



INSURANCE COMMISSIONER
State of Oklahoma

BULLETIN NO. PC 2013-05

TO: ALL PROPERTY & CASUALTY INSURERS, INSURANCE PRODUCERS AND ADJUSTERS, LICENSED IN THE STATE OF OKLAHOMA

FROM: JOHN D. DOAK INSURANCE COMMISSIONER

RE: ROOFING CONTRACTORS

DATE: June 6, 2013

The Roofing Contractor Registration Act (RCRA) creates a procedure whereby resident and nonresident roofing contractors are required to obtain a valid registration from the Construction Industries Board in order to act as a roofing contractor in the State of Oklahoma. To obtain the registration, the contractor must submit an application and registration fee, show evidence of liability insurance of no less than \$500,000.00, show evidence of workers' compensation insurance coverage or exemption from coverage, show evidence of good standing with the Oklahoma Secretary of State and an affidavit verifying lawful presence in the United States. The business must register annually.

Failure to register is a misdemeanor punishable by a fine of up to \$500.00, which will be initiated by the appropriate district attorney's office having jurisdiction.

For further information, contact the Construction Industries Board at www.cib.state.ok.us or (405) 521-6550.

Tornados, wind and hail storms have recently resulted in many Oklahoma homeowners and business owners filing claims for roof damage with their insurance companies. As a result, the Oklahoma Insurance Department is increasingly receiving complaints regarding the advertising and business practices of roofing contractors in the state. Roofing contractors that advertise to be "claim specialists", "claim analysts", who refer to "denied claims", "deductibles" or assert they "deal with insurance companies" in their advertisements, are acting as unlicensed public adjusters, in violation of Oklahoma law.

It is legal for contractors to approach homeowners and business owners, offering repair or reconstruction services. A roofing contractor may offer an opinion to an insured as to whether roof damage is from a storm or other incident normally covered by a homeowner's policy. The roofing contractor may recommend to the insured to file an insurance claim with the insurer. The roofing contractor may provide an estimate of repair which the insured may submit to the insurer. The roofing contractor may be present when the insurance adjuster inspects the damage. The roofing contractor may answer the adjuster's questions.

However, 36 O.S. § 6202(4) provides:

A public adjuster is any person, firm, association, company, or corporation that suggests or presents to members of the public that said public adjuster represents the interests of an insured or third party for a fee or compensation. Public adjusters may investigate claims and negotiate losses to property only.

A roofing contractor must be licensed as a public adjuster in order to negotiate and act as an intermediary between the insured and the insurer. A contractor who

asks an insured to sign a power of attorney or any other contract authorizing him to act on the insured's behalf for a fee must be licensed as a public adjuster. For example, a roofing contractor must be licensed as a public adjuster in order to: (1) enter into a contract for services authorizing the contractor to negotiate or effect the settlement of a claim for a fee or compensation; (2) advocate on behalf of the insured or offer assistance to the insured to prepare, file or complete the insurance claim; and/or (3) advertise or solicit for employment as an adjuster of such claims.

Public adjusters may not:

Directly or indirectly, own or have a pecuniary interest in any business entity which provides construction or reconstruction related services on behalf of an insurance claimant or insured for which the adjuster is providing services, nor may the adjuster, directly or indirectly, own or have a pecuniary interest in any other business entity which furnishes any supplies, material, services or equipment purchased by or on behalf of the claimant or insured in settlement of the claim, other than the usual and customary supplies, materials, services or equipment utilized in the adjusting process". 36 O.S. § 6220.1(A).

There is an exception if the adjuster:

Provides services on a claim which is located in the county in which the adjuster maintains his principal place of business or in a municipality having a population of less than 6,000 persons; provided that the adjuster gives written disclosure of the potential conflict of interest to both the insured and insurer prior to the performance any adjuster services. 36 O.S. § 6220.1(C).

Therefore, a roofing contractor cannot be a licensed public adjuster except in the county the contractor has its principal place of business in or in municipalities of less than 6,000 persons. Any person who violates this provision shall be subject to disciplinary action or a civil fine, or both, as set forth in 36 O.S. § 6220.1(B).

As a general rule, to avoid disciplinary action, roofing contractors should act only as contractors and stay out of claim negotiation, participating in the claim process and advertising as "claim specialists". Insurers are encouraged to make their

contractor clients aware of the Department's concerns and to advise their adjuster staff to be alert to possible violations of the Oklahoma Insurance Adjusters Licensing Act.

Questions applicable to this bulletin should be directed to Julie Meaders of the Legal Division at Julie.Meaders@oid.ok.gov.

The Oklahoma Insurance Department encourages readers of this bulletin to periodically check the Department's web site at <http://www.ok.gov/oid/> for news and updates to bulletins and other relevant material.