

THE Journal of Public Adjusting

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Ensure Compliance According to Florida Statutes While Handling Hurricane Claims

With the significantly increased number of insurance claims resulting from Hurricane Irma, now is a good time to review the Florida statutes regulating public adjusters. Below is an excerpt of some of the statutes as found on the DFS website.

Customer and Insurer Contact

- ✘ Public adjusters may not solicit an insured or claimant except on Monday through Saturday and only between the hours of 8 a.m. and 8 p.m.
- ✘ Public adjusters must provide the claimant or insured a written estimate of the loss to assist them in the submission of a proof of loss or any

other claim for payment of insurance proceeds. This estimate must also be available to the insurer or department should they request a copy. The written estimate must be maintained in the public adjuster's records for at least 5 years.

Fees

- ✘ A public adjuster may not charge a fee unless a written contract was executed prior to the payment of a claim.
- ✘ Public adjusters are prohibited from receiving compensation from any source which would exceed the statutory fee cap.

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DFS Continuing Education Guidelines Promote Compliance

PA License Checklist also Safeguards Good Standing

In a recent issue of *INSURANCE Insights*, the DFS provides the following guidelines to help insurance industry professionals maintain compliance with their continuing education hours.

Are You Compliant with Your CE or Not?

To be CE compliant requires more than just taking CE courses. Below are a few suggestions for remaining CE compliant:

- **CE requirements change.** You should regularly review your CE status through your MyProfile account. Your total hours have specific allocation requirements that must be met. Be sure to take all the right categories of CE courses.
- **Check for late hours.** Hours taken after your due date will still post on your compliance evaluation screen, but they will be noted as "Late." Though your hours requirement may have been met, late completion of your continuing education requirement will result in penalties.

- **Check prior evaluation periods.** Always check previous compliance periods to make sure you are not delinquent for a prior period. Be sure to click on VIEW ENFORCEMENT NOTICE just below the **Not Compliant** text to check for any outstanding fines.
- **Check your transcript.** The **same course** cannot be taken with the **same provider** within a two-year period and receive credit. This is noted on your transcript as a duplicate course. You will need to take a different course to meet your CE requirement.

We wish you success in completing your hours to remain knowledgeable in an ever-changing insurance market. And remember, your CE compliance date is your DUE date, not your DO date.

Because many factors may affect your continuing education requirement (e.g. licenses held, number of years licensed, etc.), we encourage you to periodically check your MyProfile account to determine your individual continuing education

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Claims Handling and CE Compliance Reminders, 2017 Legislative Changes, Citizens' Water Coverage Cap and FAPIA's New Media Resources Page

Our September issue of *The Journal of Public Adjusting* is packed with the latest on hot industry topics. First, in light of Hurricane Irma, we have a compliance reminder regarding the Florida statutes regulating public adjusters. Also from the DFS, we have a CE compliance reminder and a summary outlining the 2017 legislative changes impacting PAs beginning in January, 2018.

Next in the line-up is information on the Citizens' water coverage cap. In a recent public hearing, some high profile consumer advocates were able to voice their opinion on the coverage cap along with the proposed Citizens' rate hike.

Finally, FAPIA has a new media resources page that provides in-depth industry information benefiting both PAs and policyholders.

Thank you for joining us again,

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Citizens \$10,000 Water Coverage Cap Approved

Policyholders Must Use Insurer's Managed Repair Network Program to Avoid the Cap

Insurance regulators have approved Citizens' request to place a \$10,000 cap on water losses for policyholders who do not want to take part in the insurer's managed repair network program. The coverage cap is directed at losses from accidental water flows from household appliances, heating, air conditioning, plumbing or fire suppression sprinklers. The program will take effect February 1, 2018.

A recent Sun Sentinel article titled, "Citizens' change OK'd: Use our contractors or face \$10,000 water coverage cap," outlines some of the other details surrounding the water coverage cap approval. Below is an excerpt from the article.

