



2023 Edition

Hurricane Idalia Claims Compliance Guide – Georgia



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Georgia Legal Landscape

TOPIC	DETAILS
Negligence Type	Modified Comparative (49%)
Punitive Damages Limitations	GA ST 51-12-5.1(e)-(g) Unlimited in product liability suits or for intentional torts, or where defendant acted or failed to act while under the influence of alcohol, drugs other than lawfully prescribed drugs. \$250,000 cap in all other tort actions.
Statutes of Limitations Bodily Injury	2 years - GA ST 9-3-33
Statutes of Limitations Contracts	6 years - GA ST 9-3-24 (Not Under Seal) 20 years - GA ST 9-3-23 (Under Seal) 4 years - GA ST 11-2-725 (Contracts for Sale)
Statutes of Limitations Medical Malpractice	2 years after discovery, but no more than 5 years total - GA ST 9-3-71
Statutes of Limitations Property Damage	4 years - GA ST 9-3-32
Statutes of Limitations Wrongful Death	2 years - GA ST 9-3-33
UM/UIM Separate Coverage	No
UM/UIM Stacking: Multiple Policies	Yes; stacking of UM and UIM coverage permitted where insured is covered under multiple policies. Georgia Farm Bureau Mutual Ins. Co. v. Owens, 178 Ga.App. 446, 343 S.E.2d 699 (Ga.App., 1986).
UM/UIM Stacking: Within One Policy	No; coverage may not be stacked where single policy covers multiple vehicles. Hartford Casualty Ins. Co. v. O'Callaghan, 176 Ga.App. 135, 335 S.E.2d 407 (Ga.App., 1985)
Unfair Claim Practice Statute Citations	GA ADC 120-2-52-.01 through GA ADC 120-2-52-.08 (deals with only private automobile property damage claims) and GA ST s 33-6-30 through GA ST s 33-6-37 (deals with all other insurance claims except workers' compensation, fidelity and surety)



Search Criteria

Category: Catastrophe Claims

Chart(s):

State(s): Georgia

Search Text:

Chart Name:

Adjuster Licensing Requirements

Chart Description:

The Adjuster Licensing Requirements chart identifies professional licensing requirements and appointment provisions for resident and nonresident staff and independent adjusters. It includes whether 1) a license is required for staff or company adjusters, 2) a license is required for independent adjusters, 3) a license is required for trainees, 4) an examination is required for resident adjusters, 5) an examination is required for nonresident adjusters, 6) there is reciprocity in licensing between states, 7) there are emergency waiver provisions for temporary licensing of adjusters, and 8) there are continuing education requirements. In the Notes section, the chart indicates whether the state licenses Public Adjusters, and if so, any limitations on the activities of Public Adjusters. This chart does not cover appraisers, except in those states that require auto adjusters to be licensed as appraisers in order to provide estimates of damage.

Chart Notes:

LEGEND

N/P = no provision

DEFINITIONS

Staff or Company Adjuster - an adjuster employed by an insurer.

Independent Adjuster - an independent contractor or employee of an independent contractor who adjusts claims for an insurance company.

Public Adjuster - an adjuster who adjusts claims for an insured.

Reciprocity - a right or privilege regarding licensing in a state for a nonresident conditioned on the nonresident's home state recognizing the same right or privilege for residents of the first state. This is different from the recognition of a nonresident's licensure in another state and basing waivers of examination requirements, for example, on this recognition.

Emergency Waiver - waiver of in-state licensure requirements for out-of-state adjusters in response to special circumstances such as disasters or catastrophes. Please see the Disaster and State of Emergency Compliance Requirements chart for further information.

QUICK GLIMPSE

States that DO NOT license Independent Adjusters: CO, DC, IL, IA, KS, MA, MD, MO, ND, NE, NJ, OH, PA, SD, TN, VA and WI.

States that have exemptions for licensing persons who collect portable electronic insurance claim information: AL, AR, CT, DE, FL, HI, ME, MN, NH, NM, RI, SC, UT, WA and WY.

PLEASE NOTE

1. For examination testing sites regarding any given state, see Prometric testing service: www.prometric.com
2. Draft of the NAIC Independent Adjuster Licensing Guideline, as adopted on 4/21/2008 by the Producer Licensing Group.

Fingerprint Requirements: this topic addresses whether the state department requires fingerprinting before a person may receive an adjuster license

Training Requirements: this topic addresses whether certain pre-licensing courses or experiential requirements *must* be fulfilled before obtaining an adjuster license. Though several states have online courses available and an applicant may choose to take those courses, this chart only addresses requirement.

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Georgia

License Required of Staff Adjuster

No. The definition of "Adjuster" does not include an agent or salaried employee of an agent or salaried employee of an insurer who adjusts or assists in adjusting losses under policies issued by such agent or issuer. Thus, a Staff Adjuster is exempt from licensing. GA ST 33-23-1(a)(1)(B); GA ST 33-23-4(a)(4).

However, each insurer having Staff Adjusters shall file a list of such employees with the Commissioner by March 31 of each year. Changes in such listing shall be filed within 30 days of the date of the change. Insertion or deletion of staff adjusters from the list filed annually with the Office of Commissioner of Insurance (Commissioner) is not considered an amendment for billing purposes. GA ADC 120-2-3-.24.

An agent may, from time to time, act as an adjuster and investigate and report upon claims without being licensed as an adjuster in Georgia, if on behalf of and as authorized by the insurer of which he or she is licensed as an agent. GA ST 33-23-29(a).

An individual who adjusts claims arising under contracts of marine insurance is also not included in the definition of Adjuster and, thus, exempt from licensure. GA ST 33-23-1(a)(1)(A).

License Required of Independent Adjuster	<p>Yes. Any individual who falls within the statutory definition of Adjuster and for a fee, commission, salary, or other compensation investigates, settles, or adjusts claims arising under insurance contracts on behalf of the insurer or the insured shall be licensed as either an Independent Adjuster or a Public Adjuster. GA ST 33-23-4(a)(4).</p> <p>Georgia issues licenses for Adjusters, which is limited to property and casualty, Workers' Compensation Adjusters, and Crop Hail Adjusters. Workers' Compensation Adjusters may not represent an insured individual. Crop Hail Adjuster's licensure is limited to crop hail and multi-peril crop insurance. A Crop Hail Adjuster may not represent an insured. GA ADC 120-2-3-.06(3)(a).</p>
License Required of Trainees	<p>Not at this time. The commissioner has the authority to issue a Probationary License to any adjuster under state law. GA ST 33-23-14. Currently the commissioner is not issuing probationary adjuster licenses. GA ADC 120-2-49-03.</p>
Exam Requirements for Resident Adjusters	<p>Yes, for Independent Adjusters. GA ST 33-23-10.</p> <p>However, Adjusters who are salaried employees of insurers are exempt from the examination requirement. GA ADC 120-2-3-.09(h).</p> <p>In addition, applicants for an Independent Adjuster license that hold a Ph.D. in Risk Management and applicants for a Workers' Compensation Adjuster license who hold the designation of Certified Workers Compensation Professional (CWCP) are waived from the examination requirement. GA ADC 120-2-3-.09(g), (k).</p>
Exam Requirements of Non-Resident Adjusters	<p>No, for nonresident adjusters, if already licensed in another state. GA ST 33-23-29(c).</p> <p>However, if the applicant's home state does not require a license, the nonresident adjuster will be subject to the Georgia examination and have to submit written documentation that the applicant's resident state lacks licensing requirements. GA ST 33-23-29(c).</p>
Reciprocity Licensing	<p>Yes. GA ST 33-23-29(d).</p>
Emergency Waiver	<p>Yes. GA ST 33-23-29(b), GA ADC 120-2-3-.25(5)(a).</p>
Continuing Education Requirements	<p>Yes. Resident licensed adjusters are required to complete 24 hours of continuing education, of which 3 hours must be in ethics, on a biennial basis prior to license renewal if licensed less than 20 years. GA ADC 120-2-3-.15(1).</p> <p>For resident licensed adjusters who have been continually licensed for 20 years or more, 20 hours of continuing education, 3 of which must be in ethics, must be successfully completed per biennial period prior to license renewal. GA ST 33-23-18(d); GA ADC 120-2-3-.15.</p> <p>A resident adjuster licensed as a Workers' Compensation Adjuster only must complete 20 hours of approved continuing education courses through the State Workers' Compensation Board or complete the normal continuing education requirement specifically in the lines of property and casualty for each biennial period prior to license renewal. GA ADC 120-2-3-.15(2)(c).</p> <p>Nonresident adjusters may satisfy the requirement by completing the continuing education requirement in their home state. GA ADC 120-2-3-.19</p>
Fingerprint Requirements	<p>Yes. See here for more information.</p>

insurance. See here for more information.

