

## CHAPTER 2021-104

### Committee Substitute for Committee Substitute for Senate Bill No. 1598

An act relating to consumer protection; amending 501.0051, F.S.; deleting authorization for consumer reporting agencies to charge a fee for reissuing or providing a new unique personal identifier to a consumer; amending s. 624.307, F.S.; revising a requirement for persons licensed or authorized by the Department of Financial Services or the Office of Insurance Regulation to respond to the department's Division of Consumer Services regarding consumer complaints; amending s. 624.501, F.S.; deleting a fee for adjusting firm licenses; amending s. 626.112, F.S.; deleting an obsolete provision; prohibiting unlicensed activity by an adjusting firm; providing an exemption; providing an exemption from licensure for branch firms that meet certain criteria; providing an administrative penalty for failing to apply for certain licensure; providing a criminal penalty for aiding or abetting unlicensed activity; amending s. 626.602, F.S.; authorizing the department to disapprove the use of insurance agency names containing the word "Medicare" or "Medicaid"; providing an exception for certain insurance agencies for a certain period; providing for expiration of certain licenses on a certain date; amending s. 626.621, F.S.; adding grounds on which the department may take certain actions against a license, appointment, or application of certain insurance representatives; amending ss. 626.782 and 626.783, F.S.; revising the definitions of the terms "industrial class insurer" and "ordinary-combination class insurer," respectively, to conform to changes made by the act; repealing s. 626.796, F.S., relating to the representation of multiple insurers in the same industrial debit territory; amending s. 626.854, F.S.; revising the timeframes in which an insured or a claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation; requiring that a public adjuster's contract include a specified disclosure; specifying requirements for written estimates of loss provided by public adjusters to claimants or insureds; revising a prohibition against certain contractors or subcontractors providing insureds with specified services; providing an exception; revising services a person is prohibited from performing unless the person meets specified requirements; authorizing the department to take administrative actions and impose fines against persons performing specified activities without licensure; prohibiting specified persons from charging insureds or third-party claimants or receiving payments under certain circumstances; amending s. 626.916, F.S.; revising disclosure requirements for certain classes of insurance before being eligible for export under the Surplus Lines Law; amending s. 626.9541, F.S.; adding certain acts or practices to the definition of sliding; amending s. 626.9741, F.S.; requiring an insurer to include certain additional information when providing an applicant or insured with certain credit report or score information; amending ss. 626.9953, 626.9957, and 627.062, F.S.; conforming cross-references; amending s.

627.502, F.S.; prohibiting life insurers from writing new policies of industrial life insurance beginning on a certain date; making technical changes; amending s. 627.70131, F.S.; providing that a communication made to or by an insurer's representative, rather than to or by an insurer's agent, constitutes communication to or by the insurer; defining the term "representative", rather than "agent"; revising the timeframe for insurers to begin certain investigations; requiring an insurer-assigned licensed adjuster to provide the policyholder with certain information in certain investigations; requiring insurers to maintain certain records and provide certain lists upon request; requiring insurers to include specified notices when providing preliminary or partial damage estimates or claim payments; providing applicability; conforming provisions to changes made by the act; amending s. 627.7142, F.S.; revising information contained in the Homeowner Claims Bill of Rights; conforming provisions to changes made by the act; amending s. 631.57, F.S.; deleting a deductible on the obligation of the Florida Insurance Guaranty Association, Incorporated, as to certain covered claims; amending s. 631.904, F.S.; revising the definition of the term "covered claim"; deleting a requirement that a policy be in force on the date of the final order of liquidation; providing effective dates.

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

Section 1. Subsection (9) of section 501.0051, Florida Statutes, is amended to read:

501.0051 Protected consumer report security freeze.—

(9)(a) A consumer reporting agency may not charge any fee to place or remove a security freeze.

~~(b) A consumer reporting agency may charge a reasonable fee, not to exceed \$10, if the representative fails to retain the original unique personal identifier provided by the consumer reporting agency and the agency must reissue the unique personal identifier or provide a new unique personal identifier to the representative.~~

Section 2. Paragraph (b) of subsection (10) of section 624.307, Florida Statutes, is amended to read:

624.307 General powers; duties.—

(10)

(b) Any person licensed or issued a certificate of authority by the department or the office shall respond, in writing, to the division within 20 days after receipt of a written request for documents and information from the division concerning a consumer complaint. The response must address the issues and allegations raised in the complaint and include any requested documents concerning the consumer complaint not subject to

attorney-client or work-product privilege. The division may impose an administrative penalty for failure to comply with this paragraph of up to \$2,500 per violation upon any entity licensed by the department or the office and \$250 for the first violation, \$500 for the second violation, and up to \$1,000 for the third or subsequent violation upon any individual licensed by the department or the office.

