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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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04/01/2021 10:39 AM

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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



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.