

Summary of Senate Bill 408

PUBLIC ADJUSTERS:

amending s. 626.854, F.S.;

- providing limitations on the amount of compensation that may be received by a public adjuster for a reopened or supplemental claim; (20% of the reopened or supplemental claim payment) p. 13
- providing statements that may be considered deceptive or misleading if made in any public adjuster's advertisement or solicitation;
- providing a definition for the term "written advertisement";
- requiring that a disclaimer be included in any public adjuster's written advertisement;
- providing requirements for such disclaimer;
- requiring certain persons who act on behalf of an insurer to provide notice to the insurer, claimant, public adjuster, or legal representative for an onsite inspection of the insured property;
- authorizing the insured or claimant to deny access to the property if notice is not provided;
- requiring the public adjuster to ensure prompt notice of certain property loss claims; p.19 (& give a copy of PA contract to ins. co. including % of PA compensation)
- providing that an insurer be allowed to interview the insured directly about the loss claim;
- prohibiting the insurer from obstructing or preventing the public adjuster from communicating with the insured;
- requiring that the insurer communicate with the public adjuster in an effort to reach an agreement as to the scope of the covered loss under the insurance policy;
- prohibiting a public adjuster from restricting or preventing persons acting on behalf of the insured from having reasonable access to the insured or the insured's property;
- prohibiting a public adjuster from restricting or preventing the insured's adjuster from having reasonable access to or inspecting the insured's property;
- authorizing the insured's adjuster to be present for the inspection; prohibiting a licensed contractor or subcontractor from adjusting a claim on behalf of an insured if such contractor or subcontractor is not a licensed public adjuster;
- providing an exception;

amending s. 626.8651, F.S.; requiring that a public adjuster apprentice complete a minimum number of hours of continuing education to qualify for licensure;

amending s. 626.8796, F.S.; providing requirements for a public adjuster contract; (Must include percentage of compensation)

SUPPLEMENTAL CLAIM:

creating s. 626.70132, F.S.;

- requiring that **notice of a claim, supplemental claim, or reopened claim** be given to the insurer **within a specified period** after a windstorm or hurricane occurs; (3 year)

- providing a definition for the terms “supplemental claim” or “reopened claim”; providing applicability;

amending s. 627.351, F.S.; providing that members of the Citizens Property Insurance Corporation Board of Governors are not prohibited from practicing in a certain profession if not prohibited by law or ordinance;

CHANGE IN POLICY: (p. 83)

creating s. 627.43141, F.S.;

- providing definitions; requiring the delivery of a “Notice of Change in Policy Terms” under certain circumstances;
- specifying requirements for such notice; **(must be sent with renewal)** specifying actions constituting proof of notice; **(placing it in the U.S. mail is proof of notice)** authorizing policy renewals to contain a change in policy terms;
- providing that **receipt of payment by an insurer is deemed acceptance** of new policy terms by an insured;

ACTUAL CASH VALUE: (p.87)

amending s. 627.7011, F.S.;

- requiring that an insurer pay the actual cash value of an insured loss for a dwelling, less any applicable deductible, under certain circumstances;
- requiring that a policyholder enter into a contract for the performance of building and structural repairs;
- requiring that an insurer pay certain remaining amounts; **(as repairs are made)**
- restricting insurers and contractors from requiring advance payments for certain repairs and expenses;
- authorizing an insured to make a claim for replacement costs within a certain period after the insurer pays actual cash value to make a claim for replacement costs; **(1 year)**
- requiring an insurer to pay the replacement costs if a total loss occurs;
- allowing an insurer to limit its initial payment for losses to personal property; **(ACV or 50% of RCV, whichever is greater, and pay holdback with receipt of purchase)**

SINKHOLE: (p. 91)

amending s. 627.70131, F.S.;

- specifying application of certain time periods to initial or supplemental property insurance claim notices and payments; **(90 days)**
- providing legislative findings with respect to 2005 statutory changes relating to sinkhole insurance coverage and statutory changes in this act;

amending s. 627.706, F.S.;

- authorizing an insurer to **limit coverage** for catastrophic ground cover collapse **to the principal building (so no outlying buildings, sheds, etc.)** and to have discretion to provide additional coverage;
- allowing the deductible to include costs relating to an investigation of whether sinkhole activity is present;

- revising definitions; (“**covered building**” – seems to exclude driveways, pools, etc.)
- defining the term “structural damage”; p.94 (1. foundation movement outside of *acceptable variance* of applicable building code; 2. damage which “prevents the primary structural members or primary structural systems from supporting the loads and forces they were designed to support”)
- placing a 2-year statute of repose on claims for sinkhole coverage; (from the time insured “knew or reasonably should have known about sinkhole loss”)

amending s. 627.707, F.S.;

- revising provisions relating to the investigation of sinkholes by insurers;
- deleting a requirement that the insurer provide a policyholder with a statement regarding testing for sinkhole activity;
- providing a time limitation for demanding sinkhole testing by a policyholder (**60 days from denial of claim**) and entering into a contract for repairs (**within 90 days**);
- requiring all repairs to be completed within a certain time; (**within 12 months**)
- providing exceptions to the time to complete repairs; (**mutual agreement between policyholder and insurance company or the claim is in litigation, appraisal or neutral evaluation**)
- providing a criminal penalty on a policyholder for accepting rebates from persons performing repairs;

amending s. 627.7073, F.S.;

- revising provisions relating to inspection reports;
- providing that the presumption that the report is correct shifts the burden of proof;
- requiring the policyholder to file certain reports as a precondition to accepting payment;
- requiring a seller of real property to provide a buyer with a copy of any inspection reports and certifications;

amending s. 627.7074, F.S.;

- revising provisions relating to neutral evaluation;
- requiring evaluation in order to make certain determinations;
- requiring that the neutral evaluator be allowed access to structures being evaluated;
- providing grounds for disqualifying an evaluator;
- allowing the Department of Financial Services to appoint an evaluator if the parties cannot come to agreement;
- revising the timeframes for scheduling a neutral evaluation conference; authorizing an evaluator to enlist another evaluator or other professionals;
- providing a time certain for issuing a report;
- providing that certain information is confidential; **p. 110 (oral, written statements or non-verbal conduct, other than “expressly required to be admitted by this subsection, are confidential” and can be disclosed only to the parties – i.e., can’t be admitted in court)**
- revising provisions relating to compliance with the evaluator’s recommendations;
- providing that the evaluator is an agent of the department for the purposes of immunity from suit;
- requiring the department to adopt rules;