

1 A bill to be entitled
2 An act relating to property insurance; amending s.
3 626.913, F.S.; providing construction of the Surplus
4 Lines Law relating to certain dispute resolution
5 proceedings; creating s. 626.9285, F.S.; prohibiting
6 surplus lines agents from delivering or issuing for
7 delivery property insurance contracts with specified
8 provisions; amending s. 627.70131, F.S.; revising the
9 definition of the term "insurer" to include eligible
10 surplus lines insurers and provision of commercial
11 property insurance; revising the basis for private
12 causes of action; revising the definition of the term
13 "claim" to include any claims under a commercial
14 property insurance; revising applicability; amending
15 s. 627.702, F.S.; defining the terms "insurer" and
16 "total loss"; requiring property insurers' liability
17 to include certain coverages; providing circumstances
18 under which such coverages are payable; creating s.
19 627.7035, F.S.; defining the term "insurer"; providing
20 requirements for proceeding venues and jurisdiction of
21 courts for specified property insurance policies and
22 contracts; prohibiting such insurance policies and
23 contracts from containing specified conditions,
24 stipulations, and agreements; providing construction;
25 providing applicability; providing an effective date.

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

Section 1. Subsection (5) is added to section 626.913, Florida Statutes, to read:

626.913 Surplus Lines Law; short title; purposes.—

(5) The Surplus Lines Law does not authorize litigation, arbitration, or mediation or any other dispute resolution proceeding for residential or commercial property insurance claim involving real property located in this state to be conducted outside this state or to apply the laws of another state.

Section 2. Section 626.9285, Florida Statutes, is created to read:

626.9285 Contracts with alternative dispute resolutions or application of laws of another state prohibited.—

(1) A surplus lines agent may not deliver or issue for delivery in this state any property insurance contract containing a provision on an arbitration, mediation, or other alternative dispute resolution that occurs outside this state or a provision that applies the laws of another state.

(2) This section applies to property insurance contracts issued or renewed on or after January 1, 2021, and does not apply to any claim existing or any action, dispute resolution proceeding, judicial proceeding, or administrative proceeding

51 pending as of July 1, 2020.

52 Section 3. Section 627.70131, Florida Statutes, is amended
53 to read:

54 627.70131 Insurer's duty to acknowledge communications
55 regarding claims; investigation.-

56 (1)~~(4)~~ As used in ~~For purposes of~~ this section, the term
57 "insurer" means an insurer authorized to transact insurance in
58 this state or an eligible surplus lines insurer, as defined in
59 s. 626.914, that provides any residential or commercial property
60 insurance in this state insurer.

61 (2) (a)~~(1) (a)~~ Upon an insurer's receiving a communication
62 with respect to a claim, the insurer shall, within 14 calendar
63 days, review and acknowledge receipt of such communication
64 unless payment is made within that period of time or unless the
65 failure to acknowledge is caused by factors beyond the control
66 of the insurer which reasonably prevent such acknowledgment. If
67 the acknowledgment is not in writing, a notification indicating
68 acknowledgment shall be made in the insurer's claim file and
69 dated. A communication made to or by an agent of an insurer with
70 respect to a claim shall constitute communication to or by the
71 insurer.

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

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

79 (3)~~(2)~~ Such acknowledgment shall be responsive to the
 80 communication. If the communication constitutes a notification
 81 of a claim, unless the acknowledgment reasonably advises the
 82 claimant that the claim appears not to be covered by the
 83 insurer, the acknowledgment shall provide necessary claim forms,
 84 and instructions, including an appropriate telephone number.

85 (4)~~(3)~~ Unless otherwise provided by the policy of
 86 insurance or by law, within 10 working days after an insurer
 87 receives proof of loss statements, the insurer shall begin such
 88 investigation as is reasonably necessary unless the failure to
 89 begin such investigation is caused by factors beyond the control
 90 of the insurer which reasonably prevent the commencement of such
 91 investigation.

92 (5) (a) Within 90 days after an insurer receives notice of
 93 an initial, reopened, or supplemental property insurance claim
 94 from a policyholder, the insurer shall pay or deny such claim or
 95 a portion of the claim unless the failure to pay is caused by
 96 factors beyond the control of the insurer which reasonably
 97 prevent such payment. Any payment of an initial or supplemental
 98 claim or portion of such claim made 90 days after the insurer
 99 receives notice of the claim, or made more than 15 days after
 100 there are no longer factors beyond the control of the insurer

101 which reasonably prevented such payment, whichever is later,
 102 bears interest at the rate set forth in s. 55.03. Interest
 103 begins to accrue from the date the insurer receives notice of
 104 the claim. The provisions of this subsection may not be waived,
 105 voided, or nullified by the terms of the insurance policy. If
 106 there is a right to prejudgment interest, the insured shall
 107 select whether to receive prejudgment interest or interest under
 108 this subsection. Interest is payable when the claim or portion
 109 of the claim is paid. Failure to comply with this subsection
 110 constitutes a violation of this code and provides a. ~~However,~~
 111 ~~failure to comply with this subsection does not form the sole~~
 112 basis for a private cause of action.

