

STATUTES PERTAINING TO ADVERTISING BY PUBLIC ADJUSTERS

Johnson Strategies, LLC is not in the business of rendering legal advice and the following is offered only for ease of reference to those reading my opinion posted in a blog titled: PUBLIC ADJUSTER ADVERTORIALS...Need the Whole Truth!

There are two primary sections of Florida's Insurance Code that relate to advertising by Public Adjusters, they are:

1. Fs-626.854, and
2. Fs-626.9541-- Unfair or deceptive acts or practices defined and applies to all entities or persons, not just Public Adjusters.

Fs-626.854

(8) It is an unfair and deceptive insurance trade practice pursuant to s. 626.9541 for a public adjuster or any other person to circulate or disseminate any advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance which is untrue, deceptive, or misleading.

(a) The following statements, made in any public adjuster's advertisement or solicitation, are considered deceptive or misleading:

1. A statement or representation that invites an insured policyholder to submit a claim when the policyholder does not have covered damage to insured property.
2. A statement or representation that invites an insured policyholder to submit a claim by offering monetary or other valuable inducement.
3. A statement or representation that invites an insured policyholder to submit a claim by stating that there is no risk to the policyholder by submitting such claim.
4. A statement or representation, or use of a logo or shield, that implies or could mistakenly be construed to imply that the solicitation was issued or distributed by a governmental agency or is sanctioned or endorsed by a governmental agency.

(b) For purposes of this paragraph, the term written advertisement includes only newspapers, magazines, flyers, and bulk mailers. The following disclaimer, which is not required to be printed on standard size business cards, must be added in bold print and capital letters in type face no smaller than the typeface of the body of the text to all written advertisements by a public adjuster:

THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD A CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU ARE SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU MAY DISREGARD THIS ADVERTISEMENT.

(8) It is an unfair and deceptive insurance trade practice pursuant to s. 626.9541 for a public adjuster or any other person to circulate or disseminate any advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance which is untrue, deceptive, or misleading.

3. A statement or representation that invites an insured policyholder to submit a claim by stating that there is no risk to the policyholder by submitting such claim.

Fs-626.9541--Unfair methods of competition and unfair or deceptive acts or practices defined.

(1) **UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.**—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(a) **Misrepresentations and false advertising of insurance policies.**—Knowingly making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison which:

1. Misrepresents the benefits, advantages, conditions, or terms of any insurance policy.
2. Misrepresents the dividends or share of the surplus to be received on any insurance policy.
3. Makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy.
4. Is misleading, or is a misrepresentation, as to the financial condition of any person or as to the legal reserve system upon which any life insurer operates.
5. Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof.
6. Is a misrepresentation for the purpose of inducing, or tending to induce, the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy.
7. Is a misrepresentation for the purpose of effecting a pledge or assignment of, or effecting a loan against, any insurance policy.
8. Misrepresents any insurance policy as being shares of stock or misrepresents ownership interest in the company.
9. Uses any advertisement that would mislead or otherwise cause a reasonable person to believe mistakenly that the state or the Federal Government is responsible for the insurance sales activities of any person or stands behind any person's credit or that any person, the state, or the Federal Government guarantees any returns on insurance products or is a source of payment of any insurance obligation of or sold by any person.

(b) **False information and advertising generally.**—Knowingly making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public:

1. In a newspaper, magazine, or other publication,
2. In the form of a notice, circular, pamphlet, letter, or poster,
3. Over any radio or television station, or
4. In any other way,

an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance, which is untrue, deceptive, or misleading.

#end##