Notes

Georgia licenses Public Adjusters. GA ST 33-23-1; GA ST 33-23-6

An adjuster licensed as both an Independent and a Public Adjuster shall not represent both the insurer and the insured in the same transaction. GA ST 33-23-43(a).

An adjuster shall have authority under his or her license only to investigate, settle, or adjust and report to his or her principal upon claims arising under insurance contracts on behalf of insurers only if licensed as an Independent Adjuster or on behalf of insureds only if licensed as a Public Adjuster. GA ST 33-23-43(b).

Notes:

Georgia licenses Public Adjusters. GA ST 33-23-1; GA ST 33-23-6.

An adjuster licensed as both an Independent and a Public Adjuster shall not represent both the insurer and the insured in the same transaction. GA ST 33-23-43(a).

An adjuster shall have authority under his or her license only to investigate, settle, or adjust and report to his or her principal upon claims arising under insurance contracts on behalf of insurers only if licensed as an Independent Adjuster or on behalf of insureds only if licensed as a Public Adjuster. GA ST 33-23-43(b).

Chart Name:

Aftermarket Parts Requirements

Chart Description:

The Aftermarket Parts Requirements chart identifies the requirements for the use of aftermarket parts when repairing damaged automobiles. It includes definitions of aftermarket crash parts, identification of non-original equipment manufacturer parts, written estimate requirements, repair disclosure and additional standards applicable to personal automobile insurance. These provisions apply to auto insurers, those provisions that apply to body shops are listed in the notes.

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Citation

GA ST 33-6-5(13) and GA ADC 120-2-52-.05

Provision

Definitions

“Aftermarket crash part” means a replacement for any of the nonmechanical sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels. GA ST s 33-6-5(13)(A)(i).

“Nonoriginal equipment manufacturer aftermarket crash part” means an aftermarket crash part made by any manufacturer other than the original vehicle manufacturer or his or her supplier. GA ST s 33-6-5(13)(A)(iii).

Identification of Non-Original Equipment Manufacturer Parts

Any aftermarket crash part manufactured or supplied for use in Georgia shall have affixed thereto or inscribed thereon the logo, identification number, or name of its manufacturer. Such manufacturer's logo, identification number, or name shall be visible after installation whenever practicable. GA ST s 33-6-5(13)(B).

Written Estimate/Disclosure

In all instances where nonoriginal equipment manufacturer aftermarket crash parts are used in preparing an estimate for repairs the written estimate prepared by the insurance adjuster and repair facility shall clearly identify each such part. A disclosure document attached to the estimate shall contain the following information in no smaller than ten-point type:

“THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF AFTERMARKET CRASH PARTS SUPPLIED BY A SOURCE OTHER THAN THE MANUFACTURER OF YOUR MOTOR VEHICLE. THE AFTERMARKET CRASH PARTS USED IN THE PREPARATION OF THIS ESTIMATE ARE WARRANTED BY THE MANUFACTURER OR DISTRIBUTOR OF SUCH PARTS RATHER THAN THE MANUFACTURER OF YOUR VEHICLE.” GA ST s 33-6-5(13)(C).

Notes

N/A

Notes:

Chart Name:

Assignment of Benefits

Chart Description:

This chart addresses how assignment of benefits (AOB) clauses are enforced in each state. An AOB is a legal tool that allows a third party to be paid for services performed for an insured who would normally be reimbursed by the insurance company directly after making a claim. Most AOB agreements give the third party the legal right to “stand in the shoes” of the insured for insurance collection purposes. Please note that not all examples address insurance issues, but serve as an indication of how AOB issues may be treated by the courts.

Chart Notes:

Please note that this chart includes unpublished opinions. Unpublished opinions are not precedential but may provide guidance for how a court will decide similar cases. Refer to each jurisdiction’s rules on unpublished opinions prior to citing.

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Summary

AOB is enforceable:

A policy may be assignable or not assignable, as provided by its terms. Subject to its terms relating to assignability, any life or accident and sickness policy

issued under the terms of which the beneficiary may be changed upon the sole request of the policy owner may be assigned either by pledge or by transfer of title by an assignment executed by the policy owner alone and delivered to the insurer, whether or not the pledgee or assignee is the insurer. Any assignment shall entitle the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment until the insurer has received at its home office written notice of termination of the assignment or pledge or written notice by or on behalf of some other person claiming some interest in the policy in conflict with the assignment.

GA ST s 33-24-17.

AOB was enforced:

Physician who provided health care to patients injured in automobile collision brought suit against no-fault insurer for benefits, pursuant to assignments by patients. The DeKalb State Court, McLaughlin, J., granted summary judgment to insurer, and physician appealed. The Court of Appeals, Pope, J., held that physician, to whom patients had assigned their rights to no-fault proceeds, could recover from insurer, which had received notice but had not consented to assignment of benefits, even though policy stated that insured's rights and duties under policy may not be assigned without written consent.

Santiago v Safeway Insurance Company, 196 Ga.App.480 (Ga. App. 1990).

Notes:

Chart Name:

Check Issuance Restrictions on Insurers

Chart Description:

This 50-state survey serves as a guide for insurers with respect to restrictions and/or prohibitions on insurers with respect to claim settlement payments by check, draft or electronic transfer.

Chart Notes:

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Citation(s)

GA ST s 33-6-34(13)-(14), GA ST s 33-24-41.2(a), GA ST s 33-24-56.1(e), GA ST s 34-9-221(a) (worker's compensation)

Provision/Form of Payment

Any of the following acts of an insurer when committed as provided in Code Section 33-6-33 shall constitute an unfair claims settlement practice:

- (13) Indicating to a first-party claimant on a payment, draft check, or accompanying letter that said payment is final or a release of any claim unless the policy limit has been paid or there has been a compromise settlement agreed to by the first-party claimant and the insurer as to coverage and amount payable under the contract; and
- (14) Issuing checks or drafts in partial settlement of a loss or claim

under a specific coverage which contain language which releases the insurer or its insured from its total liability. **GA ST s 33-6-34(13)-(14)**

(a) Upon the payment of \$5,000.00 or more in settlement of any third-party liability claim, where the claimant is a natural person, the insurer or its representative shall provide written notice to the claimant at the same time payment is made by draft, **check**, or otherwise by such insurer or its representative, including the insurer's attorney, to the claimant's attorney or other representative of the claimant. **GA ST s 33-24-41.2(a)**

(e) Subrogation for medical expenses and disability payments by a benefit provider against a person at fault for injury is prohibited and no defendant or liability insurance carrier shall include any insurer seeking reimbursement under subsection (b) of this Code section as a copayee **on any check or draft** in payment of a settlement or judgment. **GA ST s 33-24-56.1(e)**

(a) Income benefits shall be paid periodically, promptly, and directly to the person entitled thereto, without an award, except where liability is controverted by the employer. Payments shall be made in cash, by negotiable instrument, or, upon agreement of the parties, by electronic funds transfer. **GA ST s 34-9-221(a)** (worker's compensation)

Notes

N/A

Notes:

Chart Name:

Contractor Fraud Laws

Chart Description:

The "Contractor Fraud Laws" chart identifies statutes and regulations defining the rights and duties of residential contractors with respect to their agreements with residential property owners. A number of statutes allow a consumer to cancel a residential contractor's contract following denial of a claim by the insurance company. The statutes may also include specific provisions that must be contained in these contracts, and may prohibit certain inducements by contractors.

