



COMMONWEALTH OF PUERTO RICO  
**OFFICE OF THE COMMISSIONER OF INSURANCE**

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June 17, 2014

**CIRCULAR LETTER NUMBER: CC-2014-1850-SR**

TO ALL INSURERS AND INSURANCE ADJUSTERS AUTHORIZED IN PUERTO RICO

**RE: NEW STANDARDS FOR PUBLIC AND INDEPENDENT ADJUSTERS**

Dear Sirs and Madams:

Upon the approval of Public Law No. 45-2014 on March 26, 2014 new standards were adopted in Chapter 9 of the Puerto Rico Insurance Code for public and independent adjusters. In the protection of public interest, these standards must be disseminated as widely as possible. In view of the above, and the fact that Public Law No. 45-2014 entered into effect on April, 25 2014, we are issuing this circular letter to provide information on the scope of the provisions that are applicable to public and independent adjusters.

**PUBLIC ADJUSTERS**

**Among the standards that are applicable to public adjusters, Section 12 of Public Law No. 45-2014, adds a new Section 9.300 to the Insurance Code to establish the following rules of conduct:**

1. The adjuster will serve only the interests of his or her client, objectively and with total loyalty; as well as providing information, advice, and service, according to his or her knowledge, understanding, and good faith opinion, as may be best for the claim, the needs, and the interests of the insured or claimant;
2. The adjuster will not approach or attempt to enter into contact with an insured or claimant, while the event that originates the loss is taking place, for the purpose of persuading the insured to contract him or her;
3. The adjuster will not allow any of his or her employees or representatives that does not hold a public adjuster license to perform functions or transact business for which such a license is required;

4. The adjuster may not have any direct or indirect financial interest in any aspect of the claim, other than his or her salary, fees, commissions or other consideration that has been previously established in the agreement entered into with the insured or claimant;
5. The adjuster may not acquire any interest in the salvage of goods related to the agreement entered into with the insured or claimant, unless the public adjuster obtains written permission from the insured or claimant after the resolution of the claim;
6. The adjuster shall refrain from referring an insured or claimant to receive the necessary services or repairs from any person with regard to the loss, unless the adjuster discloses the following to the insured or claimant:
  - (i) whether the adjuster has a financial interest in the person to whom the referral is made or
  - (ii) whether the public adjuster could receive direct or indirect compensation fro making the referral;
7. The adjuster will disclose to the insured or claimant whether she or he has a financial interest or could receive compensation for other items not related to the specific claim from the person or entity that performs any work related to the damages of the insured loss;
8. The adjuster may not take any money from the payments of claims or benefits without due authorization in writing to do so by the insured or claimant. If the public adjuster receives, accepts or holds funds that are the proceeds of payments of claims or benefits covered by an insurance policy, he or she will receive such in a fiduciary capacity and such funds will not be co-mingled with other funds of the adjuster;
9. The adjuster may not enter into any agreement regarding the claim without the knowledge and consent of the insured or claimant;
10. The adjuster will comply with all applicable state and federal laws and regulations related to privacy and information security;

11. The adjuster will also comply with the following ethical requirements or duties:

- a. The adjuster will not agree to adjust a claim if the adjuster does not have the necessary competence, knowledge, and experience with regard to the terms and conditions of the insurance coverage or any matter that is beyond the adjuster's expertise;
- b. The adjuster will not make, publish or disclose or assist, induce or incite the making, publication or disclosure of any substantially misleading information, to any client or a potential client, whether in verbal or written form, whether falsely or maliciously, with the intention of harming any person in the insurance business;
- c. The adjuster will not represent or give the impression of being an independent adjuster;
- d. The adjuster will not enter into any agreement or accept any power of attorney granting the authority to select the person who will perform the repair work;
- e. The adjuster shall ensure that all service agreements are in writing and contain all of the terms and conditions of such agreement;
- f. The adjuster shall not offer any payment, commission or unlawful benefit to any public official in exchange for information related to losses that includes personal information of the persons involved in the accident; and
- g. The adjuster will not insinuate or lead the insured to believe that the insured cannot file a claim except by using the services of a public adjuster.

**Likewise, Section 13 of Public Law No. 45-2014 adds a new Section 9.331 to the Insurance Code, to establish the requisite of a written agreement between the Public adjuster and the Insured or Claimant, which must meet the following requirements in terms of content:**

1. Full and legible name of the public adjuster, as it appears registered at the Office of the Commissioner of Insurance of Puerto Rico;
2. Address and telephone number of the adjuster's place of business;
3. License number of the public adjuster;

4. The title: "Public Adjuster Agreement";
5. Full name and residential address of the insured or claimant, name of the insurer and number of the policy, if known;
6. A description of the loss and the location thereof, if applicable;
7. A description of the services that will be provided to the insured or claimant, and it should be clarified that the public adjuster is not an employee or representative of the insurer;
8. Signatures of the public adjuster and of the insured or claimant;
9. Date of signing of the agreement;
10. A statement certifying that the public adjuster complies with the laws of Puerto Rico;
11. A description of any salary, commission, fee, or other consideration of value that the public adjuster will receive in exchange for his or her services;
12. It will be established whether the insurer pays or promises in writing to pay the policy limit on or before seventy-two (72) hours of having been notified of the loss; the public adjuster will not receive a commission consisting of a percentage of the amount paid, and the adjuster will only have a right to reasonable compensation based on the time devoted to the claim and the expenses incurred during such efforts, which shall be clearly established in the agreement;
13. The right of the insured to revoke the agreement will be recognized, which will be done in writing within three (3) business day of the date on which the agreement was signed;
14. The agreement shall contain a clause indicating that the insured claimant has the right, but not the obligation, to retain a public adjuster to assist in the claim adjustment process; and
15. Any other information or clauses that the Commissioner may require through regulations.

**INDEPENDENT ADJUSTERS**

**With regard to the rules of conduct that are applicable to Independent Adjusters, under the new paragraph (2) of Section 9.300 of the Insurance Code, the following are the duties of professional conduct that all independent adjusters shall fulfill:**

1. The adjuster will exhibit professional, honest, and fair conduct in all communications with the insured, the insurer, and the public at large;
2. The adjuster will provide the insured and claimants with prompt and informed service and provide courteous, fair, and objective treatment;
3. The adjuster shall not provide legal advice, nor deal directly with any insured or claimant who is represented by an attorney, without the prior consent of that attorney;
4. The adjuster shall comply with applicable state and federal laws and regulations on privacy and information security;
5. The adjuster will identify him or herself as an independent adjuster and identify his or her employer, if applicable in dealing with an insured or claimant; and
6. The adjuster shall not have any financial interest in adjustment nor acquire for him or herself or for any other person, any interest or title to salvage, without prior written authorization from the principal.

During our audits we will be verifying compliance of the above provisions, for which all public and independent adjusters are required to comply strictly with the new provisions of Public Law No. 45-2014.

Very truly yours,

SIGNED

Ángela Weyne-Roig  
Commissioner of Insurance