

1 A bill to be entitled
2 An act relating to insurance; amending s. 215.555,
3 F.S.; requiring the Legislature to appropriate money
4 from the Florida Hurricane Catastrophe Fund to the
5 Office of Insurance Regulation for certain contract
6 years for a specified purpose; providing requirements
7 for certain audits; authorizing the office to make
8 certain recommendations; requiring a report; amending
9 s. 319.30, F.S.; revising the requirements for certain
10 electronic signatures submitted through insurance
11 companies; amending s. 624.155, F.S.; providing
12 requirements for the delivery of certain violation
13 notices to insurers; revising the circumstances under
14 which an action may not lie; revising the timeframe
15 during which the statute of limitations for certain
16 actions for civil remedy is tolled; prohibiting the
17 filing of certain notices for a specified period under
18 certain circumstances; amending ss. 624.307 and
19 624.315, F.S.; authorizing the releases of specified
20 information obtained by the Department of Financial
21 Services and the office; providing an exception;
22 amending s. 627.062, F.S.; requiring an extension of
23 the office's review period of insurance rate standards
24 under certain circumstances; deleting obsolete
25 language; prohibiting the office from disapproving a

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

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. Paragraph (f) is added to subsection (5) of
48 section 215.555, Florida Statutes, to read:

49 215.555 Florida Hurricane Catastrophe Fund.—

50 (5) REIMBURSEMENT PREMIUMS.—

51 (f)1. Beginning with the 2020-2021 contract year and every
52 3 years thereafter, the Legislature shall appropriate funds from
53 the investment income of the Florida Hurricane Catastrophe Fund
54 to the Office of Insurance Regulation sufficient to contract
55 with a third-party vendor to audit the premium formula developed
56 under this subsection. The audit must evaluate whether the
57 premium formula uses actuarially sound principles and whether
58 insurers are paying an actuarially indicated premium. After
59 reviewing the completed audit, the Office of Insurance
60 Regulation may make recommendations to enhance the actuarial
61 ratemaking for the fund.

62 2. The Office of Insurance Regulation shall report the
63 findings of the audit, along with the office's recommendations,
64 if any, to the Financial Services Commission, the President of
65 the Senate, and the Speaker of the House of Representatives on
66 or before March 1 of the year following the contract year
67 audited.

68 Section 2. Paragraph (d) of subsection (3) of section
69 319.30, Florida Statutes, is amended to read:

70 319.30 Definitions; dismantling, destruction, change of
71 identity of motor vehicle or mobile home; salvage.—

72 (3)

73 (d) An electronic signature that is consistent with
74 chapter 668 satisfies any signature required under this
75 subsection, except that an electronic signature on an odometer

disclosure submitted through an insurance company must be executed using an electronic signature, as defined in s. 668.003(4), that uses a system providing an Identity Assurance Level, Authenticator Assurance Level, and Federation Assurance Level, as described in the National Institute of Standards and Technology Special Publication 800-63-3, as of December 1, 2017, that are equivalent to or greater than:

1. Level 2, for each level, for a certificate of destruction.

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

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

624.155 Civil remedy.—

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

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

1. The statutory provision, including the specific language of the statute, which the authorized insurer allegedly

101 violated.

102 2. The facts and circumstances giving rise to the
103 violation.

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

105 4. Reference to specific policy language that is relevant
106 to the violation, if any. If the person bringing the civil
107 action is a third party claimant, she or he shall not be
108 required to reference the specific policy language if the
109 authorized insurer has not provided a copy of the policy to the
110 third party claimant pursuant to written request.

111 5. A statement that the notice is given in order to
112 perfect the right to pursue the civil remedy authorized by this
113 section.

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

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

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

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

125 2. Sixty days after the date on which a state of emergency

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126 is declared under paragraph (g); and

127 3. Sixty-five ~~65~~ days after the date on which ~~by the~~
128 ~~mailing of~~ the notice required under ~~by~~ this subsection or the
129 ~~mailing of a~~ subsequent notice required under ~~by~~ this subsection
130 is mailed.

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

134 (g) In a county in which the Governor has declared a state
135 of emergency due to a fire or a wind or flood event, a notice
136 required under this subsection may not be filed within 60 days
137 after the state of emergency was declared.

138 Section 4. Subsection (4) of section 624.307, Florida
139 Statutes, is amended to read:

140 624.307 General powers; duties.—

141 (4) The department and office may each collect, propose,
142 publish, and disseminate information relating to the subject
143 matter of any duties imposed upon it by law. Aggregate
144 information obtained under this subsection may include
145 information asserted as trade secret, unless the trade secret
146 information can be individually extrapolated, in which case the
147 trade secret information remains protected, as provided by law,
148 and may not be released by the department or the office.

149 Section 5. Subsection (4) is added to section 624.315,
150 Florida Statutes, to read:

151 624.315 Department; annual report.—

152 (4) When aggregate information obtained under this section
153 includes information asserted as trade secret, the office may
154 include the trade secret information in the report under
155 subsection (1) or make the trade secret information available
156 under subsection (2) unless the trade secret information can be
157 individually extrapolated, in which case the trade secret
158 information remains protected, as provided by law, and may not
159 be released by the department or the office.

160 Section 6. Paragraphs (a) and (j) of subsection (2) of
161 section 627.062, Florida Statutes, are amended to read:

162 627.062 Rate standards.—

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

164 (a) Insurers or rating organizations shall establish and
165 use rates, rating schedules, or rating manuals that allow the
166 insurer a reasonable rate of return on the classes of insurance
167 written in this state. A copy of rates, rating schedules, rating
168 manuals, premium credits or discount schedules, and surcharge
169 schedules, and changes thereto, must be filed with the office
170 under one of the following procedures:

171 1. If the filing is made at least 90 days before the
172 proposed effective date and is not implemented during the
173 office's review of the filing and any proceeding and judicial
174 review, such filing is considered a "file and use" filing. In
175 such case, the office shall finalize its review by issuance of a

notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the office of its preliminary findings does not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing.

