

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

(1) Definitions.

(a) “Adjuster,” when used without further specification, includes all types and classes of insurance adjusters, (company employee, independent, and public), subject to Chapter 626, F.S., regardless of whether permanent, temporary, apprentice, or emergency licensees.

(b) “Department” means the Florida Department of Financial Services.

(c) “Person” includes natural persons and legal entities.

(2) Violation.

(a) Violation of any provision of this rule shall constitute grounds for administrative action against the licensee.

(b) A breach of any provision of this rule constitutes an unfair claims settlement practice.

(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) An adjuster shall not directly or indirectly refer or steer any claimant needing repairs or other services in connection with a loss to any person with whom the adjuster has an undisclosed financial interest, or who will or is reasonably anticipated to provide the adjuster any direct or indirect compensation for the referral or for any resulting business.

(b) An adjuster shall treat all claimants equally.

1. An adjuster shall not provide favored treatment to any claimant.

2. An adjuster shall adjust all claims strictly in accordance with the insurance contract.

(c) An adjuster shall not approach investigations, adjustments, and settlements in a manner prejudicial to the insured.

(d) An adjuster shall make truthful and unbiased reports of the facts after making a complete investigation.

(e) An adjuster shall 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 himself or herself except that to which he or she is legally entitled.

(f) An adjuster, upon undertaking the handling of a claim, shall act with dispatch and due diligence in achieving a proper disposition of the claim.

(g) An adjuster shall not negotiate or effect settlement directly or indirectly with any third-party claimant represented by an attorney, if the adjuster has knowledge of such representation, except with the consent of the attorney. For purposes of this subsection, the term “third-party claimant” does not include the insured or the insured’s resident relatives.

(h) An adjuster shall not advise a claimant to refrain from seeking legal advice, nor advise against the retention of counsel or the employment of a public adjuster to protect the claimant’s interest.

(i) An adjuster shall not attempt to negotiate with or obtain any statement from a claimant or witness at a time that the claimant or witness is, or 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. The adjuster shall not conclude a settlement when the settlement would be disadvantageous to, or to the detriment of, a claimant who is in the traumatic or distressed state described above.

(j) An adjuster shall not knowingly fail to advise a claimant of the claimant’s claim options in accordance with the terms and conditions of the insurance contract.

(k) An adjuster shall not undertake the adjustment of any claim concerning which the adjuster is not currently competent and knowledgeable as to the terms and conditions of the insurance coverage, or which otherwise exceeds the adjuster’s current expertise.

(l) No person shall, as a company employee adjuster or independent adjuster, represent him- or herself or any insurer or independent adjusting firm against any person or entity that the adjuster previously represented as a public adjuster.

(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 detailed estimate of the amount of the loss to an insured or insurer. Any changes made to a prior detailed estimate of the amount of the loss provided to the insured or insurer must include an explanation which provides the reason for any change made. In addition, the adjuster must maintain copies of any documentation that supports the changes from previous estimates provided to an insured or insurer. This paragraph only applies to residential coverage described in s. 627.4025(1), F.S.

1. Adjusters must utilize an electronic estimating program to create or modify a detailed estimate of the amount of the 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 market 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.

2. Modification to, or variation from, the market prices applied by the electronic estimating program, or 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 detailed estimate of the amount of the loss 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 or replacement. The additional documentation prepared by the adjuster must describe why each and every modification is required and that it applies current market prices. The adjuster modifying the estimate must provide his or her name on the modification document.

3. The adjuster must provide the detailed estimate of the amount of the loss to the insured or insurer within the time prescribed by law. The detailed estimate of the amount of the loss provided to the insured or insurer 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 the additional documentation required to support any modification to the electronic estimating program. This subparagraph (3)(m)3. does not apply when an insurer agrees to settle a claim under residential coverage based upon a quote produced by the insured's contractor.

(4) Public Adjusters, Other Ethical Constraints. In addition to the ethical requirements found in Part VI of Chapter 626, F.S., and those set out above in subsection (3) for all adjusters, the following ethical considerations are specific to public adjusters and shall be binding upon public adjusters:

(a) A public adjuster shall not prevent, or attempt to dissuade or prevent, an insured or claimant from speaking privately with the insurer, company employee adjuster, independent adjuster, attorney, or any other person, regarding the settlement of the claim.

(b) A public adjuster shall not enter into a contract or accept a power of attorney which vests in the public adjuster the effective authority to choose the persons who shall perform repair work.

(c) A public adjuster shall ensure that all contracts for the public adjuster's services are in writing and set forth all terms and conditions of the engagement, including the terms required by Rule 69B-220.051, F.A.C., and sections 626.854 and 626.8796, F.S.

(d) No public adjuster who represents a claimant with regard to a particular claim 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 limitation of the public adjuster's compensation imposed by Section 626.854(10), F.S.

(e) No public adjuster, while so licensed in the Department's records, shall represent or act as or be appointed as a company employee adjuster or independent adjuster. A public adjuster may hold a general lines agent license. However, no public adjuster, while so licensed in the Department's records, shall represent or act as both a public adjuster and a general lines agent for the same insurance claim.

(f) No public adjuster shall represent any person or entity on a claim if he or she previously adjusted that claim as an adjuster representing any insurer or independent adjusting firm.

(g) A public adjuster shall respond with specific information to a written or electronic request for claims status from a claimant or insured or their designated representative within thirty (30) days from the date of the request and shall document the file accordingly.

Rulemaking Authority 624.308, 626.878, 626.9611(1) FS. Law Implemented 624.307, 626.015, 626.611, 626.621, 626.852, 626.854, 626.859, 626.864, 626.8651, 626.8695, 626.8697, 626.8698, 626.875, 626.877, 626.878, 626.8795, 626.9521, 626.9541 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, 4-21-25.