

SB 7052 vs House PCB COM 23-04 Section-by-Section Summary (as of 4-6-23)

SB 7052	House PCB COM 23-04
<p>Section 1 s. 624.305 General powers. Increase civil penalties for failure to respond to communication within 14 days from \$2,500 up to \$5,000 for an entity per occurrence or \$1,000 for an individual per occurrence.</p>	<p>Substantively identical at Section 1 of the House bill <i>except</i> placed in s. 624.307 General powers; duties.</p>
<p>Section 2 s. 624.315 Annual Reports. Annual reporting of enforcement actions against licensees to Governor, Senate President, and House Speaker.</p>	<p>Identical at Section 2 of the House bill.</p>
<p>Section 3 s. 624.3152 Quarterly reports of enforcement activity. Quarterly reporting of enforcement actions against licensees to Governor, Senate President, and House Speaker.</p>	<p>Identical at Section 3 of the House bill.</p>
<p>Section 4 s. 624.316 Examination of insurers. OIR must create risk-based methodology for scheduling exams. May consider RBC ratios, downgrade threats, insolvency concerns. ***requires rulemaking to implement***</p>	<p>Subsection (2) revises the current 5-year minimum for an insurer to be examined to institute the following minimums:</p> <ul style="list-style-type: none"> • Every 3 years for high-risk insurers; • Every 5 years for average-risk insurers; • Every 7 years for low-risk insurers. <p>It further removes the preceding 5 year lookback for all insurers, except for low-risk insurers.</p> <p>***NOTE: bill drafting staff did not underline these new provisions in the bill, so these may be overlooked***</p> <p>Subsection (3) is identical at Section 4 of the House bill.</p>
<p>Section 5 s. 624.3161 Market conduct examinations. Top 20% insurer by claims volume, complaints made, or MGA payments since hurricane landfall, MUST be subject to MC exam anytime after 90 days after end of hurricane. OIR shall create risk-based methodology for MC exams of insurers and MGAs and may consider regulatory actions in other states, high complaint volume, ch. 626 violations, untimely claims communications, untimely claims payments, etc. ***requires rulemaking to implement***</p>	<p>Identical at Section 5 of the House bill <i>except</i> OIR may not consider top 20% of claims filed, etc. (see subsection 8e) when creating the risk-based methodology.</p>
<p>Section 6 s. 624.4211. Administrative fine in lieu of suspension or revocation. Nonwillful violations = \$25,000 per occurrence up to \$100,000</p>	<p>Identical at Section 6 of the House bill.</p>

<p>aggregate during EO. \$12,500 up to \$50,00 for all other nonwillful violations arising under same action.</p> <p>Knowing and willful violations = \$200,000 per occurrence up to \$1m aggregate. \$100,000 up to \$500,000 for all other willful violations arising under the same action.</p>	
<p>Section 7. s. 624.424 Annual statement and other information. Insurer must provide documentation that payments made to affiliates are fair and reasonable. OIR shall:</p> <ul style="list-style-type: none"> • Actual cost provided by affiliate • Cost as provided by nonaffiliate • Financial condition of the insurer and MGA • Holding company debt and debt service • Dividends paid by the MGA and for what purpose • Whether affiliate terms are in best interest of the PH • Cost incurred by the affiliate to provide the service • Amount charged to the insurer for each service • Amount forgiven, waived or reimbursed by the affiliate • Insurer must explain how fee is fair and reasonable is amount charged is greater than cost of the service <p>***requires rulemaking to implement***</p>	<p>NOT IN THE HOUSE BILL</p>
<p>Section 8. s. 624.4301 Notice of temporary discontinuance of writing new policies. Insurer must give OIR 20 days notice of temporary suspension or 5 days before notifying agents.</p>	<p>NOT IN THE HOUSE BILL</p>
<p>Section 9. s. 626.207 Disqualification of application and licensees. 7 year qualified period for licensee for any violation of Florida Insurance Code.</p>	<p>Identical at Section 7 of the House bill.</p>
<p>Section 10. s. 626.9521 Unfair methods of competition and unfair or deceptive acts or practices prohibited; penalties. Fines against individuals are increased to \$12,500 from \$5,000 for nonwillful violations, and to \$100,000 from \$40,000 for willful violations. Aggregate fines</p>	<p>Identical at Section 8 of the House bill.</p>