Section 3. Subsection (20) of section 624.501, Florida Statutes, is amended to read:

624.501 Filing, license, appointment, and miscellaneous fees.—The department, commission, or office, as appropriate, shall collect in advance, and persons so served shall pay to it in advance, fees, licenses, and miscellaneous charges as follows:

~~(20) Adjusting firm, original or renewal 3-year license.....~~ \$60.00

Section 4. Present subsection (9) of section 626.112, Florida Statutes, is redesignated as subsection (10) and amended, a new subsection (9) is added to that section, and paragraph (d) of subsection (7) of that section is amended, to read:

626.112 License and appointment required; agents, customer representatives, adjusters, insurance agencies, service representatives, managing general agents, insurance adjusting firms.—

(7)

~~(d) Effective October 1, 2015, the department must automatically convert the registration of an approved registered insurance agency to an insurance agency license.~~

(9)(a) An individual, a firm, a partnership, a corporation, an association, or any other entity may not act in its own name or under a trade name, directly or indirectly, as an adjusting firm unless it complies with s. 626.8696 with respect to possessing an adjusting firm license for each place of business at which it engages in an activity that may be performed only by a licensed insurance adjuster. However, an adjusting firm that is owned and operated by a single licensed adjuster conducting business in his or her individual name and not employing or otherwise using the services of or appointing other licensees is exempt from the adjusting firm licensing requirements of this subsection.

(b) A branch place of business that is established by a licensed adjusting firm is considered a branch firm and is not required to be licensed if:

1. It transacts business under the same name and federal tax identification number as the licensed adjusting firm;
2. It has designated with the department a primary adjuster operating the location as required by s. 626.8695; and

3. The address and telephone number of the branch location have been submitted to the department for inclusion in the licensing record of the licensed adjusting firm within 30 days after insurance transactions begin at the branch location.

(c) If an adjusting firm is required to be licensed but fails to apply for licensure in accordance with this subsection, the department must impose an administrative penalty of up to \$10,000 on the firm.

(10)(9) Any person who knowingly transacts insurance or otherwise engages in insurance activities in this state without a license in violation of this section or who knowingly aids or abets an unlicensed person in transacting insurance or otherwise engaging in insurance activities in this state without a license commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 5. Subsection (4) is added to section 626.602, Florida Statutes, to read:

626.602 Insurance agency names; disapproval.—The department may disapprove the use of any true or fictitious name, other than the bona fide natural name of an individual, by any insurance agency on any of the following grounds:

(4) The name contains the word “Medicare” or “Medicaid.” An insurance agency whose name contains the word “Medicare” or “Medicaid” but which is licensed as of July 1, 2021, may continue to use that name until June 30, 2023, provided that the agency’s license remains valid. If the agency’s license expires or is suspended or revoked, the agency may not be relicensed using that name. Licenses for agencies with names containing either of these words automatically expire on July 1, 2023, unless these words are removed from the name.

Section 6. Subsections (16) and (17) are added to section 626.621, Florida Statutes, to read:

626.621 Grounds for discretionary refusal, suspension, or revocation of agent’s, adjuster’s, customer representative’s, service representative’s, or managing general agent’s license or appointment.—The department may, in its discretion, deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, adjuster, customer representative, service representative, or managing general agent, and it may suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.611:

(16) Taking an action that allows the personal financial or medical information of a consumer or customer to be made available or accessible to the general public, regardless of the format in which the record is stored.

(17) Initiating in-person or telephone solicitation after 9 p.m. or before 8 a.m. local time of the prospective customer unless requested by the prospective customer.

Section 7. Section 626.782, Florida Statutes, is amended to read:

626.782 “Industrial class insurer” defined.—An “industrial class insurer” is an insurer collecting premiums on policies of writing industrial life insurance, as defined in s. 627.502, written before July 1, 2021, and as to such insurance, operates under a system of collecting a debit by its agent.

