

ADJUSTING DO'S AND DON'TS

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AGENDA

- Opening & Introduction
- Requirements for Adjusters
- Statutory/Regulatory Do's & Don'ts
- Best Practices
- 2009 Changes to Florida Statutes & F.A.C.
- Hypotheticals
- Q&A
- Conclusion



Requirements for Adjusters

□ **Who/What is regulated under Florida Insurance Code:**

- Company employee adjusters ("**EI**")
- Independent adjusters ("**IA**")
- Public adjusters ("**PA**")
- Public adjuster apprentice
- Nonresident adjusters
- Primary adjuster and adjusting firm
- Catastrophe or Emergency Adjuster
- Temporary adjuster

Qualifications

□ **CA/IA/PA:**

1. 18 years of age.
2. United States citizen or legal alien authorized to work
3. Bona fide Florida resident.
4. Trustworthy, good business reputation
5. Sufficient experience, training, or instruction in P&C adjusting
6. Sufficiently informed – terms & effects of insurance contracts
7. Adequate knowledge of Florida laws

□ **EA/IA** additional requirement: pass required written exams

□ **PA** additional requirement: \$50,000 bond.

Qualifications

- **Nonresident adjusters (EA, IA, PA):**

- **EA:**

- 1. Currently licensed/authorized adjuster in home state - same type/kinds of insurance
 - 2. Employee of insurer(s) admitted in Florida.

- **IA & PA:**

- 1. Currently licensed IA/PA in state of residence, same type/kinds of insurance;
 - if resident state does not license, has passed DFS adjuster exam
 - 2. Self-employed IA/PA or associated with or employed by IA/PA firm or other IA/PA.

Qualifications

□ **Temporary Adjusters:**

1. Employee of adjuster currently licensed by DFS, employee of authorized insurer, or employee of established adjusting firm or corporation supervised by currently licensed IA.
2. Certificate of employment & report as to applicant's integrity and moral character
3. 18 years of age
4. Bona fide Florida resident
5. Trustworthy with good business reputation

Statutory / Regulatory DO's & DON'Ts

DO's – All Adjusters

- Adjust/investigate per terms and conditions of contract and of Florida laws
- Prominently display anti-fraud statement on proof of loss and PA contract
- Code of Ethics:
 - Disclose all financial interest
 - Treat all claimants equally
 - Make truthful/unbiased reports of facts after complete investigation
 - Handle claim with honesty and integrity
 - No illegal remuneration
 - Act with dispatch & due diligence
 - Promptly report to **OIR/DFS** conduct by Florida licensed insurance representative that violates insurance law or **OIR** rule or order
 - Exercise extraordinary care when dealing with elderly clients

DON'Ts – All Adjusters

- ❑ Do not approach claim in manner prejudicial to insured.
- ❑ Do not negotiate/settle directly or indirectly with third-party claimant represented by attorney (if known), except with attorney's consent
- ❑ Do not advise claimant to refrain from seeking legal advice
- ❑ Do not attempt to negotiate/obtain statement from claimant or witness in shock or serious mental or emotional distress
- ❑ Do not knowingly fail to advise claimant of rights
- ❑ Do not engage in the unlicensed practice of law
- ❑ **EA/IA** – do not draft release, but may fill in blanks in release form approved by insurer

DON'Ts – Public Adjusters

1. Do not give legal advice. F.S. 626.854(3).
2. Do not handle claim relating to bodily injury, death, or noneconomic damages. F.S. 626.854(3)

For residential property & condominium:

3. Do not directly or indirectly solicit insured or claimant by any means except on Monday through Saturday of each week and only between the hours of 8 a.m. and 8 p.m. on those days. F.S. 626.854(5).
4. Do not directly or indirectly initiate contact or engage in face-to-face or telephonic solicitation or enter into contract with any insured or claimant under an insurance policy until at least 48 hours after the occurrence of an event that may be the subject of a claim under the insurance policy unless contact is initiated by insured or claimant. F.S. 626.854(6).

DON'Ts – Public Adjusters

(residential property & condominium)

5. Do not make statement that is untrue, deceptive, or misleading. F.S. 626.854(8).
6. Do not directly or indirectly offer monetary loan or advance to client/prospective client. F.S. 626.854(9).
7. Do not, directly or indirectly give or offer to give article of merchandise having value in excess of \$25 as inducement to entering into contract with PA. F.S. 626.854(9).
8. If you enter into contract with insured or claimant to reopen claim or to file supplemental claim :
 - do not charge, agree to, or accept any compensation based on previous claim payments
 - Compensation based on new amounts claimed; not subject to the limitations in paragraph (b). F.S. 626.854(11)

DON'Ts – Public Adjusters

(residential property & condominium)

9. No compensation in excess of:
 - 10% of claim payments based on events that are subject of declared state of emergency by Governor. This provision applies to claims made 1 year after declared emergency.
 - 20% other insurance claim payments.
10. Do not, directly or indirectly accept referrals of business from any person with whom you conduct business if there is any form or manner of agreement to compensate the person, whether directly or indirectly, for referring business to you. F.S. 626.854(13).
11. Do not compensate any person, except for another PA, whether directly or indirectly, for the principal purpose of referring business to the PA. F.S. 626.854(13).

