Florida Department of Financial Services
Division of Consumer Services

Public Adjuster Code of Ethics and Contract Checklist

A public adjuster is an insurance claims professional who works on behalf of the policyholder in evaluating and negotiating a homeowner insurance claim. Their technical expertise and ability to interpret insurance policies can help property owners receive indemnification for their claims. Public adjusters receive a percentage of the claim settlement as payment for their services, and their contracts are legally binding. The contract cannot be broken unless ordered by a court of law, or if the public adjuster agrees to release the insured from the contract.

PLEASE NOTE: A contractor or a subcontractor licensed under Chapter 489 of the Florida Statutes, may not adjust a claim on behalf of an insured unless licensed as a public adjuster. However, the contractor may discuss or explain a bid for construction or repair of covered property with the residential property owner who has suffered loss or damage, or with the insurer of such property, if the contractor is doing so for the usual and customary fees applicable to the work to be performed per the contract between the contractor and the insured. (Section 626.854, Florida Statutes.)

There are situations when a licensed contractor may need to speak with an insurance company/adjuster in order to clarify something about their bid or perhaps notify the company/adjuster that after starting repairs they noticed additional damage that may require review by the adjuster. These scenarios should not be mistaken for the contractor acting as a public adjuster.

If a contractor also becomes licensed as a public adjuster, they are prohibited from entering into a contract to both adjust and repair on the same property. Similarly, a public adjuster may not participate directly or indirectly in the reconstruction, repair or restoration of the damaged property that is the subject of his/her claim adjustment.
(Section 626.8795, Florida Statutes)

Public adjusters are licensed by the Department of Financial Services and have several ethical requirements they must meet due to the nature of the service they provide. These rules are found in rules 69B-220.051 and 69B-220.201, Florida Administrative Code. Below are some of the important rules public adjusters must follow, as well as a checklist of their contractual requirements.

General Requirements for all Adjusters

- A public adjuster must put fair and honest treatment of the claimant above their own interests.
- A public adjuster cannot steer any claimant needing repairs or other services to any person with whom the adjuster has an undisclosed financial interest or who is anticipated to provide the adjuster with any compensation for the referral for any resulting business.
- A public adjuster should not provide any favored treatment to any claimant.
- A public adjuster must adjust claims strictly in accordance with the insurance contract.
- A public adjuster must not approach investigations, adjustments, and settlements in a manner prejudicial to the insured.
- A public adjuster must make truthful and unbiased reports of the facts after making a complete investigation.

- A public adjuster must handle every adjustment and settlement with honesty and integrity and allow a fair adjustment or settlement to all parties without any compensation or remuneration to which they are not legally entitled.
- A public adjuster must act with promptness and due diligence in achieving a proper disposition of the claim.
- A public adjuster may not directly or indirectly solicit an insured or claimant by any means except on Monday through Saturday between 8 a.m. and 8 p.m.
- A public adjuster may not collect a fee for services on payments made to a named insured unless they have a written contract with the named insured, or the named insured's legal representative
- The public adjuster must provide the insured or claimant with a written estimate of the loss to assist in the submission of a proof of loss within 60 days. The estimate must include an itemized, per-unit estimate of the repairs, including itemized information on equipment, materials, labor, and supplies, in accordance with accepted industry standards.
- A public adjuster cannot negotiate with a third-party claimant represented by an attorney, if he or she has knowledge of the attorney, without permission from the attorney. This does not apply to an insured or the insured's resident relatives.
- A public adjuster cannot advise a claimant to refrain from seeking legal advice or retaining legal counsel.
- A public adjuster cannot negotiate with or obtain a statement from a claimant or witness at a time they would reasonably be expected to be, in shock or serious mental or emotional distress as a result of physical, mental, or emotional trauma associated with a loss; nor can a public adjuster conclude a settlement when the settlement would be disadvantageous to a claimant who has been traumatized or distressed by a loss.
- A public adjuster must not knowingly fail to advise a claimant of the claimant's claim options in accordance with the terms and conditions of the insurance contract.
- A public adjuster must be competent and knowledgeable as to the terms and conditions of the insurance coverage.
- A public adjuster must ensure that all contracts for his/her services are in writing and provide all terms and conditions of the contract.
- A public adjuster cannot represent a person or entity whose claim the adjuster has previously adjusted while representing any insurer or independent adjusting firm.
- A public adjuster cannot represent or act as a company adjuster or an independent adjuster. A public adjuster may hold a general lines agent license. However, no public adjuster while so licensed with the Department, may represent or act as both a public adjuster and a general lines agent for the same insurance claim.

