

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

576-04478-16

20161248c2

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 providing applicability; authorizing the Department of
14 Financial Services to seek a cease and desist order
15 and administrative fines for certain violations;
16 authorizing the department to enforce such penalties
17 in a specified circuit court; authorizing the
18 department to recommend disciplinary action to other
19 licensing agencies or boards; providing applicability;
20 creating s. 627.717, F.S.; providing that a
21 policyholder that assigns the right to receive benefit
22 of payment under a property insurance policy is not
23 liable to the assignee for certain services or
24 materials; prohibiting certain actions by an assignee
25 against a policyholder under specified circumstances;
26 providing an effective date.

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

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

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32 626.854 "Public adjuster" defined; prohibitions.—The
33 Legislature finds that it is necessary for the protection of the
34 public to regulate public insurance adjusters and to prevent the
35 unauthorized practice of law.

36 (16) Any ~~A licensed~~ contractor licensed under part I of
37 chapter 489, ~~or a subcontractor to the contractor, or entity or~~
38 person that performs emergency remediation or restoration
39 services for an insured under an insurance policy in this state
40 may not adjust a claim on behalf of an insured unless licensed
41 and compliant as a public adjuster under this chapter. However,
42 the contractor or subcontractor may discuss or explain a bid for
43 construction or repair of covered property with the residential
44 property owner who has suffered loss or damage covered by a
45 property insurance policy, or the insurer of such property, if
46 the contractor or subcontractor is doing so for the usual and
47 customary fees applicable to the work to be performed as stated
48 in the contract between the contractor or subcontractor and the
49 insured.

50 Section 2. Section 627.716, Florida Statutes, is created to
51 read:

52 627.716 Prohibited practices related to repair, mitigation,
53 and restoration services; penalties.—

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

59 (2) An entity or person, including a contractor licensed
60 under part I of chapter 489 or a subcontractor to the

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61 contractor, that provides emergency remediation or restoration
62 services for an insured under a property insurance policy in
63 this state must:

64 (a) Provide an insured with a scope of services and
65 materials to be provided for repairs undertaken pursuant to a
66 property insurance claim before the agreement authorizing such
67 repairs is executed. A supplement to the original scope of work
68 does not violate this section.

69 (b) Notify the insured in writing that any assignment
70 accepted by the person or entity is limited to the scope of the
71 work indicated therein and that the insured may have other
72 claims under his or her homeowner's insurance policy which are
73 not covered by this assignment. Nothing in this section
74 prohibits the use of post-loss, partial assignments in
75 homeowner's insurance claims.

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

87 (4) This section applies to residential coverage as
88 described in s. 627.4025(1).

89 Section 3. Section 627.717, Florida Statutes, is created to

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90 read:

91 627.717 Assignment of the right to receive benefit of
92 payment; construction.-A policyholder who assigns the right to
93 receive the benefit of payment under a property insurance policy
94 in this state is not liable to the assignee for services and
95 materials for which the insurer is liable, and the assignee may
96 not collect or attempt to collect money from, maintain an action
97 at law against, or report a policyholder to a credit agency for
98 payment for which the insurer is liable. However, this section
99 does not prohibit the assignee from taking such actions against
100 a policyholder for payment of the amount of the insurance
101 deductible or any amount attributable to upgrades ordered by the
102 policyholder which are not covered under the insurance policy.

103 Section 4. This act shall take effect July 1, 2016.