Notice of Proposed Rule

DEPARTMENT OF FINANCIAL SERVICES
Division of Consumer Services
RULE NO.: RULE TITLE:
69J-166.031 Mediation of Residential Property Insurance Claims
PURPOSE AND EFFECT: The purpose of the proposed amendments is to standardize and streamline the administration of the Department's three property insurance claim mediation programs.
SUMMARY: The proposed amendments will clarify the procedures for requesting mediation and conducting a mediation conference; add definitions; incorporate the 2025 version of the Florida Rules for Certified and Court-Appointed Mediators by reference; and make other necessary changes for the Automobile, Commercial Residential, and Residential insurance claim programs.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:
The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of $200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.
The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department's economic review for this rulemaking.
Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.
RULEMAKING AUTHORITY: 624.308, 626.9611, 627.7015, 627.745 FS.
LAW IMPLEMENTED: 624.307, 626.9541, 626.9561, 626.9581, 626.9641, 627.7015 FS.
A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:
DATE AND TIME: July 31, 2026, 1:00 p.m. EST
PLACE: Microsoft Teams meeting
Join: https://teams.microsoft.com/meet/225350944321239?p=29UNyZern5AEkzUlgy
Meeting ID: 225 350 944 321 239
Passcode: HQ3Jh2Yb
Need help? | System reference
Dial in by phone
(850)328-4354,,89116552# United States, Tallahassee
Find a local number
Phone conference ID: 891 165 52#
For organizers: Meeting options | Reset dial-in PIN
Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Suzanne Barwick, Director, at (850)413-5821 or Suzanne.Barwick@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Suzanne Barwick, Director, Division of Consumer Services, (850)413-5821 or Suzanne.Barwick@myfloridacfo.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

Substantial rewording of Rule 69J-166.031, F.A.C. follows. See Florida Administrative Code for present text.

69J-166.031 Mediation ~~of Residential Property~~ Insurance Claims.

<u>(1) Definitions. The following definitions apply for purposes of this Rule:</u>

<u>(a) "Administrator" means the Department or its designee.</u>

(b) "Authorized representative" means that individual who has been authorized, by the appropriate governing body of a condominium association (COA), cooperative association (Co-Op), or homeowners' association (HOA), to represent the association at mediation, make decisions on the association's behalf at mediation, and enter into a binding settlement agreement on behalf of the association.

(c) "Complainant" refers to the party requesting mediation.

(d) "Department" means the Department of Financial Services and, unless otherwise specified, more specifically refers to its Division of Consumer Services.

(e) "Governing documents" are those documents creating the forms of property ownership governed by Chapters 718, 719, and 720, F.S., and those documents creating the entities governed by Chapters 718, 719 and 720, F.S.

(f) "Insurer authority to settle the full value of the claim" means the insurer must give its representative the authority to settle the claim up to the total value of the loss as determined and supported by the information available to the insurer.

(g) "Mediation conference participant" means a mediation party or parties who attend a mediation conference in person, or by telephone, by videoconference, or by other electronic means.

(h) "Mediation program" means an informal and non-adversarial alternative dispute resolution procedure designed to facilitate insurance claim settlement conferences facilitated by a mediator.

(i) "Mediator" means an individual approved as a mediator pursuant to Chapter 69B-250, F.A.C. The mediator's role is to reduce obstacles to communication, assist in identifying issues, explore alternatives, and otherwise facilitate voluntary agreements to resolve disputes, without prescribing what the resolution must be.

(j) "Motor vehicle" means the same as defined in section 627.732, F.S.

(k) "Party" or "Parties" means a claimant, including a third-party automobile claimant, and insurer set forth in section 627.7015, F.S., and section 627.745, F.S.

(l) "Respondent" refers to the party that did not request mediation.

(2) Computation of Time. In computing any period of time described by this Rule, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday as set forth in section 110.117, F.S. All time periods specified in this Rule refer to the number of calendar days, not business days, unless otherwise specified in this Rule.

(3) Mediation Administration.

(a) Notification of the right to mediate Commercial Residential Property and Residential Property Insurance claims.

1. Notification must be in writing and must be legible, conspicuous, printed in at least 12-point type, and printed in typeface no smaller than any other text contained in the notice. The first paragraph of the notice must contain the following statement: "The Chief Financial Officer for the State of Florida has adopted a rule to facilitate the fair and timely handling of insurance claims. The rule gives you the right to attend a mediation conference in order to settle claim disputes. An independent mediator, who has no connection with the insurer, will facilitate the mediation conference."

2. The notice must also:

a. Include detailed instructions on how the policyholder is to request mediation, including the address, phone number and website for requesting mediation through the Department.

b. Include the insurers' address, phone number, and email for requesting additional information.

c. State that the Administrator will select the mediator; and,

d. Refer to the parties' right to disqualify a mediator for good cause and paraphrase the definition of good cause as set forth in paragraph (5)(c) of this Rule.