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Citation

GA ST s 10-1-393.12

Type of Law

Cancellation, Disclosure

Comments

A person who has entered into a written contract with a residential roofing contractor to provide goods or services to be paid from the proceeds of a property and casualty insurance policy may cancel the contract prior to midnight on the fifth business day after the insured has received written notice from the insurer that all or any part of the claim or contract is not a covered loss under such insurance policy.

Chart Name: Disaster and State of Emergency Compliance Requirements

Chart Description: The Disaster and State of Emergency Compliance Requirements chart identifies state procedures and requirements for emergencies and declared disasters, including cancellation/nonrenewal, claims, and disaster plan provisions and notes. It relates to general lines of insurance, unless otherwise specified.

Chart Notes: This chart is designed to help members in their compliance efforts related to disasters, catastrophes, and states of emergencies, including requirements for before a disaster is on the horizon and ending with catastrophe-specific claims handling requirements. Because many DOIs respond to disasters and catastrophes on an ad hoc basis, this chart references numerous bulletins that affect only one catastrophe. They are included in the chart as guides for how the DOI might respond to future disasters. For the most part, only bulletins from 2018 are included, though the chart includes some bulletins from Super Storm Sandy. Bulletins related to the COVID-19 pandemic are not included.

Abbreviations and other terms

ACV = actual cash value

ALE = additional living expenses

DOI = Department of Insurance

FEMA = Federal Emergency Management Agency. Part of the federal Department of Homeland Security.

FNOL = first notice of loss

ISO = Insurance Services Office

MGA = Managing General Agent

NIPR = National Insurance Producer Registry

This chart uses the term “termination” when a provision applies to both the cancellation and nonrenewal of policies.

The chart is divided into the following topics and subtopics. If a subtopic is not mentioned in a state, that means that no provisions were found for that subtopic.

Plans/Contacts

This section sets out the legal requirements found for disaster plans and for providing contact information to the relevant DOIs. For more information on disaster plans, members are referred to the NAIC’s Insurance Disaster Response Plan.

Plans: Some states specify that insurers must have disaster response plans and/or business continuity plans that may be subject to examination. The minimum contents of the plans may also be set forth. Some states have also adopted the NAIC Market Conduct Record Retention and Production Model Regulation, which requires insurers to maintain disaster plans that include provisions for the maintenance or reconstruction of original or duplicate records at another location.

Contacts: States also ask that companies submit an annual list of catastrophe contacts or update contacts when needed. Some states ask for contact information during annual pre-disaster survey calls.

Terminations and Underwriting Restrictions

Grace Periods/Postponement of Terminations: State frequently ask or require insurers to give insureds affected by a catastrophe a grace period to pay premiums. Insurers may also be asked or required to postpone any cancellations or nonrenewals. This moratorium on terminations often applies only to terminations for nonpayment of premium, but some states apply the moratorium to other usually permissible reasons as well.

Underwriting Restrictions: This sets forth any regulatory provisions prohibiting insurers from cancelling, nonrenewing, and/or declining to write based on claims resulting from natural disasters.

For more information, members should review APCIA's Cancellation and Nonrenewal charts on CompliAssist.

Claims

Catastrophe-Specific Claims Handling Requirements. Some states have set out specific claims handling requirements that apply during states of emergency. Such state requirements can vary between extending time limits on policyholders for certain activities and extending time frames for adjuster claims handling, among others.

Alternative Dispute Resolution. Some jurisdictions have given the state's DOI the authority to create and/or mandate mediation programs to resolve disputes over catastrophe-related claims. Insurers may be required to notify specified claimants of the option for mediation.

General Requirements: Most states have adopted some form of claims handling requirements statutes based either on the NAIC's Unfair Property/Casualty Claims Settlement Practices Model Regulation ("Model Regulation") or the Unfair Claims Settlement Practices Act ("Model Act"), with some states adopting both.

This section generally sets forth any specified requirements in the following order: time to acknowledge claims, time to acknowledge any communications, time to investigate claims, time to notify of acceptance or denial of claim, any required time frames for notices of delay, and time to issue payment.

Members are referred to the Timely Claims Settlement Requirements compliance chart in CompliAssist for further information on these requirements.

Seven states have provisions relating to *claims offsets* in which a claim payment is reduced by the amount of premium the insured owes. Those states are Florida, Maine, Maryland, Massachusetts, New Hampshire, Utah, and West Virginia.

Adjusters

The majority of states that require licenses for independent and/or staff adjusters permit the use of unlicensed adjusters during a catastrophe subject to certain requirements. For example, emergency adjusters must be experienced and must be licensed in their home state, if the state licenses adjusters. The emergency adjusters are only permitted to work on claims resulting from the catastrophe and are usually only permitted to operate as adjusters for a specific time frame, though many states allow for extensions if needed.

Miscellaneous

Complaint Register. The NAIC Model Regulation for Complaint Records to be Maintained Pursuant to the NAIC Unfair Trade Practices Act sets forth, among other things, the minimum information required in complaint records, including specified reason codes. One reason code in the claims functional area is: *Natural disaster adjusting (hurricane or flood situations or other situations which produce a large number of claims)*. Only eight states have adopted a version of the Model, with all but one requiring the use of the natural disaster code. These seven states are: Arkansas, Connecticut, Illinois, Nebraska, New Mexico, Texas, and Vermont.

Data Calls: States frequently issue data calls following a catastrophe. Many states use their market conduct authority to request such information, while others give specific authority to do so. The NAIC has collection tools the state may use and can coordinate data calls as well. This subsection notes any data call specific statutes and regulations and a review of catastrophe-related data calls issued since 2018.

Hurricane Deductibles: Connecticut, Florida, and Rhode Island have issued bulletins following named tropical storms prohibiting the application of hurricane deductibles for those storms.

Moratorium Protocols/Restriction Plans: Many insurers put into place a moratorium on writing new business prior to the landfall of a named tropical storm. Two states have regulations on this. Maryland requires insurers to file their moratorium protocols as an underwriting standard or as a rating rule. Texas requires insurers to file a proposed restriction plan for review and approval prior to their use.

National Emergencies: A number of states have statutory provisions permitting the board of directors of a domestic insurer to make changes during an emergency. Washington permits these changes during a local, state, or national emergency, while the other states limit the authority to national emergencies.

Regulatory Authority: This section covers those states that either require or authorize DOIs to promulgate emergency regulations or to issue a bulletin in response to declared states of emergency. The emergency regulation or bulletin can address

- Data calls, usually relating to claims;
- Grace periods for the payment of premium and performance of “other duties”; and
- Postponement of terminations.

A note about hyperlinks: Every effort has been made to ensure that all hyperlinks are active, accessible, and accurate. However, websites may change their links without notice. APCIA recommends that members use trusted legal content providers to verify all information. Please let us know if there are any issues.

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Georgia

Plans/Contacts	No provisions found.
Terminations/UW Restrictions	Grace Period/Postponement of Terminations: The DOI has issued directives following severe storms, hurricanes, and federal government shutdowns, asking that insurers “exercise leniency” with late premium payments.
Emergency Adjuster	<p>The use of emergency adjusters is permitted.</p> <p><u>If the Georgia Emergency Management Authority (GEMA) declared the disaster:</u> The insurer must electronically file with the DOI a list of non-licensed salaried staff adjusters and out-of-state licensees. Upon proper filing, Disaster Re-entry Permits will be assigned to each insurer. These re-entry permits are to be temporarily assigned to each adjuster for a period not to exceed 60 days.</p> <p><u>In the event of a non-GEMA declared disaster:</u> Nonresident adjusters licensed in another state may enter Georgia for a period not to exceed 60 days. The adjuster must notify the DOI prior to entry into Georgia. If the adjuster will be in this state for a period exceeding 60 days, the individual must apply for adjuster licensure.</p> <p>GA ADC 120-2-3-.25(5). Bulletin 22-EX-3, issued April 6, 2022, sets forth the process for requesting emergency adjuster status.</p>
Claims	<p>General: For <u>first-party property damage claims</u>, insurers are required within 15 days to acknowledge FNOL. Must provide the insured with any applicable proof of loss forms within 15 days. Must affirm or deny within 15 days after receiving the completed proof of loss for losses arising from motor vehicle policies and 60 days of receiving completed proof of loss from insured for losses from fire or extended coverage type policies. Further, insurers have 10 days to tender payment after coverage is confirmed and the full amount of the claim is determined. GA ST s 33-6-34; GA ADC 120-2-52-.03.</p> <p>For <u>other lines of business</u>, must acknowledge FNOL with “reasonable promptness”. Must provide the insured with any applicable proof of loss forms within 15 calendar days. Must accept or deny claim in writing within “reasonable time after investigation completed. GA ST s 33-6-34.</p>
Miscellaneous	Data Calls: The DOI issued a data call for Hurricane Michael claims in October, 2018.
Notes:	