- A public adjuster cannot prevent or attempt to dissuade a claimant from speaking privately with the insurer, company or independent adjuster, attorney, or any other person, regarding the settlement of the claim.
- A public adjuster cannot accept referrals of business from persons with whom the adjuster may conduct business or where there is any form of agreement to compensate the person for referring business to the adjuster. No public adjuster can compensate another person for the referral of business to them, except from one adjuster to another.
- A public adjuster cannot enter into a contract or accept a power of attorney which gives them the authority to choose the persons who will perform repair work.
- A public adjuster must respond with specific information to a written or electronic request for claims status from a claimant or insured or their designated representative within 30 days from the date of the request and shall document the file accordingly.
- No public adjuster who represents a claimant shall enter into any contract, agreement, or other arrangement with any person, which would allow the public adjuster to accept an amount that would exceed the limitations of the public adjuster's compensation imposed by Florida Statute.
- A public adjuster must not accept a settlement of a claim unless the terms and conditions of the settlement are approved by the insured or claimant.
- A public adjuster must ensure prompt notice of property loss claims if the public adjuster represents the insured at the time the claim or notice of loss is submitted to the insurer. The public adjuster must provide notice of the claim, a copy of his/her contract with the insured, ensure the property is available for inspection by the insurer, and the insurer is given an opportunity to interview the insured directly about the loss and claim. The insurer must be allowed to obtain necessary information to investigate and respond to the claim.
- A public adjuster must meet or communicate with the insurer in an effort to reach an agreement as to the scope of the covered loss under the insurance policy.
- A public adjuster cannot restrict or prevent an insurer or their representative from having reasonable access at reasonable times to the insured or claimant, or to the insured property that is the subject of the claim.
- A public adjuster may not act or fail to reasonably act in any manner that obstructs or prevents an insurer or insurer's adjuster from timely conducting an inspection of any part of the insured property for which there is a claim for loss or damage. The public adjuster representing the insured may be present for the insurer's inspection, but if the unavailability of the public adjuster otherwise delays the insurer's timely inspection of the property, the public adjuster or the insured must allow the insurer to have access to the property without the participation or presence of the public adjuster or insured in order to facilitate the insurer's prompt inspection of the loss or damage.
- A public adjuster must not acquire any interest in salvaged property, except with the written consent and permission of the insured through a signed affidavit.

- A public adjuster, a public adjuster apprentice, or a person acting on behalf of either may not enter into a contract or accept a power of attorney that allows them to choose the persons or entities that will perform repair work in a property insurance claim, or provide goods or services that will require the insured or third- party claimant to expend funds exceeding those payable to the public adjuster under the terms of the contract for adjusting services.
- A public adjuster 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 permitting a contractor, public adjuster, public adjuster apprentice, or other person acting on behalf of a public adjuster to inspect the property owner's roof or file a roof-related claim.
- A public adjuster may not offer, deliver, receive, or accept any compensation, inducement, or reward for the referral of any services for which property insurance proceeds would be used for roofing repairs or replacement.

Public Adjuster's Residential Property Contract Checklist:

The information pertaining to a public adjuster's contract is mandated by section 626.854, and 626.8796, Florida Statutes and rule 69B-220.051, Florida Administrative Code. The information pertaining to each requirement is described below:

- All contracts must be in writing in at least 12-point type. They must be titled 'Public Adjuster Contract' All contracts must contain the fraud statement as it appears in sections. 817.234 and 626.8796, Florida Statutes. The fraud statement must appear in a minimum 18-point bold type before the space reserved in the contract for the insured's signature.
- All contracts must include the full name, permanent business address, and the license number of the public adjuster. The phone number and the email address of the public adjuster must be included as well.
- All contracts must include the full name of the licensed public adjusting firm.
- All contracts must include the insured's full name, street address, phone number and email address.
- All contracts should include the address of loss if it's different from the insured's current street address.
- All contracts must include a description of the loss.
- All contracts must include the insured's insurance company name and policy number, if available.
- All contracts must state the percentage of compensation for the public adjuster's service; and state all methods of compensation and all fees or other amounts required to be paid by the insured to the public adjuster; and any costs to be reimbursed to the public adjuster out of the proceeds must be specified in the contract or an addendum to the contract and it must be signed and dated by the parties. The information about the compensation must appear in a minimum 18-point bold type and be placed before the space reserved in the contract for the insured's signature. Additionally,

the initials of the named insured should appear on each page that does not contain the insured's signature.

