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Ron DeSantis, Governor

FACT SHEET: Senate Bill 76/Senate Bill 2-D and Contractor Responsibilities Regarding Prohibited Property Insurance Practices

Senate Bill 76 is an insurance reform bill that was passed during the 2021 Florida Legislative Session and signed into law by Governor Ron DeSantis on June 11, 2021. The law created section 489.147, Florida Statutes, and was subsequently amended by Senate Bill 2-D, which was signed into law on June 29, 2022. Both of these bills build on Governor Desantis' commitment to insurance reform and include provisions prohibiting predatory roofing advertisements and practices by contractors who seek to take fraudulent advantage of the assignment of benefits process. The bills also require a notice with advertisement and contracts indicating the contractor may not engage in certain practices to induce customers to allow the contractor to inspect the roof or make an insurance claim on the customer's behalf.

The information provided here is intended to provide general guidance for both contractors and the public regarding the new advertising and contracting requirements established in section 489.147, Florida Statutes. The bill language should be reviewed and legal counsel consulted for any specific questions. Questions regarding Chapters 626 or 627, Florida Statutes, should be directed to the Florida Office of Insurance Regulation.

PROHIBITIONS

Section 489.147, Florida Statutes, prohibits contractors from:

- Soliciting residential property owners through prohibited advertisements. Prohibited advertisements are defined as written or electronic communications to a consumer which encourage, instruct, or induce a consumer to contact a contractor or public adjuster to file an insurance claim for roof damage.
 - Prohibited advertisements include, but are not limited to, door hangers, business cards, magnets, flyers, pamphlets, and emails. However, a communication is NOT a prohibited advertisement IF such communication states in a font size of at least 12 points and at least half as large as the largest font size used in the communication that:
 - The consumer is responsible for payment of any insurance deductible;
 - It is insurance fraud punishable as a felony of the third degree for a contractor to knowingly or willfully, and with intent to injure, defraud, or deceive, pay waive, or rebate all or part of an insurance deductible applicable to payment to the contractor for repairs to a property covered by a property insurance policy; AND
 - It is insurance fraud punishable as a felony of the third degree to intentionally file an insurance claim containing any false, incomplete, or misleading information.

- Offering the residential property owner items of value to perform a roof inspection or file an insurance claim;
- Offering or receiving items of value for referrals when property insurance proceeds are payable;
- Unlicensed public adjusting; and
- Providing an authorization agreement to the insured without providing a good faith estimate.

NOTICE REQUIREMENTS

Advertisements

Prohibited advertisements are defined as written or electronic communications to a consumer which encourage, instruct, or induce a consumer to contact a contractor or public adjuster to file an insurance claim for roof damage.

Prohibited advertisements include, but are not limited to, door hangers, business cards, magnets, flyers, pamphlets, and emails. However, a communication is NOT a prohibited advertisement IF such communication states in a font size of at least 12 points and at least half as large as the largest font size used in the communication that:

1. The consumer is responsible for payment of any insurance deductible;
2. It is insurance fraud punishable as a felony of the third degree for a contractor to knowingly or willfully, and with intent to injure, defraud, or deceive, pay, waive, or rebate all or part of an insurance deductible applicable to payment to the contractor for repairs to a property covered by a property insurance policy; AND
3. It is insurance fraud punishable as a felony of the third degree to intentionally file an insurance claim containing any false, incomplete, or misleading information.

Contracts

Section 489.147, Florida Statutes, requires that contractors include a notice regarding allowable practices with each contract for the repair or replacement of a roof. The notice must be included prior to the execution of the contract by the contractor. The notice must state that the contractor cannot engage in the practices set forth in s. 489.147(2)(b), F.S:

Section 489.147(2)(b) Offering to a residential property owner a rebate, gift, gift card, cash, coupon, waiver of any insurance deductible, or any other thing of value in exchange for:

1. Allowing the contractor to conduct an inspection of the residential property owner's roof; or
2. Making an insurance claim for damage to the residential property owner's roof.

Enforcement

These acts, if violated, would constitute disciplinary violations under the jurisdiction of the Construction Industry Licensing Board (CILB) pursuant to Chapter 489, Florida Statutes. The bill provides for fines up to \$10,000.

Complaints for these new violations will be reviewed and processed pursuant to procedures in place for other contractor complaints. Complaints will be reviewed for legal sufficiency and investigated if appropriate. Complaints against licensed contractors will be confidential until 10 days after a finding of probable cause.