<p>against an insurer are increased to \$50,000 from \$20,000 for nonwillful violations, and to \$500,000 from \$200,000 for willful violations.</p> <p>Twisting, churning, and submitted false signature fines increase to \$12,500 from \$5,000 for nonwillful violations, and to \$187,500 from \$75,000 for willful violations.</p> <p>If these violations are related to a covered loss or claim under an EO. Individual fines are \$25,000 for nonwillful violations and \$200,000 for willful violations. For insurers, aggregate amount of \$100,000 for nonwillful violations and an aggregate of \$1m for all willful violations out of same action.</p>	
<p>Section 11. s. 626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined. It is an unfair claims settlement practices to alter or amend an adjuster’s report without including, or as an addendum to the report, a list of all changes made and the identity of the person who order each change. Any change that reduces the loss estimate must include a details explanation why the change was made.</p> <p>It is also a violation of an insolvent or impaired insurers to pay bonuses to officers or directors, regardless of whether delinquency proceedings have been initiated.</p>	<p>Identical at Section 9 of the House bill.</p>
<p>Section 12. s. 626.9743 Claim settlement practices relating to motor vehicle insurance. Applies shortened timeframes and claims handling from 2A to admitted and surplus personal and commercial auto insurance.</p>	<p>NOT IN THE HOUSE BILL</p>
<p>Section 13. s. 626.989 Investigation by department or Division of Investigative and Forensic Services; compliance; immunity; confidential information; reports to division; division investigator’s power of arrest.</p> <p>Where DIFS discovers a violation of law impacting two or more judicial circuits, it shall report to the statewide prosecutor.</p> <p>DIFS must provide annual reporting to Governor, Senate President, House Speaker of referrals to</p>	<p>Identical at Section 10 of the House bill.</p>

statewide prosecutor and regulator, cases opened, presented for prosecution, convictions, DIFS employees, average caseload, and turnaround time.	
Section 14. s. 627.0629 Residential property insurance; rate filings. Insurers must provide available hurricane mitigation discount information on their websites. Every 5 years, OIR must reevaluate and update the construction techniques demonstrate to reduce windstorm loss amounts and associated rate discounts, credits, and differentials.	Identical to Section 11 of the House bill.
Section 15. s. 627.351 Citizens Property Insurance Corporation. Citizens is prohibited from determining a risk is ineligible for Citizens coverage solely because of unrepaired damaged caused by a covered loss that is the subject of a FIGA claim.	Section 12 of the House bill limits the scope of this provision in Section 15 of SB 7052 to a risk that has been serviced by FIGA for the past 36 months or is closed, wherever is earlier.
Section 16. s. 627.410 Filing, approval of forms. Insurers found to have violated the Florida Insurance Code cannot have their documents exempt under s. 627.410 for at least 36 months.	NOT IN THE HOUSE BILL
Section 17. s. 627.4108 Submission of claims-handling manuals; attestations. Admitted and surplus insurer must submit claims handling manuals to OIR on an annual basis, or within 30 days of any update or amendment, and attest the manual complies with the Florida Insurance Code and comports to usual and customary claims handling practices. Further, permits OIR to conduct market conduct exams to ensure the manual is compliant with this section.	NOT IN THE HOUSE BILL
Section 18. s. 627.4133 Notice of cancellation, nonrenewal, or renewal premium. An admitted or surplus property insurer may not cancel or nonrenew policy for a period of 90 days after the property has been repaired if such property is damaged from hurricane or wind loss subject to an EO. If there is no EO, then until the property is repair. Applies retroactively to Hurricane Ian and Nicole.	NOT IN THE HOUSE BILL
Section 19. s. 627.426 Claims administration. OIR shall ensure that each liability insurer, after FNOL that could give rise to covered claim:	NOT IN THE HOUSE BILL

