1 A bill to be entitled 2 An act relating to property insurance assignment 3 agreements; creating s. 627.7152, F.S.; providing 4 definitions; providing requirements and limitations of 5 assignment agreements; providing a burden of proof; 6 providing an assignment agreement does not affect 7 managed repair arrangements under an insurance policy; 8 providing an insured's payment obligations under an 9 assignment agreement; requiring notice of intent to 10 initiate litigation; specifying requirements for such 11 notice; providing for an award of reasonable attorney 12 fees for certain claims arising under an assignment 13 agreement; requiring the Office of Insurance Regulation to require insurers to report specified 14 15 data; providing applicability; amending s. 627.422, 16 F. S.; specifying certain residential property 17 insurance policies may not prohibit assignment of 18 post-loss benefits; providing an effective date. 19 Be It Enacted by the Legislature of the State of Florida: 20 21 22 Section 627.7152, Florida Statutes, is created Section 1. 23 to read: 24 627. 7152 Assignment agreements.

Page 1 of 10

As used in this section, the term

25

(1)

(a) "Assignment agreement" means a written instrument by
which post-loss benefits under a residential property insurance
policy are assigned to a person providing services to protect,
repair, restore, or replace such property or to mitigate against
further damage to such property.

- (b) "Disputed amount" means the difference between the presuit settlement demand and the presuit settlement offer.
- (c) "Judgment obtained" means damages recovered, if any, but does not include any amount awarded for interest, attorney fees, or costs.
 - (d) "Presuit settlement demand" means the presuit
 settlement demand made by the assignee in the written notice of
 intent to initiate litigation as required by paragraph (7)(a).
- (e) "Presuit settlement offer" means the presuit
 settlement offer made by the insurer in its written response to
 the notice of intent to initiate litigation as required by
 paragraph (7)(b).
- 43 (2) An assignment agreement that does not comply with this

execution date of the assignment agreement and by notifying the assignee of the rescission. The assignor may rescind the assignment agreement for any reason during the 7-day period. The assignor is responsible for payment for contracted work performed before the agreement is rescinded.

- 3. Contain a provision requiring the assignee to provide a copy of the executed assignment agreement to the insurer within 3 business days after the date the assignment agreement is executed or the date work begins, whichever is earlier. Delivery may be made:
- a. By personal service, overnight delivery, or electronic transmission, with evidence of delivery in the form of a receipt or other paper or electronic acknowledgement by the insurer; or
- b. To the location designated for receipt of such agreements as specified in the policy.
- 4. Contain a written, itemized, per-unit cost estimate of the services to be performed by the assignee. If the estimate of services includes a claim for water restoration services, the estimate must also include proof that the assignee or subcontractor of the assignee possesses a valid certification from an entity that requires water remediation to be performed according to a standard that is approved by the American National Standards Institute.
- 5. Relate only to work to be performed by the assignee for services to protect, repair, restore, or replace dwellings or

(a) Maintain records of all services provided under an assignment agreement.

- (b) Cooperate with the insurer in the investigation of a claim
- (c) Provide the insurer with requested records and documents related to the services provided and to permit the insurer to make copies of such records and documents.
- (d) Deliver a copy of the executed assignment agreement to the insurer within 3 business days after the execution of the assignment agreement or work has begun, whichever is earlier.
 - (4) An assignee:

- (a) Must provide the assignor with accurate and up-to-date revised estimates of the scope of work to be performed as supplemental or additional repairs are required.
- (b) Must perform the work to conform with current and accepted industry standards.
- (c) May not seek payment from the assignor exceeding the applicable deductible under the policy unless the assignor has chosen to have additional work performed at the assignor's own expense.
- (d) Must, as a condition precedent to filing suit under the policy, and if required by the insurer, submit to examinations under oath and recorded statements conducted by the insurer or the insurer's representative that are reasonably necessary, based on the scope of the work and the complexity of

the claim, which examinations and recorded statements must be limited to matters related to the services provided, the cost of the services, and the assignment.

- (e) Must, as a condition precedent to filing suit under the policy, and if required by the insurer, participate in appraisal or other alternative dispute resolution methods in accordance with the terms of the property insurance policy.
- (5) An assignment agreement and this section do not modify or eliminate any term, condition, or defense relating to any managed repair arrangement provided in the property insurance policy.
- (6) Not withst anding any other provision of law, the acceptance by an assignee of an assignment agreement is a waiver by the assignee and subcontractors of the assignee, of claims against named insureds for payments arising from the assignment agreement. The assignee and subcontractors may not collect or attempt to collect money from maintain any action at law against, or claim a lien on the real property of an insured or report an insured to a credit agency for payments arising from the assignment agreement. However, named insureds remain responsible for the payment of any deductible amount under an insurance policy, any contracted work performed before the assignor rescinded the assignment agreement, and any betterment ordered and approved by the assignor. Such waiver remains in effect after rescission of the assignment agreement by the

151 <u>assignor or after a determination that the assignment agreement</u> 152 is invalid.

153 (7)(a) An assignee must provide the insurer and the 154 assignor with a written notice of intent to initiate litigation 155 before filing suit under the policy. Such notice must be served 156 at least 10 business days before filing suit, but may not be 157 served before the insurer has made a determination of coverage 158 pursuant to s. 627.70131. The notice must specify the damages in 159 dispute, the amount claimed, and any presuit settlement demand. 160 Concurrent with the notice, and as a precondition to filing 161 suit, the assignee must provide the insurer and the assignor a 162 detailed written invoice or estimate of services, including 163 itemized information on equipment, materials, and supplies; the 164 number of labor hours; and, in the case of work performed, proof 165 the work has been performed in accordance with current industry 166 standards. If the invoice or estimate includes a claim for water 16224 r3estoration services, the assignee must provide proof of the

Page 7 of 10

CODING: Words stricken are deletions; words underlined are additions.

hb7015-00

notice in accordance with the Florida Insurance Code.

- (8) Not withst anding any other law to the contrary, in a proceeding related to an assignment agreement for post-loss claims arising under a residential property insurance policy, attorney fees and costs may only be recovered by an assignee under s. 57. 105 and this subsection.
- (a) If the difference between the judgment obtained by the assignee and the presuit settlement offer is less than 25 percent of the disputed amount, the insurer is entitled to an award of reasonable attorney fees. If the difference between the judgment obtained by the assignee and the presuit settlement offer is at least 25 percent but less than 50 percent of the disputed amount, no party is entitled to an award of attorney fees. If the difference between the judgment obtained by the assignee and the presuit settlement offer is at least 50 percent of the disputed amount, the assignee is entitled to an award of reasonable attorney fees.
- (b) If the insurer fails either to inspect the property or to provide written or verbal authorization for repairs within 7 calendar days after the first notice of loss, the insurer waives its right to an award of attorney fees under this subsection. If the failure to inspect the property or to provide written or verbal authorization for repairs is the result of an event for which the Governor had declared a state of emergency pursuant to s. 252.36, factors beyond the control of the insurer which