

Chapter 3 Contact Information

Each license issued by the Department must be in a form that contains the licensee's name, lines of authority he or she is authorized to transact, the licensee's personal identification number, the date of issuance, and any other information deemed necessary by the Department to fully identify the individual and the authority being granted. The Department may require photographs of applicants as part of the licensing process.

All-Lines Adjuster

An all-lines adjuster is a person who is self-employed or employed by an entity, such as an insurer, to ascertain and determine the amount of a claim, loss or damage payable under an insurance contract. He or she will work to settle a claim, loss, or damage that does not pertain to life insurance or annuity contracts.

Independent Adjuster

An independent adjuster is a person licensed as an all-lines adjuster who is self-appointed or appointed and employed by an independent adjusting firm to ascertain and effect settlement of claims, losses, or damage.

Company Employee Adjuster

A company employee adjuster is a person licensed as an all-lines adjuster that is appointed and employed on an insurer's staff of adjusters or a wholly owned subsidiary of the insurer. He or she ascertains and determines the amount of a claim, loss, or damage payable under an insurance contract, or undertakes to effect settlement.

Nonresident Public Adjuster

A nonresident public adjuster is a person who is not a Florida resident, but is currently licensed as a public adjuster in his or her resident state. If their state of residency does not license public adjusters, then the individual must have passed the department's adjuster examination and be self-employed as a public adjuster or associated with or employed by a public adjusting firm or other public adjuster.

Nonresident All-Lines Adjuster

A nonresident all-lines adjuster is a person who is not a Florida resident but is currently licensed as an adjuster in his or her resident state for all lines of insurance except life and annuities. If the individual is a resident of a state that does not license all-line adjusters, then he or she must meet the qualifications and be licensed as an all-lines adjuster and self-appointed or employed by an adjusting firm or adjuster that is allowed to do business in Florida.

Catastrophe or Emergency Adjuster

A catastrophe or emergency adjuster is a person who is not licensed as an adjuster but who has been designated and certified by insurers as being qualified to do the job. The department may issue a license to this person when a catastrophe or emergency occurs to adjust claims. The department will stipulate an allowable time-period for adjusting claims, losses, or damages under the policies of insurance issued by the insurers.

There are two adjuster license types: a public adjuster and an all-lines adjuster. *The same person may not be concurrently licensed as a public adjuster and also as an all-lines adjuster.*

No matter how compelling the situation may be, public adjusters and their apprentices may not

offer or give any monetary loan or advance to a client or prospective client. In fact, nothing may be offered or given in connection with an advertisement or inducement to enter into a contract that has a value of more than \$25.

Under **626.854(11)**, public adjusters must earn their income from the work they do. Therefore, a public adjuster that enters into a contract with an insured relating to a claim that has already received payment in part or whole may not be paid from those funds or future funds not directly related to the services he or she performs. The charge or other payments must be based on the claim payments or settlement obtained through the public adjuster's work, not the work of others. In other words, if Joe Insured previously received \$10,000 from his insurer on a settled claim, he cannot pay the public adjuster any of the money he received (or will receive) from the original claim settlement. The only pay the public adjuster may be given must come from additional settlement funds that resulted from the adjuster's additional work. Compensation from the additional work may not exceed 20 percent of the reopened or supplemental claim payment.

Public Adjusters may not receive more than 10 percent of the amount the insured receives from an insurer for a claim *resulting from a state of emergency* signed by the Governor. This pay limitation includes all forms of compensation, not just cash payment. This applies to claims made during the year after the emergency as well as at the time of the emergency. After that year has passed, 20 percent of the amount of insurance claim payments made by the insurer that are not based on events subject to the state of emergency may be charged.

Public adjusters must provide their clients with a written estimate of the loss to assist in the submission of a proof of loss or other claim for payment of insurance proceeds. He or she must retain their written estimates for at least five years and make these available to the claimant, the insurer, and the Florida insurance department upon request.

Business referrals may not be based on compensation. This means that the public adjuster and their apprentices may not accept referrals if there is any type of agreement to give compensation to the person making the referral. Only another public adjuster may be compensated directly or indirectly for the principal purpose of referring business.

When a company employee adjuster, independent adjuster, attorney, investigator, or other person acting on behalf of the insured needs access to the claimant or the insured property they must give at least 48 hours' notice to the claimant, his or her public adjuster, or other legal representative. No inspection of property may occur without this notice, but the claimant or their representative may waive the requirement if they wish to.

The insurer must receive notice when a public adjuster has been contracted. The contract must also be provided to the insurer, noting the property is available for inspection of the loss or damage. The insurer must have the opportunity to interview the insured directly about the loss and their claim. The insurer has the right to obtain any necessary information, to investigate, and respond to the claim.

