

By Senator Diaz de la Portilla

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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; creating s.
 6 626.8699, F.S.; prohibiting certain persons and
 7 entities from giving a referral fee, commission,
 8 bonus, kickback, or rebate, or engaging in any split-
 9 fee arrangement, in connection with certain repair,
 10 mitigation, or restoration services; providing duties
 11 of the Department of Financial Services; providing
 12 civil penalties; providing an effective date.

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

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

18 626.854 "Public adjuster" defined; prohibitions.—The
 19 Legislature finds that it is necessary for the protection of the
 20 public to regulate public insurance adjusters and to prevent the
 21 unauthorized practice of law.

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

26 (a) May not adjust a claim on behalf of an insured unless
 27 licensed and compliant as a public adjuster under this chapter.
 28 However, the contractor or subcontractor may discuss or explain
 29 a bid for construction or repair of covered property with the
 30 residential property owner who has suffered loss or damage
 31 covered by a property insurance policy, or the insurer of such
 32 property, if the contractor or subcontractor is doing so for the

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33 usual and customary fees applicable to the work to be performed
34 as stated in the contract between the contractor or
35 subcontractor and the insured.

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

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

43 (d) Must provide the insured a 5-day right of rescission
44 period in the agreement with the insured. The period shall not
45 begin until the insurer has received a copy of the fully
46 executed agreement. The agreement must be sent by certified
47 mail, e-mail, or facsimile to the claim handler, if known, or,
48 if the claim handler is not known, to the specific office
49 handling the claim as indicated in the policy or as requested by
50 the insurance company. If the insured rescinds the agreement
51 during the 5-day period, the agreement is rescinded ab initio,
52 and the contractor, subcontractor, entity, or person is entitled
53 to reasonable compensation for any necessary emergency
54 mitigation services performed before the agreement was
55 rescinded.

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

58 626.8699 Prohibited practices related to repair,
59 mitigation, and restoration services; penalties.-

60 (1) A person or entity may not give a referral fee,
61 commission, bonus, kickback, or rebate, or engage in any split-

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62 fee arrangement, with any person or entity for any repair,
63 mitigation, or restoration service if the repair, mitigation, or
64 restoration service is for an amount greater than \$25 and is
65 covered under an insurance policy in this state.

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

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

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

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