- All contracts must state the type of claim including whether it's an emergency claim, non-emergency claim, or supplemental claim.
- All contracts must include the signature and the license number of the public adjuster who solicited the contract and all named insureds. If all named insureds are not available, the public adjuster must submit an affidavit signed by the available named insureds attesting that they have authority to enter into the contract and settle all claim issues on behalf of the named insureds.
- All contracts must include the date the contract was signed by all parties.
- Public adjusters must submit an unaltered copy of the executed contract to the insured at the time of execution and within 7 days to the insurer or the insurer's representative. However, a public adjusting firm that adjusts claims primarily for commercial entities with operations in more than one state and that does not directly or indirectly perform adjusting services for insurers or individual homeowners is deemed to comply with this requirement if at the time a proof of loss is submitted, the public adjusting firm remits to the insurer an affidavit signed by the public adjuster or public adjuster apprentice that identifies:
    - The full name, permanent business address, phone number, email address and license number of the public adjuster or the public adjuster apprentice
    - The full name of the licensed public adjusting firm
    - The insured's full name, street address, phone number, email address together with a brief description of the loss
    - An attestation that the compensation for public adjusting services will not exceed the limitations provided by law
    - The type of claim including whether it's an emergency, non-emergency, or supplemental claim.
- The public adjuster cannot receive compensation for services provided before the date the insured receives an unaltered copy of the executed contract or the date the executed contract is submitted to the insurer.
- The public adjuster must provide the insured with a separate disclosure document to be signed by the insured, on a form adopted by the Department of Financial Services, regarding the claim process which accomplishes the following:
    - Defines the following types of adjusters who may be involved in the claim process: company adjuster, independent adjuster, and public adjuster.
    - Explains that the public adjuster is not a representative or employee of the insurer.
    - Explains that the insured is not required to hire a public adjuster but has a right to do so.

- Explains that an insured has a right to initiate direct communications with the insured's attorney, the insurer, the company adjuster, the insurer's attorney, or any person regarding the settlement of the insured's claim.
- Explains that the public adjuster's salary, fee, commission, or other consideration to be paid to a public adjuster is the insured's responsibility.
- Explains that the public adjuster is required to provide the insured an unaltered copy of the executed contract at the time of execution.
- Explains that if the contract was entered into based on events that are the subject of a declaration of a state of emergency by the Governor, an insured or a claimant may cancel the public adjuster's contract to adjust a claim without penalty or obligation within 30 days after the date of loss or 10 days after the date on which the contract is executed, whichever is longer.

- The public adjuster must provide the unaltered copy of the executed disclosure document to the insured at the time of execution.

Note: A contract that does not comply with this section is invalid and unenforceable.

Public Adjuster Residential Claims Contract Cancellation:

- The insured may rescind the contract if the public adjuster has not submitted a written estimate to the insurer within 60 days after the contract is executed, unless there are factors beyond the public adjuster's control that prevent such submission.
- If the contract is entered into for a claim that arose from an event that is declared a state of emergency by the Governor, then the insured may cancel the contract without penalty or obligation within 30 days after the date of the loss or 10 days after the date the contract is executed, whichever is longer.
- The contract must contain the following language in minimum 18-point bold type immediately before the space reserved for the insured or the claimant's signature:

  "You, the insured, may cancel this contract for any reason without penalty or obligation to you within 10 days after the date of this contract. If this contract was entered into based on events that are the subject of a declaration of a state of emergency by the Governor, you may cancel this contract for any reason without penalty or obligation to you within 30 days after the date of loss or 10 days after the date on which the contract is executed, whichever is longer. You may also cancel the contract without penalty or obligation to you if I, as your public adjuster, fail to provide you and your insurer a copy of a written estimate within 60 days of the execution of the contract, unless the failure to provide the estimate within 60 days is caused by factors beyond my control, in accordance with section 627.70131(5)(a)2, Florida Statutes. The 60-day cancellation period for failure to provide a written estimate shall cease on the date I have provided you with the written estimate." The notice of cancellation shall be provided to (name of the public adjuster), submitted in writing and sent by certified mail, return receipt requested, or other form of mailing that provides proof thereof, at the address specified in the contract.