Insurance companies are not allowed to exclude a contracted public adjuster from in-person meetings with the insured. Insurers must meet or communicate with the public adjuster in an effort to reach an agreement regarding the covered loss. The public adjuster is also required to cooperate with the insurer in an effort to reach an agreement regarding the payment for a loss. This statute does not change the terms of the insurance policy or require an insurer to pay more than is legally owed to the policyholder. Public adjusters may not delay settlement by restricting or preventing an insurer, their company adjuster, or an independent adjuster hired by the insurer, attorney, or investigator acting on behalf of the insurer from having reasonable access at reasonable times to any insured individual or their property that is the object of the claim.

A licensed contractor or subcontractor may not adjust a claim on behalf of an insured unless he or she is also licensed and compliant as a public adjuster. However, the contractor may discuss or explain a bid for construction or repair of the covered property. The contractor's fees cannot be increased due to this assistance; fees must remain at the usual and customary levels applicable to the work being performed and as stated in the contract between the contractor and insured.

Public adjusters have no rights to any salvaged property resulting from the property loss, except with the written consent and permission of the insurer through a signed affidavit. In other words, the public adjuster would have to have the insurance company's permission (not the homeowner) to take any materials discarded during the repair to property. This makes sense because otherwise adjusters could adjust claims specifically to gain personally.

Public adjuster apprentice

A **public adjuster apprentice** is any person who is not a licensed public adjuster, but who is employed by or has a contract with a licensed and appointed public adjuster in good standing or a public adjusting firm employing at least one licensed and appointed public adjuster. The apprentice assists the public adjuster in conducting business under the license. The apprentice must also satisfy specific requirements, which are stated in 626.8651. Public adjuster apprentices must work with a licensed and appointed public adjuster for at least 6 months and must otherwise be in full compliance with all requirements prior to being eligible for appointment as a licensed public adjuster.

Primary adjuster

Each person operating an adjusting firm and each location of a multiple location adjusting firm must designate a **primary adjuster** for each firm or location and must file that information with the Department, listing the primary adjuster's name and the address where he or she is the primary adjuster, on a form approved by the department. The designation of the primary adjuster may be changed at the option of the adjusting firm. Any such change is effective upon notification to the department. Notice of change must be sent to the department within 30 days of the change.

For purposes of this section, a "**primary adjuster**" is the licensed adjuster who is responsible for the hiring and supervision of all individuals within an adjusting firm location who deal with the public and who act in the capacity of a public adjuster or as an independent adjuster. An adjuster may be designated as a primary adjuster for only one adjusting firm location. For our purposes here, an "**adjusting firm**" is a location where an independent or public adjuster is engaged in the business of insurance.

The department may suspend or revoke the license of the primary adjuster if the adjusting firm employs any person who has had a license denied or any person whose license is currently suspended or revoked. However, if a person has been denied a license for failure to pass a required examination, he or she may be employed to perform clerical or administrative functions for which licensure is not required.

The **primary adjuster** in an unincorporated adjusting firm, or the primary adjuster in an incorporated adjusting firm in which no officer, director, or stockholder is an adjuster, is responsible and accountable for the acts of salaried employees under his or her direct supervision and control while acting on behalf of the adjusting firm. Nothing in this section renders any person criminally liable or subject to any disciplinary proceedings for any act unless the person personally committed or knew or should have known of the act and of the facts constituting a violation of this code.

The department may suspend or revoke the license of any adjuster who is employed by a person whose license is currently suspended or revoked.

An adjusting firm location may not conduct the business of insurance unless a primary adjuster is designated. Failure of the person operating the adjusting firm to designate a primary adjuster for the firm, or for each location, as may be applicable, on the required form within 30 days after inception of the firm or change of primary adjuster designation, constitutes grounds for requiring the adjusting firm to obtain an adjusting firm license.

Any adjusting firm may request, on the applicable form, verification from the department of any person's current licensure status. If a request is mailed to the office within five working days after the date an adjuster is hired, and the department subsequently notifies the adjusting firm that an employee's license is currently suspended, revoked, or has been denied, the license of the primary adjuster would not be revoked or suspended as long as the unlicensed person is immediately dismissed from employment as an adjuster with the firm.

Contact Information

Any licensed agent or adjuster doing business under a firm or corporate name (or under any business name) other than his or her own individual name must, within 30 days after the initial transaction of insurance, file a written statement with the Department of the firm, corporate, or business name being used on appropriate Florida forms. The address of any office or place of business using the name and the names and Social Security numbers of all officers and director of the corporation and each individual associated with that regarding insurance transactions must also be supplied.

