

FL Memorandum No. 2019-02M (FL INS BUL), 2019 WL 2492837 (FL INS BUL)

FL Memorandum 2019-02M (June 14, 2019)

FLORIDA INSURANCE BULLETINS AND RELATED MATERIALS
MEMORANDUMS

Memorandum 2019-02M

June 14, 2019

TO: All Property And Casualty Insurers Authorized To Do Business In Florida

FROM: David Altmaier

Commissioner Of Insurance

DATE: June 14, 2019

RE: CHANGES TO ASSIGNMENT OF BENEFITS LAW

On May 23, 2019, Governor DeSantis signed House Bill 7065, a significant reform to Assignment of Benefits, into law. The bill is now Chapter 2019-57, Laws of Florida, ('Act') and generally becomes effective on July 1, 2019. The Florida Office of Insurance Regulation ('OIR') is issuing this Informational Memorandum to notify insurers of the passage of the Act, to discuss various provisions of the Act, and to provide guidance to facilitate its implementation.

ASSIGNMENT AGREEMENTS

The Act creates Section 627.7152, Florida Statutes, which contains definitions and required provisions for assignment agreements executed under residential property insurance policies or commercial property insurance policies. Because these required provisions relate to the assignment agreements themselves, and not to the terms of the insurance policy, no form or rate filings are required to comply. If insurers choose to notify their policyholders of these new assignment agreement provisions, they may do so without filing such notice with the OIR.

However, if insurers choose to modify their policy forms to provide, for instance, a designated location for the receipt of assignment agreements, which is provided for in Section 627.7152(2)(a) 3.b., Florida Statutes, such a change or endorsement to the policy form must be filed with and approved by the OIR.

Section 627.7152(12), Florida Statutes, provides for the collection of data on residential and commercial property insurance claims paid under an assignment agreement. The first data report is due January 30, 2022. The data elements to be reported will be specified in a rule to be promulgated by the Financial Services Commission and must include data about claims adjustment and settlement timeframes and trends, grouped by whether litigated or not litigated and by loss adjustment expenses.

In advance of the required data call referred to above, and pursuant to the provisions of [Section 624.316, Florida Statutes](#), the OIR will issue a data call to residential and commercial property insurers in February 2020. While we appreciate that nine months after the passage of the bill may not be sufficient time to recognize the full impact of the Act on rates and rate indications, collecting preliminary data to evaluate the potential impact of the Act is a valuable exercise. Responses to the data call will be due no later than March 30, 2020. To streamline data collection and to provide insurers with sufficient notice of the required data fields, the preliminary data call worksheet and instructions, which can be found here (HB 7065 Data Call), closely resemble previous AOB data calls.

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STANDARDS FOR POLICIES RESTRICTING ASSIGNMENT

Section 2 of the Act creates Section 627.7153, Florida Statutes, which provides standards for policies that restrict the assignment of benefits in whole or in part under a property insurance policy. The new language provides that an insurer may restrict assignments of benefits under a property insurance policy in whole or in part only if it meets all of the following requirements:

- The insurer must also contemporaneously offer to the insured or applicant a policy that does not restrict assignment;
- The restricted policy must be offered at a lower cost than an unrestricted policy;
- The policy restricting assignment in whole must be offered at a lower cost than a policy restricting assignment in part; and
- The restricted policy must include, on the face of the policy or the declarations page, a statutorily required disclosure.

Insurers wishing to make available a policy that restricts in whole or in part an insured's right to execute an assignment agreement must file such forms or endorsements and rates with the OIR for approval. The OIR will make every effort to approve these new policy forms and rates as soon as practicable. Rate filings made for these restricted policies must provide actuarial support for the difference in rate between an unrestricted policy and a policy that restricts assignment in whole or in part. Information regarding rate filing documentation can be found here (Rate Filing Documentation),

Insurers offering restricted policies must notify an insured at least annually of the coverage options available for the assignability of benefits and must attach that notice to the premium notice. The requirement to notify an insured at least annually of the coverage options available for the assignability of benefits does not apply to insurers that do not make available a policy that restricts in whole or in part an insured's right to execute an assignment agreement. To be effective, a named insured must reject a fully assignable policy in writing or electronically on a form filed with and approved by the OIR, which form must contain a required disclosure. While an insurer offering a policy restricting assignment of benefits in whole or in part under a property insurance policy must notify an insured at least annually of the coverage options available for assignability of benefits, it need not require a rejection of a fully assignable policy each year, subsequent to rejection by a named insured.

The provisions of Section 2 of the Act apply to policies restricting assignment of benefits in whole or in part under a property insurance policy issued or renewed on or after July 1, 2019.

STANDARDS FOR POLICIES PROHIBITING ASSIGNMENT

Section 3 of the Act amends [Section 627.422, Florida Statutes](#), to provide that a residential or commercial property insurance policy may not prohibit the assignment of post-loss benefits unless it complies with the new requirements of Section 627.7153, Florida Statutes.

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Questions about this Informational Memorandum may be emailed to the following dedicated email inbox:
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