



**PRODUCERS AND ADJUSTERS BULLETIN NO. 28
and
DOMESTIC/FOREIGN INSURERS BULLETIN NO. 101**

**TO: ALL PRODUCERS AND ADJUSTERS
ALL DOMESTIC AND FOREIGN INSURANCE COMPANIES**

**RE: ROLES OF INSURANCE ADJUSTERS AND CONTRACTORS IN
CLAIMS INVOLVING INSURANCE COVERAGE FOR PROPERTY
DAMAGE**

DATED: June 13, 2018

REVISED: August 30, 2022

The purpose of the original version of the Producers and Adjusters Bulletin No. 28 and Domestic/Foreign Bulletin No. 101 was to identify the roles that adjusters and property contractors play in the claims settlement process and to identify the types of services adjusters and property contractors can provide in conformity with the law.

The purpose of the current version of this Bulletin is to inform producers, adjusters and insurers of the passage of Senate Bill 80 by the 151st General Assembly (“SB 80”). SB 80 amends the Delaware Insurance Code to address the the assignability of rights under property insurance policies. SB 80 specifically authorizes a property insurance carrier to limit a policy’s assignability only to those persons or entities that have the legal authority to represent the insured and explicitly prohibit assignment of the of rights and benefits to any other person, including a property repair contractor. SB 80 also provides that property repair contractors operating in this State may not subvert the public adjuster licensing requirements of 18 **Del.C.** § 1751 through the acquisition of a power of attorney from the named insured.

The Delaware Department of Insurance (Department) has become increasingly aware that consumers are often confused by the role of adjusters and contractors in the claims settlement process. The Department is asking insurance companies to assess and implement methods to improve policyholder education about the role of adjusters and contractors involved in property damage claims and is asking adjusters to be fully informed of their duties and obligations during claims processing.

Insurance companies are encouraged to:

- Develop disclosures and other communication materials for policyholders that:
 - o Decode the adjuster jargon and adequately and fairly explain the differences between company adjusters, independent adjusters and public adjusters, and the different role of each in the claim settlement process. When reasonably possible, insurers should provide definitions in plain and ordinary language and include examples of how each type of

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- adjuster participates in the claim process.
- o Warn customers of a conflict of interest when a contractor attempts to receive payment as an adjuster and also receive a fee for providing contracting services. Insurance companies should encourage policyholders to confirm that the individual helping to settle the claim is properly licensed in Delaware as an adjuster or is an insurance company employee who does not need to be licensed.
- o Communicate to policyholders the role that insurance producers have in the adjusting process.
- Make sure that company adjusters and independent adjusters who are used to settle claims are trained to explain the distinctions between their services and those of the public adjuster. In most cases, company and independent adjusters represent the company and are paid by the company whereas public adjusters represent the policyholder and are paid by the policyholder, often from the funds received.
- Verify the license of anyone performing the tasks of a public adjuster on claims, as well as encourage all adjusters to explain their authority and what they are restricted from doing when assisting with a claim. Insurance companies should encourage all adjusters to report suspected unauthorized activity to the Delaware Department of Insurance.

Insurance companies are cautioned against hiring a contractor if the individual or entity is also acting as any type of adjuster on the same claim.

Adjusters should be aware that:

- It is against the law in Delaware for a contractor or other vendor to act as a public adjuster unless licensed as a public adjuster. *See* 18 **DE Admin. Code** § 201-5.1.
- A public adjuster is prohibited from acting as both a public adjuster and a contractor. *See* 18 **Del.C.** § 1758(b)6.
- Performing the acts of a public adjuster without a license could constitute insurance fraud, which can be prosecuted as a class G felony pursuant to 11 **Del.C.** § 913, punishable by incarceration (*see* 11 **Del.C.** § 4205(b)(7)). Adjusters should report suspected fraudulent claim activity to their company's Special Investigation Unit and to the Department's Fraud Prevention Bureau at fraud@delaware.gov.

The following table sets forth what contractors can and cannot do without a Delaware public adjuster license:

What contractors CAN DO	What contractors CANNOT DO
<ol style="list-style-type: none"> 1. Approach a homeowner or business owner offering repair or reconstruction services. 2. Offer an opinion to a policyholder as to whether damage is from a storm or other incident normally covered by a homeowner's policy. 3. Prepare an estimate and scope of work for the loss. 4. Discuss the estimate or scope of work with their customer. 5. Recommend that the policyholder file an insurance claim with their insurer. 6. Be present when an insurer's adjuster inspects the damage. 7. Answer questions the policyholder or the insurer's adjuster has about the estimates. 	<ol style="list-style-type: none"> 1. Investigate, appraise, evaluate, give advice, advocate on behalf of or assist their customer in adjusting a claim. 2. Prepare the insurance claim for their customer. 3. Negotiate the claim with the insurance company on their customer's behalf. 4. Offer to review the insurance policy or advise their customer on the insurance policy's coverage. 5. Advertise or provide written materials that they can negotiate or investigate a claim on their customer's behalf. This includes advertising to be "claim specialists" or "claim analysts" or any other similar terms, or advertising or claiming that they can "deal with insurance companies" or in any way increase the claim settlement amount for the policyholder. 6. Subvert licensing requirements of 18 Del.C. § 1751 through power of attorney from named insured.

Any questions or comments regarding this bulletin should be directed to Consumer Services at consumer@delaware.gov. This Bulletin shall be effective immediately and shall remain in effect unless withdrawn or superseded by subsequent law, regulation or bulletin.



Trinidad Navarro
Delaware Insurance Commissioner

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