Section 8. Section 626.783, Florida Statutes, is amended to read:

626.783 “Ordinary-combination class insurer” defined.—An “ordinary-combination class insurer” is an insurer writing ~~both~~ ordinary class insurance and collecting premiums on existing industrial life class insurance as defined by s. 627.502.

Section 9. Section 626.796, Florida Statutes, is repealed.

Section 10. Subsections (6), (11), (15), and (19) of section 626.854, Florida Statutes, are amended, and subsections (20) and (21) are added to that section, to read:

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

(6) An insured or claimant may cancel a public adjuster’s contract to adjust a claim without penalty or obligation within 10 ~~3~~ business days after the date on which the contract is executed ~~or within 3 business days after the date on which the insured or claimant has notified the insurer of the claim, whichever is later.~~ The public adjuster’s contract must contain the following language in minimum 18-point bold type: “You, the insured, may cancel this contract for any reason without penalty or obligation to you within 10 days after the date of this contract by providing notice to ..(name of public adjuster)...., submitted in writing and sent by certified mail, return receipt requested, or other form of mailing that provides proof thereof, at the address specified in the contract ~~disclose to the insured or claimant his or her right to cancel the contract and advise the insured or claimant that notice of cancellation must be submitted in writing and sent by certified mail, return receipt requested, or other form of mailing that provides proof thereof, to the public adjuster at the address specified in the contract; provided, during any state of emergency as declared by the Governor and for 1 year after the date of loss, the insured or claimant has 5 business days after the date on which the contract is executed to cancel a public adjuster’s contract.~~

(11) Each public adjuster must provide to the claimant or insured a written estimate of the loss to assist in the submission of a proof of loss or any other claim for payment of insurance proceeds within 60 days after the date of the contract. The written estimate must include an itemized, per-unit estimate of the repairs, including itemized information on equipment, materials, labor, and supplies, in accordance with accepted industry standards. The public adjuster shall retain such written estimate for at least 5 years and shall make the estimate available to the claimant or insured, the insurer, and the department upon request.

(15) A licensed contractor under part I of chapter 489, or a subcontractor of such licensee, may not advertise, solicit, offer to handle, handle, or perform public adjuster services as provided in s. 626.854(1) adjust a claim on behalf of an insured unless licensed and compliant as a public adjuster under this chapter. The prohibition against solicitation does not preclude a contractor from suggesting or otherwise recommending to a consumer that the consumer consider contacting his or her insurer to determine if the proposed repair is covered under the consumer's insurance policy. In addition However, the contractor may discuss or explain a bid for construction or repair of covered property with the residential property owner who has suffered loss or damage covered by a property insurance policy, or the insurer of such property, if the contractor is doing so for the usual and customary fees applicable to the work to be performed as stated in the contract between the contractor and the insured.

(19) Except as otherwise provided in this chapter, no person, except an attorney at law or a licensed public adjuster, may for money, commission, or any other thing of value, directly or indirectly:

(a) Prepare, complete, or file an insurance claim for an insured or a third-party claimant;

(b) Act on behalf of or aid an insured or a third-party claimant in negotiating for or effecting the settlement of a claim for loss or damage covered by an insurance contract;

(c) Offer to initiate or negotiate a claim on behalf of an insured;

(d) Advertise services that require a license for employment as a public adjuster; or

~~(e)~~(d) Solicit, investigate, or adjust a claim on behalf of a public adjuster, an insured, or a third-party claimant.

(20) The department may take administrative actions and impose fines against any persons performing claims adjusting, soliciting, or any other services described in this section without the licensure required under this section or s. 626.112.

(21) A public adjuster, public adjuster apprentice, or public adjusting firm that solicits a claim and does not enter into a contract with an insured or

a third-party claimant pursuant to paragraph (10)(a) may not charge an insured or a third-party claimant or receive payment by any other source for any type of service related to the insured or third-party claimant's claim.

Section 11. Effective January 1, 2022, subsection (3) of section 626.916, Florida Statutes, is amended, and paragraph (f) is added to subsection (1) of that section, to read:

626.916 Eligibility for export.—

(1) No insurance coverage shall be eligible for export unless it meets all of the following conditions:

(f) The insured has signed or otherwise provided documented acknowledgment of a disclosure in substantially the following form: “You are agreeing to place coverage in the surplus lines market. Coverage may be available in the admitted market. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer.”

