

## RÉSUMÉ DIGEST

ACT 402 (HB 457)

2021 Regular Session

Firmment

Prior law provided for certain standards of conduct for insurance claims adjusters including:

- (1) An adjuster shall not permit an unlicensed employee or his representative to conduct business for which a license is required.
- (2) An adjuster shall not have a financial interest in any aspect of the claim, other than the salary, fee, or other consideration established with the insurer.
- (3) An adjuster shall not acquire any interest in salvage of property subject to the contract with the insurer.
- (4) An insurer shall not solicit employment for any attorney, contractor, or subcontractor in connection with any loss the adjuster is concerned or employed.
- (5) An adjuster shall not solicit or accept compensation from any contractor or subcontractor on behalf of any insured for which the adjuster is employed.
- (6) An adjuster shall not undertake the adjustment of a claim if the adjuster is not competent or knowledgeable.
- (7) An adjuster shall not knowingly make a material misrepresentation intended to injure any person engaged in the business of insurance.
- (8) An adjuster shall not represent or act as a public adjuster.
- (9) An adjuster shall not materially misrepresent the terms and coverage of an insurance contract to an insured for the purpose of effecting settlement of a claim on less favorable terms than those provided in the insurance contract.

New law repeals prior law and codifies some provisions of prior law (R.S. 22:1674).

New law provides the following binding standards of conduct for all insurance claims adjusters:

- (1) An adjuster shall not have a direct or indirect financial interest in any aspect of the claim, other than the salary, fee, or other consideration established with the insurer.
- (2) An adjuster shall not acquire any interest in salvage of property subject to the contract with the insurer.
- (3) An adjuster shall not solicit employment for, recommend, or otherwise solicit engagement for any attorney, contractor, or subcontractor, in connection with any loss or damage for which the adjuster is employed or concerned.
- (4) An adjuster shall not solicit or accept any compensation from, by, or on behalf of any contractor or subcontractor engaged by or on behalf of any insured by which such adjuster has been, is, or will be employed or compensated.
- (5) An adjuster shall treat all claimants fairly.
- (6) An adjuster shall not provide favored treatment to any claimant.
- (7) An adjuster shall adjust all claims strictly in accordance with the insurance contract.
- (8) An adjuster shall not approach investigations, adjustments, and settlements in a manner prejudicial to the insured.
- (9) An adjuster shall make truthful and unbiased reports of the facts after completing a thorough investigation.

- (10) An adjuster shall handle every adjustment and settlement with honesty and integrity.
- (11) An adjuster shall act with due diligence in achieving a proper disposition of the claim.
- (12) An adjuster shall promptly report violations of any provision of the insurance statutes or department rules.
- (13) An adjuster shall exercise appropriate care when dealing with elderly claimants.
- (14) An adjuster shall not negotiate or effect settlement with any third-party claimant represented by an attorney, except with the consent of the attorney.
- (15) An adjuster shall avoid any suggestion calculated to induce a witness to suppress or deviate from the truth.
- (16) An adjuster shall not advise a claimant to refrain from seeking legal advice, nor advise against the retention of counsel to protect the claimant's interest.
- (17) An adjuster shall not knowingly make any oral or written misrepresentation or statement in regards to applicable policy provisions, contract conditions, or pertinent state laws.
- (18) An adjuster shall not undertake the adjustment of any claim that exceeds the adjuster's current expertise.
- (19) An adjuster shall not permit an unlicensed employee or representative of the adjuster to conduct business for which a license is required under this Part.
- (20) An adjuster shall not act as a public adjuster.
- (21) An adjuster shall not materially misrepresent to an insured or other interested party the terms and coverage of an insurance contract for the purpose of effecting settlement of a claim on less favorable terms than those provided in the contract.

New law requires claims adjusters to read and acknowledge the claims adjuster standards of conduct upon license issuance and license renewal.

New law provides that violation of the claims adjuster standards of conduct shall constitute grounds for administrative action against the licensee and such conduct shall be deemed to constitute an unfair trade practice, invoking the penalties of existing law (R.S. 22:1969).

New law provides that a violation of new law does not create any civil action or create any cause of action not otherwise provided by law.

Effective August 1, 2021.

(Adds R.S. 22:1674.1; Repeals R.S. 22:1674)