

1 **Florida Administrative Code**

2 **69B-220.051 Conduct of Public Adjusters.**

3 (1) Purpose and Scope. This rule sets forth department policy as
4 to certain matters generally affecting public adjusters and public
5 adjuster apprentices. Procedures regarding application for licensure
6 are not dealt with in this rule. Ethical provisions are not dealt with in
7 this rule.

8 (2) Definitions. The following definitions shall apply for purposes of
9 this rule.

10 (a) “Compensation or Remuneration” means anything of value,
11 whether received directly or indirectly, in payment for services
12 performed.

13 (b) “Department” means Florida Department of Financial Services.

14 (c) “Financial Interest” means direct or indirect ownership.

15 (d) “Licensed public adjuster” and “licensed public adjuster
16 apprentice”, hereinafter referred to as “public adjuster”, refer to and
17 include only persons currently licensed in good standing by the
18 department as public adjusters, whether the licensure is resident
19 licensure under Sections 626.865 and 626.8541, Florida Statutes, or
20 nonresident licensure under Section 626.8732, Florida Statutes. The

21 phrase does not include persons licensed as public adjusters by other
22 states but not by the State of Florida.

23 (e) “Unlicensed persons,” as used in this rule, means and refers to
24 persons who are not currently licensed and appointed in good
25 standing by the department as resident or nonresident public
26 adjusters.

27 (3) Communications Concerning Public Adjuster Services.

28 (a) Solicitation. The solicitation of public adjusting business for
29 compensation is deemed to be a material part of the business of
30 public adjusting and, therefore, requires licensure as a public adjuster
31 under the laws of Florida and the rules of the department, and shall
32 be engaged in only by persons licensed by the department as public
33 adjusters. Unlicensed persons shall not engage in such activity even
34 under the supervision of a licensed public adjuster. The phrase
35 “solicitation of public adjusting business” and similar phrases as used
36 in this rule means, for compensation, initiating contact with any
37 person, whether in person, by mail, by telephone, by brochure, by
38 advertisement or otherwise, and therein seeking, causing, urging,
39 advising, or attempting:

40 1. To have any person enter into any agreement engaging the

41 services of a public adjuster in any capacity; or

42 2. To have any person describe the benefits, terms or services of a
43 public adjuster; or

44 3. To have any person subsequently speak or meet with a
45 licensed public adjuster for the purpose of engaging the services of a
46 public adjuster in any capacity or for the purpose of being advised by
47 a public adjuster in any regard.

48 4. A public adjuster apprentice may not execute contracts for the
49 services of a public adjuster or public adjusting firm even under the
50 direct supervision and guidance of the supervisory public adjuster.

51

52 (b) Answering Telephone Calls. The answering of incoming
53 telephone calls by unlicensed persons, at the place of business of a
54 public adjuster, is not violative of this rule so long as the unlicensed
55 persons engage in purely administrative matters and not in judgment,
56 interpretation or solicitation with regard to any insurance contract,
57 public adjuster contract, claim, or potential claim.

58 (4) Advertising.

59 (a) As with all forms of advertising concerning the business of
60 insurance, public adjusters shall not falsely inform or advertise as set

61 forth in Section 626.9541(1)(b), Florida Statutes, as well as any other
62 section within the Insurance Code that relates to advertising.

63 (b) ~~Only Licensed Adjusters to Advertise.~~ No individual person or
64 entity shall in any way advertise public adjusting services as a public
65 adjuster in this state, unless such individual person or entity is
66 licensed as a public adjuster, public adjusting firm or is a member of
67 the Florida Bar.

68 (c) Advertisements to Show Licensee's Full Name and License
69 Number. Any advertisement by a public adjuster shall legibly state the
70 full name and license number, as specified in department records, of
71 the public adjuster who has caused the advertisement to appear.
72 Where a public adjusting firm containing multiple licensed public
73 adjusters is causing the advertisement to appear, the public adjusting
74 firm shall designate one of said licensees whose full name and
75 license number, as specified in department records, shall appear in
76 the advertisement.

77 1. Print and Website Advertisements. In print and website
78 advertisements the public adjuster's full name and license number as
79 specified in department records shall be in typeface no smaller than
80 the typeface of the main body of text in the advertisement. Print

81 advertisements include newspapers, magazines, flyers, brochures,
82 business cards, adhesive and magnetic publication, and similar
83 printed materials. If the material is already printed when this rule
84 takes effect, the required public adjuster's full name **and license**
85 **number** shall be added by means of rubber stamp, adhesive label, or
86 other means.

