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A T T O R N E Y S

**THE  
INSURANCE  
ADJUSTER'S  
ESSENTIAL GUIDE  
FOR HANDLING  
TEXAS CLAIMS**

**2016**

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# THE INSURANCE ADJUSTER'S ESSENTIAL GUIDE FOR HANDLING TEXAS CLAIMS

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# THE INSURANCE ADJUSTER'S ESSENTIAL GUIDE FOR HANDLING TEXAS CLAIMS 2016

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1 **INTRODUCTION.** Adjusting insurance claims is an inherently stressful profession. The job requires daily encounters with stressed claimants dealing with a loss or injury, encounters with plaintiff's attorneys seeking a payday, encounters with the customary negative attitudes and bias against insurance companies, and daily encounters with supervisors and insurance company management about how a claim is being handled or what was paid to settle a claim. While adjusters are seen as bankers and welfare workers by claimants, they are seen as bank vault guards by insurance company management who can encourage a frugal approach to claims resolution. And all the while there is the added pressure that actions taken by an adjuster during the claims process may subject the adjuster and company to a subsequent lawsuit or even personal liability. Texas law recognizes that an insurance adjuster can be held personally liable for violations of the Texas Insurance Code, the Texas Deceptive Trade Practices Act, and common law fraud.<sup>1</sup> So not only is there pressure to get good claim results for the company, but making a serious mistake can possibly subject the adjuster to personal liability. Navigating these waters can be tricky, with little ultimate reward aside from knowing that a good job was done. The purpose of this publication is to provide insurance adjusters with an easy to understand guide on the basic requirements and prohibitions involved in handling claims in the State of Texas. Obtaining a working knowledge of these rules is perhaps the single best thing an adjuster can do to avoid, or at least minimize, claims against the adjuster, complaints filed with the Texas Department of Insurance and civil lawsuits alleging extra-contractual claims. This Guide explores the ethical and statutory duties for adjusters under Texas law.

## 2 **WHO ARE TEXAS INSURANCE ADJUSTERS?**

- A. Insurance adjusters are persons licensed by the Texas Department of Insurance to act as an insurance adjuster. A person may not act as, or represent that the person is, an adjuster in the state of Texas unless the person holds a license with the Texas Department of Insurance.<sup>2</sup>
- B. But a nonresident adjuster is not required to hold a license to: (1) adjust a single loss in this state; (2) adjust losses arising out of a catastrophe common to all those losses; or (3) act as a temporary substitute for a licensed adjuster.<sup>3</sup>

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<sup>1</sup> See, e.g., *Liberty Mutual Inc. Co. v. Garrison Contractors, Inc.*, 966 S.W.2d 482, 484 (Tex.1998); *Gasch v. Hartford Accident & Indemnity Co.*, 491 F.3d 278, 282 (5th Cir.2007); *Blanchard v. State Farm Lloyds*, 206 F.Supp.2d 840, 845 (S.D.Tex.2001) (citing *Griggs v. State Farm Lloyds*, 181 F.3d 694, 700 (5th Cir.1999)).

<sup>2</sup> TEX. INS. CODE ANN. § 4101.051.

<sup>3</sup> TEX. INS. CODE ANN. § 4101.002(b).