(3)(a) Subsection (1) does not apply to wet marine and transportation or aviation risks that ~~which~~ are subject to s. 626.917.

(b) Paragraphs (1)(a)-(d) do not apply to classes of insurance which are subject to s. 627.062(3)(d)1. These classes may be exportable under the following conditions:

1. The insurance must be placed only by or through a surplus lines agent licensed in this state;

2. The insurer must be made eligible under s. 626.918; and

3. The insured has complied with paragraph (1)(f) must sign a disclosure that substantially provides the following: “You are agreeing to place coverage in the surplus lines market. Superior coverage may be available in the admitted market and at a lesser cost. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer.” If the disclosure notice is signed by the insured, the insured is presumed to have been informed and to know that other coverage may be available, and, with respect to the diligent-effort requirement under subsection (1), there is no liability on the part of, and no cause of action arises against, the retail agent presenting the form.

Section 12. Paragraph (z) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

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

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

(z) *Sliding*.—Sliding is the act or practice of any of the following:

1. Representing to the applicant that a specific ancillary coverage or product is required by law in conjunction with the purchase of insurance when such coverage or product is not required.;

2. Representing to the applicant that a specific ancillary coverage or product is included in the policy applied for without an additional charge when such charge is required.;

3. Charging an applicant for a specific ancillary coverage or product, in addition to the cost of the insurance coverage applied for, without the informed consent of the applicant.

4. Initiating, effectuating, binding, or otherwise issuing a policy of insurance without the prior informed consent of the owner of the property to be insured.

5. Mailing, transmitting, or otherwise submitting by any means an invoice for premium payment to a mortgagee or escrow agent, for the purpose of effectuating an insurance policy, without the prior informed consent of the owner of the property to be insured. However, this subparagraph does not apply in cases in which the mortgagee or escrow agent is renewing insurance or issuing collateral protection insurance, as defined in s. 624.6085, pursuant to the mortgage or other pertinent loan documents or communications regarding the property.

Section 13. Effective January 1, 2022, subsection (3) of section 626.9741, Florida Statutes, is amended to read:

626.9741 Use of credit reports and credit scores by insurers.—

(3) An insurer must inform an applicant or insured, in the same medium as the application is taken, that a credit report or score is being requested for underwriting or rating purposes. The notification to the consumer must include the following language: “The Department of Financial Services offers free financial literacy programs to assist you with insurance-related questions, including how credit works and how credit scores are calculated. To learn more, visit [www.MyFloridaCFO.com](http://www.MyFloridaCFO.com).” An insurer that makes an adverse decision based, in whole or in part, upon a credit report must provide at no charge, a copy of the credit report to the applicant or insured or provide the applicant or insured with the name, address, and telephone number of the consumer reporting agency from which the insured or applicant may obtain the credit report. The insurer must provide notification to the consumer explaining the reasons for the adverse decision. The reasons must be provided in sufficiently clear and specific language so that a person can identify the basis for the insurer’s adverse decision. Such notification shall



include a description of the four primary reasons, or such fewer number as existed, which were the primary influences of the adverse decision. The use of generalized terms such as “poor credit history,” “poor credit rating,” or “poor insurance score” does not meet the explanation requirements of this subsection. A credit score may not be used in underwriting or rating insurance unless the scoring process produces information in sufficient detail to permit compliance with the requirements of this subsection. It shall not be deemed an adverse decision if, due to the insured’s credit report or credit score, the insured continues to receive a less favorable rate or placement in a less favorable tier or company at the time of renewal except for renewals or reunderwriting required by this section.

Section 14. Subsection (5) of section 626.9953, Florida Statutes, is amended to read:

626.9953 Qualifications for registration; application required.—

(5) An applicant must submit a set of his or her fingerprints to the department and pay the processing fee established under s. 624.501(23) ~~s. 624.501(24)~~. The department shall submit the applicant’s fingerprints to the Department of Law Enforcement for processing state criminal history records checks and local criminal records checks through local law enforcement agencies and for forwarding to the Federal Bureau of Investigation for national criminal history records checks. The fingerprints shall be taken by a law enforcement agency, a designated examination center, or another department-approved entity. The department may not approve an application for registration as a navigator if fingerprints have not been submitted.