87 2. Television Advertisements. In television advertisements the
88 public adjuster's full name and license number as specified in
89 department records shall be made to appear on the screen for a
90 period reasonably calculated to allow a viewer to write the name and
91 license number down.

92 3. Radio Advertisements. In radio advertisements, the public
93 adjuster's full name and license number as specified in department
94 records shall be read during the advertisement, and at a speed
95 reasonably calculated to allow an average listener to note the name
96 of the licensee as it appears on his or her licensure.

97 (d) Responsibility of Advertising Licensee. The licensed adjuster
98 whose name and license number appears in the advertisement is
99 responsible for personally reviewing the content of the advertisement
100 and assuring that the advertisement complies with the rules of the

101 department and the Insurance Code and is in all regards fair,
102 accurate, and in no way untruthful, deceptive or misleading.

103 (5) It is an affirmative duty of every public adjuster, primary public
104 adjuster and supervising public adjuster to supervise their business
105 affairs and their staff to ensure to the extent it is within the public
106 adjuster's ~~power~~ direct supervision and control that this Florida
107 Insurance Code and Rule Chapter 69B-220, F.A.C., are not violated.

108 (6) Required Contract Terms. In addition to Sections 626.854 and
109 626.8796, Florida Statutes, public adjusters shall ensure that all
110 contracts for their services contain the following terms:

111 (a) The contract shall legibly state the full name as specified in
112 Department records of the public adjuster signing the contract.

113 (b) All public adjuster contracts shall show the public adjuster's:

- 114 1. Permanent business address and phone number; and
115 2. Florida Department license number.

116 (c) The contract shall show:

- 117 1. The insured's full name, and street address, and current contact
118 information;
- 119 2. Address of loss;
- 120 3. A brief description of the loss; to include the date, cause and

121 damage.

122 4. The insured's insurance company name and policy number, if
123 available.

124 (d) The contract shall show the date the contract with the public
125 adjuster was actually signed by the insured or claimant.

126 (e)1. The full compensation to the public adjuster shall be stated in
127 the contract.

128 2. If the compensation is based on a share of the insurance
129 settlement, the exact percentage shall be specified.

130 3. Any costs to be reimbursed to the public adjuster out of the
131 proceeds shall be specified in an addendum to the contract, which
132 shall be signed and dated by the parties.

133 4. The department's toll free Consumer Assistance Helpline
134 telephone number.

135 (7) All contracts for public adjuster services must be in writing. The
136 contract must be signed by the public adjuster who solicited the
137 contract. A copy of the completed contract shall be provided to the
138 insured or claimant at the time he or she signs the contract.

139 (8) No public adjuster may settle a claim unless the terms and
140 conditions of settlement are approved in writing and dated by the

141 insured.

142 (9) Required disclosure: Attached to the copy of the signed and
143 dated public adjuster contract provided to the insured or claimant
144 shall be a legible copy of Florida Administrative Code rules 69B-
145 220.051 Conduct of Public Adjusters and 69B-220.201 Ethical
146 Requirements and any department emergency rule then in force.
147 These copies shall be dated and signed by the insured or claimant.

148

149 *Specific Authority 624.308(1), 626.9611 FS. Law Implemented*
150 *624.307(1),*
151 *626.112(1)624.05,626.611(1)(a),626.852(2),626.854,626.8541,*
152 *626.8651(5),626.865(2),626.874,626.8695(4),626.878,*
153 *626.8795,626.9541(1)(b), (i)626.9611 FS. History–New 4-26-94,*
154 *Amended 12-18-01, Formerly 4-220.051, Amended 3-27-05, 9-3-06.*

155

156 69B-220.201 Ethical Requirements.

157 (1) Definitions. The following definitions shall apply for purposes of
158 this rule:

159 (a) “Adjuster,” when used without further specification, includes all
160 types and classes of insurance adjusters, (company, independent,

161 and public), subject to Chapter 626, Florida Statutes, regardless of
162 whether resident or nonresident, and whether permanent, temporary,
163 or emergency licensees.

164 (b) "Client" includes both clients and potential clients; and means
165 any person who consults with or hires an adjuster to provide adjusting
166 services.

167 (c) "Department" means the Florida Department of Financial
168 Services.

169 (d) "Person" includes natural persons and legal entities.

170 (2) Violation.