Chart Name:	Fraud Warnings
Chart Description:	The Fraud Warnings chart identifies fraud warning requirements such as specific location, language and font size to be included with policies, including workers compensation. It also identifies the forms required to carry warning language, such as claim release forms, applications, reinstatements for insurance, participation agreements, declaration pages and other claim documents. Statutory/regulatory warning language that needs to be included is also identified.
Chart Notes:	

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Citation No provisions

Location/Size N/A

Forms Req. to Carry Warnings N/A

Language Required N/A

Notes:

Chart Name: Salvage Titling and Total Loss Settlement Requirements

Chart Description: The Salvage Titling and Total Loss Settlement Requirements chart includes key total loss settlement provisions and information on valuation methods, rights of recourse of the owner and sales tax. This chart does not include all provisions regarding total loss theft, third party total loss settlements, partial total losses, or fire, hail, and water/flood damage total loss claims. Nor does the chart provide provisions for rental vehicles or lien holder requirements for payment of claims or all deductions such as betterment or dealer prep charges.

Chart Notes: ACV = actual cash value

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Citation GA ST 40-3-36; GA ST s 40-3-43; GA ST 33-6-5; GA ADC 120-2-52-.04; GA ADC 120-2-52-.06; Directive 22-EX-2

Salvage Titling Requirements Any insurance company that acquires a damaged motor vehicle by virtue of having paid a total loss claim shall mail or deliver the certificate of title to the commissioner for cancellation. In every case in which a total loss claim is paid and the insurance company does not acquire such damaged motor vehicle, the insurance company paying such total loss claim, the vehicle owner, and the lienholder or security interest holder, as applicable, shall take the following steps to secure a salvage certificate of title for such motor vehicle:

(i) If the vehicle owner is in possession of the certificate of title, the owner shall deliver the certificate of title to the insurance company prior to any

payment of the claim, and the insurance company shall mail or deliver the certificate of title, an application for a salvage certificate of title, and the form provided by the commissioner for issuance of a salvage certificate of title;

(ii) If the certificate of title has been lost, destroyed, or misplaced, the vehicle owner shall, prior to payment of the claim on such vehicle, complete an application for a replacement title on the form provided by the commissioner and deliver such application and form to the insurance company and the insurance company shall mail or deliver such application and form to the commissioner for issuance of a replacement original title marked salvage;

(iii) If the lienholder or security interest holder has possession of the certificate of title, the vehicle owner shall complete an application for a replacement title on a form provided by the commissioner and shall deliver the completed form to the insurance company prior to the payment of the claim; the insurance company shall thereafter mail or deliver the application to the commissioner with notice of the payment of the total loss claim and the name and address of the lienholder or security interest holder in possession of the title. The commissioner shall mail notice to the lienholder or security interest holder that a total loss claim has been paid on the vehicle and that the title to such vehicle has been cancelled, and the commissioner shall provide to the lienholder or security interest holder a salvage certificate of title for such vehicle, provided that the validity of the security interest shall not be affected by issuance of a salvage certificate of title. The lienholder or security interest holder shall, within 10 days after receipt of such notice of total loss claim and cancellation of the original certificate of title, mail or deliver the canceled original certificate of title to the commissioner; or

(iv) For the sole purpose of payment of a total loss claim, for any vehicle 10 years of age or older for which neither the vehicle owner nor the lienholder or security interest holder, if any, possesses a certificate of title, the vehicle owner shall deliver the vehicle license plate and certificate of registration for such vehicle to the insurance company prior to payment of any claim and the insurance company shall mail or deliver the license plate and certificate of registration to the commissioner with a completed form provided by the commissioner; provided, however, that the vehicle owner shall not operate such vehicle and the owner shall obtain a certificate of title for such vehicle as provided by law, which certificate of title shall then be subject to cancellation as provided in this paragraph.

Each insurer that acquires a salvage motor vehicle must within 30 days of acquisition, apply for a salvage certificate of title, and no insurer shall sell, convey, or transfer any such salvage motor vehicle without first applying for and obtaining a salvage certificate of title.

Any insurer that pays a total loss claim on a vehicle as a result of its being stolen must within 15 days of the payment, apply to the commissioner for a transfer of the certificate of title, and may not sell, transfer, or convey such vehicle until these requirements have been met. An administrative fine of up to \$1,000.00 for each violation may be imposed after a hearing.

Valuation Methods Permitted

When settling first party vehicle total loss claims on the basis of actual cash value or replacement, the insurer may elect to pay a cash equivalent settlement or replace the insured vehicle. The insurer shall use one of the following methods:

Replacement Vehicle Method. The insurer may elect to replace the insured vehicle with a comparable vehicle to the insured vehicle in that it is the same manufacturer model, same or newer model year, similar body style, similar options and mileage as the insured vehicle and in good overall condition; available for inspection by the insured within fifty (50) miles of the insured's residence or further if agreeable to the insured; The insurer's claim file shall contain a full description of the replacement vehicle, including, but not limited to, the vehicle identification number and the schedule of options; a replacement vehicle of the same or newer model year must be available for purchase through a licensed dealer or through an established printed sales publication. In the event that a replacement vehicle meeting the above requirements cannot be found, the cash equivalent method should be used.

Cash equivalent method. The insurer may elect to pay a cash equivalent settlement based upon the actual cost less any deductible provided in the policy, to purchase a comparable automobile by the same manufacturer, same model year, with similar body style, similar options and mileage, including all applicable taxes, license fees and other fees incident to the transfer of ownership of a comparable automobile. The amount payable on taxes, license fees, and transfer fees is limited to the amount that would have been paid on the totaled, insured vehicle at the time of settlement. Such cost shall be based on one or more of the following methods:

1. The cost of two or more comparable automobiles in the local market area defined as 50 miles from the county seat where the insured vehicle was principally garaged, when comparable automobiles are available or were available within the last 30 days to consumers in the local market area. These sources may include dealer's sales price, any established printed automobile sales publication or newspaper.
2. The cost of two or more comparable automobiles in areas proximate to the local market area defined as 100 miles from the county seat where the insured vehicle was principally garaged, including the closest major metropolitan area within or without the state, that are available or were available within the last 30 days to consumers when comparable automobiles are not available in subparagraph (a) 1 above. These sources shall include the same as in subparagraph (a) 1 above.
3. One of two or more quotations obtained by the insurer from two or more licensed dealers located within the local market area defined in this subparagraph as 50 miles from the county seat where the insured vehicle was principally garaged, when the cost of comparable automobiles are not available in subparagraphs (a) 1 and 2 above.
4. Any source for determining statistically valid fair market values that meet all of the following criteria which may be in electronic or printed format:
 - (i) The source shall give primary consideration to the values of vehicles in the local market area, or may consider data on vehicles outside the area when comparable vehicles have not been available for data collection in the local market area.
 - (ii) The source's database shall produce values for at least 85% of all makes and models for at least the last 15 model years, taking into account the values of all major options for such vehicles.
 - (iii) The source shall produce fair market values based on current data available from the area surrounding the location where the insured vehicle was principally garaged or a necessary expansion of parameters (such as time and area) to assure statistical validity.

Rights of Recourse to Owner

If the insured rejects a replacement vehicle, the option to replace the insured vehicle may not be exercised. The rejection shall be documented in the claim file. The insurer need only pay the amount it would have otherwise paid if the insured had accepted the replacement vehicle, including the applicable taxes, license fees, or other fees to transfer ownership.

If the insured selects another vehicle substantially similar in value, the insurer may either replace the insured vehicle with this substitute, or only pay the amount it would have otherwise paid if the insured had accepted the replacement vehicle, including the applicable taxes, license fees or other fees to transfer ownership.

