

1 A bill to be entitled
2 An act relating to insurance; amending s. 624.155,
3 F.S.; deleting a provision that tolls, under certain
4 circumstances, a period before a civil action against
5 an insurer may be brought; deleting a provision
6 authorizing the Department of Financial Services to
7 return a civil remedy notice for lack of specificity;
8 prohibiting the filing of the notice within a certain
9 timeframe under certain circumstances; amending s.
10 626.914, F.S.; revising the definition of the term
11 "diligent effort," as used in the Surplus Lines Law;
12 amending s. 626.9541, F.S.; providing construction;
13 amending s. 627.0655, F.S.; revising the circumstances
14 under which certain insurance premium discounts are
15 authorized; amending s. 627.4555, F.S.; requiring life
16 insurers that are required to provide a specified
17 notice to policyowners of an impending lapse in
18 coverage to also notify the policyowner's agent of
19 record within a certain timeframe; providing that the
20 agent is not responsible for any lapse in coverage;
21 exempting the insurer from the requirement under
22 certain circumstances; amending s. 627.7015, F.S.;
23 revising the periods of time when property insurers
24 must notify policyholders of certain mediation
25 programs; providing an effective date.

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

Section 1. Subsection (3) of section 624.155, Florida Statutes, is amended to read:

624.155 Civil remedy.—

(3) (a) As a condition precedent to bringing an action under this section, the department and the authorized insurer must have been given 60 days' written notice of the violation. ~~If the department returns a notice for lack of specificity, the 60-day time period shall not begin until a proper notice is filed.~~

(b) The notice shall be on a form provided by the department and shall state with specificity the following information, and such other information as the department may require:

1. The statutory provision, including the specific language of the statute, which the authorized insurer allegedly violated.

2. The facts and circumstances giving rise to the violation.

3. The name of any individual involved in the violation.

4. Reference to specific policy language that is relevant to the violation, if any. If the person bringing the civil action is a third party claimant, she or he shall not be

51 required to reference the specific policy language if the
52 authorized insurer has not provided a copy of the policy to the
53 third party claimant pursuant to written request.

54 5. A statement that the notice is given in order to
55 perfect the right to pursue the civil remedy authorized by this
56 section.

57 ~~(c) Within 20 days of receipt of the notice, the~~
58 ~~department may return any notice that does not provide the~~
59 ~~specific information required by this section, and the~~
60 ~~department shall indicate the specific deficiencies contained in~~
61 ~~the notice. A determination by the department to return a notice~~
62 ~~for lack of specificity shall be exempt from the requirements of~~
63 ~~chapter 120.~~

64 (c)~~(d)~~ No action shall lie if, within 60 days after filing
65 notice, the damages are paid or the circumstances giving rise to
66 the violation are corrected.

67 (d)~~(e)~~ The authorized insurer that is the recipient of a
68 notice filed pursuant to this section shall report to the
69 department on the disposition of the alleged violation.

70 (e)~~(f)~~ The applicable statute of limitations for an action
71 under this section shall be tolled for a period of 65 days by
72 the mailing of the notice required by this subsection or the
73 mailing of a subsequent notice required by this subsection.

74 (f) A notice required under this subsection may not be
75 filed within 60 days after appraisal is invoked by any party in

76 | a residential property insurance claim.

77 | Section 2. Subsection (4) of section 626.914, Florida
78 | Statutes, is amended to read:

79 | 626.914 Definitions.—As used in this Surplus Lines Law,
80 | the term:

81 | (4) "Diligent effort" means seeking coverage from and
82 | having been rejected by at least three authorized insurers
83 | currently writing this type of coverage and documenting these
84 | rejections. However, if the residential structure has a dwelling
85 | replacement cost of \$700,000 ~~\$1 million~~ or more, the term means
86 | seeking coverage from and having been rejected by at least one
87 | authorized insurer currently writing this type of coverage and
88 | documenting this rejection.