Section 15. Subsection (1) of section 626.9957, Florida Statutes, is amended to read:

626.9957 Conduct prohibited; denial, revocation, or suspension of registration.—

(1) As provided in s. 626.112, only a person licensed as an insurance agent or customer representative may engage in the solicitation of insurance. A person who engages in the solicitation of insurance as described in s. 626.112(1) without such license is subject to the penalties provided under s. 626.112(10) ~~s. 626.112(9)~~.

Section 16. Subsection (10) of section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(10) Any interest paid pursuant to s. 627.70131(7) ~~s. 627.70131(5)~~ may not be included in the insurer’s rate base and may not be used to justify a rate or rate change.

Section 17. Section 627.502, Florida Statutes, is amended to read:

627.502 “Industrial life insurance” defined; reporting; prohibition on new policies after a certain date.—

(1) For the purposes of this code, “industrial life insurance” is that form of life insurance written under policies under which premiums are payable monthly or more often, bearing the words “industrial policy” or “weekly premium policy” or words of similar import imprinted upon the policies as part of the descriptive matter, and issued by an insurer that ~~which~~, as to such industrial life insurance, is operating under a system of collecting a debit by its agent.

(2) Every life insurer servicing existing ~~transacting~~ industrial life insurance shall report to the office all annual statement data regarding the exhibit of life insurance, including relevant information for industrial life insurance.

(3) Beginning July 1, 2021, a life insurer may not write a new policy of industrial life insurance.

Section 18. Effective January 1, 2022, section 627.70131, Florida Statutes, is amended to read:

627.70131 Insurer’s duty to acknowledge communications regarding claims; investigation.—

(1)(a) Upon an insurer’s receiving a communication with respect to a claim, the insurer shall, within 14 calendar days, review and acknowledge receipt of such communication unless payment is made within that period of time or unless the failure to acknowledge is caused by factors beyond the control of the insurer which reasonably prevent such acknowledgment. If the acknowledgment is not in writing, a notification indicating acknowledgment shall be made in the insurer’s claim file and dated. A communication made to or by a representative ~~an agent~~ of an insurer with respect to a claim shall constitute communication to or by the insurer.

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

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

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

(3)(a) Unless otherwise provided by the policy of insurance or by law, within ~~14~~ 10 working days after an insurer receives proof of loss statements, the insurer shall begin such investigation as is reasonably necessary unless the failure to begin such investigation is caused by factors beyond the control of the insurer which reasonably prevent the commencement of such investigation.

(b) If such investigation involves a physical inspection of the property, the licensed adjuster assigned by the insurer must provide the policyholder with a printed or electronic document containing his or her name and state adjuster license number.

(c) Any subsequent communication with the policyholder regarding the claim must also include the name and license number of the adjuster communicating about the claim. Communication of the adjuster's name and license number may be included with other information provided to the policyholder.

(4) An insurer shall maintain a record or log of each adjuster who communicates with the policyholder as provided in paragraphs (3)(b) and (c) and provide a list of such adjusters to the insured, office, or department upon request.

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

(6)(a) When providing a preliminary or partial estimate of damage regarding a claim, an insurer shall include with the estimate the following statement printed in at least 12-point bold, uppercase type: THIS ESTIMATE REPRESENTS OUR CURRENT EVALUATION OF THE COVERED DAMAGES TO YOUR INSURED PROPERTY AND MAY BE REVISED AS WE CONTINUE TO EVALUATE YOUR CLAIM. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.

(b) When providing a payment on a claim which is not the full and final payment for the claim, an insurer shall include with the payment the following statement printed in at least 12-point bold, uppercase type: WE ARE CONTINUING TO EVALUATE YOUR CLAIM INVOLVING YOUR INSURED PROPERTY AND MAY ISSUE ADDITIONAL PAYMENTS. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.

(7)(a)(5)(a) Within 90 days after an insurer receives notice of an initial, reopened, or supplemental property insurance claim from a policyholder, the insurer shall pay or deny such claim or a portion of the claim unless the failure to pay is caused by factors beyond the control of the insurer which reasonably prevent such payment. Any payment of an initial or supplemental claim or portion of such claim made 90 days after the insurer receives

notice of the claim, or made more than 15 days after there are no longer factors beyond the control of the insurer which reasonably prevented such payment, whichever is later, bears interest at the rate set forth in s. 55.03. Interest begins to accrue from the date the insurer receives notice of the claim. The provisions of this subsection may not be waived, voided, or nullified by the terms of the insurance policy. If there is a right to prejudgment interest, the insured shall select whether to receive prejudgment interest or interest under this subsection. Interest is payable when the claim or portion of the claim is paid. Failure to comply with this subsection constitutes a violation of this code. However, failure to comply with this subsection does not form the sole basis for a private cause of action.