Documentation of Value to Owner

If losses are settled on the basis of a written estimate prepared by or for the insurer, the insurer shall supply, upon request of the insured, a copy of the estimate upon which the settlement is based.

Sales Taxes and Fees

The insurer is responsible for all applicable taxes, license fees, and other fees necessary to transfer ownership. *For first-party total loss vehicle claims, insurers using the cash equivalent method of settlement must calculate the actual taxes required to be paid by the insured when replacing the total loss vehicle. Insurers must not base tax payments on an amount lower than the agreed-upon value of the vehicle. Effective April 1, 2022*

Notes

N/A

Notes:

Chart Name:

Salvage Vehicle Definitions

Chart Description:

The Salvage Vehicle Definitions chart identifies statutory citations and definitions of salvage vehicles and/or qualifications for such distinction in the states. It also includes definitions for a total loss and thresholds to declare a total loss for those states that require a specific threshold percentage.

Chart Notes:

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Georgia

Citation

GA ST 40-3-2

Definitions

(11) "Salvage motor vehicle" means any motor vehicle:

(A) Which has been damaged to the extent that its restoration to an operable condition would require the replacement of two or more major component parts;
(B) For which an insurance company has paid a total loss claim and the vehicle has not been repaired, regardless of the extent of damage to such vehicle or the number of major component parts required to repair such vehicle, but shall not mean or include any stolen motor vehicle that has been recovered with the public manufacturer's vehicle identification number plate intact and the vehicle:

(i) is undamaged;
(ii) has only cosmetic damage; or
(iii) has been damaged but only to the extent that its restoration to an operable condition would not require the replacement of two or more major component parts;

(C) Which is an imported motor vehicle that has been damaged in shipment and disclaimed by the manufacturer as a result of the damage, has never been the subject of a retail sale to a consumer, and has never been issued a certificate of title. The term salvage motor vehicle shall not include any motor vehicle for which a total loss claim has been paid, which vehicle has sustained only cosmetic damage from causes other than fire or flood.

Notes:

Chart Description:

The Timely Claim Settlement Requirements Chart identifies statutory and regulatory provisions addressing the deadlines required for various claims settlement deadlines including the following: acknowledgement of claims, other communications, insurance department inquiries, investigations, notice of acceptance or denial of a claim, notice of delay, notice of expiration of statute of limitations, and payments.

Chart Notes:

The chart divides the requirements according to the NAIC's Unfair Property/Casualty Claims Settlement Practices Model Regulation ("Model Regulation"), specifically Section 6, Failure to Acknowledge Pertinent Communications, and Section 7, Standards for Prompt, Fair and Equitable Settlements Applicable to All Insurers. The Model Regulation sets forth standards that insurers are required to comply with in claims handling. States that adopted the Model Regulation frequently vary in their deadlines and requirements. For more on the Model Regulation, see the Unfair Claims Settlement Practices Regulations Compliance Chart in CompliAssist.

Many states did not adopt the Model Regulation but did adopt the NAIC's Unfair Claims Settlement Practices Act ("Model Act"), which provides some guidance on the timeliness of claims settlement activities.

This chart also incorporates some requirements that are not included in either Model Regulation or Model Act.

Due to the condensed nature of this chart and the particular nuances in each state's unfair claims practices and other statutory requirements, it is imperative that the user review the full text of the cited law or regulatory material for additional context to avoid missing claims settlement deadlines. Also, not all topics or subtopics for claims settlement requirements are reflected in this chart.

Members are referred to the most recent edition of the *Claims and Unfair Claims Handling Laws and Regulations* full-text compilation, which provides the full text of claims-related statutes and regulations. APCIA also maintains a variety of claims-related compliance charts in CompliAssist under the Category Claims. Other charts that provide information on deadlines and disclosure requirements include *Aftermarket Parts Requirements*, *Fraud Warnings*, *Fraud Provisions*, and *Loss Runs – Provision of Loss Information to Insureds*. The *Salvage Titling and Total Loss Settlement Requirements* compliance chart sets forth many of the requirements found in the Model Regulation, Section 8, Standards for Prompt, Fair and Equitable Settlements Applicable to Automobile Insurance.

If clarification is sought with respect to particular provisions, please confer with your legal counsel or contact the state insurance department.

The chart sets forth the following topics:

Acknowledgement of Claim

The Model Regulation requires insurers to acknowledge notice of claim within **15 days**, unless payment is made before then. The Model Act requires insurers to acknowledge pertinent communications with reasonable promptness.

Other Communications

The Model Regulation requires insurers to respond to all other pertinent communications from a claimant which reasonably suggest that a response is expected within **15 days**. The Model Act requires insurers to acknowledge pertinent communications with reasonable promptness.

The Model Regulation and the Model Act require insurers to promptly provide necessary claims forms, instructions, and reasonable assistance so

that first party claimants can comply with the policy provisions within **15 days** of notification of a claim.

Disclosure of Limits to Third Parties: Some states require insurers to provide claimants certain information, including policy limits, about policyholders who are alleged tortfeasors. The chart sets forth the lines of business, if specified, and the number of days in which the insurers must provide the requested information. The states that require disclosure of limits to third parties include Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Maine, Maryland, Massachusetts, Minnesota, Nevada, New York, North Carolina, Rhode Island, South Carolina, Utah, and Virginia.

Insurance Departments

The Model Regulations requires insurers to respond to the insurance department within **21 days** of receipt of an inquiry from the department. More information about complaint handling can be found in *Deadlines for Response Time to DOI Consumer Complaints*, located in CompliAssist.

Investigation of Claim

The Model Regulation is silent on when insurers should initiate or complete claims. The Model Act requires insurer to adopt and implement reasonable standards for the prompt investigation and settlement of claims. A number of states have provided specific deadlines for when a claim investigation should begin or be completed by.

Notice of Acceptance or Denial

The Model Regulation requires insurers to advise of acceptance or denial of the claim within **21 days** after receipt of properly executed proofs of loss. The Model Act requires insurers to affirm or deny coverage of claims within a reasonable time after having completed its investigation.

Denial Notice with DOI Information. A few states require insurers to include a statement in a written denial letter to the claimant of the right to contact the state's Department of Insurance for review or an appeal. Those states are California, Illinois, Minnesota, Nebraska, New Hampshire, New Jersey, New York, Rhode Island, Tennessee, and West Virginia.

Notice of Delay

Under the Model Regulation, an insurer who needs more time to determine whether a first party claim should be accepted or denied must notify the insured within **21 days** after receipt of properly executed proofs of loss. If the investigation remains incomplete, the insurer must, **45 days** from the initial notification and every **45 days** thereafter, send the claimant a letter setting forth the reasons additional time is needed for investigation.

Notice of Statute of Limitation (SOL)

The Model Regulation forbids insurers from continuing to negotiate the settlement of a claim directly with a claimant who is not legally represented, if the claimant's rights may be affected by a statute of limitations, unless the insurer has given the claimant written notice of the limitation. Notice must be given to the first party claimant at least **30 days** and to the third party claimant **60 days** before the date on which the time limit may expire. More information about Statutes of Limitation may be found in the *Statutes of Limitation* compliance chart.

Payments

The Model Regulation requires insurers to tender payment within **30 days** of affirmation of liability. Information about claim settlement payments by check, draft, or electronic transfer may be found in *Check Issuance Restrictions*

Notice of Payment to Claimant: Several states require insurers to notify claimants when payments are made to claimant's representatives if certain conditions are met. These states are California, Connecticut, Delaware, Georgia, Hawaii, Maryland, Massachusetts, Nevada, New York, Oregon, Pennsylvania, Rhode Island, Texas, and Virginia.

