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LEGISLATIVE ACTION

Senate

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House

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Senator Brandes moved the following:

**Senate Amendment (with title amendment)**

Before line 98

insert:

Section 1. Section 489.147, Florida Statutes, is created to read:

489.147 Prohibited property insurance practices.—

(1) As used in this section, the term:

(a) "Prohibited advertisement" means any written or electronic communication that encourages, instructs, or induces a consumer to contact a contractor for the purpose of making an



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12 insurance claim. The term includes, but is not limited to, door  
13 hangers, business cards, magnets, flyers, pamphlets, and e-  
14 mails.

15 (b) "Soliciting" means contacting:

16 1. In person;

17 2. By electronic means, including e-mail, telephone, and  
18 real-time communication directed to a specific person; or

19 3. By delivery to a specific person.

20 (2) A contractor as defined in s. 489.105(3) or licensed  
21 under part XVI of chapter 468, including, but not limited to, a  
22 general contractor, a building contractor, a residential  
23 contractor, a mold remediator, a mold assessor, or a roofing  
24 contractor, may not directly or indirectly engage in any of the  
25 following practices:

26 (a) Soliciting a property owner by means of a prohibited  
27 advertisement.

28 (b) Offering to a property owner a rebate, gift, gift card,  
29 cash, coupon, waiver of any insurance deductible, or any other  
30 thing of value in exchange for:

31 1. Allowing the contractor to conduct an inspection of the  
32 property owner's property; or

33 2. Making an insurance claim for damage to the property  
34 owner's property.

35 (c) Offering, delivering, receiving, or accepting any  
36 compensation or inducement for the referral of any services for  
37 which property insurance proceeds are payable.

38 (d) Interpreting policy provisions or advising an insured  
39 regarding coverages or duties under the insured's property  
40 insurance policy or adjusting a property insurance claim on



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41 behalf of the insured, unless the contractor holds an  
42 unencumbered license as a public adjuster pursuant to part VI of  
43 chapter 626.

44 (e) Providing an insured with an agreement authorizing  
45 repairs without providing a good faith estimate of the itemized  
46 and detailed cost of services and materials for repairs  
47 undertaken pursuant to a property insurance claim. A contractor  
48 does not violate this subsection if, as a result of the process  
49 of the insurer adjusting a claim, the actual cost of repairs  
50 differs from the initial estimate.

51 (3) A contractor who violates this section is subject to  
52 disciplinary proceedings as set forth in s. 489.129. A  
53 contractor may receive up to a \$10,000 fine for each violation  
54 of this section.

55 (4) For the purposes of this section:

56 (a) The acts of any person on behalf of a contractor,  
57 including the acts of a compensated employee or a nonemployee  
58 who is compensated for soliciting as defined in this section,  
59 are considered the acts of the contractor.

60 (b) Any person who engages in an act prohibited by this  
61 section, but who is not a contractor as defined in s. 489.105(3)  
62 or licensed under part XVI of chapter 468, is guilty of  
63 unlicensed contracting and is subject to the penalties set forth  
64 in s. 489.13. Notwithstanding s. 489.13(3), an unlicensed person  
65 who violates this section may be fined up to \$10,000 for each  
66 violation.

67 (5) A contractor may not execute a contract with a property  
68 owner to repair or replace a roof without including a notice  
69 that the contractor may not engage in the practices set forth in



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70 paragraph (2) (b). If the contractor fails to include such  
71 notice, the residential property owner may void the contract  
72 within 10 days after executing it.

73 Section 2. Subsection (20) is added to section 626.854,  
74 Florida Statutes, to read:

75 626.854 "Public adjuster" defined; prohibitions.—The  
76 Legislature finds that it is necessary for the protection of the  
77 public to regulate public insurance adjusters and to prevent the  
78 unauthorized practice of law.

79 (20) (a) The following acts by a public adjuster, a public  
80 adjuster apprentice, or a person acting on behalf of a public  
81 adjuster are prohibited and shall result in discipline as  
82 applicable under this part:

83 1. Offering to a property owner a rebate, gift, gift card,  
84 cash, coupon, waiver of any insurance deductible, or any other  
85 thing of value in exchange for allowing a contractor, a public  
86 adjuster, a public adjuster apprentice, or a person acting on  
87 behalf of a public adjuster to conduct an inspection of the  
88 owner's property.

89 2. Offering, delivering, receiving, or accepting any  
90 compensation or inducement for the referral of any services for  
91 which property insurance proceeds would be used for property  
92 repairs or replacement. This subsection does not prohibit a  
93 public adjuster from sharing fees with another public adjuster  
94 or public adjuster apprentice.

95 (b) Notwithstanding the fine set forth in s. 626.8698, any  
96 public adjuster or public adjuster apprentice is subject to a  
97 fine not to exceed \$10,000 per act for a violation of this  
98 subsection.



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99           (c) Any person who engages in the acts prohibited by this  
100 subsection and who is not a public adjuster or a public adjuster  
101 apprentice or is not otherwise exempt from licensure is guilty  
102 of the unlicensed practice of public adjusting and is subject  
103 to:

- 104           1. All applicable penalties set forth in this part.  
105           2. Notwithstanding subparagraph 1., a fine not to exceed  
106 \$10,000 per act for a violation of this section.

107  
108 ===== T I T L E   A M E N D M E N T =====

109 And the title is amended as follows:

110           Delete line 2

111 and insert:

112           An act relating to property insurance; creating s.  
113           489.147, F.S.; defining the terms "prohibited  
114           advertisement" and "soliciting"; prohibiting certain  
115           practices by contractors; providing for disciplinary  
116           proceedings; providing that the acts of any persons on  
117           behalf of a contractor are considered the acts of the  
118           contractor; providing that certain acts constitute  
119           unlicensed contracting; providing penalties;  
120           prohibiting a contractor from executing a contract  
121           with a property owner for a roofing repair or  
122           replacement unless a certain notice is included;  
123           authorizing the residential property owner to void the  
124           contract within a specified timeframe if such notice  
125           is not included; amending 626.854, F.S.; prohibiting  
126           certain practices by public adjusters, public adjuster  
127           apprentices, or persons acting on behalf of public



128        adjusters; providing penalties; providing that certain  
129        acts constitute the unlicensed practice of public  
130        adjusting; providing penalties; amending s.