In the event of any change of business name or change of any officers or directors, or of any address or personnel associated with it, provide written notice filed with the Department within 30 days by or on behalf of those licensees whether terminating the firm, corporate, or business name or continuing to operate thereunder. Any licensed insurance agency must, within 30 days, notify the Department of any change in the information contained in the original application.

Under General Procedures, **69B-211.002(22)** a person licensed as an insurance representative must inform the Department of an address change by completing and submitting Form DFS-H2-518, called *"Address Correction Request."* **Under 69B-211.002(24)**, agents or adjusters filing information regarding name changes must complete and submit Form DFS-H2-6364 called *"Filing of Firm, Corporation or Business Name."*

Licensees must notify the Department in writing within 30 days following a change in name, residence address, principal business street address, mailing address, contact telephone numbers, including a business telephone number, or e-mail address. A licensee who has moved his or her principal place of residence and principal place of business from Florida must have his or her license and all appointments immediately terminated by the department. Failure to notify the department within the required time will result in a fine of up to \$250 for the first offense and a fine of \$500 or more or suspension or revocation of the license for a subsequent offense. The department may adopt rules to administer and enforce this section.

To recap, licensed individuals are required to provide contact information that is kept current and accurate with the Department of Insurance. Licensees must notify the department in writing within 30 days after a name has changed or a new address becomes effective. The address must include the residence address, principal business street address, or mailing address (such as a post office box). Telephone numbers and email addresses must also be kept current, with notification of any changes made within 30 days of the effective dates.

All contracts for public adjuster services must be in writing and prominently display the following statement on the contract:

"Pursuant to s. 817.234 of Florida Statutes, any person who, with the intent to injure, defraud, or deceive an insurer or insured, prepares, presents, or causes to be presented a proof of loss or estimate of cost or repair of damaged property in support of a claim under an insurance policy knowing that the proof of loss or estimate of claim or repairs contains false, incomplete, or misleading information concerning any fact or thing material to the claim commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 of the Florida Statutes."

Public adjuster contracts relating to property and casualty claims must contain the full name, permanent business address, and license number of the public adjuster; the full name of the public adjusting firm and the insured's full name and street address, together with a brief description of the loss. The contract must state the percentage of compensation for the public adjuster's services; the type of claim, including an emergency claim, nonemergency claim, or supplemental claim; the signatures of the public adjuster and all named insureds; and the signature date. If all the named insureds' signatures are not available, the public adjuster must submit an affidavit signed by the available named insureds attesting that they have authority to enter into the contract and settle all claim issues on behalf of the named insureds. An unaltered copy of the executed contract must be remitted to the insurer within 30 days after execution.

Proof of loss statements

All **proof of loss statements** must prominently display the following statement:

"Pursuant to s. 817.234, Florida Statutes, any person who, with the intent to injure, defraud, or deceive any insurer or insured, prepares, presents, or causes to be presented a proof of loss or estimate of cost or repair of damaged property in support of a claim under an insurance policy knowing that the proof of loss or estimate of claim or repairs contains any false, incomplete, or misleading information concerning any fact or thing material to the claim commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes."

(1)(a) A person commits insurance fraud punishable as provided in subsection (11) if that person, with the intent to injure, defraud, or deceive any insurer:

1. Presents or causes to be presented any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy or a health maintenance organization subscriber or provider contract, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim;
2. Prepares or makes any written or oral statement that is intended to be presented to any insurer in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy or a health maintenance organization subscriber or provider contract, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim; or
3. Knowingly presents, causes to be presented, or prepares or makes with knowledge or belief that it will be presented to any insurer, purported insurer, servicing corporation, insurance broker, or insurance agent, or any employee or agent thereof, any false, incomplete, or misleading information or written or oral statement as part of, or in support of, an application for the issuance of, or the rating of, any insurance policy, or a health maintenance organization subscriber or provider contract; or who knowingly conceals information concerning any fact material to such application.

(b) All claim and application forms shall contain a statement that is approved by the Office of Insurance Regulation of the Financial Services Commission which clearly states in substance the following: *"Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree."* This paragraph does not apply to reinsurance contracts, reinsurance agreements, or reinsurance claims transactions.

