

By the Committee on Banking and Insurance; and Senator Hukill

597-02873-16

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A bill to be entitled
An act relating to assignment or transfer of property insurance rights; creating s. 627.70133, F.S.; providing requirements under a property insurance policy for the post-loss assignment or transfer of rights, benefits, or policy provisions not related to liability coverage; providing requirements for an agreement to assign or transfer such rights, benefits, or policy provisions; providing prohibitions and conditions that void such an agreement; providing applicability; providing an effective date.

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

Section 1. Section 627.70133, Florida Statutes, is created to read:

627.70133 Assignment of benefits or transfer of rights.—As to property insurance policies, this section governs the post-loss assignment or transfer of rights, benefits, or policy provisions unrelated to liability coverage to a person or entity other than the named insured. This section does not affect the post-loss assignment or transfer of rights, benefits, or other policy provisions related to liability coverage in the property insurance policy.

(1) An agreement entered into under this section to assign or transfer rights, benefits, or policy provisions is not valid unless:

(a) It authorizes a person or entity to be named as a payee or copayee for the benefit of payment as provided in the policy for services rendered and materials provided to mitigate or repair covered damage only;

(b) It is provided to the insured's property insurer within

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33 3 business days after execution;

34 (c) It contains an estimate for proposed services and
35 materials to be provided;

36 (d) With the exception of reimbursement for work already
37 performed to mitigate or repair covered damage, it allows the
38 insured to cancel the agreement, in writing, without penalty or
39 obligation within 3 business days after the date the agreement
40 is executed or within 3 business days after the insurer has been
41 provided with the agreement, whichever is later. However, if the
42 agreement is executed to perform work resulting from an event
43 for which the Governor has declared a state of emergency and is
44 within 1 year after such declaration, the insured has 5 business
45 days after the date the agreement is executed to cancel the
46 agreement without penalty; and

47 (e) It contains the following notice in 14-point type:
48 WARNING: YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE
49 UNDER YOUR INSURANCE POLICY TO A THIRD PARTY. PLEASE READ AND
50 UNDERSTAND THIS DOCUMENT BEFORE SIGNING IT. YOU HAVE THE RIGHT
51 TO CANCEL THIS AGREEMENT WITHOUT PENALTY WITHIN 3 BUSINESS DAYS
52 AFTER THE DATE THIS AGREEMENT IS EXECUTED OR WITHIN 3 BUSINESS
53 DAYS AFTER YOUR PROPERTY INSURANCE COMPANY HAS RECEIVED A COPY
54 OF THIS AGREEMENT, WHICHEVER IS LATER. IF WORK IS BEING
55 PERFORMED AS A RESULT OF DAMAGES CAUSED BY AN EVENT FOR WHICH
56 THE GOVERNOR HAS DECLARED A STATE OF EMERGENCY AND IS WITHIN 1
57 YEAR AFTER SUCH DECLARATION, YOU HAVE 5 DAYS AFTER THE DATE OF
58 EXECUTION TO CANCEL. THIS AGREEMENT DOES NOT CHANGE YOUR DUTIES
59 UNDER YOUR PROPERTY INSURANCE POLICY, SUCH AS PROMPTLY NOTIFYING
60 YOUR INSURANCE COMPANY OF A LOSS AND MITIGATING YOUR PROPERTY
61 FROM FURTHER DAMAGE.

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62 (2) An agreement is void if:

63 (a) It imposes an agreement cancellation fee, a check
64 processing fee, or a mortgage processing fee or adds an amount
65 for overhead and profit to the amount for mitigation and repair
66 of covered property;

67 (b) A final invoice issued under the agreement exceeds the
68 estimated cost for work performed and the increase in cost was
69 not authorized by the insurer;

70 (c) It purports to assign or transfer the right to enforce
71 payment for post-loss benefits in the policy;

72 (d) It prevents or inhibits an insurer from communicating
73 with the insured at any time; or

74 (e) It purports to transfer or create any authority to
75 adjust, negotiate, or settle any portion of a claim to a person
76 or entity who is not authorized to adjust, negotiate, or settle
77 a claim on behalf of the insured or claimant under part VI of
78 chapter 626.

79 (3) This section does not apply to a power of attorney
80 granted to a management company, family member, guardian, or
81 similarly situated person which complies with chapter 709 and
82 which may include, as part of the authority granted, the
83 authority to act in place of a principal as it relates to a
84 property insurance claim.

85 Section 2. This act applies to post-loss assignments or
86 transfers of rights, benefits, or policy provisions not related
87 to liability coverage which are executed after the effective
88 date of this act.

89 Section 3. This act shall take effect upon becoming a law.