

69J-8, F.A.C.: Alternative Procedure for Resolution of Disputed Sinkhole Insurance

Claims

69J-8.002 Definitions.

When used in this chapter, and ~~section~~Section 627.7074, F.S., the following terms are defined as follows:

(1) through (8) No Change.

Rulemaking Authority 627.7074(18) FS. Law Implemented 627.7074 FS. History—New 11-4-07, Amended 12-26-13, Amended _____.

69J-8.004 Qualification and Certification of Neutral Evaluators.

Rulemaking Authority 627.7074(18) FS. Law Implemented 627.7074 FS. History—New 11-4-07, Amended 12-26-13, Repealed _____.

69J-8.006 Notice of Program.

Insurers shall provide the notice of the right to participate in the program, required by subsection 627.7074(3), F.S., in writing. The insurer shall also provide the pamphlet, Settling Your Sinkhole Claim: Where to Find Help, Form Number DFS-I4-1788, (Revised: ~~10/2013~~1/2015), which is hereby incorporated by reference. The pamphlet may be provided electronically or by United States mail. The pamphlet may be obtained online at the following website:

<http://www.myfloridacfo.com/Division/Consumers/Mediation/documents/SettlingSinkholeClaim.pdf>.

Rulemaking Authority 627.7074(18) FS. Law Implemented 627.707, 627.7074 FS. History—New 11-4-07, Amended 12-26-13.

69J-8.007 Request for Evaluation.

(1) A person wishing to request neutral evaluation pursuant to subsection 627.7074(4), F.S., shall make a request to the department by:

(a) Submitting their request online at the following website:

<https://apps.fldfs.com/eservice/MediationInfo.aspx>; or by

(b) Mailing their request to the Department of Financial Services, Mediation Section, Bureau of Education, Advocacy, and Research, 200 East Gaines Street, Tallahassee, FL 32399-4212, using the form, Sinkhole Insurance Claims Request For Neutral Evaluation, Form Number DFS-I4-1784, (Revised: ~~10/2013~~1/2015) which is hereby incorporated by reference; or by faxing the form to the department at +(850) 488-6372. The form may be obtained online at the following website:

<http://www.myfloridacfo.com/consumers/mediation/docs/SinkholeInsuranceClaimRequest.doc>,

or by calling the department at +(850) 413-5818.

(2) Neutral evaluation may be requested for any sinkhole loss claim for which a report was prepared pursuant to ~~section~~Section 627.7073, F.S.

(3) No Change.

Rulemaking Authority 627.7074(18) FS. Law Implemented 627.7074 FS. History—New 11-4-07, Amended 12-26-13, _____.

69J-8.008 Selection of Neutral Evaluator.

(1) No Change.

(2) The insurer shall contact the policyholder or its representative and the parties shall attempt to reach an agreement on selection of a neutral evaluator. The insurer shall contact the policyholder to attempt to reach an agreement in writing within 3 business days of the date notified of the neutral evaluation request. The insurer shall provide a copy of its written correspondence to the Department at the same time written contact is made to the policyholder.

If the parties come to mutual agreement on the selection of a neutral evaluator, both parties shall so inform the department, in writing, by emailing such information to the following email address: NeutralEvaluation@MyFloridaCFO.com.

(3) No Change.

(4) When informed that the selection of a neutral evaluator could not be agreed upon by the parties, or if the parties fail to contact the department within the 14 business day time period, the department shall conditionally assign~~select~~ a neutral evaluator by rotating sequentially through the list of willing neutral evaluators who do not currently have a neutral evaluation report outstanding for more than 14 days after holding a neutral evaluation conference.

(5) The department will inform the parties of the selection.

~~(6)(5)~~ The department shall allow the parties to submit requests to disqualify evaluators on the list for cause. Parties who wish to disqualify evaluators for cause shall submit their request immediately, or as soon as the cause is known. The department will confirm the reason for disqualification for cause with the neutral evaluator.

~~(6) The department will inform the parties of the selection.~~

(7) Either party may disqualify the selection without cause by emailing the department at NeutralEvaluation@MyFloridaCFO.com, notifying the department electronically or by facsimile within 3 business days after receipt of the notice of selection ~~by email or facsimile~~, or within 6 business days after receipt if notice of selection is sent by U.S. mail ~~or other means~~.

(8) Each party may disqualify up to 2 neutral evaluators without cause.

(9) Upon expiration of the timeframe within which to disqualify the selection, the department shall notify the neutral evaluator of the conditional assignment. The neutral evaluator must acknowledge confirmation of assignment and provide information regarding

known conflicts within 3 business days of assignment. Failure to provide information regarding known conflicts within the required timeframe will result in the withdrawal of the assignment and the department shall conditionally assign another neutral evaluator by rotating sequentially through the list of willing neutral evaluators who do not currently have a neutral evaluation report outstanding for more than 14 days after holding a neutral evaluation conference.

Rulemaking Authority 627.7074(18) FS. Law Implemented 627.7074 FS. History—New 11-4-07, Amended 12-26-13, _____.

69J-8.009 Evaluation Process.

(1) No Change.

(2) The evaluation proceeding shall take the form of an informal conference, and shall not be subject to rules of procedure or evidence applicable in a court or administrative proceeding. The neutral evaluator and all representatives of the parties must be allowed reasonable access to the interior and exterior of insured structures to be evaluated or for which a claim has been made.

(3) All parties shall submit to the neutral evaluator copies of all reports related to the claim, including those prepared pursuant to ~~sections~~ Sections 627.7072 and 627.7073, F.S., at least 7 days prior to the neutral evaluation conference of the property. The neutral evaluator shall give each party the opportunity to submit evidence, testimony, or other information which is reasonably expected to assist the neutral evaluator in determining the existence, nature, and scope of a sinkhole loss, and the nature, extent, and cost of repair and remediation. Any report initiated by policyholder, or an agent of the policyholder, confirming a sinkhole loss or disputing another sinkhole report must be provided to the neutral evaluator prior to his or her physical inspection of the insured property. The neutral evaluator shall not be required to accept or

consider any submission of information under this section after the completion of the neutral evaluation conference.

(4) No Change.

(5) The neutral evaluator may utilize other professionals during the course of the neutral evaluation in accordance with subsection 627.7074(11), F.S. The neutral evaluator is to notify the Department of the professionals utilized and confirm no known conflicts exist between the professionals and the parties.

~~(6)~~(5) The parties may settle the claim at any time. If a settlement is reached prior to the conclusion of the neutral evaluation, the parties will notify the neutral evaluator and the department in writing, and the evaluation will be cancelled. If the settlement is cancelled and either party decides to re-submit their request for neutral evaluation, the previously confirmed evaluator shall continue as the assigned evaluator and complete the neutral evaluation.

~~(7)~~(6) The neutral evaluator shall conclude the proceeding upon settlement of the claim or at any point that the neutral evaluator reasonably determines that settlement is not likely to be facilitated by the continuation of the proceeding.

~~(8)~~(7) If the proceeding is concluded without reaching a settlement, the neutral evaluator shall prepare and file the report required under subsection 627.7074(2), F.S., on the form adopted in Rule 69J-8.011, F.A.C., below.

~~(9)~~(8) As neutral evaluators are deemed by statute to be agents of the department, they shall not use any company letterhead on any reports, invoices, or other documents submitted or circulated to the department or the parties in connection with any neutral evaluation.

Rulemaking Authority 627.7074(18) FS. Law Implemented 627.7074 FS. History—New 11-4-07, Amended 12-26-13, _____.