<ul style="list-style-type: none"> • Assigned licensed adjuster to investigate exposure and determines extent of coverage • Ethically evaluates the claims • Requests information from the PH to evaluate whether to settle the claim • Conducts communication with PH in honesty and complete candor • Makes reasonable efforts to explain matters to PH who is not represented by attorney • Retains all written communication and summary of verbal communication for 5 years after entry of judgement against PH or the conclusion of extracontractual claim • Provides PH, on request, with all non-privileged communication related to insurer's claim handling • Provides, at insurer's expenses, reasonable accommodations to effectively communicate with PH covered under ADA. • In handling 3rd party claims, communicates to an insured: <ul style="list-style-type: none"> ○ Identify of any other person or entity the insurer has reason to believe may be liable ○ The insurer's evaluation of the claim ○ The likelihood and possible extent of an excess judgment ○ Steps the PH can take to avoid exposure to excess judgment ○ The PH'd duty to cooperate with the insurers related to settlement opportunities • After the expiration of the safe harbor period, initiates settlement negotiations by tendering its policy limits to the claimant in exchange for general release of the insured. • If not possible to settle liability claim within the available policy limits, the insurer shall act reasonably to attempt to minimize the excess exposure to the insured. 	
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<ul style="list-style-type: none"> • An insurer has discretion to offer full policy limits to one or more claimants to the exclusion of others, when multiple claims arise out of a single occurrence, the combined value of all claims exceeds the total of all policy limits, and the claimants are unwilling to globally settle • If not possible to settled on behalf of all insured, the insurer must attempt to enter into reasonable settlement of claims against certain insureds to the exclusion of other insureds • Responds to insurance information requests under s. 626.9372 or s. 627.4137, if applicable • Where it appears PH’s exposure is greater than policy limits, preserves evidence that is needed for the defense of the liability claims • Complies with this section • Complies with Unfair Insurance Trades Practices Act 	
<p>Section 20. s. 627.701 Liability of insured; coinsurance; deductibles. If a roof deductible is applied, no other deductible under the policy may be applied to the loss or to any other loss to the property caused by the same peril.</p>	<p>Identical to Section 13 of the House bill.</p>
<p>Section 21. s. 627.70132 Notice of property insurance claim. The time limitations are tolled for federal or state active duty which materially affects ability of servicemember to file a claim, supplemental, or reopened claim.</p>	<p>Identical to Section 14 of the House bill.</p>
<p>Section 22. s. 627. 7019 Standardization of requirements applicable to insurers after natural disasters. Applies the statute to surplus lines insurers.</p>	<p>NOT IN THE HOUSE BILL</p>
<p>Section 23. s. 627.782 Adoption of rates. Title insurers may “file and use” or “use and file” their rates, rates, schedules, credits, discounts, and surcharges.</p>	<p>NOT IN THE HOUSE BILL</p>
<p>Section 24. Clarifies when SB 2A affects rights under an insurance contract, SB 2A when an insurance contract is issued or renewed after the effective date of SB 2A.</p>	<p>Identical to Section 15 of the House bill.</p>
<p>Section 25. Property and auto insurers’ rate filings must reflect savings, reduction in claim frequency, claim severity, and LAE, including</p>	<p>Section 17 of the House bill removes the rate requirements of subsections (1) and (2) that would require filings to reflect savings due to the</p>

<p>attorney fees and payment of attorney, due to the combined effect of HB 837 (2023), SB 2A, SB 2D, and SB 76 (2021).</p> <p>OIR must consider the above and may develop factors to review rate filings. OIR may contract with appropriate vendors.</p> <p>Appropriation of \$500,000.</p>	<p>combined effect of HB 837 (2023), SB 2A, SB 2D, and SB 76 (2021).</p> <p>Further, revises the appropriation to OIR to \$1,301,672 recurring funds and \$65,547 nonrecurring funds.</p>
<p>Section 26. Appropriation of \$494,00 recurring to DFS to implement this bill.</p>	<p>Identical to Section 16 of the House bill.</p>