(b) Request for Mediation.

1. For claims which have not previously been mediated under any Department mediation program, a complainant may request mediation by submitting a request on the Department's website: http://www.myfloridacfo.com/Division/Consumers/Mediation, or by calling (850) 413-5818, or submit a written request to the Department of Financial Services, Alternative Dispute Resolution Section, Bureau of Consumer Assistance, 200 East Gaines Street, Tallahassee, Florida 32399.

2. The complainant must provide the following information, if known:

a. The policyholder's name, address, email address, telephone number, and location of the property if different from the address given;

b. The third-party automobile claimant's name, address, email address, and telephone number.

c. The full name of the insurer;

d. The policy number and claim number;

e. The date and type of loss;

f. A brief description of the nature of the dispute.

g. Preferred conference method, pursuant to paragraph (6)(a).

h. Mandatory Binding Arbitration. Notification that the request relates to the mandatory binding arbitration endorsement pursuant to section 627.70154, F.S.

i. Notice of Intent to Initiate Litigation. Notification that the request relates to a notice of intent to initiate litigation pursuant to section 627.70152, F.S.

j. Party Representative: The name, address, email address, telephone number, and authorization documentation of the representative. Documentation includes, but is not limited to:

(I) Attorney letter of representation;

(II) Power of attorney;

(III) Public adjuster contract;

(VI) Estate records;

(c) The Department or Administrator shall determine whether the claim shall be mediated. The parties may elect to voluntarily mediate any dispute regardless of whether the cause of loss or policy status may be in question.

(d) Upon receiving an eligible request for mediation, the Administrator shall randomly select a mediator to conduct the mediation conference.

(e) The Administrator shall notify the mediator of his or her selection.

1. The notice must identify the Department's case number, the parties and their known representatives, and that the mediation is to occur within 21 days of the date of assignment to the mediator.

2. The mediator will have three business days from the date of notification by the Administrator to accept or reject the selection. If the mediator rejects the selection or fails to accept the selection within three business days, or if the mediator is disqualified pursuant to paragraph (5)(c), then the Administrator shall randomly select another mediator.

3. The timeframes set in this paragraph shall be extended for two years if the claim resulted from an event that the Governor declares as a disaster.

(4) Mediation Declination. A respondent may elect to decline mediation in situations where the dispute does not meet the definition of a claim as defined in section 627.7015, F.S. or section 627.745, F.S. If the respondent desires to decline mediation, the respondent shall reference this mediation process and specify in writing to the complainant and the Administrator the reason(s) for the decline. In the event that a claim falls within the scope of section 627.7015, F.S., or section 627.745, F.S., the respondent must follow the process set forth in subsection (4), above.

(5) Mediators.

(a) Grouping of Assignments. Requests for mediation may be grouped together and assigned to a single mediator. A mediator will be assigned a maximum of four mediation conferences under a single assignment.

(b) Procedure and Conduct.

1. All mediation conferences shall be conducted in accordance with this Rule and Rules 10.200 through 10.690, Part II, Standards of Professional Conduct, of the Florida Rules for Certified and Court-Appointed Mediators (Effective 01/01/26), which are hereby incorporated by reference and available at the following link: http://flrules.org/Gateway/reference.asp?No=Ref-19703 or on the following website: https://www.flcourts.gov/content/download/1998036/file/Rules%20for%20Certified%20&%20Court-Appointed%20Mediators.pdf.

a. Mediators have the same responsibilities to the Department as they have to the courts under the Florida Rules for Certified and Court-Appointed Mediators.

b. The Florida Rules for Certified and Court-Appointed Mediators shall be read in a manner consistent with this Rule and any conflict between this rule and the Florida Rules for Certified and Court-Appointed Mediators shall be resolved in favor of this Rule.

2. The mediator may meet with the parties separately, encourage meaningful communications and negotiations, and otherwise assist the parties to arrive at a settlement.

3. Confidentiality. All communications with the mediator are confidential.

a. All statements made, and documents produced at a settlement conference constitute settlement negotiations in anticipation of litigation.

b. The mediation proceedings are confidential and inadmissible in any subsequent adversarial proceeding.

4. For purposes of this mediation program, mediators shall have the immunity from suit provided to mediators in section 44.107, F.S.

(c) Complaints. At any time, a party may move to disqualify a mediator for good cause. Good cause consists of a conflict of interest between a party and the mediator, the inability of the mediator to handle the conference competently, or other reasons that would reasonably be expected to impair the conference. Complaints concerning a mediator must be submitted in writing to the Department.

(6) Mediation Conference.

(a) Conference Method.

