**The following, an article by Jeff Amy and a notice from the Alabama Bar Association, pertain to the licensing of Public Adjusters and the practice of public adjusting in the State of Alabama. They are reproduced here as a source for a blog post at Johnson Strategies, LLC (JS) and as information regarding Alabama law. JS has not contributed to either document and offers them here only as a "compilation" for ease of reference.**

**Alabama State Bar Alerts Tornado Survivors About Out-Of-State Claims Adjusters**

**Montgomery, Alabama, May 9, 2011** – Residents in the 41 counties declared disaster areas need to be alert to possible illegal activities being conducted by out-of-state claims adjusters. In some reported cases, these adjusters are offering to settle damage claims related to the tornado rampage of last week.

Alabama does not license claims adjusters so any claims settled by such third party recovery firms are considered to be the unauthorized practice of law (UPL) which is subject to criminal prosecution. Anyone assisting third party adjusters attempting to settle claims on behalf of claimants could also be charged with aiding and abetting in this illegal activity.

The Alabama State Bar is serious about its responsibility to protect the public and to ensure that you understand your legal rights. While the various federal and state-related laws can be complicated, assistance in filing a damage claim is available through a number of reputable resources.

If someone tries to charge a fee to initiate a claim, say no and report it to the Alabama State Bar General Counsel's Office **334-269-1515** or the Attorney General's Office **334-242-7300**. If you need legal assistance for a legal-matter related to the destruction caused by the tornados, contact the Alabama State Bar Disaster Legal Helpline at **1-800-354-6154**.

The 16,600-member Alabama State Bar is dedicated to promoting the professional responsibility, competence and satisfaction of its members, improving the administration of justice, and increasing public understanding and respect for the law.

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**Press-Register (Mobile, AL)**

**Public insurance adjusters called illegal in Alabama**

**By Jeff Amy**

**July 3, 2011**

In at least 44 states, insurance policyholders can hire their own adjusters, called public adjusters, to help settle claims after a loss. But the legal status of public adjusters is cloudy at best in Alabama.

Following April's savage tornadoes, the Alabama State Bar warned that public adjusters are illegal in Alabama, saying that they are practicing law without a license and could face criminal prosecution.

Insurance Commissioner Jim Ridling says that policyholders are generally free to hire whoever they want to advise them on making claims with their insurer. It's when the third party takes charge of the negotiation for the policyholder that things get murky, Ridling said.

Various public adjusters have solicited business in Alabama since the tornadoes, which are expected to result in 90,000-plus claims and more than $3 billion in damage. For example, United States Adjusters, based in Boca Raton, Fla., has a website seeking business in Alabama. Officials with that company say they work through a lawyer, though.

When someone files a claim with an insurer, the company sends an adjuster to examine the damage and determine how much repairs will cost.

A public adjuster, however, represents the policyholder, working up a separate damage estimate and bargaining with the insurer. The policyholder pays for the service, giving a public adjuster 10 percent to 25 percent of a settlement depending on the state and type of claim.

A study by Florida legislative researchers found that policyholders represented by public adjusters typically get more total money from their insurance company.

But the study also found that claims handled by public adjusters can take much longer to settle. Public adjusters may present more information that an insurer has to investigate, as well as encourage policyholders to formally dispute a settlement through a lawsuit, mediation or a form of arbitration known as appraisal.

Insurers warn that public adjusters inflame policyholders' distrust, and may defraud insurers by inflating claims to reap more money for themselves.

"Once you cross that bridge and go to the public adjuster side of things, (insurers) will hate you forever," said John Merchant, a former contract adjuster for insurers who now owns a Georgia roofing company seeking work in Alabama.

Merchant says he tries to help his clients maximize claims, giving them more money to spend for repairs with his company. "We don't negotiate the claim so much as we educate the policyholder. I cannot legally do the negotiating in Alabama," Merchant said.

In Florida, the state with the most public adjusters, lawmakers have moved to restrict some of their activity.

Monique Kabitzke with the Property Casualty Insurers Association of America, said insurers believe some public adjusters were "manufacturing claims" where there were none, engaging in "basically just plain and outright fraud."

The Alabama bar association on May 9 issued a statement that said any third party who negotiated with an insurance company on behalf of a policyholder was committing a misdemeanor.

"Alabama does not license claims adjusters so any claims settled by such third-party recovery firms are considered to be the unauthorized practice of law, which is subject to criminal prosecution," the statement said. "Anyone assisting third-party adjusters attempting to settle claims on behalf of claimants could also be charged with aiding and abetting in this illegal activity."

Tony McLain, the bar's general counsel, said that even giving advice on how to negotiate with an insurance company could be a crime. "If they're giving you legal advice, that's practice of law," he said.

McLain said that Alabama's law against unlicensed lawyering is broad. The law says in part that non-lawyers can't get paid to "adjust" disputed "claims," in a situation where the non-lawyer isn't the person making the claim or an employee of a company making the claim.

Others disagree with that stance.

Brian Goodman, a lawyer for the National Association of Public Insurance Adjusters, says that even though its members aren't licensed by Alabama, the association maintains that such work is "perfectly legal" everywhere.

Ridling said he believed that public adjusters could advise policyholders, but probably couldn't negotiate directly with insurers.

Ridling submitted a May 23 request to Attorney General Luther Strange for an opinion on whether public adjusters are legal here. Ridling wrote in part that the department believed public adjusters would level the field for policyholders by giving "Alabama consumers access to the type of adjusting experience and expertise that insurers already have."

Ridling also asked Strange whether, if public adjusters were legal, the state could quickly regulate them by decree under its emergency management law.

But Ridling withdrew the request for an attorney general's opinion on June 21. His chief of staff, Ragan Ingram, said that Ridling decided to pursue a "legislative solution" instead.

"We believe clarity on this matter is important and are seeking the best path to get there," Ingram wrote in an email.

Bills to license and regulate public adjusters were introduced in the recently concluded legislative session by state Rep. Steve McMillan, R-Gulf Shores, and state Sen. Ben Brooks, R-Mobile. Neither of those bills made it out of committee.

McMillan said he introduced the bill at the request of Dave Stewart and George Harris, Alabama lobbyists for the National Association of Public Insurance Adjusters. But they asked him not to move the bill because they couldn't get agreement from interested parties, he said.

"We are trying to pass this model bill that would provide some teeth to the Department of Insurance to weed out bad actors," Harris said.

McLain said the bar wasn't consulted about the bill. Though it believes public adjusters are now illegal, McLain said the bar is not opposed to legalizing and licensing them. "No, not at all," he said.

Kabitzke declined to comment on whether insurers opposed the bill. "We will look at the issue again the upcoming session," she said.

Ridling's letter to Strange indicated that the Insurance Department supported the bill, and said it was largely based on a model law developed by the National Association of Insurance Commissioners.

SOURCE:  [http://blog.al.com/live/2011/07/public\_insurance\_adjusters\_cal.html](http://r20.rs6.net/tn.jsp?llr=q69aiodab&et=1106405747304&s=376&e=001ssOEL2IUYS3_zF7Rr-8lkYcuhdEysfsxoYrQvQzUoTvqxhEIh0IahS7VxCjce8iHKGaCmU7yz0Wti068O7Hh6CVJnQxP7i1S8BpTiJ4QPdhBSq_XLYPLzyMwOviPrdUcRgh2zcBFlLHkXF_V15YoTGWhRgIMwAWNihjEptpNSWzXA6IMEfK5Dg==)