DON'Ts – Public Adjusters

(residential property & condominium)

12. Conflicts of interest (F.S. 626.8795.):

- Do not participate, directly or indirectly, in reconstruction, repair, or restoration of damaged property that is subject of claim adjusted by you.
- Do not engage in any other activities that may be reasonably construed as conflict of interest, including soliciting or accepting any remuneration from, of any kind or nature, directly or indirectly.
- Do not have financial interest in salvage, repair, or other business entity that obtains business in connection with claim that you have contract or an agreement to adjust.



BEST PRACTICES

CONDUCT

1. Practice profession with awareness that role is to advance legitimate interests
2. Should not reflect ill feelings
3. Treat all other adjusters and claims professionals in civil & courteous manner
4. Should not (even when called upon by their client to do so), abuse other adjusters or indulge in offensive conduct directed to others.
5. Should abstain from disparaging personal remarks or acrimony toward other adjusters, claims professionals, consultants, experts or others.
6. Be courteous, civil & prompt in oral and written communications
7. Be punctual in honoring scheduled meetings and inspections.
8. Disagree without being disagreeable
9. Should not (without good cause) attribute bad motives or unethical conduct to opposing adjusters by unfounded accusations or acrimony toward opposing adjuster, insured, and/or consultant
10. Should not ask insured to engage in activities solely to harass others.
11. Should adhere to all express promises and agreements with other adjusters, whether oral or in writing, and should adhere in good faith to all agreements

Profesionalism

- Integrity
- Honesty
- Candor
- Fairness
- Respect

Communications

1. Be polite.
2. Use reserved and respectful tone.
3. Avoid accusing another adjuster or improper conduct.
4. Keep on point and get to the point.
5. Give facts and positions that are pertinent to situation.
6. State purpose of communications
7. List enclosures with specificity
8. State with specificity what is being requested.
9. Avoid threatening/disparaging others.
10. Avoid language that conveys frustration or anger.
11. Correspondence should be professional.
12. Describe delivery method clearly, e.g.,
 - Indicate method of delivery or correspondence if other than mail.
 - Include email address or fax number of addressee.
 - If being sent by FedEx or UPS, state whether overnight or 2d day.
13. Sign letters in blue ink, not black ink

Other Best Practices

- Analyzing Differences
- Use of Estimates
- Use of Experts
- Reaching Agreements
- Outlining Differences
- Dispute Resolution



2009 CHANGES

□ **Florida Statute §626.854 "Public adjuster" defined; prohibitions**

(13) A public adjuster, public adjuster apprentice, or any person acting on behalf of a public adjuster or apprentice may not accept referrals of business from any person with whom the public adjuster conducts business if there is any form or manner of agreement to compensate the person, whether directly or indirectly, for referring business to the public adjuster. A public adjuster may not compensate any person, except for another public adjuster, whether directly or indirectly, for the principal purpose of referring business to the public adjuster.

□ **Florida Statute §626.8651. Public adjuster apprentice license; qualifications**

(3) An applicant must pass the required written examination before a license may be issued.

(4) An applicant must have received designation as an Accredited Claims Adjuster (ACA) after completion of training that qualifies the applicant to engage in the business of a public adjuster apprentice fairly and without injury to the public. Such training and instruction must address adjusting damages and losses under insurance contracts, the terms and effects of insurance contracts, and knowledge of the laws of this state relating to insurance contracts.

(7) An appointing public adjusting firm may not maintain more than 12 public adjuster apprentices simultaneously. However, a supervising public adjuster may not be responsible for more than three public adjuster apprentices simultaneously and shall be accountable for the acts of all public adjuster apprentices which are related to transacting business as a public adjuster apprentice.

□ Florida Statute §627.7011. Homeowners' policies; offer of replacement cost coverage and law and ordinance coverage

(7) This section does not prohibit an insurer from exercising its right to repair damaged property in compliance with its policy and §627.702(7).

□ **Florida Administrative Rule 69B-228.220 Licensee Compliance; Requirements;**

(aa) Credits earned by public adjusters to satisfy the requirements of 24 hours of credit:

1. Shall be earned as follows:

- a. Two hours of ethics;
- b. Ten hours in law and policy;
- c. Twelve hours in optional approved adjusting subjects or additional hours in law and policy, or ethics.

2. Shall not earn credit in:

- a. Health insurance
- b. Life and annuities insurance
- c. Workers' Compensation Insurance
- d. Personal or bodily injury and medical subjects.

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- Public Adjuster Rule Challenge
 - AmeriLoss Public Adjusting Corp. Petition for Declaratory Statement



HYPOTHETICALS



Q&A

CONCLUSION

Adjusting Do's & Don'ts

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