Public Adjuster Fees: *The following fee restrictions apply to the residential property insurance and condominium unit owner policies.*

- A 20% cap applies to all new, supplemental, or reopened claims, that do not arise from an event declared to be a state of emergency. All fees are restricted to the portion of the settlement obtained through the efforts of the public adjuster. The fees are exclusive of attorney fees and costs.
- A 10% cap applies to claims resulting from an event that is the subject of a declared state of emergency, for a period of one (1) year from the date of the event. After the one-year period has elapsed, the fee is capped at 20%. All fees are restricted to the portion of the settlement obtained through the efforts of the public adjuster. The fees are exclusive of attorney fees and costs.
- The public adjuster fee is capped at 1% of the amount of any claim payment for any coverage part when within 14 days of the date of loss or within 10 days of the execution of the contract with the public adjuster, the insurer pays or makes a written commitment to make a payment equal to, or greater than the policy limit for that coverage part.
- No fee is due on any claim payment or settlement for which the insurer pays or makes a written commitment to pay before the execution of the contract with the public adjuster.
- The fee may not be charged on a deductible portion of a claim.
- The fee may not be charged on the Additional Living Expense portion of the claim unless such compensation is agreed to in a separate agreement.
- If such an agreement is executed, it should include a consumer disclosure substantially similar to, "I agree to retain and compensate the public adjuster for adjusting my additional living expenses and securing payment from my insurer for amounts attributable to additional living expenses payable under the policy issued on my (home/mobile home/condominium unit)."
- A public adjuster may not increase its compensation rate simply because the claim is litigated.
- A public adjuster may not:

a) Collect fees for services on payments made to an insured unless there is a written contract.

b) Contract for services to be provided by a third party on behalf of the insured, or in pursuit of settlement of the claim; if the cost is to be borne by the insured, unless the insured agrees in writing to procuring such services. Such agreement must be executed after the date of the contract for public adjusting services.

c) If the public adjuster contracts with a third party to assist with settlement of the claim without first obtaining the insured's written consent, then the payment of the third party's fees must be paid by the public adjuster. The public adjuster is prohibited from charging such fees back to the insured.

d) If a public adjuster represents anyone other than the insured in a claim, then the public adjuster's fees must be paid by the third party. The public adjuster is prohibited from charging such fees back to the insured.

Additional Requirements for Residential Property Loss Estimation:

* The public adjuster must submit a written estimate of the damage to the insurer within 60 days after the contract is executed, unless there are factors beyond the public adjuster's control that prevent such submission.

- When preparing and submitting a detailed written estimate of loss for damage to residential properties the public adjusters must use an electronic estimating program to create or modify the estimate.
- Any changes made by the public adjuster to a previous estimate of the loss amount provided to the insured or insurer, must include an explanation detailing the reasons for each change. Additionally, the public adjuster must keep copies of any documentation that supports the changes made to previous estimates given to the insured or insurer.
- The estimating program must provide a report with an itemized estimate of damage to the property, detailing equipment, materials, labor, and supplies on a per-unit basis.
- The electronic estimating program must utilize price data consisting of unit-cost breakdowns that are consistent with what a contractor or repair company would expect in the relevant geographic market area.
- Public adjusters are prohibited from modifying the prices generated by the electronic estimating program or altering any other input or output unless they can provide additional documentation demonstrating the need for such modifications. Every modification must align with current market prices for the equipment, materials, labor, and supplies necessary to complete the covered repairs in the relevant geographic area.
- The public adjuster who modifies the estimate must provide her or his name on the modification document.
- Public adjusters must provide the written estimate of loss to the insured within the time frame prescribed by law.
    1. The written estimate of loss provided to the insured must include: The line-item estimate produced by the electronic estimating program.
    2. A variation report or a similar document showing any modifications made by the public adjuster.
    3. If applicable, additional documentation supporting any modifications to the input or output of the electronic estimating program.

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