

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Long offered the following:

2
3 **Amendment (with title amendment)**

4 Between lines 2245 and 2246, insert:

5 Section 16. Section 626.854, Florida Statutes, is amended
6 to read:

7 626.854 "Public adjuster" defined; prohibitions.--The
8 Legislature finds that it is necessary for the protection of the
9 public to regulate public insurance adjusters and to prevent the
10 unauthorized practice of law.

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

24 | (2) This definition does not apply to:

25 | (a) A licensed health care provider or employee thereof
26 | who prepares or files a health insurance claim form on behalf of
27 | a patient.

28 | (b) A person who files a health claim on behalf of another
29 | and does so without compensation.

30 | (3) A public adjuster may not give legal advice. A public
31 | adjuster may not act on behalf of or aid any person in
32 | negotiating or settling a claim relating to bodily injury,
33 | death, or noneconomic damages.

34 | (4) For purposes of this section, the term "insured"
35 | includes only the policyholder and any beneficiaries named or
36 | similarly identified in the policy.

37 | (5) A public adjuster may not directly or indirectly
38 | through any other person or entity solicit an insured or
39 | claimant by any means except on Monday through Saturday of each
40 | week and only between the hours of 8 a.m. and 8 p.m. on those
41 | days.

42 | (6) A public adjuster may not directly or indirectly
43 | through any other person or entity initiate contact or engage in
44 | face-to-face or telephonic solicitation or enter into a contract
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45 with any insured or claimant under an insurance policy until at
46 least 48 hours after the occurrence of an event that may be the
47 subject of a claim under the insurance policy unless contact is
48 initiated by the insured or claimant.

49 (7) An insured or claimant may cancel a public adjuster's
50 contract to adjust a claim without penalty or obligation within
51 3 business days after the date on which the contract is executed
52 or within 3 business days after the date on which the insured or
53 claimant has notified the insurer of the claim, by phone or in
54 writing, whichever is later. The public adjuster's contract
55 shall disclose to the insured or claimant his or her right to
56 cancel the contract and advise the insured or claimant that
57 notice of cancellation must be submitted in writing and sent by
58 certified mail, return receipt requested, or other form of
59 mailing which provides proof thereof, to the public adjuster at
60 the address specified in the contract; provided, during any
61 state of emergency as declared by the Governor and for a period
62 of 1 year after the date of loss, the insured or claimant shall
63 have 5 business days after the date on which the contract is
64 executed to cancel a public adjuster's contract.

65 (8) It is an unfair and deceptive insurance trade practice
66 pursuant to s. 626.9541 for a public adjuster or any other
67 person to circulate or disseminate any advertisement,
68 announcement, or statement containing any assertion,
69 representation, or statement with respect to the business of
70 insurance which is untrue, deceptive, or misleading.

71 (9) A public adjuster, a public adjuster apprentice, or
72 any person or entity acting on behalf of a public adjuster or
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73 public adjuster apprentice may not give or offer to give a
74 monetary loan or advance to a client or prospective client.

75 (10) A public adjuster, public adjuster apprentice, or any
76 individual or entity acting on behalf of a public adjuster or
77 public adjuster apprentice may not give or offer to give,
78 directly or indirectly, any article of merchandise having a
79 value in excess of \$25 to any individual for the purpose of
80 advertising or as an inducement to entering into a contract with
81 a public adjuster.

82 (11) (a) If a public adjuster enters into a contract with
83 an insured or claimant to reopen a claim or to file a
84 supplemental claim that seeks additional payments for a claim
85 that has been previously paid in part or in full or settled by
86 the insurer, the public adjuster may not charge, agree to, or
87 accept any compensation, payment, commission, fee, or other
88 thing of value based on a previous settlement or previous claim
89 payments by the insurer for the same cause of loss. The charge,
90 compensation, payment, commission, fee, or other thing of value
91 may be based only on the claim payments or settlement obtained
92 through the work of the public adjuster after entering into the
93 contract with the insured or claimant. The contracts described
94 in this paragraph are not subject to the limitations in
95 paragraph (b).