1. The parties may agree to conduct the conference in person or virtually, including teleconference, videoconference or other electronic means. If the parties agree to a virtual, all parties and the mediator must have the ability to participate using reliable technology.

a. A teleconference, videoconference, or other electronic mediation conference must allow for private conversation and caucusing.

b. An in-person mediation conference must be held at a reasonable location within 15 driving miles of the insured property specified by the mediator. The location must provide an enclosed space for private conversation as well as a separate space for caucusing.

c. In the event the Governor declares a disaster, the Administrator may assign the mediation method and notify the mediator that the Administrator determines such action is necessary to facilitate and expedite the mediation process.

2. If the parties determine that the assigned conference location is inconvenient or impractical, the parties and mediator may agree to conduct the mediation conference at an alternative location. If the Administrator has assigned a method, the Administrator must also agree to the alternate location.

3. The mediator will notify the parties and the Administrator in writing of the exact time, date, and method of the conference.

(b) Pre-Mediation Conference Statement.

1. Each party shall prepare a statement that summarizes the claim dispute, identifies prior demands and offers, and provides each party's assessment of a fair resolution of the dispute. Unless all parties mutually agree to waive the pre-conference statement, the statement must;

a. Identify claim number and a description of the dispute.

b. Identify and provide a telephone number and email address for any professional who will accompany a party to the mediation conference.

2. The party shall provide the statement to the mediator and other parties no later than 10 days before the mediation conference.

3. If the claim dispute is settled prior to the mediation conference being held, the provider must report the settlement to the mediator prior to the date and time of the scheduled conference.

(c) Continuances. Upon application by any party to the mediator for a continuance prior to the scheduled date and time, the mediator must for good cause shown or if neither party objects, grant a continuance and shall notify all parties and the Administrator of the date and place of the rescheduled conference.

1. Good cause includes severe illness, injury, or emergency which could not be controlled by the party and could not reasonably be remedied by the party prior to the conference by providing a replacement representative.

2. In addition to the above, a party establishes good cause by noticing the Mediator that they are obtaining additional information, securing the attendance of a necessary professional, or the party will incur financial hardship.

3. If the parties demonstrate to the mediator the need for an expedited mediation conference due to an undue hardship, the mediator must conduct the conference at the earliest date convenient to all the parties and the mediator. Undue hardship will be demonstrated to the mediator when holding the conference on a non-expedited basis would interfere with or contradict the treatment of a severe illness or injury, substantially impair a party's ability to assert his or her position at the conference, result in significant financial hardship, or when a party demonstrates other reasonably justified grounds.

(d) Attendance.

1. The parties must attend the mediation conference, have full knowledge of the facts of the dispute, and be fully authorized to make an agreement to completely resolve the claim.

2. Failure of a party to arrive at the mediation conference within 30 minutes of the conference's starting time is deemed an absence.

3. The insurer must bring a physical or electronic copy of the policy and a physical or electronic copy of the entire claims file to the conference.

4. The mediation conference may also be attended by persons who may assist a party in presenting their claim or defense in the conference, such as contractors, adjusters, engineers, and interpreters. If the policyholder or third-party automobile claimant elects to have an attorney participate in the conference, they must notify the mediator of such participation.

5. If the policyholder is a condominium, cooperative, or homeowners' association, the governing board of those properties and entities created by the provisions of chapters 718, 719, and 720, F.S., shall prepare the following documentation for review at the mediation conference:

a. A document by which the governing board for the property or entity designates an authorized representative. The document must provide the name of the condominium or cooperative, the name of the association, the date of the meeting at which the designation was made, the name of the designated individual(s), and the authority granted to said individual(s).

b. A copy of those provisions in the governing documents for the property and entity which relate to (i) the entity's responsibility to have insurance responsibilities of the entity and (ii) the entity's and the unit owners' responsibilities for maintaining and repairing the property.

c. For claims where there is damage to the structure of the building or foundation, any written, expert analysis of the damage to the property.

d. Any written analysis of the damage to the property that allocates the estimated damages between the individually owned parcels or units, the common elements or common areas, and the entity's property in a manner consistent with the governing documents.

(e) Termination.

1. If the complainant is non-responsive for more than 14 days, without good cause, the case will be closed as withdrawn.

2. The mediator shall terminate the mediation if necessary pursuant to Rule 10.420(b) of the Florida Rules for Certified and Court-Appointed Mediators, or if a party or person participating on the party's behalf, continuously disrupts, becomes unduly argumentative or adversarial or otherwise inhibits the negotiations.

(7) Post-Mediation - Disposition.

(a) At the conclusion of the mediation, the mediator must finalize the claim disposition by submitting the outcome through the Department's website: https://assistcon.myfloridacfo.gov/en-US/.

