



**Department of Business Regulation**  
***Insurance Division***  
1511 Pontiac Avenue, Bldg. 69-2  
Cranston, Rhode Island 02920

## **Insurance Bulletin Number 2019-6**

### Insurer Compliance with Law Prohibiting Engagement with Unlicensed Public Adjusters

This Bulletin is applicable to all property and casualty insurers issuing insurance contracts that insure the real or personal property of an insured (other than automobile) to residents of Rhode Island. This Bulletin is written pursuant to a 2017 amendment to the Unfair Claims Settlement Practices Act which prevents insurers from negotiating claims with unlicensed public adjusters. R.I. Gen. Laws § 27-9.1-4(26). The department's position is that all insurers should have an implemented procedure to ensure compliance with R.I. Gen. Laws § 27-9.1-4.

The department has become increasingly aware of consumer and industry concerns surrounding the distinction of the role of a public adjuster and the role of a contractor/estimator with regards to property damage that is claimed on an applicable insurance contract.

The purpose of this Bulletin is to both reinforce the applicable statutes and to provide guidance on activities that can only be performed by a licensed public adjuster.

#### Insurers

- Insurers must confirm they are working with an actively licensed public adjuster when presented with a public adjuster contract.
- Insurers are prohibited from engaging with unlicensed public adjusters who engage in negotiations or settlement discussions. Only a licensed public adjuster can negotiate or effect the settlement of a claim involving an insurance policy.
- Only a licensed public adjuster can coordinate a claim including arranging for and discussing benefits available under a contract of insurance (i.e., alternative living expenses, holdback depreciation, etc.)

#### Prohibitions on Contractors, Estimators or otherwise Unlicensed Individuals

- A contractor, estimator or otherwise unlicensed public adjuster can NOT negotiate or effect the settlement of an insurance claim. Those activities require a public adjuster license or an exception such as being a licensed attorney.
- A contractor, estimator or otherwise unlicensed public adjuster can NOT provide an evaluation of an insurance claim, give advice regarding an insurance claim, or advocate on behalf of a customer in the adjustment of an insurance claim. These are jobs reserved for licensed public adjusters or licensed and admitted attorneys.
- A contractor, estimator or otherwise unlicensed public adjuster can NOT prepare an insurance claim for their customer.

- A contractor, estimator or otherwise unlicensed public adjuster can NOT engage in discussions with an insurer to determine if a loss is covered.
- A contractor, estimator or otherwise unlicensed public adjuster can NOT discuss anything with an insurer that would be considered negotiating or determining the benefits available under a contract of insurance on behalf of their customer.
- What a contractor/estimator CAN do is discuss the scope of the repair as it pertains to the materials and process. This includes:
  - Discussing repair or construction services with a homeowner or business owner;
  - Offering an opinion to a policyholder as to whether damage is from a loss-occurring event (i.e., fire or storm);
  - Preparing an estimate/scope of work for a loss;
  - Discussing the estimate/scope of work with their customer;
  - Being present when an insurer's adjuster conducts their inspection; and
  - Answering questions about the damage and repair estimates from their client or insurer's adjuster.

RI Gen Laws § 27-10-1.1 defines a public adjuster as:

(i) "Public adjuster" means any person who, for compensation or any other thing of value on behalf of the insured:

(1) Acts or aids, solely in relation to first-party claims arising under insurance contracts that insure the real or personal property of the insured, other than automobile, on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;

(2) Advertises for employment as a public adjuster of insurance claims or solicits business or represents himself or herself to the public as a public adjuster of first-party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or

(3) Directly or indirectly solicits business, investigates or adjusts losses, or advises an insured about first-party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy, for the insured.

RI Gen Laws § 27-9.1-4 enumerates what is considered an unfair claims settlement practice and includes:

(26) Negotiating, or effecting the settlement of, a claim for loss or damage covered by an insurance contract with an unlicensed public adjuster acting on behalf of an insured. Nothing contained in this section shall be construed to preclude an insurer from dealing with any individual or entity that is not required to be licensed under chapter 10 of title 27.

Elizabeth Kelleher Dwyer  
 Superintendent of Insurance  
 November 21, 2019