

HB 671

2016

1                   A bill to be entitled  
 2           An act relating to prohibited insurance practices;  
 3           amending s. 626.854, F.S.; providing responsibilities  
 4           and prohibiting activities of licensed contractors and  
 5           subcontractors under certain conditions; conforming a  
 6           cross-reference to changes made by the act; creating  
 7           s. 626.8699, F.S.; prohibiting certain persons and  
 8           entities from accepting a referral fee, commission,  
 9           bonus, kickback, or rebate, or engaging in any split-  
 10          fee arrangement, in connection with certain repair,  
 11          mitigation, or restoration services; providing duties  
 12          of the Department of Financial Services; providing  
 13          civil penalties; providing an effective date.

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 15 Be It Enacted by the Legislature of the State of Florida:

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 17           Section 1. Subsection (16) of section 626.854, Florida  
 18           Statutes, is amended to read:

19           626.854 "Public adjuster" defined; prohibitions.—The  
 20           Legislature finds that it is necessary for the protection of the  
 21           public to regulate public insurance adjusters and to prevent the  
 22           unauthorized practice of law.

23           (16) Any ~~A licensed~~ contractor licensed under part I of  
 24           chapter 489, ~~or a subcontractor to the contractor, or entity or~~  
 25           person that performs emergency remediation or restoration  
 26           services for an insured under an insurance policy in this state:

27        (a) May not adjust a claim on behalf of an insured unless  
 28 licensed and compliant as a public adjuster under this chapter.  
 29 However, the contractor or subcontractor may discuss or explain  
 30 a bid for construction or repair of covered property with the  
 31 residential property owner who has suffered loss or damage  
 32 covered by a property insurance policy, or the insurer of such  
 33 property, if the contractor or subcontractor is doing so for the  
 34 usual and customary fees applicable to the work to be performed  
 35 as stated in the contract between the contractor or  
 36 subcontractor and the insured.

37        (b) May not interpret or advise the insured as to his or  
 38 her coverages or obligations under an insurance policy, unless  
 39 he or she is licensed and compliant as a public adjuster under  
 40 this chapter.

41        (c) Must provide the insured a detailed estimate of the  
 42 services to be provided before the execution of any agreement to  
 43 provide services.

44        (d) Must provide the insured a 5-day right of rescission  
 45 period in the agreement with the insured. The period shall not  
 46 begin until the insurer has received a copy of the fully  
 47 executed agreement. The agreement must be sent by certified  
 48 mail, e-mail, or facsimile to the claim handler, if known, or,  
 49 if the claim handler is not known, to the specific office  
 50 handling the claim as indicated in the policy or as requested by  
 51 the insurance company. If the insured rescinds the agreement  
 52 during the 5-day period, the agreement is rescinded ab initio,

53 and the contractor, subcontractor, entity, or person is entitled  
54 to reasonable compensation for any necessary emergency  
55 mitigation services performed before the agreement was  
56 rescinded.

57 Section 2. Section 626.8699, Florida Statutes, is created  
58 to read:

59 626.8699 Prohibited practices related to repair,  
60 mitigation, and restoration services; penalties.—

61 (1) A person or entity may not give a referral fee,  
62 commission, bonus, kickback, or rebate, or engage in any split-  
63 fee arrangement, with any person or entity for any repair,  
64 mitigation, or restoration service if the repair, mitigation, or  
65 restoration service is for an amount greater than \$25 and is  
66 covered under an insurance policy in this state.

67 (2) A penalty for a violation of subsection (1) shall be  
68 administered by the department and may include:

69 (a) A fine no greater than \$10,000 per violation.

70 (b) A recommendation by the department to the appropriate  
71 licensing board that disciplinary action be taken.

72 Section 3. This act shall take effect July 1, 2016.