96 (b) A public adjuster may not charge, agree to, or accept
97 any compensation, payment, commission, fee, or other thing of
98 value in excess of:

99 1. Ten percent of the amount of insurance claim payments
100 by the insurer for claims based on events that are the subject
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101 of a declaration of a state of emergency by the Governor. This
102 provision applies to claims made during the period of 1 year
103 after the declaration of emergency.

104 2. Twenty percent of the amount of all other insurance
105 claim payments.

106 (12) Each public adjuster shall provide to the claimant or
107 insured a written estimate of the loss to assist in the
108 submission of a proof of loss or any other claim for payment of
109 insurance proceeds. The public adjuster shall retain such
110 written estimate for at least 5 years and shall make such
111 estimate available to the claimant or insured and the department
112 upon request.

113 (13) A public adjuster, public adjuster apprentice, or any
114 person acting on behalf of a public adjuster or apprentice may
115 not accept referrals of business from any person with whom the
116 public adjuster conducts business if there is any form or manner
117 of agreement to compensate the person, whether directly or
118 indirectly, for referring business to the public adjuster. A
119 public adjuster may not compensate any person, except for
120 another public adjuster, whether directly or indirectly, for the
121 principal purpose of referring business to the public adjuster.
122

123 The provisions of subsections (5)-(13) ~~(5)-(12)~~ apply only to
124 residential property insurance policies and condominium
125 association policies as defined in s. 718.111(11).

126 Section 17. Paragraph (e) of subsection (1) of section
127 626.865, Florida Statutes, is amended to read:

128 626.865 Public adjuster's qualifications, bond.--
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129 (1) The department shall issue a license to an applicant
130 for a public adjuster's license upon determining that the
131 applicant has paid the applicable fees specified in s. 624.501
132 and possesses the following qualifications:

133 ~~(c) Has passed the required written examination.~~

134 Section 18. Section 626.8651, Florida Statutes, is amended
135 to read:

136 626.8651 Public adjuster apprentice license;
137 qualifications.--

138 (1) The department shall issue a license as a public
139 adjuster apprentice to an applicant who is:

140 (a) A natural person at least 18 years of age.

141 (b) A United States citizen or legal alien who possesses
142 work authorization from the United States Bureau of Citizenship
143 and Immigration Services and is a resident of this state.

144 (c) Trustworthy and has such business reputation as would
145 reasonably ensure that the applicant will conduct business as a
146 public adjuster apprentice fairly and in good faith and without
147 detriment to the public.

148 (2) All applicable license fees, as prescribed in s.
149 624.501, must be paid in full before issuance of the license.

150 (3) The applicant must have passed the required written
151 examination before issuance of the license.

152 (4) At the time of application for license as a public
153 adjuster apprentice, each applicant must have completed the
154 training and received the Accredited Claims Adjuster designation
155 which provides experience, training, and instruction concerning
156 the adjusting of damages and losses under insurance contracts,
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157 other than life and annuity contracts, provides education on the
158 terms and effects of the provisions of those types of insurance
159 contracts, and provides knowledge of the laws of this state
160 relating to such contracts as to enable and qualify him or her
161 to engage in the business of a public adjuster apprentice fairly
162 and without injury to the public or any member of the public
163 with whom the applicant may conduct business as a public
164 adjuster apprentice.

165 ~~(5)~~(3) At the time of application for license as a public
166 adjuster apprentice, the applicant shall file with the
167 department a bond executed and issued by a surety insurer
168 authorized to transact such business in this state in the amount
169 of \$50,000, conditioned upon the faithful performance of his or
170 her duties as a public adjuster apprentice under the license for
171 which the applicant has applied, and thereafter maintain the
172 bond unimpaired throughout the existence of the license and for
173 at least 1 year after termination of the license. The bond shall
174 be in favor of the department and shall specifically authorize
175 recovery by the department of the damages sustained in case the
176 licensee commits fraud or unfair practices in connection with
177 his or her business as a public adjuster apprentice. The
178 aggregate liability of the surety for all such damages may not
179 exceed the amount of the bond, and the bond may not be
180 terminated by the issuing insurer unless written notice of at
181 least 30 days is given to the licensee and filed with the
182 department.

