

FLORIDA HOUSE OF REPRESENTATIVES

BILL ANALYSIS

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BILL #: [HB 427](#)

TITLE: Public Adjuster Contracts

SPONSOR(S): Melo

COMPANION BILL: [SB 266](#) (Burton)

LINKED BILLS: None

RELATED BILLS: None

Committee References

[Insurance & Banking](#)

17 Y, 0 N

[Civil Justice & Claims](#)

[Commerce](#)

SUMMARY

Effect of the Bill:

The bill allows vulnerable adults and people who lack capacity to consent (as well as their legal representatives) to cancel public adjuster contracts without penalty at any time. Additionally, the bill gives the Department of Financial Services the authority to take disciplinary action against public adjusters who solicit or otherwise take advantage of vulnerable adults.

Fiscal or Economic Impact:

None

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ANALYSIS

EFFECT OF THE BILL:

The bill allows insureds¹ who are [vulnerable adults](#) or who [lack capacity to consent](#), as well as their legal representatives, to cancel a contract for [public adjuster](#) services at any time without any penalties. (Sections [1](#) and [3](#)).

The bill also grants the [Department of Financial Services](#) (DFS) the authority to deny, suspend, or revoke the license of a public adjuster or public adjuster apprentice, as well as impose fines of up to \$5,000 per act, for soliciting vulnerable adults. This change clarifies current law, which prohibits public adjusters soliciting or otherwise taking advantage of a person who is “vulnerable.”² (Section [2](#)).

The bill provides an effective date of July 1, 2026. (Section [4](#)).

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Public Adjusters

Under Florida law, a public adjuster is a person who is paid (whether by money, commission, or any other thing of value) to help an insured with their insurance claim. This includes preparing, completing or filing a claim for an insured. It also includes assisting an insured in negotiating or settling a claim for loss or damage covered by an insurance policy. In addition, someone is considered a public adjuster if they advertise their availability to perform these services.³ Florida law expressly excludes from the definition of “public adjuster” persons who only

¹ For purposes of [s. 626.854, F.S.](#), the term “insured” includes “only the policyholder and any beneficiaries named or similarly identified in the policy.”

² [S. 626.8698, F.S.](#)

³ [S. 626.854, F.S.](#)

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photograph or inventory damaged property as long as they do not engage in claim negotiation or settlement activities.⁴

The definition does not apply to certain health care providers, licensed health insurance agents assisting with health claims, or persons who file health claims without compensation. The public adjuster may not provide legal advice or assist with negotiating or settling claims involving bodily injury, death, or noneconomic damages.⁵

A license issued by the Department of Financial Services is required to provide public adjuster services.⁶

Canceling a Public Adjuster Contract

An insured or claimant may cancel a public adjuster contract within 10 days of the contract being executed without any penalty.⁷ If the contract was executed based on events related to a declared state of emergency by the Governor, the insured may cancel the contract within 30 days after the date of the loss or within 10 days after the contract was executed – whichever is longer.⁸

Public adjuster contracts are required to include a disclosure informing insureds of their right to cancel the contract, the timeframe for cancelling without a penalty, and information about how to provide the notice of cancellation to the public adjuster.⁹

Solicitation and Ethical Guidelines

Public adjusters may only solicit business Monday through Saturday between 8 a.m. and 8 p.m.¹⁰ Additionally, current law prohibits loans or advances to clients or prospective clients, or gifts above \$25 as inducements.¹¹

Validity of Contracts when one Party Lacks the Capacity to Consent

When a person lacks the capacity to consent, contracts are either void or voidable depending on the specific person's circumstances. Absent a prior adjudication of incompetency, a contract entered into by a person who could not understand in a reasonable manner the nature and consequences of the transaction is generally voidable.¹² This means that the contract remains in effect until a court determines that incapacity existed and the party would like to cancel the contract.¹³ To determine lack of capacity under these circumstances, courts can consider several factors, including:¹⁴

- medical and psychiatric history,
- medical and psychiatric diagnoses and opinions,
- behavior at the time of the transaction, and
- the circumstances surrounding the execution of the contract.

