

COMMISSIONER'S BULLETIN # B-0011-17

August 26, 2017

To: ALL INSURANCE COMPANIES, CORPORATIONS, EXCHANGES, MUTUALS, RECIPROCALLS, ASSOCIATIONS, LLOYDS, OR OTHER INSURERS WRITING PROPERTY AND CASUALTY INSURANCE IN THE STATE OF TEXAS, INCLUDING WORKERS' COMPENSATION INSURANCE; PREMIUM FINANCE COMPANIES; AGENTS AND REPRESENTATIVES; AND ADJUSTERS; AND THE PUBLIC GENERALLY

Re: Hurricane Harvey – Claims Adjusting and Adjusters

Governor Greg Abbott issued a proclamation declaring a disaster due to the effects of Hurricane Harvey. The proclamation directs that all necessary measures, both public and private, as authorized under §418.017 of the Texas Government Code, be implemented to meet that threat.

President Donald Trump issued a major disaster declaration and ordered federal aid to supplement state and local recovery efforts in the area affected by Hurricane Harvey.

In the current disaster circumstances, the Texas Department of Insurance reminds carriers that Insurance Code §4101.002(b) and §4101.101 authorize carriers to immediately use nonresident and emergency adjusters to handle claims. These provisions are discussed at: www.tdi.texas.gov/licensing/agent/aqemeradj.html.

With the relocation of hurricane victims and other personal hardships sustained by residents of counties covered in the governor's proclamations, TDI encourages carriers to use all available means to provide prompt and immediate relief to those residents and policyholders.

Insurance Code §4101.251 prohibits licensed adjusters from adjusting a loss related to roofing damage on behalf of an insurer if the adjuster is a roofing contractor or otherwise provides roofing services or roofing products for compensation, or is a controlling person in a roofing-related business. The section also prohibits a roofing contractor from acting as an adjuster or advertising to adjust claims for any property for which the roofing contractor is providing or may provide roofing services, regardless of whether the contractor holds a license under this chapter.

Chapter 4102 of the Insurance Code requires all persons acting as public insurance adjusters to be licensed by the department. The Insurance Code provides for both civil and criminal penalties for violating this license requirement.

Insurance Code §4102.001(3) defines a public insurance adjuster as:

(A) A person who, for direct, indirect, or any other compensation:

- (i) acts on behalf of an insured in negotiating for or effecting the settlement of a claim or claims for loss or damage under any policy of insurance covering real or personal property; or
- (ii) on behalf of any other public insurance adjuster, investigates, or settles, or adjusts or advises an insured with a claim or claims for loss or damage under any policy of insurance covering real or personal property; or

(B) A person who advertises, solicits business, or holds himself or herself out to the public as an adjuster of claims for loss or damage under any policy of insurance covering real or personal property.

Insurance Code §4102.151 prohibits public insurance adjusters from soliciting or attempting to solicit clients for employment during the progress of a loss-producing natural disaster occurrence.

Insurance Code §4102.158 prohibits public insurance adjusters from participating directly or indirectly in the reconstruction, repair, or restoration of damaged property that is the subject of a claim adjusted by the license holder or engaging in any other activities that may reasonably be construed as presenting a conflict of interest, including soliciting or accepting any remuneration from, or having a financial interest in, any salvage firm, repair firm, or other firm that obtains business in connection with any claim the licensee has a contract or agreement to adjust.

Insurance Code §4102.163 prohibits a roofing contractor from acting as a public adjuster or advertising to adjust claims for any property for which the contractor is providing or may provide roofing services, regardless of whether the contractor holds a license under this chapter.

Contractors are not listed among the persons exempt from the licensing requirement in Insurance Code §4102.002.

Chapter 4102 does not prohibit contractors from providing estimates or discussing those estimates and other technical information with an insurer or its adjuster.

Questions regarding this bulletin may be directed to the Agent and Adjuster Licensing Office by calling (512) 676-6500 or the Fraud Unit by calling (888) 327-8818.

For more information contact: License@tdi.texas.gov

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