171 (a) Violation of any provision of this rule shall constitute grounds
172 for administrative action against the licensee.

173 (b) A breach of any provision of this rule constitutes an unfair
174 claims settlement practice.

175 (3) Code of Ethics. The work of adjusting insurance claims
176 engages the public trust. An adjuster shall put the duty for fair and
177 honest treatment of the claimant above the adjuster's own interests in
178 every instance. The following are standards of conduct that define
179 ethical behavior, and shall constitute a code of ethics that shall be
180 binding on all adjusters:

181 ~~(a) An adjuster shall: not directly or indirectly refer or steer any~~
182 ~~claimant needing repairs or other services in connection with a loss to~~
183 ~~any person with whom the adjuster has an undisclosed financial~~
184 ~~interest, or who will or is reasonably anticipated to provide the~~
185 ~~adjuster any direct or indirect compensation for the referral or for any~~
186 ~~resulting business.~~

187 (a) An adjuster shall treat all claimants equally.

188 1. An adjuster shall not provide favored treatment to any claimant.

189 2. An adjuster shall adjust all claims strictly in accordance with the
190 insurance contract.

191 (b) An adjuster shall not approach investigations, adjustments, and
192 settlements in a manner prejudicial to the insured.

193 (c) An adjuster shall make truthful and unbiased reports of the
194 facts after making a complete investigation.

195 (d) An adjuster shall handle every adjustment and settlement with
196 honesty and integrity, and allow a fair adjustment or settlement to all
197 parties without any remuneration to himself except that to which he is
198 legally entitled.

199 ~~(f)~~ (e) An adjuster, upon undertaking the handling of a claim, shall
200 act with dispatch and due diligence in achieving a proper disposition

201 of the claim. The lack of dispatch and due diligence shall include the
202 failure of the public adjuster to perform services for the client, or
203 where the public adjuster engages in a pattern of neglect which
204 causes or could potentially cause injury to the client.

205 (f) The public adjuster shall provide a meaningful written claim
206 status update to the client no less than every 21 calendar days, and
207 shall document the claim file accordingly.

208 (g) The public adjuster shall respond to the client's request for
209 claims status in no less than five (5) calendar days, and shall
210 document the claim file accordingly.

211 ~~(g)~~ (h) An adjuster shall promptly report to the Department any
212 conduct by any licensed insurance representative of this state which
213 violates any provision of the Insurance Code or Department rule or
214 order.

215 ~~(h)~~(i) An adjuster shall exercise extraordinary care when dealing
216 with clients 65 years of age and older to assure that they are not
217 disadvantaged in their claims transactions by failing memory or
218 impaired cognitive processes.

219 ~~(i)~~(j) An adjuster shall not negotiate or effect settlement directly or
220 indirectly with any third-party claimant represented by an attorney, if

221 the adjuster has knowledge of such representation, except with the
222 consent of the attorney. For purposes of this subsection, the term
223 “third-party claimant” does not include the insured or the insured’s
224 resident relatives.

225 ~~(j)~~(k) An adjuster is permitted to interview any witness, or
226 prospective witness, without the consent of opposing counsel or
227 party. In doing so, however, the adjuster shall scrupulously avoid any
228 suggestion calculated to induce a witness to suppress or deviate from
229 the truth, or in any degree affect the witness’s appearance or
230 testimony during deposition or at the trial. If any witness making or
231 giving a signed or recorded statement so requests, the witness shall
232 be given a copy of the statement.

233 ~~(k)~~(l) An adjuster shall not advise a claimant to refrain from
234 seeking legal advice, nor advise against the retention of counsel to
235 protect the claimant’s interest.

236 ~~(l)~~(m) An adjuster shall not attempt to negotiate with or obtain any
237 statement from a claimant or witness at a time that the claimant or
238 witness is, or would reasonably be expected to be, in shock or
239 serious mental or emotional distress as a result of physical, mental,
240 or emotional trauma associated with a loss. The adjuster shall not

241 conclude a settlement when the settlement would be
242 disadvantageous to, or to the detriment of, a claimant who is in the
243 traumatic or distressed state described above.

244 ~~(m)~~(n) An adjuster shall not knowingly fail to advise a claimant of
245 the claimant's claim rights in accordance with the terms and
246 conditions of the contract and of the applicable laws of this state. An
247 adjuster shall exercise care not to engage in the unlicensed practice
248 of law as prescribed by the Florida Bar.