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Georgia

Acknowledge Claim	Reasonable promptness. GA ST s 33-6-34. <u>First Party Property Damage:</u> 15 days after notice and provide proof of loss forms in this time period. GA ADC 120-2-52-.03.
Other Communications	Must provide forms necessary to file claims within 15 calendar days of a request with reasonable explanations regarding their use. GA ST s 33-6-34. <u>Disclosure of Limits to Third Parties:</u> Within 60 days of receiving written request from claimant must provide specified information, including limits. GA ST s 33-3-28.
Insurance Depts.	Within 10 business days if sent via USPS; within 6 business days if sent via fax or email. Directive 06-EX-1, issued April 7, 2006.
Investigation of Claim	No provisions found.
Notice of Acceptance/Denial	Reasonable time after completed investigation when requested by insured in writing. Denial must be in writing. GA ST § 33-6-34 <u>First Party Property Damage:</u> within 15 days of receiving a properly executed proof of loss for motor vehicle policies, and within 60 days of receiving completed proof of loss for fire or extended coverage type policies. If no proof of loss form is necessary, then 30 days after. GA ADC 120-2-52-.03.
Notice of Delay	<u>First Party Property Damage:</u> within 5 business days of the 15 days after receiving a properly executed proof of loss. Insurer has a total of 60 days to accept or deny liability unless the claim file is documented that information necessary to determine liability has been requested but not submitted. GA ADC 120-2-52-.03.
Notice of SOL	No provisions found.
Payments	<u>First Party Property Damage:</u> Payment of first party claims must be made within 10 days of confirmation of coverage and claim not in dispute. GA ADC 120-2-52-.03.

Notice of Payment to Claimant: Third party claimants must receive written notice of settlement, at the time payment is made, when the settlement is

\$5,000.00 or more; the claimant is a natural person; and the settlement is given to the claimant's attorney or representative. GA ST s 33-24-41.2.

Claims not paid within 60 days after a demand has been made, and a finding after a hearing to be in bad faith, is liable to be charged 50% of the liability of the insurer for the loss or \$5,000.00, whichever is greater, plus reasonable attorney fees. GA ST s 33-4-6.

Notes

N/A

Notes:

Chart Name:

Unfair Claims Settlement Practices Regulations

Chart Description:

The Unfair Claims Settlement Practices Regulations chart identifies regulations that describe whether 1) a single occurrence is a violation of the Unfair Claims Settlement Practices Act, and 2) whether a specific standard of care is required. The chart covers all lines of insurance. This chart includes states that have adopted unfair claims settlement practices regulations. Each state's unfair claims settlement regulation was compared to the NAIC model Act and Regulation for content. When States had separate statutory provisions for property/casualty insurers and other types of insurers, the NAIC's Unfair Property/Casualty Claims Settlement Practices Model Regulations was used.

Chart Notes:

For full text of State statutes, see APCIA's Claims and Unfair Claims Handling Laws and Regulations.

Comparison to NAIC Model

(NAIC) indicates the regulations are virtually identical to the NAIC Model Act or Regulation. Changes in paragraph numbering were not considered significant for this classification.

(S) indicates the state regulation is (S)ubstantially identical to the NAIC Model.

(SPS) indicates the state regulation contains only (s)ome (P)rovisions of the NAIC Model and those provisions are (S)ubstantially identical to the NAIC Model Regulation.

(D) indicates the state regulation is (D)issimilar to the NAIC Model.

(GBP) refers to the (G)eneral (B)usiness (P)ractice provision, which has been eliminated in some states.

Categories

The categories refer to sections 1 through 9 of the Unfair Property/Casualty Claims Settlement Model Regulation and to the "arson" exception language added by 1980 NAIC Proceedings II.

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Citations	GA ADC 120-2-52-.01 through GA ADC 120-2-52-.08 (deals with only private automobile property damage claims) and GA ST s 33-6-30 through GA ST s 33-6-37 (deals with all other insurance claims except workers' compensation, fidelity and surety)
Authority	No regulatory provision.
Scope / Purpose	No regulatory provision.
Definitions	No regulatory provision.
File & Record Documentation	No regulatory provision.
Misrepresentation Of Policy Provisions	No regulatory provision.
Failure to Acknowledge Pertinent Communications	No regulatory provision.
Standards for Prompt Investigation of Claims	No regulatory provision.
Standards for Prompt, Fair, and Equitable Settlements, Applicable to All Insurers	No regulatory provision.
Arson Exception	No regulatory provision.
Standards for Prompt, Fair and Equitable Settlements, Applicable to Auto Insurance	(D) GA ADC 120-2-52-.01 through GA ADC 120-2-52-.08
Standards for Prompt, Fair and Equitable Settlements, Applicable to Fire and Extended Coverage Policies	No regulatory provision.
Notice to Insured of Right to Appeal the Rejected Claim to Insurance Department	No regulatory provision.
Notes	N/A
Notes:	

Chart Name: Valued Policy Statutes

Chart Description: The Valued Policy Statutes chart identifies laws or total loss statutes dealing with fire insurance policies. It includes property involved, perils, exceptions to applicability, and comments relevant to the statutes. It applies to personal and commercial property lines of insurance.

Chart Notes: Valued policy laws or total loss statutes identify requirements to avoid argument between insurer and insured regarding the value of the structure at the time of a loss. Valued policies state the amount considered the value of the structure at the time of loss payable in full. For purposes of this chart, the term "mobile home" means homes not so attached to real estate as to become fixtures.

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Citation	GA ST 33-32-3 GA ST 33-32-4 GA ST 33-32-5 Ga. Comp. R. & Regs. 120-2-19-01.
Property Involved	One- or two-family residential buildings and structures.
Property: Personal	No.
Property: Mobile Homes	No.
Perils	Fire.
Exceptions to Applicability	Valued policy law does not apply when: (1) the policyholder or his/her agent was criminal or fraudulent; (2) the policyholder suffers a partial fire loss; (3) the policyholder has duplicate coverage and fails to disclose the coverage to the insurer; (4) the policyholder has insured at least two buildings or structures under a blanket form for a single amount of insurance; (5) the policyholder insures the completed value of the building or structure under a builder's risk policy. GA ST 33-32-5(a)
Comments	<p><u>Depreciation:</u> Amount set forth in policy shall be taken exclusively as value of property, except to the extent of any depreciation between the date of the policy and the loss. However if loss occurs within 30 days of the original effective date, the insured is entitled to the actual loss up to the amount insured. GA ST 33-32-5(a)</p> <p><u>Co-insurance policy or percentage of loss clause:</u> An insurer may limit its liability by making itself liable only for a percentage of the policyholder's total loss. GA ST 33-32-5</p> <p><u>Insurer's option to replace damaged property:</u> The privilege of rebuilding or reinstating property sustaining loss or damage shall not exist unless it is reserved in the policy. GA ST 33-32-3</p> <p><u>Refund of unearned premium payments:</u> If a policyholder suffers a total loss and the insurer fails to pay the policyholder the maximum amount payable under the policy, the insurer shall refund to the policyholder the difference between the amount of premiums actually paid and the amount of premiums which would have been charged for a property insurance policy having a maximum amount payable equal to the amount actually paid by the insurer to the policyholder. GA ST s 33-32-4. Payment is required within 60 days after receipt of proof of loss forms and the settlement agreement or award. Ga. Comp. R. & Regs. 120-2-19-01.</p> <p><u>Homes Under Construction:</u> A house under construction may be considered a "residential building or structure," but the policy may be deemed a "builder's risk" policy, exempt from valued policy statute. <i>Georgia Farm Bur. Mut. Ins. Co. v. Garzone</i>, 523 S.E.2d 386 (Ga. Ct. App. 1999).</p>
Notes	N/A
Notes:	

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GA ST s 33-6-4. Unfair methods of competition and unfair or deceptive acts or practices. (Insurance – Unfair Trade Practices – General Provisions)

- (a) As used in this Code section, the term:
- (1) “Gift certificate” shall have the same meaning as provided in Code Section 10-1-393.
 - (2) “Policy” means any insuring bond issued by an insurer.
 - (3) “Store gift card” shall have the same meaning as provided in Code Section 10-1-393.
- (b) The following acts or practices are deemed unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

