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Public Adjuster Consumer Outreach Notice

Dealing with the loss or damage to your home, contents or other property after a major storm, hurricane, fire or theft can be overwhelming. It is important that you, the consumer, take steps to protect yourself and your property so that you are able to recover from that loss.

While many consumers are able to resolve their property claims by dealing with their insurance company and the assigned adjuster on their own, sometimes consumers or businesses will decide they would prefer that a licensed insurance professional handle the insurance claim on their behalf. These people who represent you, the policyholder, with regard to an insurance claim are known as public adjusters. You can hire a public adjuster to act on your behalf to process and negotiate your claim with the insurance company.

Drafting note: Some states do not limit public adjusters to only first-party claims. In states that allow public adjusters to represent third-party claimants, the terms of this notice should be revised to reflect that state's law.

A public adjuster is an insurance claim adjuster who acts as an advocate for you, the policyholder, in appraising and negotiating a first party property insurance claim. Primarily, a public adjuster appraises the damage, prepares an estimate for the damage to the building or structure, prepares an inventory of the contents or personal property claim, and processes other claim documentation. A public adjuster also advises and assists the policyholder, and in that capacity not only explains your positions to the insurance company, but also conveys and explains the insurance company's positions to you. A public adjuster will read the insurance policy to determine coverages and negotiate with the insurance company's adjuster. Further, as an advisor and assistant to the policyholder, the public adjuster should make sure that you understand your rights and duties under the insurance policy, and that you meet the various deadlines and other technical requirements of the insurance policy and otherwise comply with all of the terms and conditions of the policy.

A public adjuster is different from a claims adjuster that works for the insurance company as the public adjuster works for you, the policyholder, and is paid by you, not the insurance company. A public adjuster acts as your representative in dealings with the insurance company.

A public adjuster can charge a flat fee or charge a fee that is based upon a percentage of the settlement received from your insurer. The fee is paid by you, the policyholder, and not your insurer. For any questions pertaining to fee arrangements for public adjusters, contact the [Insert Jurisdiction] insurance department. You should carefully review any document presented to you by any party during the insurance claim settlement process, especially if you are being asked to sign the document.

[Drafting note: Some states may have specific laws related to the amount that a public adjuster may charge, either based on a certain percentage or whether the claim is the result of a catastrophe, or both. The above paragraph should be amended to reflect these laws.]

If you hire a public adjuster, you should understand that your insurance company may or may not agree with the estimates of damages prepared by the public adjuster. However, public adjusters are licensed to negotiate on your behalf to ensure the insurance company settles your claim in accordance with the terms and conditions of the policy it issued to you.

A public adjuster's main responsibilities are to protect the interest of you, the policyholder, and advocate on your behalf with the insurance company. While not an all-inclusive list, some examples of these actions are:

- Evaluate an insurance policy in order to determine what coverage(s) may be applicable.
- Inform you, the policyholder, of the policy's deadlines, technical requirements and other terms and conditions, and otherwise advise you on your rights and duties under the policy.
- Research, detail and substantiate damage to buildings and contents and any additional expenses that you incur.
- Evaluate business interruption losses and extra expense claims for businesses.
- Prepare, document and support the claim(s) on your behalf.

- Provide the insurance company's loss estimates and evaluations and proposed resolutions to you and explain them to you, as well as what the differences are, if any, between the insurance company's estimates and the estimates submitted on your behalf.
- Convey and explain the insurance company's other positions, such as any coverage positions, to you.
- Convey and explain your positions on the amount of loss, any coverage disputes, etc., to the insurance company.
- Negotiate a settlement with the insurance company on your behalf.
- Assist you in understanding, preparing and submitting any required documents related to the claim, as well as assist you in the appropriate distribution of settlement monies so that your interest and any other interest, such as a mortgagee's interest in the building, are protected.

It is against the law in this state for a contractor or other vendor to act as a public adjuster unless licensed as a public adjuster.

What contractors **can do** without a public adjuster license:

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 homeowners 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.

What contractors **cannot do**, unless they are licensed as a public adjuster by the (Insert State Department of Insurance):

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.

[If a state criminalizes the unauthorized practice of public adjusting: Performing the acts of a public adjuster without a license is a misdemeanor criminal act in this state.]

When you, the policyholder, are approached by a person or company who asks you to let them handle your insurance claim, you should make sure that this person or company is a licensed public adjuster, and not someone who is not licensed or qualified to handle an insurance claim on your behalf. A number of unlicensed and unqualified persons and companies—such as roofers, contractors, emergency service providers, etc.—present themselves and illegally operate as "de facto public adjusters." However, they lack the qualifications and licensing to handle an insurance claim and are likely not to handle it in a competent fashion or in a fashion in your best interest. Also, roofers, contractors, emergency service providers, etc.—who are looking to be paid for their work out of the policyholder's insurance benefits—have a conflict of interest with you in terms of maximizing what they receive for their work or alleged work as opposed to what you receive for the damages to your property due to the loss. Again, you should make sure that the person or entity that you engage to handle your claim is both licensed and qualified to do so and does not have an improper conflict of interest.

What to watch out for:

[If a state has a "conflict of interest" law] It is against the law in this state for a public adjuster to act as an adjuster and contractor on the same claim. If your contractor or roofer advertises or offers to perform any of the services listed in the bullet points above, they are acting as a public adjuster in violation of the law. Please report such actions to the [Insert Jurisdiction] insurance department.

[If a state has an "unlicensed public adjuster law"] It is against the law in this state for an insurance company to engage in claim negotiations or settlement discussions (of a claim involving loss or damage covered by an insurance contract) with an unlicensed public adjuster acting on behalf of a policyholder. If you hire a public adjuster, please contact the insurance department in this state to ensure that he or she holds and active public adjuster license.

[Drafting note: state laws related to conflicts of interest vary greatly, so each state should amend the above paragraph to appropriately reflect that state's law.]

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