

UNDERSTANDING FLORIDA'S AOB LAW

Governor Desantis signed House Bill 7065 into law on May 23, 2019.

The Act became effective July 1, 2019, creating Sections 627.7152 – 627.7153, Florida Statutes.

• **Required provisions:**

- Rescission without penalty or fee upon signed, written notice either:
 - Within 14 days of signing agreement;
 - At least 30 days after date work is scheduled to begin (if no substantial performance); or
 - At least 30 days after execution of agreement.
- Requiring assignee to provide copy of agreement to insurer within 3 days of execution or date work begins, whichever is earlier.
- Written, itemized, per-unit cost estimate of services to be performed.
- May only relate to work performed to protect, repair, restore, or replace a dwelling or structure, or to mitigate against further damage.
- Statutory notice of rights and obligations to assignor.
- Assignee to indemnify and hold harmless the assignor from all liabilities (including attorney fees) should policy prohibit assignment in whole or in part.

• **Prohibited provisions:**

- A penalty or fee for rescission;
- A check or mortgage processing fee;
- A penalty or fee for cancellation of agreement; or
- An administrative fee.
- Assignees rendering services under “urgent or emergency circumstances” are capped at a post-loss benefit assignment of \$3,000, or 1% of Coverage A, whichever is greater.

• **Duties of assignee:**

- Provide assignor with accurate, up-to-date estimates of scope of work;
- Perform work in accordance with acceptable industry standards;

- May not seek payment from assignor in excess of deductible unless he/she has chosen to have additional work performed at his/her own expense;
- Must, as a condition precedent to filing suit, and if required by the insurer:
 - Submit to examinations under oath and recorded statements;
 - Participate in appraisal or ADR.
- Provide written notice to insured, insurer, and assignor of intent to initiate litigation. This notice must specify damages in dispute, amount claimed, and a presuit settlement demand. A detailed written invoice or estimate of services must also be provided as a precondition to suit.
 - The insurer must respond within 10 business days of receiving this notice by making a presuit settlement offer or requiring appraisal/ADR.
- Assignee has the burden to demonstrate that insurer is not prejudiced by assignee's failure to:
 - Maintain records of all services provided;
 - Cooperate with insurer in claim investigation;
 - Provide insurer with requested records/documents related to services provided, and allow insurer to make copies of same.

• **Limit to entitlement of attorney fees:**

- Insurer entitled if difference between judgment and presuit settlement offer is less than 25 percent.
- No party is entitled if difference between judgment and presuit settlement offer is at least 25 percent but less than 50 percent.
- Assignee is entitled if difference between judgment and presuit offer is at least 50 percent.
- Insurer waives entitlement if fails to inspect property or provide authorization for repairs within 7 days after first notice of loss, unless failure is not attributable to insurer.