249 ~~(n)~~(o) A company or independent adjuster shall not draft special
250 releases called for by the unusual circumstances of any settlement or
251 otherwise draft any form of release, unless advance written approval
252 by the insurer can be demonstrated to the Department. Except as
253 provided above, a company or independent adjuster is permitted only
254 to fill in the blanks in a release form approved by the insurer they
255 represent.

256 ~~(o)~~(p) An adjuster shall not undertake the adjustment of any claim
257 concerning which the adjuster is not currently competent and
258 knowledgeable as to the terms and conditions of the insurance
259 coverage, or which otherwise exceeds the adjuster's current
260 expertise.

261 ~~(p)~~(q) No person shall, as a public adjuster, represent any person
262 or entity whose claim the adjuster has previously adjusted while
263 acting as an adjuster representing any insurer or independent
264 adjusting firm. No person shall, as a company or independent
265 adjuster, represent him or herself or any insurer or independent
266 adjusting firm against any person or entity that the adjuster previously
267 represented as a public adjuster.

268 ~~(q)~~(r) A public adjuster shall not represent or imply to any client or
269 potential client that insurers, company adjusters, or independent
270 adjusters routinely attempt to, or do in fact, deprive claimants of their
271 full rights under an insurance policy. No insurer, independent
272 adjuster, or company adjuster shall represent or imply to any claimant
273 that public adjusters are unscrupulous, or that engaging a public
274 adjuster will delay or have other adverse effect upon the settlement of
275 a claim.

276 ~~(r)~~(s) No public adjuster, while so licensed in the Department's
277 records, may represent or act as a company adjuster, independent
278 adjuster, or general lines agent.

279 ~~(s)~~(t) A company adjuster, independent adjuster, attorney,
280 investigator, or other person acting on behalf of an insurer that needs

281 access to an insured or claimant or to the insured property that is the
282 subject of a claim shall provide at least 48 hours notice to the insured
283 or claimant prior to scheduling a meeting with the claimant or an on-
284 site inspection of the insured property. The insured or claimant may
285 deny access to the property if this notice has not been provided.

286 (u) A public adjuster shall not restrict or prevent an insurer,
287 company adjuster, independent adjuster, attorney, investigator, or
288 other person acting on behalf of the insurer from having reasonable
289 access at reasonable times to an insured or claimant or to the insured
290 property that is the subject of a claim.

291
292 (4) Public Adjusters, Other Ethical Constraints. In addition to
293 considerations set out above for adjusters, the following ethical
294 considerations are specific to public adjusters and shall be binding
295 upon public adjusters:

296 (a) A public adjuster shall advise the insured and claimant in
297 advance of the insured or claimant's right of counsel, and choice
298 thereof, to represent the insured or claimant, and that such choice is
299 to be made solely by the insured or claimant.

300 (b) The public adjuster shall notify the insured or claimant in

301 advance of the name and contact information location of any
302 proposed contractor, architect, engineer, or similar professional,
303 before any bid or proposal by any of these persons may be used by
304 the public adjuster in adjudicating the insurance claim. ~~estimating the~~
305 ~~loss or negotiating settlement.~~ The insured or claimant may exercise
306 veto power of any of these persons, in which case that person shall
307 not be used in estimating costs.

308 (c) The public adjuster shall ensure that if a contractor, architect,
309 engineer, or other professional is used in formulating estimates or
310 otherwise participates in the adjustment of the claim, the professional
311 individual shall be licensed by the Florida Department of Business
312 and Professional Regulation, if so required by law.

313 (d) A public adjuster shall not prevent, or attempt to dissuade or
314 prevent, a claimant from speaking privately with the insurer, company
315 or independent adjuster, attorney, or any other person, regarding the
316 settlement of the claim.

317 ~~(e) A public adjuster shall not acquire any interest in salvaged~~
318 ~~property, except with the written consent and permission of the~~
319 ~~insured.~~

320 (f) (e) ~~A public adjuster shall not accept referrals of business from~~

321 ~~any person with whom the public adjuster may conduct business~~
322 ~~where there is any form or manner of agreement to compensate the~~
323 ~~person, whether directly or indirectly, for referring business to the~~
324 ~~public adjuster. Except as between licensed public adjusters, no~~
325 ~~public adjuster shall compensate any person, whether directly or~~
326 ~~indirectly, for the principal purpose of referring business to the public~~
327 ~~adjuster.~~

