

## CHAPTER 2024-139

### Committee Substitute for Committee Substitute for House Bill No. 939

An act relating to consumer protection; amending s. 212.134, F.S.; defining terms; revising requirements for payment settlement entities, or their electronic payment facilitators or contracted third parties, in submitting information returns to the Department of Revenue; specifying requirements for third party settlement organizations that conduct certain transactions; amending s. 489.147, F.S.; defining a term; authorizing a residential property owner to cancel contracts to replace or repair a roof without penalty or obligation within a specified timeframe under certain circumstances; requiring contractors to include a notice in the contracts with residential property owners under certain circumstances; providing requirements for notices of contract cancellation; amending s. 559.9611, F.S.; revising the definition of the term “depository institution”; amending s. 624.424, F.S.; providing requirements for certain insurers’ accountants; amending s. 626.8796, F.S.; revising the content of certain public adjuster contracts; amending s. 627.43141, F.S.; providing requirements for certain notice of change in insurance renewal policy terms; amending s. 627.6426, F.S.; revising the disclosure requirements of contracts for short-term health insurance; amending s. 627.70132, F.S.; providing requirements for notices of claims for loss assessment coverage; providing dates of loss; amending s. 791.01, F.S.; revising the definition of the term “fireworks”; amending s. 791.012, F.S.; updating the source of the code for outdoor display of fireworks; providing an effective date.

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

Section 1. Section 212.134, Florida Statutes, is amended to read:

212.134 Information returns relating to payment-card and third party ~~third-party~~ network transactions.—

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

(a) “Participating payee” has the same meaning as in s. 6050W of the Internal Revenue Code.

(b) “Return” or “information return” means the Form 1099-K required under s. 6050W of the Internal Revenue Code.

(c) “Third party network transaction” has the same meaning as in s. 6050W of the Internal Revenue Code.

(d) “Third party settlement organization” has the same meaning as in s. 6050W of the Internal Revenue Code.

(2) For each year in which a payment settlement entity, an electronic payment facilitator, or other third party contracted with the payment settlement entity to make payments to settle reportable payment transactions on behalf of the payment settlement entity must file a return pursuant to s. 6050W of the Internal Revenue Code, for participating payees with an address in this state, the entity, the facilitator, or the third party must submit the information in the return to the department by the 30th day after filing the federal return. The format of the information returns required must be either a copy of such information returns or a copy of such information returns related to participating payees with an address in the state. For purposes of this subsection, the term “payment settlement entity” has the same meaning as provided in s. 6050W of the Internal Revenue Code.

~~(3)~~(2) All reports of returns submitted to the department under this section must be in an electronic format.

~~(4)~~(3) Any payment settlement entity, facilitator, or third party failing to file the information return required, filing an incomplete information return, or not filing an information return within the time prescribed is subject to a penalty of \$1,000 for each failure, if the failure is for not more than 30 days, with an additional \$1,000 for each month or fraction of a month during which each failure continues. The total amount of penalty imposed on a reporting entity may not exceed \$10,000 annually.

~~(5)~~(4) The executive director or his or her designee may waive the penalty if he or she determines that the failure to timely file an information return was due to reasonable cause and not due to willful negligence, willful neglect, or fraud.

(6) All third party settlement organizations that conduct transactions involving a participating payee with an address in this state and that have a contractual obligation with such participating payee to make payment to the organizations shall create a mechanism for senders of payments to identify whether a payment to a payee is for goods and services or is personal. The mechanism must clearly indicate the sender’s requirement to indicate the appropriate transaction type. The sender of the payment is responsible for indicating the appropriate transaction type. All third party settlement organizations shall maintain records that clearly identify whether a transaction, as designated by the sender of the payment, is a transaction for goods and services or is personal. The information in the return submitted to the department under subsection (2) for such entities must be limited to transactions for goods and services.

(7) Notwithstanding this section, subsection (6) does not apply to a third party settlement organization if a contractual agreement or arrangement to provide a third party payment network to a participating payee requires the third party settlement organization solely to settle third party network transactions for the provision of goods and services.

Section 2. Paragraph (b) of subsection (1) of section 489.147, Florida Statutes, is redesignated as paragraph (c), a new paragraph (b) is added to that subsection, and subsection (6) is added to that section, to read:

489.147 Prohibited property insurance practices; contract requirements.

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

(b) “Residential property owner” means the person who holds the legal title to the residential real property that is subject of and directly impacted by the action of a governmental entity. The term does not include a governmental entity.