183 ~~(6)~~(4) A public adjuster apprentice shall complete at a
184 minimum 100 hours of employment per month for 12 months of
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185 employment under the supervision of a licensed and appointed
186 all-lines public adjuster in order to qualify for licensure as a
187 public adjuster. The department may adopt rules that establish
188 standards for such employment requirements.

189 (7)-(5) An appointing public adjusting firm shall maintain
190 no more than 12 public adjuster apprentices simultaneously;
191 however, a supervising public adjuster shall be responsible for
192 no more than 3 public adjuster apprentices simultaneously and
193 accountable for the acts of all a public adjuster apprentices
194 that apprentice which are related to transacting business as a
195 public adjuster apprentice.

196 (8)-(6) An apprentice license is effective for 18 months
197 unless the license expires due to lack of maintaining an
198 appointment; is surrendered by the licensee; is terminated,
199 suspended, or revoked by the department; or is canceled by the
200 department upon issuance of a public adjuster license. The
201 department may not issue a public adjuster apprentice license to
202 any individual who has held such a license in this state within
203 2 years after expiration, surrender, termination, revocation, or
204 cancellation of the license.

205 (9)-(7) After completing the requirements for employment as
206 a public adjuster apprentice, the licensee may file an
207 application for a public adjuster license. The applicant and
208 supervising public adjuster or public adjusting firm must each
209 file a sworn affidavit, on a form prescribed by the department,
210 verifying that the employment of the public adjuster apprentice
211 meets the requirements of this section.

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212 ~~(10)(8)~~ In no event shall a public adjuster apprentice
213 licensed under this section perform any of the functions for
214 which a public adjuster's license is required after expiration
215 of the public adjuster apprentice license without having
216 obtained a public adjuster license.

217 ~~(11)(9)~~ A public adjuster apprentice has the same
218 authority as the licensed public adjuster or public adjusting
219 firm that employs the apprentice except that an apprentice may
220 not execute contracts for the services of a public adjuster or
221 public adjusting firm and may not solicit contracts for the
222 services except under the direct supervision and guidance of the
223 supervisory public adjuster. An individual may not be, act as,
224 or hold himself or herself out to be a public adjuster
225 apprentice unless the individual is licensed and holds a current
226 appointment by a licensed public all-lines adjuster or a public
227 adjusting firm that employs a licensed all-lines public
228 adjuster.

229 Section 19. Subsection (7) is added to section 627.7011,
230 Florida Statutes, to read:

231 627.7011 Homeowners' policies; offer of replacement cost
232 coverage and law and ordinance coverage.--

233 (7) This section does not prohibit an insurer from
234 exercising its right to repair damaged property in compliance
235 with its policy and s. 627.702(7).

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T I T L E A M E N D M E N T

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239 Between lines 118 and 119, insert:

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240 amending s. 626.854, F.S.; prohibiting public adjusters from
241 compensating, or agreeing to compensate, any person for
242 referrals of business; providing an exception; amending s.
243 626.865, F.S.; revising qualifications for public adjuster's
244 license; deleting requirement that applicant for public
245 adjuster's license pass a written examination; amending s.
246 626.8651, F.S.; revising qualifications for public adjuster
247 apprentice license; requiring that applicant for public adjuster
248 apprentice license pass a written examination, complete certain
249 training, and receive a specified designation; limiting the
250 number of public adjuster apprentices that may appointed by a
251 public adjusting firm or supervised by a supervising public
252 adjuster; amending s. 627.7011, F.S.; specifying that provisions
253 regulating homeowners' policies do not prohibit insurers from
254 repairing damaged property;

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