* * * Material Omitted Here * * *

- (15) (A) As used in this paragraph:
- (i) “Confidential abuse information” means information about acts of family violence or sexual assault, the status of a victim of family violence or sexual assault, an individual's medical condition that the insurer knows or has reason to know is related to family violence or sexual assault, or the home and work addresses and telephone numbers of a subject of family violence or sexual assault.
 - (ii) “Family violence” means family violence as defined in Code Sections 19-13-1 and 19-13-20 and as limited by Code Section 19-13-1.
- (B) No person shall deny or refuse to accept an application; refuse to insure; refuse to renew; refuse to reissue; cancel, restrict, or otherwise terminate; charge a different rate for the same coverage; add a premium differential; or exclude or limit coverage for losses or deny a claim incurred by an insured on the basis that the applicant or insured is or has been a victim of family violence or sexual assault or that such person knows or has reason to know the applicant or insured may be a victim of family violence or sexual assault; nor shall any person take or fail to take any of the aforesaid actions on the basis that an applicant or insured provides shelter, counseling, or protection to victims of family violence or sexual assault.
- (C) No person shall request, directly or indirectly, any information the person knows or reasonably should know relates to acts of family violence or sexual assault or an applicant's or insured's status as a victim of family violence or sexual assault or make use of such information however obtained, except for the limited purpose of complying with legal obligations, verifying an individual's claim to be a subject of family violence or sexual assault, cooperating with a victim of family violence or sexual assault in seeking protection from family violence or sexual assault, or facilitating the treatment of a family violence or sexual assault related medical condition. When a person has information in their possession that clearly indicates that the insured or applicant is a subject of family violence or sexual assault, the disclosure or transfer of the information by a person to any person, entity, or individual is a violation of this Code section, except:
- (i) To the subject of family violence or sexual assault or an individual specifically designated in writing by the subject of family violence or sexual assault;
 - (ii) To a health care provider for the direct provision of health care services;
 - (iii) To a licensed physician identified and designated by the subject of family violence or sexual assault;
 - (iv) When ordered by the Commissioner or a court of competent jurisdiction or otherwise required by law;
 - (v) When necessary for a valid business purpose to transfer information that includes confidential abuse information that cannot reasonably be segregated without undue

Georgia All Lines of Business

hardship. Confidential abuse information may be disclosed pursuant to this division only to the following persons or entities, all of whom shall be bound by this subparagraph:

- (I) A reinsurer that seeks to indemnify or indemnifies all or any part of a policy covering a subject of family violence or sexual assault and that cannot underwrite or satisfy its obligations under the reinsurance agreement without that disclosure;
 - (II) A party to a proposed or consummated sale, transfer, merger, or consolidation of all or part of the business of the person;
 - (III) Medical or claims personnel contracting with the person, only where necessary to process an application or perform the person's duties under the policy or to protect the safety or privacy of a subject of family violence or sexual assault; or
 - (IV) With respect to address and telephone number, to entities with whom the person transacts business when the business cannot be transacted without the address and telephone number;
 - (vi) To an attorney who needs the information to represent the person effectively, provided the person notifies the attorney of its obligations under this paragraph and requests that the attorney exercise due diligence to protect the confidential abuse information consistent with the attorney's obligation to represent the person;
 - (vii) To the policy owner or assignee, in the course of delivery of the policy, if the policy contains information about family violence or sexual assault status; or
 - (viii) To any other entities deemed appropriate by the Commissioner.
- (D) It is unfairly discriminatory to terminate group coverage for a subject of family violence because coverage was originally issued in the name of the perpetrator of the family violence and the perpetrator has divorced, separated from, or lost custody of the subject of family violence, or the perpetrator's coverage has terminated voluntarily or involuntarily. If termination results from an act or omission of the perpetrator, the subject of family violence shall be deemed a qualifying eligible individual under Code Section 33-24-21.1 and may obtain continuation and conversion of such coverages notwithstanding the act or omission of the perpetrator. A person may request and receive confidential abuse information to implement the continuation and conversion of coverages under this subparagraph.
- (E) Subparagraph (C) of this paragraph shall not preclude a subject of family violence or sexual assault from obtaining his or her insurance records. Subparagraph (C) of this paragraph shall not prohibit a person from asking about a medical condition or a claims history or from using medical information or a claims history to underwrite or to carry out its duties under the policy to the extent otherwise permitted under this paragraph and other applicable law.
- (F) No person shall take action that adversely affects an applicant or insured on the basis of a medical condition, claim, or other underwriting information that the person knows or has reason to know is family violence or sexual assault related and which:
- (i) Has the purpose or effect of treating family violence or sexual assault status as a medical condition or underwriting criterion;
 - (ii) Is based upon correlation between a medical condition and family violence or sexual assault;

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- (iii) Is not otherwise permissible by law and does not apply in the same manner and to the same extent to all applicants and insureds similarly situated without regard to whether the condition or claim is family violence or sexual assault related; or
 - (iv) Except for claim actions, is not based on a determination, made in conformance with sound actuarial and underwriting principles and guidelines generally applied in the insurance industry and supported by reasonable statistical evidence, that there is a correlation between the applicant's or insured's circumstances and a material increase in insurance risk.
- (G) No person shall fail to pay losses arising out of family violence or sexual assault against an innocent first-party claimant to the extent of such claimant's legal interest in the covered property if the loss is caused by the intentional act of an insured against whom a family violence complaint is brought for the act causing this loss.
- (H) No person shall use other exclusions or limitations on coverage which the Commissioner has determined through the policy filing and approval process to unreasonably restrict the ability of victims of family violence or sexual assault to be indemnified for such losses.
- (I) Any person issuing, delivering, or renewing a policy of insurance in this state at any time shall include with such policy or renewal certificate a notice attached thereto containing the following language:

"NOTICE

The laws of the State of Georgia prohibit insurers from unfairly discriminating against any person based upon his or her status as a victim of family violence."

- (c) Any person violating this Code section by making unlawful, false representations as to the policy sold shall be guilty of a misdemeanor.

HISTORY Laws 1960, p. 289, s 1; Laws 1978, p. 2016, s 1; Laws 1980, p. 1266, s 2; Laws 1989, p. 888, s 1; Laws 1989, p. 1276, s 1; Laws 1992, p. 6, s 33; Laws 1992, p. 996, ss 1-3; Laws 2000, p. 236, s 1; Laws 2001, p. 4, s 33; Laws 2002, p. 441, s 2; Laws 2005, Act 108, s 2, eff. July 1, 2005; Laws 2006, Act 453, s 33, eff. April 14, 2006; Laws 2006, Act 584, s 1, eff. July 1, 2006; Laws 2007, Act 254, s 1, eff. July 1, 2007; Laws 2016, Act 444, s 1, eff. July 1, 2016; Laws 2019, Act 139, § 1-34, eff. July 1, 2019; Laws 2019, Act 273, § 1, eff. July 1, 2019; Laws 2020, Act 580, § 2, eff. Aug. 5, 2020; Laws 2021, Act 248, § 2, eff. July 1, 2021; Laws 2022, Act 782, § 33, eff. May 2, 2022; Laws 2023, Act 234, § 1, eff. July 1, 2023.

GA ST s 33-6-5. Definitions of unfair methods and practices continued.

In addition to Code Section 33-6-4, violations of the following provisions also are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

* * * Material Omitted Here * * *

- (9) No insurance company, when selling salvage motor vehicles, major component parts, or parts, shall sell directly to a used motor vehicle parts dealer, motor vehicle dismantler, motor vehicle rebuilder, salvage pool dealer, or salvage dealer who is not licensed under Chapter 47 of Title 43; provided, however, this paragraph shall not prevent an insurance company from selling salvage motor vehicles, major component parts, or parts to any person, firm, or corporation when the sale is made through a used motor vehicle parts dealer, motor vehicle dismantler, motor vehicle rebuilder, salvage pool dealer, or salvage dealer who is licensed under Chapter 47 of Title 43;

* * * Material Omitted Here * * *

- (11) Each insurer which acquires a salvage motor vehicle, as defined in Code Section 40-3-2, shall, within 30 days of acquisition, apply for a salvage certificate of title, and no insurer shall sell, convey, or transfer any such salvage motor vehicle without first applying for and obtaining a salvage certificate of title;

