



INFORMATIONAL MEMORANDUM
OIR-23-01M
ISSUED
March 1, 2023
Florida Office of Insurance Regulation
Michael Yaworsky, Interim Commissioner

**TO ALL PERSONAL AND COMMERCIAL RESIDENTIAL PROPERTY INSURERS
AUTHORIZED TO DO BUSINESS IN FLORIDA**

~ Senate Bill 2-A – Implementation of Items Relating to Prompt Payment of Claims, Electronic Methods of Claims Investigations, Claims Records, and Claim Filing Deadlines ~

On December 16, 2022, Governor Ron DeSantis signed Senate Bill 2-A (SB 2-A) into law. This comprehensive bill provides a number of regulatory changes to ensure policyholders in the state have access to quality, affordable private market property insurance, such as enhancing access to reinsurance, addressing excessive litigation, and strengthening regulatory oversight. Effective March 1, 2023, the bill also requires insurers to more promptly communicate with insureds, investigate, and pay valid claims.

In response, the Florida Office of Insurance Regulation (OIR) is issuing **Informational Memorandum OIR-23-01M** to all personal and commercial residential property insurers authorized to do business in Florida to notify them of the requirements of the legislation and provide guidance related to facilitating the claims process for consumers.

Revisions to Prompt Pay Laws for Property Insurance

SB 2-A amends section 627.70131, Florida Statutes (F.S.), which sets forth requirements for insurers to timely communicate with consumers, investigate a claim, and pay or deny a claim. Effective March 1, 2023, the bill:

- Reduces the time for insurers to acknowledge a claim or respond to communication from 14 days to 7 days;
- Reduces the time for insurers to begin an investigation, if reasonably necessary, from 14 days to 7 days after the proof-of-loss statement is received;
- Reduces the time for insurers to conduct a physical inspection from 45 days to 30 days and applies this provision to hurricane claims;
- Requires insurers to provide to policyholders a copy of any adjuster's report estimating the loss within 7 days after it is created; and
- Reduces the time for insurers to pay or deny a claim, or a portion of the claim, from 90 days to 60 days, unless the delay is caused by factors beyond the control of the insurer.

Insurers should review all claims handling procedures to ensure all processes adequately meet the new timeframe requirements and more quickly resolve claims for consumers.

The bill allows OIR to extend the deadlines that are required of insurers under the prompt pay laws for up to 30 additional days if the failure is caused by “factors beyond the control of the insurer,” which is newly defined in section 627.70131(5)(a), F.S., as any of the following events:

- A state of emergency declared by the Governor under s. 252.36;
- A breach of security that must be reported under s. 501.171(3); or
- An information technology issue.

OIR may not extend the period for payment or denial of a claim for more than 30 additional days.

Per section 627.70131(8), F.S., the requirements of the section may be tolled as follows:

- During the pendency of any mediation or alternative dispute resolution proceeding provided for in the insurance contract. The tolling period ends upon completion of the proceeding; or
- Upon the failure of a policyholder or a policyholder’s representative to provide material claims information requested by the insurer within 10 days after the request was received until the insurer receives such information. This tolling period applies only to requests sent by the insurer to the policyholder or a policyholder’s representative at least 15 days before the insurer is required to make a payment or deny the claim.

The requirements of the section also do not apply if actions by the policyholder or the policyholder’s representative which constitute fraud, lack of cooperation, or intentional misrepresentation regarding the claim for which benefits are owed, reasonably prevent the insurer from complying with any requirement of this section.

Use of Electronic Methods for Investigation of Claims

To help facilitate the claims process and provide additional options for consumers, SB 2-A creates section 627.70131(1)(d), F.S., authorizing insurers to use electronic methods to investigate the loss that is reported in a claim. Insurers are encouraged to use all available resources to effectively facilitate the claims process for consumers. Methods that may be used include, but are not limited to:

- Electronic photographs;
- Video recordings of the loss;
- Video conferencing between the adjuster and the policyholder which includes video recording of the loss; and
- Video recordings or photographs of the loss using a drone, driverless vehicle, or other machine that can move independently or through remote control.

An insurer may allow the policyholder to use such electronic methods to assist in the investigation of the claim. An insurer may void the insurance policy if the policyholder or any other person at the direction of the policyholder, with intent to injure, defraud, or deceive any insurer, uses electronic

methods to commit insurance fraud by providing false, incomplete, or misleading information concerning any material fact to a claim. An insurer may assign a licensed adjuster to physically inspect the property even if electronic methods are used to investigate the loss.

Maintaining Records

SB 2-A creates section 627.70131(4)(b), F.S., requiring an insurer to maintain the following records, including dates. Beginning March 1, 2023, insurers are required to maintain the following:

- Any claim-related communication made between the insurer and the policyholder or the policyholder's representative;
- The insurer's receipt of the policyholder's proof-of-loss statement;
- Any claim-related request for information made by the insurer to the policyholder or the policyholder's representative;
- Any claim-related inspection of the property made by the insurer;
- Any detailed estimate of the amount of the loss generated by the insurer's adjuster;
- The beginning and end of any tolling period; and
- The insurer's payment or denial of the claim.

Claim Filing Deadlines

SB 2-A amends section 627.70132(2), F.S., which establishes claim filing deadlines for policyholders. Effective upon becoming law on December 16, 2022, the bill:

- Reduces the deadline for policyholders to report a new or reopened claim from two years to one year after the date of loss; and
- Reduces the deadline for policyholders to report a supplemental claim from three years to 18 months after the date of loss.

If you have questions regarding this memorandum, please contact OIR at InformationalMemoranda@flor.com.