(2)(a) Any physician licensed under chapter 458, osteopathic physician licensed under chapter 459, chiropractic physician licensed under chapter 460, or other practitioner licensed under the

laws of this state who knowingly and willfully assists, conspires with, or urges any insured party to fraudulently violate any of the provisions of this section or part XI of chapter 627, or any person who, due to such assistance, conspiracy, or urging by said physician, osteopathic physician, chiropractic physician, or practitioner, knowingly and willfully benefits from the proceeds derived from the use of such fraud, commits insurance fraud, punishable as provided in subsection (11). In the event that a physician, osteopathic physician, chiropractic physician, or practitioner is adjudicated guilty of a violation of this section, the Board of Medicine as set forth in chapter 458, the Board of Osteopathic Medicine as set forth in chapter 459, the Board of Chiropractic Medicine as set forth in chapter 460, or other appropriate licensing authority shall hold an administrative hearing to consider the imposition of administrative sanctions as provided by law against said physician, osteopathic physician, chiropractic physician, or practitioner.

(b) In addition to any other provision of law, systematic upcoding by a provider, as defined in s. 641.19(14), with the intent to obtain reimbursement otherwise not due from an insurer is punishable as provided in s. 641.52(5).

(3) Any attorney who knowingly and willfully assists, conspires with, or urges any claimant to fraudulently violate any of the provisions of this section or part XI of chapter 627, or any person who, due to such assistance, conspiracy, or urging on such attorney's part, knowingly and willfully benefits from the proceeds derived from the use of such fraud, commits insurance fraud, punishable as provided in subsection (11).

(4) Any person or governmental unit licensed under chapter 395 to maintain or operate a hospital, and any administrator or employee of any such hospital, who knowingly and willfully allows the use of the facilities of said hospital by an insured party in a scheme or conspiracy to fraudulently violate any of the provisions of this section or part XI of chapter 627 commits insurance fraud, punishable as provided in subsection (11). Any adjudication of guilt for a violation of this subsection, or the use of business practices demonstrating a pattern indicating that the spirit of the law set forth in this section or part XI of chapter 627 is not being followed, shall be grounds for suspension or revocation of the license to operate the hospital or the imposition of an administrative penalty of up to \$5,000 by the licensing agency, as set forth in chapter 395.

(5) Any insurer damaged resulting from a violation of any provision of this section when there has been a criminal adjudication of guilt shall have a cause of action to recover compensatory damages, plus all reasonable investigation and litigation expenses, including attorneys' fees, at the trial and appellate courts.

(6) For the purposes of this section, "statement" includes, but is not limited to, any notice, statement, proof of loss, bill of lading, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, X-ray, test result, or other evidence of loss, injury, or expense.

(7)(a) It shall constitute a material omission and insurance fraud, punishable as provided in subsection (11), for any service provider, other than a hospital, to engage in a general business practice of billing amounts as its usual and customary charge, if such provider has agreed with the insured or intends to waive deductibles or copayments, or does not for any other reason intend to collect the total amount of such charge. With respect to a determination as to whether a service provider has engaged in such general business practice, consideration shall be given to evidence of whether the physician or other provider made a good faith attempt to collect such deductible or copayment. This paragraph does not apply to physicians or other providers who waive deductibles or copayments or reduce their bills as part of a bodily injury settlement or verdict.

(b) The provisions of this section shall also apply as to any insurer or adjusting firm or its agents or representatives who, with intent, injure, defraud, or deceive any claimant with regard to any claim. The claimant shall have the right to recover the damages provided in this section.

(c) An insurer, or any person acting at the direction of or on behalf of an insurer, may not change an opinion in a mental or physical report prepared under s. 627.736(8) or direct the physician preparing the report to change such opinion; however, this provision does not preclude the insurer from calling to the attention of the physician errors of fact in the report based upon

information in the claim file. Any person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8)(a) It is unlawful for any person intending to defraud any other person to solicit or cause to be solicited any business from a person involved in a motor vehicle accident for the purpose of making, adjusting, or settling motor vehicle tort claims or claims for personal injury protection benefits required by s. 627.736. Any person who violates the provisions of this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person who is convicted of a violation of this subsection shall be sentenced to a minimum term of imprisonment of two years.

(b) A person may not solicit or cause to be solicited any business from a person involved in a motor vehicle accident by any means of communication other than advertising directed to the public for the purpose of making motor vehicle tort claims or claims for personal injury protection benefits required by s. 627.736, within 60 days after the occurrence of the motor vehicle accident. Any person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A lawyer, health care practitioner as defined in s. 456.001, or owner or medical director of a clinic required to be licensed pursuant to s. 400.9905 may not, at any time after 60 days have elapsed from the occurrence of a motor vehicle accident, solicit or cause to be solicited any business from a person involved in a motor vehicle accident by means of in person or telephone contact at the person's residence, for the purpose of making motor vehicle tort claims or claims for personal injury protection benefits required by s. 627.736. Any person who violates this paragraph commits a felony of the third degree, punishable as provided in Florida's statutes.