328 ~~(g) A public adjuster's contract with a client shall be revocable or~~
329 ~~cancellable by the insured or claimant, without penalty or obligation,~~
330 ~~for at least 3 business days after the contract is executed. The public~~
331 ~~adjuster shall disclose to the insured that the insured has the right to~~
332 ~~cancel with prompt notice within the revocation period. If the insured~~
333 ~~elects to cancel the contract, prompt notice shall be provided to the~~
334 ~~adjuster. Nothing in the provision shall be construed to prevent an~~
335 ~~insured from pursuing any civil remedy after the 3-day cancellation~~
336 ~~period.~~

337 ~~(h)~~ (f) A public adjuster shall not enter into a contract or accept a
338 power of attorney which vests in the public adjuster the effective
339 authority to choose the persons who shall perform repair work, except
340 if the contract or the power of attorney is prepared or approved by the

341 insured's attorney.

342 (i) (g) A public adjuster shall ensure that all contracts for the public
343 adjuster's services are in writing and set forth all terms and conditions
344 of the engagement, including the terms required by subsection 69B-
345 220.051(6), F.A.C., or as otherwise required by law.

346 ~~(j) A public adjuster shall not restrict or prevent an insurer,~~
347 ~~company adjuster, independent adjuster, attorney, investigator, or~~
348 ~~other person acting on behalf of the insurer from having reasonable~~
349 ~~access at reasonable times to an insured or claimant or to the insured~~
350 ~~property that is the subject of a claim.~~

351 ~~(5) Public Adjusters, Ethical Constraints During State of~~
352 ~~Emergency. In addition to considerations set forth above, the~~
353 ~~following ethical considerations shall apply to public adjusters in the~~
354 ~~event that the Governor of the State of Florida issues an Executive~~
355 ~~Order, by virtue of the authority vested in Article IV, Section 1(a) of~~
356 ~~the Florida Constitution and by the Florida Emergency Management~~
357 ~~Act, as amended, and all other applicable laws, declaring that a state~~
358 ~~of emergency exists in the State of Florida:~~

359 (a) (h) No public adjuster shall require, demand, charge or accept
360 any fee, retainer, compensation, commission, deposit, or other thing

361 of value, prior to receipt by the insured or claimant of a payment on
362 the claim by the insurer. No public adjuster shall accept any form of
363 payment or remuneration for services that have not been performed.

364 ~~(b) As to any one insured or claimant, no public adjuster shall~~
365 ~~charge, agree to, or accept as compensation or reimbursement any~~
366 ~~payment, commission, fee, or other thing of value equal to more than~~
367 ~~ten percent of the amount of any insurance settlement or claim~~
368 ~~payment~~

369 ~~(c)~~ (i) No public adjuster shall enter into any contract, agreement
370 or other arrangement with any person, including an attorney, building
371 contractor, architect, appraiser or repairman, by which the person
372 would enter into an agreement to assist a claimant or insured on an
373 insurance claim, utilize the services of the adjuster to carry out the
374 agreement and pay the adjuster an amount that would exceed the
375 limitation of the adjuster's compensation or reimbursement as
376 provided in paragraph (b) above.

377 ~~(d) This subsection applies to all claims that arise out of the events~~
378 ~~that created the State of Emergency, whether or not the adjusting~~
379 ~~contract was entered into while the State of Emergency was in effect~~
380 ~~and whether or not a claim is settled while the State of Emergency is~~

381 ~~in effect.~~

382 *Specific Authority 624.308, 626.878, 626.9611 FS. Law*

383 *Implemented 624.307(1), 624.05, 626.015(1) 626.611,*

384 *626.621, 626.631, 626.641, 626.651, 626.661, 626.681, 626.691,*

385 *626.692, 626.852(2), 626.853, 626.854, 626.858, 626.858(2), 626.858(4)*

386 *, 626.859, 626.864, 626.8541, 626.865(2), 626.8695(4), 626.8698,*

387 *626.878, 626.9521, 626.9541, 626.621(6), 626.9541(1)(i) FS. History–*

388 *New 6-2-93, Amended 12-18-01, Formerly 4-220.201, Amended 3-*

389 *27-05, 9-3-06.*

390

391 Original authority listed below:

392 *Authority 624.308, 626.878, 626.9611 FS. Law Implemented*

393 *624.307(1), 626.611, 626.621, 626.865(2), 626.878, 626.9541(1)(i)*

394 *FS. History–New 6-2-93, Amended 12-18-01, Formerly 4-220.201,*

395 *Amended 3-27-05, 9-3-06.*

396