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

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

~~3. For all property insurance filings made or submitted after January 25, 2007, but before May 1, 2012, an insurer~~

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~~seeking a rate that is greater than the rate most recently approved by the office shall make a "file and use" filing. For purposes of this subparagraph, motor vehicle collision and comprehensive coverages are not considered property coverages.~~

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

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

2. The office may not disapprove a rate for homeowner's insurance because of reinsurance modeling indications if the rate filing uses a reinsurance modeling indication that is within 5 percent of the straight average of two or more models that are currently found by the commission to be accurate or reliable pursuant to s. 627.0628 and that have been provided by the insurer in its most recent filing.

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

Section 7. Paragraph (a) of subsection (1) of section 627.0651, Florida Statutes, is amended to read:

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

(1) Insurers shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable

rate of return on motor vehicle insurance written in this state. A copy of rates, rating schedules, and rating manuals, and changes therein, shall be filed with the office under one of the following procedures:

(a)1. If the filing is made at least 60 days before the proposed effective date and the filing is not implemented during the office's review of the filing and any proceeding and judicial review, such filing shall be considered a "file and use" filing. In such case, the office shall initiate proceedings to disapprove the rate and so notify the insurer or shall finalize its review within 60 days after receipt of the filing. Notification to the insurer by the office of its preliminary findings shall toll the 60-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue notice to the insurer of its preliminary findings within 60 days after the filing.

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

Section 8. Subsection (2) of section 627.410, Florida Statutes, is amended to read:

627.410 Filing, approval of forms.—

251 (2)(a) Every such filing must be made at least 30 days in
252 advance of any such use or delivery. At the expiration of the 30
253 days, the form filed will be deemed approved unless prior
254 thereto it has been affirmatively approved or disapproved by
255 order of the office. The approval of such form by the office
256 constitutes a waiver of any unexpired portion of such waiting
257 period. The office may extend the period within which it may
258 affirmatively approve or disapprove such form by up to 15 days
259 by giving notice of such extension before expiration of the
260 initial 30-day period. At the expiration of such extended
261 period, and in the absence of prior affirmative approval or
262 disapproval, such form shall be deemed approved.

263 (b) If the last day of the initial 30-day period, or the
264 last day of the 15-day extension authorized by the office, under
265 paragraph (a) ends on a weekend or a holiday specified in s.
266 110.117, the closure of the review period shall be extended
267 until the conclusion of the next business day.

268 Section 9. Subsection (10) is added to section 627.419,
269 Florida Statutes, to read:

270 627.419 Construction of policies.—

271 (10) The courts of this state may not apply, give weight
272 to, or afford recognition to the American Law Institute's
273 Restatement of the Law, Liability Insurance as an authoritative
274 reference regarding the rules and principles of the insurance
275 law of this state.

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276 Section 10. Section 627.70132, Florida Statutes, is
277 amended to read:

278 627.70132 Notice of property insurance ~~windstorm or~~
279 ~~hurricane~~ claim. ~~Except for a sinkhole loss as defined in~~
280 627.706(2), a claim, supplemental claim, or reopened claim under
281 an insurance policy that provides property insurance, as defined
282 in s. 624.604, ~~for loss or damage caused by the peril of~~
283 ~~windstorm or hurricane~~ is barred unless notice of the claim,
284 supplemental claim, or reopened claim is ~~was~~ given to the
285 insurer in accordance with the terms of the policy within 3
286 years after the date of loss ~~the hurricane first made landfall~~
287 ~~or the windstorm caused the covered damage.~~ For purposes of this
288 section, the term "supplemental claim" or "reopened claim" means
289 any additional claim for recovery from the insurer for losses
290 ~~from the same hurricane or windstorm~~ which the insurer has
291 previously adjusted pursuant to the initial claim. This section
292 does not affect any applicable limitation on civil actions
293 provided in s. 95.11 for claims, supplemental claims, or
294 reopened claims timely filed under this section.

295 Section 11. Subsection (2) and paragraph (e) of subsection
296 (9) of section 627.7015, Florida Statutes, are amended to read:

297 627.7015 Alternative procedure for resolution of disputed
298 property insurance claims.—

299 (2) ~~At the time of issuance and renewal of a policy or at~~
300 ~~the time a first-party claim within the scope of this section is~~

301 ~~filed by the policyholder,~~ The insurer shall notify the
302 policyholder of its right to participate in the mediation
303 program under this section and shall choose any of the following
304 times to provide the notification:

305 (a) Upon the issuance and renewal of a policy; or

306 (b) At the time the policyholder:

307 1. Disputes a claim; or

308 2. Files a first-party claim within the scope of this
309 section.

310
311 The department shall prepare a consumer information pamphlet for
312 distribution to persons participating in mediation.

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

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

318 Section 12. Subsection (2) of section 627.714, Florida
319 Statutes, is amended to read:

320 627.714 Residential condominium unit owner coverage; loss
321 assessment coverage required.—

322 (2) The maximum amount of any unit owner's loss assessment
323 coverage that can be assessed for any loss shall be an amount
324 equal to that unit owner's loss assessment coverage limit in
325 effect 1 day before the date of the occurrence that gave rise to

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326 the loss. Such coverage applies to any loss assessment
327 regardless of the date of the assessment by the association. Any
328 changes to the limits of a unit owner's coverage for loss
329 assessments made on or after the day before the date of the
330 occurrence do ~~are~~ not apply ~~applicable~~ to such loss.

331 Section 13. This act shall take effect upon becoming a
332 law.