

*****DRAFT - NOT FOR FILING*****

3901-1-24 Public insurance adjusters.

(A) Purpose

~~This rule is adopted pursuant to Chapter 3951 and Section 3901.041 of the Revised Code, and its~~ The purpose of this rule is to safeguard the interest of the public by regulating the conduct of public insurance adjusters.

(B) Authority

This rule is promulgated pursuant to the authority vested in the superintendent under Chapter 3951. and section 3901.041 of the Revised Code.

~~(B)~~ (C) Prohibited Activities~~activities~~

No public insurance adjuster or public insurance agent shall:

- (1) ~~engage~~ Engage in any manner or degree, for compensation of any kind, in the business of repairing, remodeling, or replacing damaged or destroyed property, real or personal, which damage or destruction is covered by a policy of insurance; nor have any direct or indirect interest in, nor receive compensation of any kind from any person, firm, association, partnership, or corporation which is engaged in such business;
- (2) ~~attempt~~ Attempt in any manner to solicit a loss during the progress of a fire or while the fire department or any of its representatives are in any manner engaged at the damaged premises; nor in any way interfere with the performance of the duties of an investigator of the ~~State Fire Marshal's Office~~ state fire marshal's office, an investigator of any fire department, or a law enforcement official of this ~~State~~ state or of any political subdivision thereof;
- (3) ~~give~~ Give or offer to give to an insured or his representative any portion of the adjuster's fee or anticipated settlement of the claim for loss or damage as an inducement to secure a contract for the adjustment of a loss;
- (4) ~~represent~~ Represent himself to be an adjuster for or a representative of any insurance company, a fire investigator, or a person connected with any fire department or law enforcement agency;
- (5) ~~compensate~~ Compensate any person to act on his behalf in the solicitation, negotiation, or settlement of a claim unless such person is licensed as a public insurance adjuster or a public insurance adjuster agent;
- (6) ~~make~~ Make an inventory or estimate of loss or damage other than that which is fair and honest; and

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- (7) ~~own~~Own or acquire any direct or indirect financial interest in any property, real or personal, which is the subject of a loss adjusted by him; nor have any direct or indirect financial interest in the sale of any salvage of any property which is the subject of a loss adjusted by him.

~~(C)~~(D) Records of ~~Adjuster~~adjuster

Every public insurance adjuster shall keep a full record of his transaction as an adjuster for the previous three years and such records shall be open at all times to the inspection of the ~~Superintendent~~superintendent of ~~Insurance~~insurance or his representative. Such records shall show for each loss adjusted by him:

- (1) ~~the~~The name of the insured;
- (2) ~~the~~The date, location, and the public insurance adjuster's estimate of the amount of loss;
- (3) ~~the~~The name of the insurer or insurers which issued any policy covering the loss which was the subject of the adjustment;
- (4) ~~the~~The amount of coverage, the expiration date, and the number of each policy of insurance covering such loss;
- (5) ~~an~~An itemized statement of all recoveries by the insured from all sources with regard to such loss;
- (6) ~~the~~The names and addresses of any person or persons soliciting the adjustment on behalf of the public insurance adjuster and the date and time when solicited;
- (7) ~~the~~The total compensation received by the public insurance adjuster for the adjustment of the loss;
- (8) ~~copies~~Copies of any agreements between the public insurance adjuster and the insured; and
- (9) ~~names~~Names and addresses of all contractors who performed or contracted to perform work of any kind on the damaged or destroyed property prior to settlement of the claim.

~~(D)~~(E) Contract ~~Requirements~~requirements

- (1) No public insurance adjuster shall use in his business as a public insurance adjuster a contract whereby an insured engages or employs the public insurance adjuster to perform the functions specified in ~~3951.01(A)~~division (A) of section 3951.01 of the

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Revised Code until thirty days after the form of such contract has been filed with the ~~Superintendent~~superintendent of ~~Insurance~~insurance, unless within such time the ~~Superintendent~~superintendent gives the public insurance adjuster written approval for the use of such form. If the ~~Superintendent~~superintendent finds within such thirty-day period that the form filed contains any language which is prohibited by any law of this ~~State~~state, including any rule of the ~~Superintendent~~superintendent, or that it is inconsistent, ambiguous, misleading, deceptive, or likely to mislead an insured, the ~~Superintendent~~superintendent will give written notice of such finding to the public insurance adjuster who filed the form, and the public insurance adjuster shall thereafter not use such form.

- (2) Every such contract must conspicuously set out the fee of the public insurance adjuster for the adjustment services to be rendered the insured pursuant to the contract.

~~(E)~~(F) Restriction on ~~Insurers~~insurers

- (1) No insurer authorized to issue the types of insurance policies set forth in ~~Section 3951.01(A)~~division (B) of section 3951.01 of the Revised Code shall:
 - (a) ~~recognize~~Recognize a public insurance adjuster as a party interested in the proceeds of any insurance settlements arising from such policies or negotiate an insurance settlement with a public insurance adjuster representing an insured unless such public insurance adjuster has been duly licensed as a public insurance adjuster by the ~~Department~~department of ~~Insurance~~insurance.
 - (b) ~~negotiate~~Negotiate an insurance settlement with a representative of an insured, other than a licensed public insurance adjuster, unless such representative has been duly appointed as such by a court of law or is one of those persons enumerated in ~~Section 3951.01(D)~~division (E) of section 3951.01 of the Revised Code.
- (2) Each insurance company referred to in ~~subparagraph (1) above~~paragraph (F)(1) of this rule shall keep a record of each insurance loss and/or settlement wherein the insured was represented by a public insurance adjuster. Such record shall include a copy of the public insurance adjuster's certificate of authority.

~~(F)~~(F) Separability

~~Each section of this rule and every part of each section is an independent section and part of a section, and the holding of any section or a part thereof to be unconstitutional, void, or ineffective for any cause does not affect the validity or constitutionality of any other section or part thereof.~~

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(G) Suspension or ~~Revocation~~revocation

The ~~Superintendent~~superintendent of ~~Insurance~~insurance may suspend, revoke, or refuse to renew the license of a public insurance adjuster or public insurance adjuster agent found to be in violation of this rule. Such suspension, revocation, or refusal to renew shall be in addition to, not a substitution for the penalties provided in ~~Section~~section 3951.99 of the Revised Code.

~~(H) Effective Date~~

~~This rule shall take effect on the 1st day of August, 1972.~~

(H) Severability

If any paragraph, term or provision of this rule is adjudged invalid for any reason, the judgment shall not affect, impair or invalidate any other paragraph, term or provision of this rule, but the remaining paragraphs, terms and provisions shall be and continue in full force and effect.