(6)(a) A residential property owner may cancel a contract to replace or repair a roof without penalty or obligation within 10 days after the execution of the contract or by the official start date, whichever comes first, if the contract was entered into based on events that are subject of a declaration of a state of emergency by the Governor. For the purposes of this subsection, the official start date is the date on which work that includes the installation of materials that will be included in the final work on the roof commences, a final permit has been issued, or a temporary repair to the roof covering or roof has been made in compliance with the Florida Building Code.

(b) A contractor executing a contract during a declaration of a state of emergency to replace or repair a roof of a residential property must include or add as an attachment to the contract the following language, in bold type of not less than 18 points, immediately before the space reserved for the signature of the residential property owner:

“You, the residential property owner, may cancel this contract without penalty or obligation within 10 days after the execution of the contract or by the official start date, whichever comes first, because this contract was entered into during a state of emergency by the Governor. The official start date is the date on which work that includes the installation of materials that will be included in the final work on the roof commences, a final permit has been issued, or a temporary repair to the roof covering or roof system has been made in compliance with the Florida Building Code.”

(c) The residential property owner must send the notice of cancellation by certified mail, return receipt requested, or other form of mailing that provides proof thereof, at the address specified in the contract.

Section 3. Subsection (9) of section 559.9611, Florida Statutes, is amended to read:

559.9611 Definitions.—As used in this part, the term:

(9) “Depository institution” means a bank, a credit union, a savings bank, a savings and loan association, a savings or thrift association, or an

~~industrial loan company doing business under the authority of a charter issued by the United States, this state, or any other state, district, territory, or commonwealth of the United States which is authorized to transact business in this state and whose deposits or share accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund Florida state-chartered bank, savings bank, credit union, or trust company, or a federal savings or thrift association, bank, credit union, savings bank, or thrift.~~

Section 4. Paragraph (d) of subsection (8) of section 624.424, Florida Statutes, is amended to read:

624.424 Annual statement and other information.—

(8)

~~(d) Upon creation of the continuing education required under this paragraph, the certified public accountant that prepares the audit must be licensed to practice pursuant to chapter 473 and must have completed at least 4 hours of insurance-related continuing education during each 2-year continuing education cycle.~~ An insurer may not use the same accountant or partner of an accounting firm responsible for preparing the report required by this subsection for more than 5 consecutive years. Following this period, the insurer may not use such accountant or partner for a period of 5 years, but may use another accountant or partner of the same firm. An insurer may request the office to waive this prohibition based upon an unusual hardship to the insurer and a determination that the accountant is exercising independent judgment that is not unduly influenced by the insurer considering such factors as the number of partners, expertise of the partners or the number of insurance clients of the accounting firm; the premium volume of the insurer; and the number of jurisdictions in which the insurer transacts business.

Section 5. Subsection (2) of section 626.8796, Florida Statutes, is amended to read:

626.8796 Public adjuster contracts; disclosure statement; fraud statement.—

(2) A public adjuster contract relating to a property and casualty claim must contain the full name, permanent business address, phone number, e-mail address, and license number of the public adjuster; the full name and license number of the public adjusting firm; and the insured's full name, street address, phone number, and e-mail address, together with a brief description of the loss. The contract must state the percentage of compensation for the public adjuster's services in minimum 18-point bold type before the space reserved in the contract for the signature of the insured; the type of claim, including an emergency claim, nonemergency claim, or supplemental claim; the initials of the named insured on each page that does not contain the insured's signature; the signatures of the public adjuster and all named

insureds; and the signature date. If all of the named insureds' signatures are not available, the public adjuster must submit an affidavit signed by the available named insureds attesting that they have authority to enter into the contract and settle all claim issues on behalf of the named insureds. An unaltered copy of the executed contract must be remitted to the insured at the time of execution and to the insurer, or the insurer's representative within 7 days after execution. A public adjusting firm that adjusts claims primarily for commercial entities with operations in more than one state and that does not directly or indirectly perform adjusting services for insurers or individual homeowners is deemed to comply with the requirements of this subsection if, at the time a proof of loss is submitted, the public adjusting firm remits to the insurer an affidavit signed by the public adjuster or public adjuster apprentice that identifies:

- (a) The full name, permanent business address, phone number, e-mail address, and license number of the public adjuster or public adjuster apprentice.
- (b) The full name of the public adjusting firm.
- (c) The insured's full name, street address, phone number, and e-mail address, together with a brief description of the loss.
- (d) An attestation that the compensation for public adjusting services will not exceed the limitations provided by law.
- (e) The type of claim, including an emergency claim, nonemergency claim, or supplemental claim.