89 | Section 3. Subsection (5) is added to section 626.9541,
90 | Florida Statutes, to read:

91 | 626.9541 Unfair methods of competition and unfair or
92 | deceptive acts or practices defined.—

93 | (5) LOSS CONTROL AND LOSS MITIGATION.—This section does
94 | not prohibit an insurer or agent from offering or giving to an
95 | insured, for free or at a discounted price, services or other
96 | merchandise, goods, wares, or other items of value that relate
97 | to loss control or loss mitigation with respect to the risks
98 | covered under the policy.

99 | Section 4. Section 627.0655, Florida Statutes, is amended
100 | to read:

101 627.0655 Policyholder loss or expense-related premium
 102 discounts.—An insurer or person authorized to engage in the
 103 business of insurance in this state may include, in the premium
 104 charged an insured for any policy, contract, or certificate of
 105 insurance, a discount based on the fact that another policy,
 106 contract, or certificate of any type has been purchased by the
 107 insured from:

108 (1) The same insurer or insurer group, or another insurer
 109 under a joint marketing agreement;

110 (2) The Citizens Property Insurance Corporation created
 111 under s. 627.351(6), if the same insurance agent is servicing
 112 both policies; ~~or~~

113 (3) An insurer that has removed the policy from the
 114 Citizens Property Insurance Corporation or issued a policy
 115 pursuant to the clearinghouse program under s. 627.3518, if the
 116 same insurance agent is servicing both policies; or

117 (4) An insurer, if the same insurance agent is servicing
 118 the policies.

119 Section 5. Section 627.4555, Florida Statutes, is amended
 120 to read:

121 627.4555 Secondary notice.—

122 (1) Except as provided in this section, a contract for
 123 life insurance issued or issued for delivery in this state on or
 124 after October 1, 1997, covering a natural person 64 years of age
 125 or older, which has been in force for at least 1 year, may not

126 | be lapsed for nonpayment of premium unless, after expiration of
127 | the grace period, and at least 21 days before the effective date
128 | of any such lapse, the insurer has mailed a notification of the
129 | impending lapse in coverage to the policyowner and to a
130 | specified secondary addressee if such addressee has been
131 | designated in writing by name and address by the policyowner. An
132 | insurer issuing a life insurance contract on or after October 1,
133 | 1997, shall notify the applicant of the right to designate a
134 | secondary addressee at the time of application for the policy,
135 | on a form provided by the insurer, and at any time the policy is
136 | in force, by submitting a written notice to the insurer
137 | containing the name and address of the secondary addressee. For
138 | purposes of any life insurance policy that provides a grace
139 | period of more than 51 days for nonpayment of premiums, the
140 | notice of impending lapse in coverage required by this section
141 | must be mailed to the policyowner and the secondary addressee at
142 | least 21 days before the expiration of the grace period provided
143 | in the policy. This section does not apply to any life insurance
144 | contract under which premiums are payable monthly or more
145 | frequently and are regularly collected by a licensed agent or
146 | are paid by credit card or any preauthorized check processing or
147 | automatic debit service of a financial institution.

148 | (2) If the policyowner has a life agent of record or any
149 | agent of record, the insurer must also notify the agent of the
150 | impending lapse in coverage or mail or send electronically a

151 copy of the notification of the impending lapse in coverage
152 under subsection (1) to the agent at least 21 days before the
153 effective date of any such lapse. Receipt of such notice does
154 not make the agent responsible for any lapse in coverage. An
155 insurer is not required to notify the agent under this
156 subsection if any of the following applies:

157 (a) The insurer maintains an online system that allows an
158 agent to independently determine if a policy has lapsed.

159 (b) The insurer has no record of the current agent of
160 record.

161 (c) The agent is employed by the insurer or an affiliate
162 of the insurer.

163 Section 6. Subsection (2) of section 627.7015, Florida
164 Statutes, is amended to read:

165 627.7015 Alternative procedure for resolution of disputed
166 property insurance claims.—

167 (2) Either at the time a first-party claim within the
168 scope of this section is filed by the policyholder or at the
169 time coverage is applied and payment is determined, the insurer
170 shall notify the policyholder of its right to participate in the
171 mediation program under this section. The department shall
172 prepare a consumer information pamphlet for distribution to
173 persons participating in mediation.

174 Section 7. This act shall take effect July 1, 2019.