

Commissioner's Bulletin # B-0006-21

February 19, 2021

To: All TDI regulated insurers, adjusters, and contractors

Re: Severe winter weather - adjusters and repairs

Governor Greg Abbott issued a disaster declaration in response to a severe winter weather event. The disaster may mean people are temporarily displaced from their homes and their jobs. The governor authorized the use of all available state and local government resources necessary to cope with the disaster. (*Government Code Section 418.017*).

TDI expects insurers to work with their policyholders as they recover from the disaster. This bulletin does not create specific requirements. Cooperation by every insurer will help ensure the fair treatment of consumers and provide for fair competition. Insurers should look to the governor's ongoing declarations related to the severe winter weather event for guidance on how long to extend relief.

Claims adjusting and adjusters

TDI reminds insurers that they may use nonresident and emergency adjusters to handle disaster-related claims. (*Insurance Code Sections 4101.002(b) and 4101.101*).

All public insurance adjusters must be licensed by TDI. The Insurance Code provides for civil and criminal penalties for violating this license requirement. (*Insurance Code Chapter 4102*)

Texas law includes provisions to prevent conflicts of interest in the adjusting process. (*Insurance Code Chapters 4101 and 4102*). These include:

- Licensed adjusters may not adjust roofing losses for an insurer if the adjuster is a roofing contractor, provides or sells roofing services or products, or is a controlling person in a roofing-related business.
- A roofing contractor may not act as an adjuster or advertise to adjust claims for any property that the contractor is providing or may provide roofing services.
- Contractors are not prohibited from providing estimates or discussing those estimates and other technical information with an insurer or its adjuster.

Public adjusters

TDI reminds licensed public adjusters about state laws concerning advertisements, solicitation, and conflicts of interest. (*Insurance Code Chapters 4102*). These include:

- Ads and signs must include the public adjuster's address and license number.
- The name on the ad must match what's listed on the adjuster's license.
- Solicitation of clients is prohibited during a disaster.

- License holders are prohibited from participating in the reconstruction, repair, or restoration of property that is the subject of a claim adjusted by the license holder.

Recommending contractors

TDI reminds insurers, adjusters, and contractors that:

- Homeowners are entitled to have their home repaired by the person of their choice. *(28 Texas Administrative Code Section 5.9970(d) and (e))*
- An insurer or its representative, or any other person, may not misrepresent the terms and provisions of a policy. *(Insurance Code Section 543.001)*
- An insurer may not engage in unfair claim settlement practices. Insurers must attempt to reach a prompt, fair, and equitable settlement of a claim in which liability has become reasonably clear. *(Insurance Code Section 542.003(a) and (b)(4))*
- A seller of goods or services who reasonably expects to be paid from the proceeds of a property insurance claim may not knowingly allow the insured person to fail to pay, or assist the insured person's failure to pay, the applicable insurance deductible. *(Business and Commerce Code Section 27.02)*
- Generally, a contractor who has not maintained a physical address in the county (or adjacent county) of the damaged property for at least one year, is prohibited from requiring full or partial payment under a disaster remediation contract before the contractor begins work, and must include a specific statutory disclosure in any contract with the property owner. *(Business and Commerce Code Chapter 58)*

For questions about this bulletin, contact the Customer Operations Division at 800-252-3439 or the Fraud Unit at 888-327-8818.

For more information, contact: ChiefClerk@tdi.texas.gov

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