113 (b) ~~Notwithstanding subsection (4),~~ For purposes of this
 114 subsection, the term "claim" means any of the following:

115 1. A claim under an insurance policy providing residential
 116 coverage as defined in s. 627.4025(1);

117 2. A claim ~~for structural or contents coverage under a~~
 118 commercial property insurance policy ~~if the insured structure is~~
 119 ~~10,000 square feet or less; or~~

120 3. A claim for contents coverage under a commercial tenant
 121 policy if the insured premises is 10,000 square feet or less.

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

125 Section 4. Subsection (1) of section 627.702, Florida

126 Statutes, is amended to read:

127 627.702 Valued policy law.—

128 (1) (a) ~~(e)~~ It is the intent of the Legislature that the
 129 amendment to this section shall not be applied retroactively and
 130 shall apply only to claims filed after the effective date of
 131 such amendment.

132 (b) As used in this section, the term:

133 1. "Insurer" means an insurer authorized to transact
 134 insurance in this state or an eligible surplus lines insurer, as
 135 defined in s. 626.914.

136 2. "Total loss" means a loss in which the damaged property
 137 is damaged to the extent that the applicable ordinances, rules,
 138 or laws in effect would prohibit or prevent the repair of the
 139 property, or for which the cost and expense to repair the
 140 damages would exceed the applicable coverage limit of the
 141 property insurance policy.

142 (c) ~~(1) (a)~~ In the event of the total loss of any building,
 143 structure, mobile home as defined in s. 320.01(2), or
 144 manufactured building as defined in s. 553.36(13), located in
 145 this state and insured by any insurer as to a covered peril, in
 146 the absence of any change increasing the risk without the
 147 insurer's consent and in the absence of fraudulent or criminal
 148 fault on the part of the insured or one acting in her or his
 149 behalf, the insurer's liability under the policy for such total
 150 loss, if caused by a covered peril, must ~~shall~~ be in the amount

151 of money for which such property was so insured as specified in
152 the policy and for which a premium has been charged and paid.

153 (d) The insurer's liability under the policy must include
154 liability for ordinance, rule, and law coverage. The obligation
155 to tender ordinance, rule, or law coverage payments shall be
156 triggered by a showing of the ordinance, rule, or law
157 requirements, and expenses for ordinance, rule, or law
158 requirements need not be incurred to be payable under this
159 paragraph.

160 (e) ~~(b)~~ The intent of this subsection is not to deprive an
161 insurer of any proper defense under the policy, to create new or
162 additional coverage under the policy, or to require an insurer
163 to pay for a loss caused by a peril other than the covered
164 peril. In furtherance of such legislative intent, when a loss
165 was caused in part by a covered peril and in part by a
166 noncovered peril, paragraph (c) ~~(a)~~ does not apply. In such
167 circumstances, the insurer's liability under this section shall
168 be limited to the amount of the loss caused by the covered
169 peril. However, if the covered perils alone would have caused
170 the total loss, paragraph (c) applies ~~(a) shall apply~~. The
171 insurer is never liable for more than the amount necessary to
172 repair, rebuild, or replace the structure following the total
173 loss, after considering all other benefits actually paid for the
174 total loss.

175 Section 5. Section 627.7035, Florida Statutes, is created

176 to read:

177 627.7035 Proceeding venues and jurisdiction of courts for
 178 real property coverage.-

179 (1) As used in this section, the term "insurer" means an
 180 insurer authorized to transact insurance in this state or an
 181 eligible surplus lines insurer, as defined in s. 626.914.

182 (2) Any litigation, arbitration, or mediation or any other
 183 dispute resolution proceeding involving a residential or
 184 commercial property insurance policy or contract issued by, or a
 185 claim against, an insurer covering real property in this state
 186 must be conducted in this state and governed by the laws of this
 187 state.

188 (3) A residential or commercial property insurance policy
 189 or contract covering real property that is located in this state
 190 may not contain any condition, stipulation, or agreement
 191 depriving the courts of this state of the jurisdiction of action
 192 against the insurer.

193 (4) Any provision of a residential or commercial property
 194 insurance policy or contract, including a policy or contract
 195 authorized under the Surplus Lines Law, ss. 626.913-626.937,
 196 that violates any provision of this section is void. However,
 197 such voiding does not affect the validity of other provisions of
 198 the policy or contract.

199 (5) This section applies:

200 (a) Only to residential or commercial property insurance

201 policies or contracts covering real property located in this
202 state.

203 (b) To residential or commercial property insurance
204 policies and contracts issued or renewed on or after January 1,
205 2021, and does not apply to any claim existing or any action,
206 dispute resolution proceeding, judicial proceeding, or
207 administrative proceeding pending as of July 1, 2020.

208 Section 6. The amendments to ss. 626.913, 627.70131, and
209 627.702, Florida Statutes, by this act apply to property
210 insurance policies or contracts issued or renewed on or after
211 January 1, 2021, and do not apply to any claim existing or any
212 action, dispute resolution proceeding, judicial proceeding, or
213 administrative proceeding pending as of July 1, 2020.

214 Section 7. This act shall take effect July 1, 2020.