Critics of managed repair programs say they deprive homeowners of the right to choose their contractors, and can result in subpar work by companies motivated to save money for insurance companies.

The latest coverage changes follow limitations pioneered by Citizens in 2016, then copied by nearly all private-market insurers serving Florida. Those changes capped emergency repairs at \$3,000 or 1 percent of overall coverage without the insurer's prior approval, and gave insurers the right to deny reimbursement for permanent repairs started within 72 hours after a claim is reported unless the company first inspects the property or approves permanent work.

The Florida Justice Association, which was critical of the 2016 changes, called the new \$10,000 water



damage cap "anti-consumer and anti-homeowner."

"If Citizens is cutting the benefit, they should cut the premium and abandon the rate increase," Paul Jess, interim executive director said by email.

"Without that, this deal is a rip-off."

The OIR held a public hearing in late August regarding the Citizens rate increase. Senator Anitere Flores, Chair of the Senate Banking and Insurance Committee, and other consumer advocates gave their testimony against the managed repair program and the rate increase. Videos of the testimonies are available online.

To read the Sun Sentinel article in its entirety, visit:

www.sun-sentinel.com/business/fl-bz-citizens-water-cap-and-duties-change-approved-20170816-story.html.

Watch for more updates on Citizens' water loss cap in future issues of *The Journal of Public Adjusting*. ♦

FAPIA Launches Media Resources Webpage

FAPIA has introduced a new media resources webpage benefiting both PA professionals and policyholders. From the homepage, public adjusters can access the media resources page by clicking on the public adjuster icon. Policyholders can also access the media resources page by clicking on the policyholders icon on the homepage.

Once on the media resources page, visitors will find in-depth information on a wide

range of insurance industry topics from managed repairs to UPPA in a variety of formats such as articles, documents and videos. Other general information on the page addresses insurance claims, legislation and more.

Check out the new FAPIA media resources webpage at www.fapia.net. ♦

2017 PA Legislative Changes to Take Effect January 1, 2018

The DFS has compiled the following summary addressing the legislative changes impacting PAs resulting from this year's session.

Public Adjusters ~ Legislative Changes 2017

A few changes were made to public adjuster statutes during this year's legislative session. We'd like to remind our licensees that the new laws are not effective until January 1, 2018.

"48-hour rule" - Section 626.854(6), F.S., repealed

Contract Cancellation - Section 626.854(6), F.S.

The new law regarding the cancellation of contracts removes the phrase "by phone or in writing." This was done because the existing law limits the methods that trigger the clock regarding the ability to cancel a public adjuster's contract.

Public Adjuster Fees - Section 626.854(10), F.S.

A new paragraph, 626.854(10)(c), was added clarifying that fees cannot be charged on the deductible portion of a claim. Charging a fee on the deductible was never permitted and it was not a common practice. The Department received sufficient complaints on the issue to warrant seeking clarification through legislation. The change strengthens the Department's position on the issue.

Public Adjuster Contract/Power of Attorney - Section 626.854(17), F.S.

Under the current law, public adjusters are prohibited from entering into a contract that grants them the authority to decide who will perform repair work for a claim.

However, it does not prohibit them from choosing who will perform other duties at claimant expense. These duties could include water remediation, mold testing, or other similar actions.

The new language extends the prohibition to any duty or service which will create additional out-of-pocket expenses for the claimant.

Unlicensed Public Adjusting - Section 626.854(19), F.S.

Currently, there are no laws which specifically prohibit unlicensed public adjusting. Unlicensed activity is prohibited in general under s. 626.112(1)(a), F. S. However, there was no language in the insurance adjuster statutes that specifically prohibited unlicensed public adjusting.

By adding this new language, which mirrors language already in place for other licensees, the Department clarifies the prohibition against unlicensed public adjusting and strengthens the Department's authority to pursue those who engage in the practice.

