

Notice of Emergency Rule

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agent and Agency Services

RULE NO.: RULE TITLE:

69BER24-4 Ethical Requirements for All Adjusters and Public Adjuster Apprentices

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: The threat of disastrous damages to life and property posed by Hurricane Milton and the unprecedented losses from Hurricane Helene has caused an immediate danger to the public health, safety, or welfare of the citizens of Florida. Hurricane Milton is a major hurricane with recorded winds in excess of 150 miles per hour. Property damage from Hurricane Milton will be catastrophic and may result in billions of dollars in property losses. These losses will be largely borne by Florida homeowners and small business owners. Furthermore, Floridians are still suffering from the ongoing effects of Hurricane Helene that destroyed thousands of homes, and displaced thousands of Floridians. Both storms are anticipated to have significant, long lasting, and potentially devastating effects on the Florida property insurance market. Fair and transparent loss estimates and claims adjustments will be crucial to ensure Floridians are properly and fairly compensated under the terms of their property insurance contracts, while also ensuring ongoing insurer solvency after potentially momentous financial losses. The emergency rule provides greater transparency to Florida consumers in estimating losses and claims adjustment by ensuring that property owners can ascertain all parties that have reviewed and amended their loss estimate documentation. Greater transparency will reduce post-storm fraud. The emergency rule is necessary to protect Florida consumers against unfair and deceptive acts in the Florida property insurance market through transparency and communication between the consumer, adjusters, and insurers. Therefore, the Department of Financial Services has found that there is an immediate danger to the public health, safety, or welfare of the citizens of Florida requiring emergency action.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: This rulemaking is necessitated by the immediate danger to the public health, safety, or welfare to the citizens of Florida caused by untold and potentially ruinous property losses from Hurricane Milton and Hurricane Helene which requires emergency action. The purpose of this emergency rule is to provide Florida consumers and property insurers with the greatest degree of transparency possible in loss estimation and claims adjustment processes after property losses caused by Hurricane Milton and Hurricane Helene. All statutory and administrative procedures required for the adoption of this emergency rule have been followed.

SUMMARY: The Agency has found that an immediate danger to the public health, safety, or welfare necessitates this emergency rule. The emergency rule will require adjusters to provide detailed descriptions of any modifications made to estimates of loss throughout the claim's adjusting process for damages caused by Hurricane Milton. Adjusters will also need to maintain records of modifications made to the estimate of loss, including the detailed descriptions of the changes. This emergency rule will protect Florida consumers by increasing transparency in the claims adjusting process and protect them from inappropriate modifications to the estimate of loss documents that evaluate damages after a property loss.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Greg Thomas, Director, Division of Insurance Agent and Agency, (850)413-5401 or Greg.Thomas@myfloridacfo.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

69BER24-4 ~~69B-220.201~~ Ethical Requirements for All Adjusters and Public Adjuster Apprentices.

(1) through (2) No change.

(3) Code of Ethics. The work of adjusting insurance claims engages the public trust. An adjuster shall put the duty for fair and honest treatment of the claimant above the adjuster's own interests in every instance. The following are standards of conduct that define ethical behavior, and shall constitute a code of ethics that shall be binding on all adjusters:

(a) through (l) No change.

(m) In order to ensure fair dealing in estimating losses, an adjuster must adhere to all of the following requirements when preparing and submitting a written estimate of loss. These requirements cannot be waived by the

insured or the insurance company.

1. Adjusters must utilize an electronic estimating program to create or modify an estimate of loss. The electronic estimating program must provide a report with an itemized, per unit estimate of damage to the property, including itemized information on equipment, materials, labor, and supplies. The electronic estimating program must apply price data that consists of unit-cost breakdowns consistent with those that may be expected from a contractor or repair company in the relevant geographic market area. The electronic estimating program's price data must be updated no less frequently than monthly to reflect current market data.

2. Modification to the prices applied by an electronic estimating program, or modification to any other program input or output, is strictly prohibited unless the adjuster can demonstrate with additional documentation that modification is required to produce an accurate estimate and that each and every modification applies current market prices within the relevant geographic market area for the equipment, materials, labor, and supplies necessary to complete the covered repairs. The additional documentation prepared by the adjuster must be sufficiently detailed to enable the reviewer to determine that each and every modification is required and applies current market prices.

3. Adjusters must provide the written estimate of loss to the insured within the time prescribed by law. The written estimate of loss provided to the insured must include the line-item estimate produced by the electronic estimating program, a variation report or other similar report showing whether and to what extent the program was modified by the adjuster, and, if applicable, additional documentation to support any modification to the input or output of the electronic estimating program.

4. Modification to an initial estimate of loss is strictly prohibited unless the revised estimate of loss:

a. indicates any estimate of loss that has been modified from any prior estimate of loss;

b. provides a detailed explanation as to why each change was made; and

c. includes the identity of the adjuster who is responsible for each change.

5. Adjusters must retain all versions of the estimate of loss as required by law.

(4) No change.

Rulemaking Authority 624.308, 626.878, 626.9611(1) FS. Law Implemented 624.307(1), 626.015(2), 626.611, 626.621, 626.852(2), 626.854, 626.859, 626.864, 626.8651, 626.8695, 626.8698, 626.875, 626.877, 626.878, 626.8795, 626.9521, 626.9541(1)(i), FS. History—New 6-2-93, Amended 12-18-01, Formerly 4-220.201, Amended 3-27-05, 9-3-06, 8-14-11, 1-5-15, 10-9-24.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 10-9-24