



SUMMARY OF PUBLIC ADJUSTER LEGISLATION (2008)

Legislation based on recommendations made by the Task Force on Citizens' Property Insurance Claims Handling and Resolution was adopted by the Florida Legislature as part of a package of insurance amendments contained in SB 2012.

The Task Force recommendations addressed the role of Public Adjusters who contract with consumers to provide assistance in settling property insurance claims. Public Adjusters are licensed and regulated by the Department of Financial Services. While there are many good Public Adjusters that help consumers receive the full amount owed them by their insurers, the adopted amendments are intended to protect consumers from unqualified or unscrupulous Public Adjusters and to ensure that homeowners receive and maintain adequate funds in order to re-build their homes after a loss.

In particular, the amendments put limits on contingency fees charged by adjusters; prohibit intrusive solicitation practices; and require that a person work as an apprentice under the supervision of a licensed public adjuster for one-year before being eligible to be licensed as a public adjuster.

Senator Fasano was the sponsor of the original bill in the Senate. Rep. Robaina was the sponsor of the original bill in the House.

Members of the Task Force include the Insurance Consumer Advocate, the Executive Director of Citizens' Property Insurance Company and appointees of the Governor, Chief Financial Officer, Insurance Commissioner, President of the Senate and Speaker of the House of Representatives,

General Milligan was initially the Chairman while he was serving as the Insurance Consumer Advocate. Senator Fasano became Chairman when General Milligan accepted the position of Interim Executive Director of the State Board of Administration.

The primary charge of the Task Force was to review and make recommendations on the closure of Citizens' Property Insurance Corporation's 2004/2005 hurricane claims. However, during the review of Citizens' hurricane claims, the Task Force became acutely aware of the involvement and impact that Public Adjusters were having not only on Citizens' hurricane claims, but also on claims handled by the Florida Insurance Guaranty Fund and on the mediation and appraisal process for insurance claims.

Specific provisions of the adopted legislation include:

Public Adjuster Fee Limitations

- Contingency fees must be based on “services provided” and are limited to:
 - 10% on hurricane claims (and other claims resulting from an event that results in a declaration of a state of emergency).
 - 20% on non-hurricane claims (and other claims NOT resulting from an event that results in a declaration of a state of emergency).
- Fees on reopened or supplemental claims may exceed the limitations above but these fees must be applied only to additional claim payments made by the insurer as a result of the involvement of the public adjuster (i.e. eliminates practice of charging a 10% fee on the entire amount of money paid by the insurer including payments made before the public adjuster began working on the claim).

Prohibited Solicitation Practices - Public adjusters may not:

- Solicit on Sunday.
- Solicit before 8:00 am or after 8:00 pm.
- Solicit or enter into a contract until at least 48 hours after occurrence of the loss.
- Give or offer to give a monetary loan or advance to a client or prospective client or anything with a value in excess of \$25.00

Qualifications, Continuing Education and Examination Requirements for Licensure

- All applicants must pass the public adjuster exam (no exemptions). The exam must be designed by the Department of Financial Services to specifically address subject matter pertinent to adjusting claims on behalf of the public as opposed to adjusting claims for insurance companies.
- Nonresident applicants must have been continuously licensed in their home state for the past three years and must pass Florida’s licensing examination in order to be licensed in Florida.
- The licensing examination must be re-taken and passed before reinstatement of a suspended license or issuance of a new license to a person whose previous license was terminated for any reason.

- Public adjusters must take continuing education courses that are specifically designed for public adjusters, not company adjusters.
- Continuing education courses for public adjusters must include information on duties and responsibilities under law and rules of the department as well as on standard insurance policy forms.
- Non-resident adjusters can comply with Florida's continuing education requirements by meeting their own state's continuing education requirements.

Public Adjuster Apprentice License

- Resident applicants for licensure as a public adjuster must have completed 12 months of employment as an apprentice to a licensed public adjuster.
- The apprentice applicant must file a surety bond in the amount of \$50,000 with the department.
- The licensed public adjuster who supervises the apprentice is responsible and accountable for the acts of the apprentice related to claims adjusting.

Public Adjusters Contracts

- Contracts must be in writing and contain a notice to consumers that furnishing false information to an insurer regarding a claim may constitute insurance fraud and that insurance fraud is a felony under Section 817.234, Florida Statutes.
- The right of a consumer to cancel a contract with a public adjuster without penalty is extended to 5 days if the subject of the contract is a claim resulting from a hurricane or other catastrophic event.

Proof of Loss Form

- If an insurer requires a claimant to submit a proof of loss form for a claim, the form must contain a notice to the claimant regarding the insurance fraud provisions of Section 817.234, Florida Statutes.

In many cases, the consumers that this legislation will affect have already suffered severe damage or major destruction of their homes and a tremendous loss of personal possessions that can never be adequately replaced. The provisions of these amendments to SB 2012 were drafted with these consumers in mind.