Public Adjuster Apprentices

The 2017 Legislative Session saw the repeal of s. 626.8541, F.S., effectively doing away with the Public Adjuster Apprentice license. The change creates a new appointment type under the all-lines adjuster license. Individuals wishing to become an apprentice will need to be licensed as an all-lines adjuster and then get appointed as an apprentice by a public adjuster or public adjusting firm. The new language is also more specific in defining the role of the apprentice. Additional key changes to the apprentice program are:

- Reduction of the apprenticeship from 12 months to 6 months
- Elimination of the requirement to work a minimum of 100 hours per month
- Reduces the number of apprentices in an adjusting firm from 12 to 4
- Reduces the number of apprentices for an individual adjuster from 3 to 1
- Clarifies that the supervising adjuster is liable for the actions of the apprentice
- Eliminates the requirement for direct supervision when an apprentice is soliciting new business. However, an apprentice is still prohibited from executing contracts for the services of a public adjuster or public adjusting firm.

For more information, please view Chapter No. 2017-147, Laws of Florida. ♦

DFS Continuing Education Guidelines Promote Compliance continued from page 1

compliance requirements and status. You will also be able to find more approved CE courses after logging in to your MyProfile account versus the public search option, which limits the results to the first 100 course offerings.

The DFS also provides this brief checklist to help PAs ensure their license is in good standing:

- Is your license active?
- Are you self-appointed or appointed by an adjusting firm?
- Do you have the required \$50,000 surety bond?

- Are you compliant with your continuing education requirements?
- Has a primary adjuster been designated for your firm?
- Is all contact information up-to-date? You can update it at MyProfile.
- Are any apprentices licensed and appointed?
- Do you have your Department issued license with you?

For more information on continuing education opportunities and compliance, visit the DFS website at www.myfloridacfo.com. ♦



www.myfloridacfo.com

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EXPERIENCE
ON YOUR SIDE

REAL ESTATE

CORPORATE & BUSINESS

Ensure Compliance According to Florida Statutes While Handling Hurricane Claims continued from page 1

- ✘ Public adjusters are prohibited from charging more than 20 percent of the insurance claim payment on claims not based on a declared emergency and 10 percent of the insurance claim payment on claims based upon a declared emergency for claims made during the first year after the declaration of the emergency. These fee caps apply only to residential property insurance policies and condominium unit owner policies as defined in s. 718.111(11), F.S. [See s. 626.854(19), F.S.]
 - ✘ The fee cap on re-opened or supplemental claims is 20% of the claim; however, the fee cannot be based on any payments made by the insurer to the insured prior to the time of the public adjuster contract.
- Contracts**
- ✘ An insured or claimant can cancel a contract with a public adjuster without penalty or obligation within 3 business days after the date it was executed or within 3 business days after the date the insured or claimant notified the insurer of the claim, whichever is later.
 - ✘ The adjuster's contract must disclose to the insured or claimant his or her right to cancel the contract and advise the notice of cancellation must be submitted in writing and sent by certified mail, return receipt requested, or other form of mailing which provides proof, to the public adjuster's address specified in the contract.
 - ✘ However, during any state of emergency as declared by the Governor and for a period of 1 year after the date of loss, the insured or claimant will have 5 business days after the execution date to cancel a contract with a public adjuster.
 - ✘ Public adjuster contracts must be in writing and must display an anti-fraud statement.
 - ✘ A public adjuster contract related to a property and casualty insurance claim must contain the full name of the public adjuster and public adjusting firm, the business address, license number, and other specified information.
 - ✘ There are several important statutory requirements pertaining to contracts made by public adjusters:
 - ⦿ Must state the type of claim, including an emergency claim, non-emergency claim or supplemental claim.
 - ⦿ Requires the signatures of all named insureds.
 - ⦿ If the signatures of 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.
 - ⦿ An unaltered copy of the contract must be remitted to the insurer within 30 days after execution. This means the contract provided to the insurer must also contain the agreed upon fee percentage.
- PAs are encouraged to read the complete document addressing Florida statutes regulating public adjusters. The document can be found on the DFS website at www.myfloridacfo.com. ♦

CLAIMS