

HB 177

2016

1 A bill to be entitled
2 An act relating to prohibited insurance practices;
3 amending s. 626.854, F.S.; revising prohibition on
4 certain public adjuster activities; providing
5 responsibilities and prohibiting activities of
6 licensed contractors and subcontractors under certain
7 conditions; conforming a cross-reference to changes
8 made by the act; creating s. 626.8699, F.S.;
9 prohibiting certain persons and entities from
10 accepting a referral fee, commission, bonus, kickback,
11 or rebate, or engaging in any split-fee arrangement,
12 in connection with certain repair, mitigation, or
13 restoration services; providing duties of the
14 Department of Financial Services; providing civil and
15 criminal penalties; providing an effective date.

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

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19 Section 1. Subsections (7) through (19) of section
20 626.854, Florida Statutes, are renumbered as subsections (6)
21 through (18), respectively, and present subsections (6), (16),
22 and (19) are amended, to read:

23 626.854 "Public adjuster" defined; prohibitions.—The
24 Legislature finds that it is necessary for the protection of the
25 public to regulate public insurance adjusters and to prevent the
26 unauthorized practice of law.

27 ~~(6) A public adjuster may not directly or indirectly~~
28 ~~through any other person or entity initiate contact or engage in~~
29 ~~face-to-face or telephonic solicitation or enter into a contract~~
30 ~~with any insured or claimant under an insurance policy until at~~
31 ~~least 48 hours after the occurrence of an event that may be the~~
32 ~~subject of a claim under the insurance policy unless contact is~~
33 ~~initiated by the insured or claimant.~~

34 ~~(15)(16)~~ Any A licensed contractor licensed under part I
35 of chapter 489, or a subcontractor to the contractor, or entity
36 or person that performs emergency remediation or restoration
37 services for an insured under an insurance policy in this state:

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

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

52 (c) Must provide the insured a detailed estimate of the

53 services to be provided before the execution of any agreement to
54 provide services.

55 (d) Must provide a 5-day right of rescission period in the
56 agreement with the insured. The period does not begin until the
57 insurer has been provided a copy of the fully executed
58 agreement. If the insured rescinds the agreement during the 5-
59 day period, the contractor, subcontractor, entity, or person is
60 entitled to compensation for any emergency mitigation services
61 performed before the agreement was rescinded.

62 (18)-(19) Subsections (5)-(17) ~~(5)-(18)~~ apply only to
63 residential property insurance policies and condominium unit
64 owner policies as described in s. 718.111(11).

65 Section 2. Section 626.8699, Florida Statutes, is created
66 to read:

67 626.8699 Prohibited practices related to repair,
68 mitigation, and restoration services; penalties.-

69 (1) A person or entity may not give a referral fee,
70 commission, bonus, kickback, or rebate, or engage in any split-
71 fee arrangement, with any person or entity for any repair,
72 mitigation, or restoration service if the repair, mitigation, or
73 restoration service is for an amount greater than \$25 and is
74 covered under an insurance policy in this state.

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

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

78 (b) A recommendation by the department to the appropriate

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79 licensing board that disciplinary action be taken.

80 (3) A person or entity that violates the provisions of
81 subsection (1) a third or subsequent time commits a felony of
82 the third degree, punishable as provided in s. 775.082, s.
83 775.083, or s. 775.084.

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