Rescission (which means cancellation of the contract) is a remedy in these cases, and if the other party knew or should have known about the incapacity restitution may also be available as a remedy.¹⁵

If a court had adjudicated a party incompetent prior to the execution of the contract, the contract is automatically void. This is the case even if the other party had no knowledge about the prior adjudication.¹⁶

⁴ *Id.*

⁵ *Id.*

⁶ [S. 626.112, F.S.](#) and [s. 626.854, F.S.](#)

⁷ [S. 626.854\(7\), F.S.](#)

⁸ *Id.*

⁹ *Id.*

¹⁰ [S. 626.854\(5\), F.S.](#)

¹¹ [S. 626.854\(10\), F.S.](#)

¹² Robert W. Lee, *Mental Illness and the Right to Contract*, Florida Bar Journal, 48, Dec. 1998.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

Department of Financial Services

The Department of Financial Services (DFS) regulates public adjusters and has explicit authority under the Florida Insurance Code to license public adjusters and take disciplinary action in the event of misconduct. DFS may deny, suspend, or revoke a public adjuster or public adjuster apprentice's license and impose administrative fines of up to \$5,000 per act for violations such as:¹⁷

- violating any provision of chapter 626, F.S.;
- receiving payment or anything of value as a result of an unfair or deceptive practice;
- receiving or accepting any kickbacks or other thing of value, entering into a split-fee agreements with individuals who are not public adjusters, or being paid for services that have not been performed; or
- violating any ethical rule adopted by the department.

DFS may also take disciplinary action against a public adjuster's license for soliciting or otherwise taking advantage of a person who is vulnerable, emotional, or otherwise upset as the result of trauma, accident, or a similar event. However, the term "vulnerable" is not defined in the Florida Insurance Code.¹⁸

DFS may also take administrative action and impose fines against persons providing public adjuster services without a license.¹⁹

Vulnerable adults

The Adult Protective Services program is located within the Department of Children and Families (DCF), and is responsible for investigating allegations of abuse, neglect or exploitation, as provided in the Adult Protective Services Act (Act).²⁰

The Act defines a vulnerable adult as "a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging."²¹

The Act also defines the term "lacks capacity to consent" as having "a mental impairment that causes a vulnerable adult to lack sufficient understanding or capacity to make or communicate responsible decisions concerning person or property, including whether or not to accept protective services."²²

Any person who knows, or has reasonable cause to suspect, that a vulnerable adult is being abused, neglected, or exploited, is required to report the situation to the central abuse hotline.²³ DCF must start a protective investigation within 24 hours of a person making the report.²⁴ If a caregiver refuses to allow DCF to begin a protective investigation or interferes with the investigation, the department can contact the appropriate law enforcement agency for assistance.²⁵ If DCF has reason to believe that the abuse, neglect, or exploitation is perpetrated by a second party, the appropriate law enforcement agency and state attorney must be notified.²⁶ The department must submit a preliminary written report to the law enforcement agencies within 5 working days after the oral report and complete the investigation within 60 days.²⁷

¹⁷ [S. 626.8698, F.S.](#)

¹⁸ [S. 626.8698\(5\), F.S.](#)

¹⁹ [S. 626.854\(21\), F.S.](#)

²⁰ See [s. 415.101, F.S.](#) ("Sections 415.101-415.113 may be cited as the Adult Protective Services Act.")

²¹ [S. 415.102\(28\), F.S.](#)

²² [S. 415.102\(15\), F.S.](#)

²³ [S. 415.1034, F.S.](#)

²⁴ [S. 415.103, F.S.](#)

²⁵ [S. 415.104, F.S.](#)

²⁶ *Id.*

²⁷ *Id.*

It is a second-degree misdemeanor²⁸ for a person to knowingly and willfully fail to report a case of known or suspected exploitation of a vulnerable adult or prevent another person from doing so.²⁹

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Insurance & Banking Subcommittee	17 Y, 0 N		Brackett	Miguez
Civil Justice & Claims Subcommittee				
Commerce Committee				

²⁸ A second degree misdemeanor is punishable by not more than 60 days in county jail and a fine not exceeding \$500. [S. 775.082, F.S.](#) and [s. 775.083, F.S.](#)

²⁹ [S. 415.111\(1\), F.S.](#)