(b) Disposition options include:

1. In-eligible for Mediation,

2. Withdrawn by Submitter,

3. Settled Prior to Mediation,

4. Impasse,

5. Settled in Mediation,

6. Company Representative Did Not Attend,

7. Policyholder Did Not Attend,

8. Mediator Comments.

(8) Mediation Costs of Insurance Claims – Disbursement of Costs.

(a) The insurer must bear all the cost of conducting mediation conferences.

(b) The Administrator will invoice insurers separately for administrative fees and mediator fees for all mediations.

(c) Fees are due within 14 calendar days of billing by the Administrator.

(d) The administrative fee must be remitted to the Department of Financial Services, Revenue Processing section, P.O. Box 6100, Tallahassee, Florida 32314-6100, together with a reference to the Department's invoice number, the claim number, identification of the parties, and name of the mediator. To overnight funds, remit to the Department of Financial Services, Revenue Processing section, 200 E. Gaines Street, Tallahassee, Florida 32399. All administrative fees received by the Department must be deposited in the Insurance Regulatory Trust Fund.

(e) The mediator's fee will be payable directly to the mediator by the insurer and must be remitted with a reference to the Department's number, identification of the parties, and name of the mediator.

(9) Total Costs by Program.

(a) Automobile Mediation.

1. The total cost for automobile mediation is $200, with $180 paid as the mediator's fee and $20 paid as a fee of the Administrator.

2. Should an automobile mediation conference be cancelled due to the complainant's withdrawal, settlement of the claim, or the dispute no longer meets the definition of a claim pursuant to section 627.745, F.S., before a conference is scheduled, the insurer must pay the mediator 20% of the mediator's fee and the entire administrative fee to the Administrator.

(b) Commercial Residential Mediation.

1. The total cost for commercial residential mediation shall not exceed $5,000, with $300 per hour not to exceed $4,800 paid as the mediator's fee and $200 paid as the fee of the Administrator.

2. Should a commercial residential mediation conference be cancelled due to the complainant's withdrawal, settlement of the claim, or the dispute no longer meets the definition of a claim pursuant to section 627.7015, F.S., before a conference is scheduled, the mediator shall be paid for all hours worked on the issue as specified in paragraph (10)(b), above, and the Administrator shall be paid the entire administrative fee.

(c) Residential Mediation.

1. The total cost for residential mediation is $350, with $300 paid as the mediator's fee and $50 paid as a fee of the Administrator.

2. Should a residential mediation conference be cancelled due to the complainant's withdrawal, settlement of the claim, or the dispute no longer meets the definition of a claim pursuant to section 627.7015, F.S., before a conference is scheduled, the insurer must pay the mediator 50% of the mediator's fee and the entire administrative fee to the Administrator.

(d) Absence.

1. Failure of a party to arrive at the mediation conference within 30 minutes of the conference's starting time is deemed an absence. Payment requirements are as follows:

2. If the policyholder fails to appear at the conference, the insurer must make payment in accordance with this Rule. If the policyholder wishes to schedule a new conference, the cost in accordance with this Rule will be borne by the policyholder and must be paid within 30 calendar days the missed conference date.

3. If the insurer fails to appear at the conference, the insurer shall make payment for the conference in accordance with this Rule. The insurer shall incur an additional fee for a rescheduled conference necessitated by the insurer's failure to appear at a scheduled conference. Good cause includes severe illness, injury, or other emergency which could not be controlled by the insurer and could not reasonably be remedied by the insurer prior to the conference by providing a replacement representative. An insurer will be deemed to have failed to appear if the insurer's representative lacks authority to settle the full value of the claim.

4. If the mediator fails to appear at the conference, the mediator must hold a second conference at no fee to the policyholder or the insurer. If it is determined that the parties settled the claim at the conference in which the mediator did not appear, the mediator is not due payment from the insurer.

5. A mediation conference will not be considered complete and will not be billed if it is rescheduled with the agreement of all parties as specified in paragraph (7)(c) of this Rule.

(e) Termination. The party responsible for causing termination will be responsible for paying the mediator's fee and the administrative fee for any rescheduled mediation.

(f) Expenses.

1. If a party elects for an expert or interpreter to attend the mediation, that party must bear any costs for the attendance of the expert or interpreter.

2. Any expenses associated with the mediation conference, such as travel, meals, lodging, facilities, and other related expenses, must be borne by the party, mediator, or other person incurring the expense.

Rulemaking Authority 624.308, 626.9611, 627.7015, 627.745 FS. Law Implemented 624.307, 626.9541, 626.9561, 626.9581, 626.9641, 627.7015 FS. History–New 8-18-94, Amended 5-1-96, 4-6-00, Formerly 4-166.031, 69B-166.031, Amended 9-24-09, 1-6-14, 4-20-16, ____________.

NAME OF PERSON ORIGINATING PROPOSED RULE: Suzanne Barwick, Director

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Blaise Ingoglia, Chief Financial Officer

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 8, 2026

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: March 27, 2026