(d) Charges for any services rendered by any person who violates this subsection in regard to the person for whom such services were rendered are non-compensable and unenforceable as a matter of law.

(9) A person may not organize, plan, or knowingly participate in an intentional motor vehicle crash or a scheme to create documentation of a motor vehicle crash that did not occur for the purpose of making motor vehicle tort claims or claims for personal injury protection benefits as required by s. 627.736. Any person who violates this subsection commits a felony of the second degree, punishable as provided by Florida's statutes. A person who is convicted of a violation of this subsection shall be sentenced to a minimum term of imprisonment of two years.

(10) As used in this section, the term "**insurer**" means any insurer, health maintenance organization, self-insurer, self-insurance fund, or other similar entity or person regulated under chapter 440 or chapter 641 or by the Office of Insurance Regulation under the Florida Insurance Code.

(11) ☐ If the value of any property involved in a violation of this section:

- a. Is less than \$20,000, the offender commits a felony of the third degree, punishable as provided by Florida's statutes.
- b. Is \$20,000 or more, but less than \$100,000, the offender commits a felony of the second degree, punishable as provided by Florida's statutes.
- c. Is \$100,000 or more, the offender commits a felony of the first degree, punishable as provided by Florida's statutes.

(12) In addition to any criminal liability, a person convicted of violating any provision of this section for the purpose of receiving insurance proceeds from a motor vehicle insurance contract is subject to a civil penalty.

Except for a violation of subsection (9), the civil penalty will be:

1. A fine up to \$5,000 for a first offense.
2. A fine greater than \$5,000, but not to exceed \$10,000, for a second offense.
3. A fine greater than \$10,000, but not to exceed \$15,000, for a third or subsequent offense.

The civil penalty for a violation of subsection (9) must be at least \$15,000 but may not exceed

\$50,000.

The civil penalty shall be paid to the Insurance Regulatory Trust Fund within the Department of Financial Services and used by the department for the investigation and prosecution of insurance fraud.

This subsection does not prohibit a state attorney from entering into a written agreement in which the person charged with the violation does not admit to or deny the charges but consents to payment of the civil penalty.

(13) As used in this section:

“**Property**” means property as defined in s. 812.012.

“**Value**” means value as defined in s. 812.012.

Application for an adjusting firm

The **application for an adjusting firm** license must include:

- 1.The name of each majority owner, partner, officer, and director of the adjusting firm;
- 2.The resident address of each person required to be listed in the application;
- 3.The name of the adjusting firm and its principal business address;
- 4.The location of each adjusting firm office and the name under which each office conducts or will conduct business; and
- 5.Any additional information that the department requires.

An application for an adjusting firm license must be signed by each owner of the firm. If the firm is incorporated, the application must be signed by the president and secretary of the corporation. Of course, each application must also be accompanied by payment of any applicable fees. License fees are not refundable. An adjusting firm that is required to be licensed must remain licensed for a period of three years from the date of licensure, unless the license is suspended or revoked. The department may suspend or revoke the adjusting firm’s authority to do business for activities occurring during the time the firm is licensed, regardless of whether the licensing period has terminated.

Transfer, Surrender and Termination of Licensing

An individual licensed in good standing in another state may apply to the department to have the license transferred to this state to obtain a resident agent or all-lines adjuster license for the same lines of authority covered by the license in the other state. To qualify for a license transfer, an individual applicant must meet the following requirements:

- 1.He or she must become a resident of Florida;
- 2.He or she must have been licensed in another state for at least one year immediately preceding the date the individual became a resident of Florida; and
- 3.He or she must submit a completed application for Florida within 90 days after the date the individual became a resident along with payment of all applicable fees and submission of:
 - a.A certification from their home state identifying the type of license and lines of authority, stating that at the time the license was canceled, he or she was in good standing or the state’s Producer Database records, maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries, indicate that the agent or all-lines adjuster is or was licensed in good standing for the line of authority requested, and

b.A set of the applicant's fingerprints.

The individual must satisfy Florida's prelicensing education requirements unless the completion of prelicensing education requirements was a prerequisite for licensure in the other state and the prelicensing education requirements in the other state are substantially equivalent to the prelicensing requirements of Florida. This paragraph does not apply to all-lines adjusters.

The individual must satisfy the examination requirement, unless exempted. An applicant satisfying the requirements for a license transfer will be approved for licensure in Florida unless the department finds that grounds exist for refusal, suspension, or revocation of a license.