(b) Notwithstanding subsection (5) (4), for purposes of this subsection, the term “claim” means any of the following:

1. A claim under an insurance policy providing residential coverage as defined in s. 627.4025(1);
2. A claim for structural or contents coverage under a commercial property insurance policy if the insured structure is 10,000 square feet or less; or
3. A claim for contents coverage under a commercial tenant policy if the insured premises is 10,000 square feet or less.

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

(8) This section also applies to surplus lines insurers and surplus lines insurance authorized under ss. 626.913-626.937 providing residential coverage.

Section 19. Effective January 1, 2022, section 627.7142, Florida Statutes, is amended to read:

627.7142 Homeowner Claims Bill of Rights.—An insurer issuing a personal lines residential property insurance policy in this state must provide a Homeowner Claims Bill of Rights to a policyholder within 14 days after receiving an initial communication with respect to a claim, ~~unless the claim follows an event that is the subject of a declaration of a state of emergency by the Governor.~~ The purpose of the bill of rights is to summarize, in simple, nontechnical terms, existing Florida law regarding the rights of a personal lines residential property insurance policyholder who files a claim of loss. The Homeowner Claims Bill of Rights is specific to the claims process and does not represent all of a policyholder’s rights under Florida law regarding the insurance policy. The Homeowner Claims Bill of Rights does not create a civil cause of action by any individual policyholder or class of policyholders against an insurer or insurers. The failure of an insurer to properly deliver the Homeowner Claims Bill of Rights is subject to

administrative enforcement by the office but is not admissible as evidence in a civil action against an insurer. The Homeowner Claims Bill of Rights does not enlarge, modify, or contravene statutory requirements, including, but not limited to, ss. 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does not prohibit an insurer from exercising its right to repair damaged property in compliance with the terms of an applicable policy or ss. 627.7011(5)(e) and 627.702(7). The Homeowner Claims Bill of Rights must state:

### HOMEOWNER CLAIMS BILL OF RIGHTS

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

#### YOU HAVE THE RIGHT TO:

1. Receive from your insurance company an acknowledgment of your reported claim within 14 days after the time you communicated the claim.
2. Upon written request, receive from your insurance company within 30 days after you have submitted a complete proof-of-loss statement to your insurance company, confirmation that your claim is covered in full, partially covered, or denied, or receive a written statement that your claim is being investigated.
3. Within 90 days, subject to any dual interest noted in the policy, receive full settlement payment for your claim or payment of the undisputed portion of your claim, or your insurance company's denial of your claim.
4. Receive payment of interest, as provided in s. 627.70131, Florida Statutes, from your insurance company, which begins accruing from the date your claim is filed if your insurance company does not pay full settlement of your initial, reopened, or supplemental claim or the undisputed portion of your claim or does not deny your claim within 90 days after your claim is filed. The interest, if applicable, must be paid when your claim or the undisputed portion of your claim is paid.
5. Free mediation of your disputed claim by the Florida Department of Financial Services, Division of Consumer Services, under most circumstances and subject to certain restrictions.
- ~~6.5.~~ Neutral evaluation of your disputed claim, if your claim is for damage caused by a sinkhole and is covered by your policy.
- ~~7.6.~~ Contact the Florida Department of Financial Services, Division of Consumer Services' toll-free helpline for assistance with any insurance claim or questions pertaining to the handling of your claim. You can reach the Helpline by phone at...(toll-free phone

number)..., or you can seek assistance online at the Florida Department of Financial Services, Division of Consumer Services' website at... (website address)...

