a violation of this code. However, failure to comply~~
134 ~~with this subsection does not form the sole basis for a private~~
135 ~~cause of action.~~

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

138 ~~1. A claim under an insurance policy providing residential~~
139 ~~coverage as defined in s. 627.4025(1);~~

140 ~~2. A claim for structural or contents coverage under a~~
141 ~~commercial property insurance policy if the insured structure is~~
142 ~~10,000 square feet or less; or~~

143 ~~3. A claim for contents coverage under a commercial tenants~~
144 ~~policy if the insured premises is 10,000 square feet or less.~~

145 ~~(c) This subsection shall not apply to claims under an~~

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146 ~~insurance policy covering nonresidential commercial structures~~
147 ~~or contents in more than one state.~~

148 Section 2. Section 627.70133, Florida Statutes, is created
149 to read:

150 627.70133 Payment of claims.—

151 (1) As used in this section, the term "claim" means:

152 (a) A claim under an insurance policy providing residential
153 coverage as described in s. 627.4025(1);

154 (b) A claim for structural or contents coverage under a
155 commercial property insurance policy if the insured structure is
156 10,000 square feet or less; or

157 (c) A claim for contents coverage under a commercial
158 tenants policy if the insured premises is 10,000 square feet or
159 less.

160 (2) Within 90 days after an insurer receives notice of an
161 initial, reopened, or supplemental property insurance claim from
162 a policyholder, the insurer shall pay or deny such claim or a
163 portion of the claim unless the failure to pay is caused by
164 factors beyond the control of the insurer which reasonably
165 prevent such payment. Payment of an initial or supplemental
166 claim or portion of such claim made 90 days after the insurer
167 receives notice of the claim, or more than 15 days after there
168 are no longer factors beyond the control of the insurer which
169 reasonably prevented such payment, whichever occurs later, bears
170 interest at the rate set forth in s. 55.03. Interest begins to
171 accrue from the date the insurer receives notice of the claim.
172 If there is a right to prejudgment interest, the insured shall
173 select whether to receive prejudgment interest or interest under
174 this subsection. Interest is payable when the claim or portion

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175 of the claim is paid.

176 (3) The provisions of this section may not be waived,
177 voided, or nullified by the terms of the insurance policy.
178 Failure to comply with this section constitutes a violation of
179 this code. However, failure to comply with this section does not
180 form the sole basis for a private cause of action.

181 (4) This section does not apply to claims under an
182 insurance policy covering nonresidential commercial structures
183 or contents in more than one state.

184 Section 3. Section 627.70191, Florida Statutes, is created
185 to read:

186 627.70191 Coverage for living expenses relating to a state
187 of emergency.—In the event of a covered loss relating to a state
188 of emergency that has been declared under s. 252.36, the period
189 of coverage for additional living expenses shall be extended to
190 24 months. However, any extension of time required under this
191 section which is beyond the period provided in the policy does
192 not increase the amount of the policy limit for additional
193 living expenses which is in force at the time of the loss.

194 Section 4. Subsection (10) of section 627.062, Florida
195 Statutes, is amended to read:

196 627.062 Rate standards.—

197 (10) Any interest paid pursuant to s. 627.70133
198 ~~627.70131(5)~~ may not be included in the insurer's rate base and
199 may not be used to justify a rate or rate change.

200 Section 5. This act shall take effect July 1, 2012.