Section 6. Subsection (2) of section 627.43141, Florida Statutes, is amended to read:

627.43141 Notice of change in policy terms.—

(2) A renewal policy may contain a change in policy terms. If such change occurs, the insurer shall give the named insured advance written notice summarizing the change, which may be enclosed ~~in along with~~ the written notice of renewal premium required under ss. 627.4133 and 627.728 or sent separately within the timeframe required under the Florida Insurance Code for the provision of a notice of nonrenewal to the named insured for that line of insurance. The insurer must also provide a sample copy of the notice to the named insured's insurance agent before or at the same time that notice is provided to the named insured. Such notice shall be entitled "Notice of Change in Policy Terms." Beginning January 1, 2025, the notice must be in bold type of not less than 14 points and must be included as a single page or consecutive pages, as necessary, within the written notice.

Section 7. Section 627.6426, Florida Statutes, is amended to read:

627.6426 Short-term health insurance.—

(1) For purposes of this part, the term “short-term health insurance” means health insurance coverage provided by an issuer with an expiration date specified in the contract that is less than 12 months after the original effective date of the contract and, taking into account renewals or extensions, has a duration not to exceed 36 months in total.

(2) All contracts for short-term health insurance entered into by an issuer and an individual seeking coverage shall include the following written disclosures signed by the purchaser at the time of purchase disclosure:

(a) The following statement:

“This coverage is not required to comply with certain federal market requirements for health insurance, principally those contained in the Patient Protection and Affordable Care Act. Be sure to check your policy carefully to make sure you are aware of any exclusions or limitations regarding coverage of preexisting conditions or health benefits (such as hospitalization, emergency services, maternity care, preventive care, prescription drugs, and mental health and substance use disorder services). Your policy might also have lifetime and/or annual dollar limits on health benefits. If this coverage expires or you lose eligibility for this coverage, you might have to wait until an open enrollment period to get other health insurance coverage.”

(b) The following information:

1. The duration of the contract, including any waiting period.
2. Any essential health benefit under 42 U.S.C. s. 18022(b) that the contract does not provide.
3. The content of coverage.
4. Any exclusion of preexisting conditions.

(3) The disclosures required in subsection (2) must be printed in no less than 12-point type and in a color that is readable. A copy of the signed disclosures must be maintained by the issuer for a period of 5 years after the date of purchase.

(4) Disclosures provided by electronic means must meet the requirements of subsection (2).

Section 8. Subsection (4) of section 627.70132, Florida Statutes, is renumbered as subsection (5), and a new subsection (4) is added to that section to read:

627.70132 Notice of property insurance claim.—

(4)(a) A notice of claim for loss assessment coverage under s. 627.714 may not occur later than 3 years after the date of loss and must be provided to the insurer the later of:

1. Within 1 year after the date of loss; or

2. Within 90 days after the date on which the condominium association or its governing board votes to levy an assessment resulting from a covered loss.

(b) For purposes of this subsection, the date of loss is the date of the covered loss event that created the need for an assessment.

Section 9. Paragraph (a) of subsection (4) of section 791.01, Florida Statutes, is amended to read:

791.01 Definitions.—As used in this chapter, the term:

(4)(a) “Fireworks” means and includes any combustible or explosive composition or substance or combination of substances or, except as hereinafter provided, any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation. The term includes blank cartridges and toy cannons in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, Roman candles, ~~dagō-bombs~~, and any fireworks containing any explosives or flammable compound or any tablets or other device containing any explosive substance.

Section 10. Section 791.012, Florida Statutes, is amended to read:

791.012 Minimum fireworks safety standards.—The outdoor display of fireworks in this state shall be governed by the National Fire Protection Association (NFPA) 1123, Code for Fireworks Display, 2018 ~~1995~~ Edition, ~~approved by the American National Standards Institute~~. Any state, county, or municipal law, rule, or ordinance may provide for more stringent regulations for the outdoor display of fireworks, but in no event may any such law, rule, or ordinance provide for less stringent regulations for the outdoor display of fireworks. The division shall promulgate rules to carry out the provisions of this section. The Code for Fireworks Display shall not govern the display of any fireworks on private, residential property and shall not govern the display of those items included under s. 791.01(4)(b) and (c) and authorized for sale thereunder.

Section 11. This act shall take effect July 1, 2024.

Approved by the Governor May 2, 2024.

Filed in Office Secretary of State May 2, 2024.