

Unless expressly provided, the provisions of SB 408 (Chapter Law 2011-39) became effective upon signing (May 17, 2011).

The effective dates on sections relating to public adjuster contracts and advertising (January 1, 2012) are to allow the Department to draft and implement Rule changes to the Administrative Code.

Effective June 1, 2011:

626.854 “Public adjuster” defined; prohibitions.

(11)(a)

...Compensation for the reopened or supplemental claim may not exceed 20 percent of the reopened or supplemental claim payment.

(b) A public adjuster may not charge, agree to, or accept any compensation, payment, commission, fee, or other thing of value in excess of:

1. Ten percent of the amount of insurance claim payments made by the insurer for claims based on events that are the subject of a declaration of a state of emergency by the Governor. This provision applies to claims made during the period of 1 year after the declaration of emergency. After that 1-year period, 20 percent of the amount of insurance claim payments made by the insurer.

2. Twenty percent of the amount of insurance claim payments made by the insurer for claims that are not based on events that are the subject of a declaration of a state of emergency by the Governor.

The provisions of subsections (5)-(13) apply only to residential property insurance policies and condominium unit owner policies as defined in s. 718.111(11).

Effective January 1, 2012:

626.854 “Public adjuster” defined; prohibitions.

(8)(a) The following statements, made in any public adjuster’s advertisement or solicitation, are considered deceptive or misleading:

1. A statement or representation that invites an insured policyholder to submit a claim when the policyholder does not have covered damage to insured property.

2. A statement or representation that invites an insured policyholder to submit a claim by offering monetary or other valuable inducement.

3. A statement or representation that invites an insured policyholder to submit a claim by stating that there is “no risk” to the policyholder by submitting such claim.

4. A statement or representation, or use of a logo or shield, that implies or could mistakenly be construed to imply that the solicitation was issued or distributed by a governmental agency or is sanctioned or endorsed by a governmental agency.

(b) For purposes of this paragraph, the term “written advertisement” includes only newspapers, magazines, flyers, and bulk mailers. The following disclaimer, which is not required to be printed on standard size business cards, must be added in bold print and capital letters in typeface no smaller than the typeface of the body of the text to all written advertisements by a public adjuster:

“THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD A CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU ARE SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU MAY DISREGARD THIS ADVERTISEMENT.”

(14) A company employee adjuster, independent adjuster, attorney, investigator, or other persons acting on behalf of an insurer that needs access to an insured or claimant or to the insured property that is the subject of a claim must provide at least 48 hours’ notice to the insured or claimant, public adjuster, or legal representative before scheduling a meeting with the claimant or an onsite inspection of the insured property. The insured or claimant may deny access to the property if the notice has not been provided.

The insured or claimant may waive the 48-hour notice.

(15) A public adjuster must ensure prompt notice of property loss claims submitted to an insurer by or through a public adjuster or on which a public adjuster represents the insured at the time the claim or notice of loss is submitted to the insurer. The public adjuster must ensure that notice is given to the insurer, the public adjuster’s contract is provided to the insurer, the property is available for inspection of the loss or damage 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) The insurer may not exclude the public adjuster from its in-person meetings with the insured. The insurer shall meet or communicate with the public adjuster in an effort to reach agreement as to the scope of the covered loss under the insurance policy. This section does not impair the terms and conditions of the insurance policy in effect at the time the claim is filed.

(b) A public adjuster may not restrict or prevent an insurer, company employee adjuster, independent adjuster, attorney, investigator, or other person acting on behalf of the insurer from having reasonable access at reasonable times to an insured or claimant or to the insured property that is the subject of a claim.

(c) 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.

(16) A licensed contractor under part I of chapter 489, or a subcontractor, may not adjust a claim on behalf of an insured unless licensed and compliant as a public adjuster under this chapter. 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 covered by a property insurance policy, or the insurer of such property, if the contractor is doing so for the usual and customary fees applicable to the work to be performed as stated in the contract between the contractor and the insured.

Effective January 1, 2012:

626.8796 Public adjuster contracts; fraud statement.

(2) A public adjuster contract relating to a property and casualty claim must contain the full name, permanent business address, and license number of the public adjuster; the full name of the public adjusting firm; and the insured's full name and street address, together with a brief description of the loss. The contract must state the percentage of compensation for the public adjuster's services; the type of claim, including an emergency claim, nonemergency claim, or supplemental claim; the signatures of the public adjuster and all named insureds; and the signature date. If all of the named insureds signatures 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. An unaltered copy of the executed contract must be remitted to the insurer within 30 days after execution.

Effective June 1, 2011

626.70132 Notice of windstorm or hurricane claim.

A claim, supplemental claim, or reopened claim under an insurance policy that provides property insurance, as defined in s. 624.604, for loss or damage caused by the peril of windstorm or hurricane is barred unless notice of the claim, supplemental claim, or reopened claim was given to the insurer in accordance with the terms of the policy within 3 years after the hurricane first made landfall or the windstorm caused the covered damage. For purposes of this section, the term "supplemental claim" or "reopened claim" means any additional claim for recovery from the insurer for losses from the same hurricane or windstorm which the insurer has previously adjusted pursuant to the initial claim. This section does not affect any applicable limitation on civil actions provided in s. 95.11 for claims, supplemental claims, or reopened claims timely filed under this section.