The CILB is currently developing penalty guidelines for these violations and will ultimately determine what penalties will be imposed. The penalties in section 489.129, Florida Statutes, will apply, which include reprimands, fines, probation, suspension, and revocation. Section 489.129, Florida Statutes currently provides for fines up to \$10,000 for all violations.

Complaints alleging unlicensed public adjusting will also be referred to the Florida Office of Insurance Regulation for further action.

FAQs Regarding Prohibited Property Insurance Practices

As a contractor, what I am prohibited from doing?

Section 489.147, Florida Statutes, prohibits contractors from directly or indirectly:

- Soliciting residential property owners through prohibited advertisements.
- Offering the residential property owner items of value to perform a roof inspection or file an insurance claim;
- Offering or receive any items of value when property insurance proceeds are payable;
- Engaging in unlicensed public adjusting; and
- Providing an authorization agreement to the insured without providing a good faith estimate.

What is considered “soliciting”?

Section 489.147(1)(b), Florida Statutes., defines “soliciting” as contacting:

- In person
- By electronic means, including, but not limited to, email, telephone, and any other real-time communication directed to a specific person: OR
- By delivery to a specific person.

What is a prohibited advertisement?

Section 489.147(1)(a), Florida Statutes, defines prohibited advertisements as written or electronic communications to a consumer which encourage, instruct, or induce a consumer to

contact a contractor or public adjuster to file an insurance claim for roof damage, AND which do not include certain notice requirements in a certain format.

Prohibited advertisements include, but are not limited to, door hangers, business cards, magnets, flyers, pamphlets, and emails.

What are considered “items of value?”

- Section 489.147(2)(b), Florida Statutes, states that a contractor may not offer a residential property owner a rebate, gift, gift card, cash, coupon, waiver of any insurance deductible, or any other thing of value in exchange for performing a roof inspection or filing an insurance claim.
- Section 489.147(2)(c), Florida Statutes, states that a contractor may not offer or receive any compensation, inducement, or reward, for the referral of any services for which property proceeds are payable. Payment by the residential property owner or insurance company to a contractor for roofing services rendered does not constitute compensation for referral.

What notice requirements must I include in written or electronic communications to customers, and in what format, so that they are in compliance with Section 147, F.S., and not be considered prohibited advertisements?

Section 489.147(1)(a), Florida Statutes, states that a communication is NOT a prohibited advertisement if such communication states in a font size of at least 12 points and at least half as large as the largest font size used in the communication that:

1. The consumer is responsible for payment of any insurance deductible;
2. It is insurance fraud punishable as a felony of the 3rd degree for a contractor to knowingly or willfully, and with intent to injure, defraud, or deceive, pay waive, or rebate all or part of an insurance deductible applicable to payment to the contractor for repairs to a property covered by a property insurance policy; AND
3. It is insurance fraud punishable as a felony of the third degree to intentionally file an insurance claim containing any false, incomplete, or misleading information.

What do I have to include in roofing contracts to comply with Section 489.147, F.S.?

Consult with your own counsel as the statute does not provide specific language. In general, the notice must state that the contractor cannot engage in offering a residential property owner a rebate, gift, gift card, cash, coupon, waiver of any insurance deductible, or any other thing of value in exchange for: 1) Allowing the contractor to conduct an inspection of the residential property owner’s roof; or 2) Making an insurance claim for damage to the residential property owner’s roof.

What is the penalty for failing to include the required notice in roofing contracts?

Section 489.147(5), Florida Statutes, states that if a contractor fails to include the notice as required in s. 489.147(2)(b), the contract may be voided by the residential customer within 10 days after the contract is executed.

Am I allowed to make an insurance claim on behalf of my customers?

According to section 489.147, Florida Statutes, a contractor will be subject to discipline when the contractor, their employee, or a third party acting on their behalf offers items of value in exchange for allowing the contractor to either conduct a roof inspection or make an insurance claim for the property owner's roof. Neither may the contractor advertise to perform these services.

Does Section 489.147, F.S., apply to my employees?

Section 489.147(4)(a), Florida Statutes, provides that the acts of any person on behalf of the contractor, including but not limited to, the acts of a compensated employee or a nonemployee who is compensated for soliciting, shall be considered the actions of the contractor.

If you have any questions, call our Customer Contact Center at 850.487.1395.