**YOU ARE ADVISED TO:**

1. File all claims directly with your insurance company.
2. Contact your insurance company before entering into any contract for repairs to confirm any managed repair policy provisions or optional preferred vendors.
- ~~3.2.~~ Make and document emergency repairs that are necessary to prevent further damage. Keep the damaged property, if feasible, keep all receipts, and take photographs or video of damage before and after any repairs to provide to your insurer.
- ~~4.3.~~ Carefully read any contract that requires you to pay out-of-pocket expenses or a fee that is based on a percentage of the insurance proceeds that you will receive for repairing or replacing your property.
- ~~5.4.~~ Confirm that the contractor you choose is licensed to do business in Florida. You can verify a contractor's license and check to see if there are any complaints against him or her by calling the Florida Department of Business and Professional Regulation. You should also ask the contractor for references from previous work.
- ~~6.5.~~ Require all contractors to provide proof of insurance before beginning repairs.
- ~~7.6.~~ Take precautions if the damage requires you to leave your home, including securing your property and turning off your gas, water, and electricity, and contacting your insurance company and provide a phone number where you can be reached.

Section 20. Paragraph (a) of subsection (1) and subsection (6) of section 631.57, Florida Statutes, are amended to read:

631.57 Powers and duties of the association.—

(1) The association shall:

(a)1. Be obligated to the extent of the covered claims existing:

- a. Prior to adjudication of insolvency and arising within 30 days after the determination of insolvency;
- b. Before the policy expiration date if less than 30 days after the determination; or
- c. Before the insured replaces the policy or causes its cancellation, if she or he does so within 30 days of the determination.

2. The obligation under subparagraph 1. includes ~~only~~ the amount of each covered claim which is ~~in excess of \$100 and is less than \$300,000~~, except that policies providing coverage for homeowner's insurance must ~~shall~~ provide for an additional \$200,000 for the portion of a covered claim which relates only to the damage to the structure and contents.

3.a. Notwithstanding subparagraph 2., the obligation under subparagraph 1. for policies covering condominium associations or homeowners' associations, which associations have a responsibility to provide insurance coverage on residential units within the association, includes ~~shall include~~ that amount of each covered property insurance claim which is less than \$200,000 multiplied by the number of condominium units or other residential units; however, as to homeowners' associations, this sub-subparagraph applies only to claims for damage or loss to residential units and structures attached to residential units.

b. Notwithstanding sub-subparagraph a., the association has no obligation to pay covered claims that are to be paid from the proceeds of bonds issued under s. 631.695. However, the association shall assign and pledge the first available moneys from all or part of the assessments to be made under paragraph (3)(a) to or on behalf of the issuer of such bonds for the benefit of the holders of such bonds. The association shall administer any such covered claims and present valid covered claims for payment in accordance with the provisions of the assistance program in connection with which such bonds have been issued.

4. ~~In no event shall~~ The association may not be obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises.

(6) The association may extend the time limits specified in paragraph (1)(a) by up to an additional 60 days ~~or waive the applicability of the \$100 deductible specified in paragraph (1)(a)~~ if the board determines it is that either or both such actions are necessary to facilitate the bulk assumption of obligations.

Section 21. Subsection (2) of section 631.904, Florida Statutes, is amended to read:

631.904 Definitions.—As used in this part, the term:

(2) "Covered claim" means an unpaid claim, including a claim for return of unearned premiums, which arises out of, is within the coverage of, and is not in excess of the applicable limits of, an insurance policy to which this part applies, which policy was issued by an insurer and which claim is made on behalf of a claimant or insured who was a resident of this state at the time of the injury. The term "covered claim" includes unpaid claims under any employer liability coverage of a workers' compensation policy limited to the lesser of \$300,000 or the limits of the policy. The term "covered claim" does not include any amount sought as a return of premium under any retrospective rating plan; any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise; or any claim that would otherwise be a covered claim that has been rejected or denied by any other state guaranty fund based upon that state's statutory exclusions, including, but not limited to, those based on coverage, policy type, or an insured's net worth, except this exclusion from the definition of

covered claim does not apply to employers who, prior to April 30, 2004, entered into an agreement with the corporation preserving the employer's right to seek coverage of claims rejected by another state's guaranty fund; ~~or any return of premium resulting from a policy that was not in force on the date of the final order of liquidation.~~ Member insurers have no right of subrogation against the insured of any insolvent insurer. This provision applies retroactively to cover claims of an insolvent self-insurance fund resulting from accidents or losses incurred prior to January 1, 1994, regardless of the date the petition in circuit court was filed alleging insolvency and the date the court entered an order appointing a receiver.

Section 22. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor June 16, 2021.

Filed in Office Secretary of State June 16, 2021.