

By the Committee on Banking and Insurance; and Senator Atwater

311-2437-04

1 A bill to be entitled
2 An act relating to insurance field
3 representatives; amending s. 626.854, F.S.;
4 limiting the scope of a public adjuster's
5 authority; specifying duties with respect to
6 contractors and other professionals;
7 prohibiting a public adjuster from restricting
8 certain access and communication; providing an
9 effective date.

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

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13 Section 1. Subsections (1) and (3) of section 626.854,
14 Florida Statutes, are amended to read:

15 626.854 "Public adjuster" defined; prohibitions.--The
16 Legislature finds that it is necessary for the protection of
17 the public to regulate public insurance adjusters and to
18 prevent the unauthorized practice of law.

19 (1) A "public adjuster" is any person, except a duly
20 licensed attorney at law as hereinafter in s. 626.860
21 provided, who, for money, commission, or any other thing of
22 value, prepares, completes, or files an insurance claim form
23 for an insured ~~or third-party claimant~~ or who, for money,
24 commission, or any other thing of value, acts or aids in any
25 manner on behalf of an insured ~~or third-party claimant~~ in
26 negotiating for or effecting the settlement of a claim or
27 claims for loss or damage covered by an insurance contract or
28 who advertises for employment as an adjuster of such claims,
29 and also includes any person who, for money, commission, or
30 any other thing of value, solicits, investigates, or adjusts
31 such claims on behalf of any such public adjuster.

1 (3)(a) A public adjuster may not give legal advice. A
2 public adjuster may not act on behalf of or aid any person in
3 negotiating or settling a claim relating to bodily injury,
4 death, ~~or noneconomic damages,~~ extra-contractual damages
5 unrelated to the damages under the policy, unfair claims
6 practices violations, tort claims, or statutory interest,
7 costs, and attorney's fees. This paragraph may not be
8 construed to prohibit a public adjuster from testifying or
9 consulting with an attorney in pursuing claims for
10 extra-contractual damages or unfair claims settlement
11 practices.

12 (b) A public adjuster shall ensure that if a
13 contractor, architect, engineer, or other licensed
14 professional is used in formulating estimates or otherwise
15 participates in the adjustment of the claim, the professional
16 must be licensed by the Florida Department of Business and
17 Professional Regulation.

18 (c) A public adjuster shall not restrict or prevent an
19 insurer, company or independent adjuster, attorney, or any
20 other person acting on behalf of the insurer from having
21 reasonable access at reasonable times to an insured or
22 claimant or to the insured property that is the subject of a
23 claim.

24 Section 2. This act shall take effect July 1, 2004.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2630
4 Prohibits public adjusters from preparing or filing an
5 insurance claim form for a third-party claimant or from aiding
6 in any manner a third-party claimant.
7 Allows public adjusters to testify or consult with an attorney
8 in pursuing claims for extra-contractual damages or unfair
9 claims settlement practices.
10 Requires public adjusters to ensure that contractors and other
11 professionals used in formulating estimates or participating
12 in the adjustment of a claim to be licensed by the Department
13 of Business and Professional Regulation.
14 Removes the requirement that public adjusters provide a copy
15 of their contract with the insured to the insurer and the
16 requirement that public adjusters disclose to the insured and
17 insurer any financial interest that the adjuster may receive
18 from persons performing services in connection with the
19 adjustment of a claim.
20 Removes the requirement that public adjusters provide a
21 recorded statement and examination under oath at the request
22 of the insurer.
23 Removes the requirement that the Department of Financial
24 Services promulgate a contract form to be used by public
25 adjusters.
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