

By the Committee on Banking and Insurance; and Senator Diaz de la Portilla

597-03682-16

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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.; adding entities and persons  
4 that may not adjust a claim on behalf of an insured  
5 unless licensed and compliant as a public adjuster;  
6 revising an exception to include a subcontractor;  
7 creating s. 627.716, F.S.; prohibiting a person or  
8 entity from certain actions relating to the referral  
9 of certain business related to certain repair,  
10 mitigation, and restoration services; specifying  
11 requirements for an entity or person that provides  
12 certain emergency remediation or restoration services;  
13 authorizing the Department of Financial Services to  
14 seek a cease and desist order and administrative fines  
15 for certain violations; authorizing the department to  
16 enforce such penalties in a specified circuit court;  
17 authorizing the department to recommend disciplinary  
18 action to other licensing agencies or boards;  
19 providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23 Section 1. Subsection (16) of section 626.854, Florida  
24 Statutes, is amended to read:

25 626.854 "Public adjuster" defined; prohibitions.—The  
26 Legislature finds that it is necessary for the protection of the  
27 public to regulate public insurance adjusters and to prevent the  
28 unauthorized practice of law.

29 (16) Any ~~A licensed~~ contractor licensed under part I of  
30 chapter 489, ~~or a subcontractor to the contractor, or entity or~~  
31 person that performs emergency remediation or restoration

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

43 Section 2. Section 627.716, Florida Statutes, is created to  
44 read:

45 627.716 Prohibited practices related to repair, mitigation,  
46 and restoration services; penalties.-

47 (1) A person or entity may not directly or indirectly  
48 offer, deliver, receive, or accept any compensation, inducement,  
49 or reward greater than \$25 for the referral of any business for  
50 the repair, mitigation, or restoration of property for which  
51 property insurance proceeds are payable.

52 (2) An entity or person, including a contractor licensed  
53 under part I of chapter 489 or a subcontractor to the  
54 contractor, that provides emergency remediation or restoration  
55 services for an insured under a property insurance policy in  
56 this state must:

57 (a) Provide an insured with a scope of services and  
58 materials to be provided for repairs undertaken pursuant to a  
59 property insurance claim before the agreement authorizing such  
60 repairs is executed.

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61       (b) Notify the insured in writing that any assignment  
62 accepted by the person or entity is limited to the scope of the  
63 work indicated therein; that the insured may have other claims  
64 under their homeowner's insurance policy that are not covered by  
65 this assignment; and that the insured may wish to contact a  
66 public adjuster or attorney to evaluate other claims and  
67 coverages. Nothing in this section prohibits the use of post-  
68 loss, partial assignments in homeowner's insurance claims.

69       (3) The department may, in a proceeding initiated pursuant  
70 to chapter 120, seek a cease and desist order, and if a cease  
71 and desist order is violated, impose an administrative fine of  
72 not more than \$10,000 per violation against any person found in  
73 the proceeding to have violated this section. Any cease and  
74 desist order or administrative fine levied by the department  
75 under this subsection may be enforced by the department by  
76 appropriate proceedings in the circuit court of the county in  
77 which the person resides. The department may recommend to the  
78 appropriate licensing agency or board that disciplinary action  
79 be taken against persons licensed by other agencies or boards.

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