Georgia All Lines of Business

* * * Material Omitted Here * * *

- (13) (A) As used in this paragraph, the term:
- (i) "Aftermarket crash part" means a replacement for any of the nonmechanical sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels.
 - (ii) "Insurer" includes an insurance company and any person authorized to represent the insurer with respect to a claim and who is acting within the scope of the person's authority.
 - (iii) "Nonoriginal equipment manufacturer aftermarket crash part" means an aftermarket crash part made by any manufacturer other than the original vehicle manufacturer or his or her supplier.
 - (iv) "Repair facility" means a motor vehicle dealer, garage, body shop, or other commercial entity which undertakes the repair or replacement of those parts that generally constitute the exterior of a motor vehicle.
- (B) Any aftermarket crash part manufactured or supplied for use in this state on or after January 1, 1990, shall have affixed thereto or inscribed thereon the logo, identification number, or name of its manufacturer. Such manufacturer's logo, identification number, or name shall be visible after installation whenever practicable.
- (C) In all instances where nonoriginal equipment manufacturer aftermarket crash parts are used in preparing an estimate for repairs the written estimate prepared by the insurance adjuster and repair facility shall clearly identify each such part. A disclosure document attached to the estimate shall contain the following information in no smaller than ten-point type:
- "THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF AFTERMARKET CRASH PARTS SUPPLIED BY A SOURCE OTHER THAN THE MANUFACTURER OF YOUR MOTOR VEHICLE. THE AFTERMARKET CRASH PARTS USED IN THE PREPARATION OF THIS ESTIMATE ARE WARRANTED BY THE MANUFACTURER OR DISTRIBUTOR OF SUCH PARTS RATHER THAN THE MANUFACTURER OF YOUR VEHICLE."; and

* * * Material Omitted Here * * *

HISTORY Laws 1960, p. 289, s 1; Laws 1971, p. 887, s 1; Laws 1972, p. 1261, s 7; Laws 1980, p. 1011, s 1; Laws 1982, p. 3, s 33; Laws 1983, p. 699, s 1; Laws 1984, p. 22, s 33; Laws 1985, p. 464, s 1; Laws 1985, p. 1227, s 3; Laws 1986, p. 695, s 3; Laws 1989, p. 1396, s 1; Laws 1992, p. 996, s 4; Laws 1995, p. 1165, s 6; Laws 1996, p. 6, s 33; Laws 2000, p. 136, s 33; Laws 2002, p. 441, s 3; Laws 2002, p. 786, s 1; Laws 2005, Act 82, s 1, eff. July 1, 2005; Laws 2019, Act 139, § 1-35, eff. July 1, 2019; Laws 2022, Act 740, § 2, eff. July 1, 2022.

GA ST s 33-6-31. Declaration of purpose. (Insurance – Unfair Trade Practices – Unfair Claims Settlement Practices)

The purpose of this article is to set forth standards for the investigation and disposition of claims arising under policies or certificates of insurance issued to residents of Georgia. It is not intended to cover claims involving workers' compensation, fidelity, or surety insurance.

HISTORY Laws 1992, p. 3048, s 9.

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GA ST s 33-6-32. Definitions.

As used in this article, the term:

- (1) "Insured" means the party named on a policy or certificate or as defined in the contract as the person with legal rights to the benefits provided by such policy or certificate.
- (2) "Person" means an individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including but not limited to agents, brokers, counselors, and adjusters.
- (3) "Policy" or "certificate" means any contract of insurance; indemnity; medical, health, or hospital service; or annuity issued by an insurer. "Policy" or "certificate" shall not mean contracts for workers' compensation, fidelity, or surety insurance.

HISTORY Laws 1992, p. 3048, s 9.

GA ST s 33-6-33. Improper claims settlement practices.

It is an improper claims settlement practice for any domestic, foreign, or alien insurer transacting business in Georgia to commit any act provided in Code Section 33-6-34 if such act:

- (1) Is committed flagrantly and in conscious disregard of this title or any rule or regulation promulgated pursuant to this title; or
- (2) Has been committed with such frequency so as to indicate a general business practice to engage in such conduct.

HISTORY Laws 1992, p. 3048, s 9.

GA ST s 33-6-34. Acts which constitute improper claims settlement practices.

Any of the following acts of an insurer when committed as provided in Code Section 33-6-33 shall constitute an unfair claims settlement practice:

- (1) Knowingly misrepresenting to claimants and insureds relevant facts or policy provisions relating to coverages at issue;
- (2) Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under its policies;
- (3) Failing to adopt and implement procedures for the prompt investigation and settlement of claims arising under its policies;
- (4) Not attempting in good faith to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear;
- (5) Compelling insureds or beneficiaries to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them;
- (6) Refusing to pay claims without conducting a reasonable investigation;
- (7) When requested by the insured in writing, failing to affirm or deny coverage of claims within a reasonable time after having completed its investigation related to such claim or claims;
- (8) When requested by the insured in writing, making claims payments to an insured or beneficiary without indicating the coverage under which each payment is being made;
- (9) Unreasonably delaying the investigation or payment of claims by requiring both a formal proof of loss and subsequent verification that would result in duplication of information and verification appearing in the formal proof of loss form; provided, however, this paragraph shall not preclude an insurer from obtaining sworn statements if permitted under the policy;

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- (10) When requested by the insured in writing, failing in the case of claims denial or offers of compromise settlement to provide promptly a reasonable and accurate explanation of the basis for such actions. In the case of claims denials, such denials shall be in writing;
- (11) Failing to provide forms necessary to file claims within 15 calendar days of a request with reasonable explanations regarding their use;
- (12) Failing to adopt and implement reasonable standards to assure that the repairs of a repairer owned by the insurer are performed in a workmanlike manner;
- (13) Indicating to a first-party claimant on a payment, draft check, or accompanying letter that said payment is final or a release of any claim unless the policy limit has been paid or there has been a compromise settlement agreed to by the first-party claimant and the insurer as to coverage and amount payable under the contract; and
- (14) Issuing checks or drafts in partial settlement of a loss or claim under a specific coverage which contain language which releases the insurer or its insured from its total liability;
- (15) Failure to comply with any insurer requirement in Chapter 20E of this title, the "Surprise Billing Consumer Protection Act," including:
 - (A) The failure to designate whether the healthcare plan is subject to the exclusive jurisdiction of the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001, et seq.;
 - (B) The failure to directly pay the provider or facility within 15 working days for electronic claims or 30 calendar days for paper claims any moneys due under Code Section 33-20E-4 or 33-20E-5; or
 - (C) The failure to pay a resolution organization as required under Code Section 33-20E-16; and
- (16) Failure to comply with any insurer requirement relating to emergency services or care in Article 4 of Chapter 11 of Title 31, Article 1 of Chapter 20A of this title, Chapter 20E of this title, Chapter 21A of this title, Code Section 33-24-59.27, and Chapter 30 of this title.

HISTORY Laws 1992, p. 3048, s 9; Laws 2020, Act 470, § 2, eff. Jan. 1, 2021; Laws 2022, Act 833, § 3, eff. July 1, 2022; Laws 2023, Act 223, § 1, eff. July 1, 2023.

GA ST s 33-23-29. Agents acting as adjusters; nonresident adjusters. (Insurance – Licensing - Agents, Agencies, Subagents, Counselors, and Adjusters – Agents, Agencies, Subagents, Counselors, and Adjusters)

- (a) On behalf of and as authorized by an insurer for which he or she is licensed as agent, an agent may from time to time act as an adjuster and investigate and report upon claims without being required to be licensed as an adjuster.
- (b) No license by this state shall be required:
 - (1) Of a nonresident independent adjuster for the adjustment in this state of a single loss or of losses arising out of a catastrophe common to all such losses; or
 - (2) Of a nonresident adjuster who regularly adjusts in another state and who is licensed in such other state, if such state requires a license, to act as adjuster in this state for emergency insurance adjustment work for a period not exceeding 60 days and performed for an employer that is an insurance adjuster licensed by this state or that is a regular employer of one or more insurance adjusters licensed by this state, provided that such employer shall furnish to the Commissioner a notice in writing immediately upon the beginning of the emergency insurance adjustment work.
- (c) An individual residing in another state may be licensed by the Commissioner as a nonresident adjuster under the following circumstances and in the following manner:

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- (1) Upon written application and payment of the required license fee and without requiring a written examination, the Commissioner shall issue a license to an individual to act as a nonresident adjuster if the individual is licensed in his or her home state as an adjuster;
 - (2) The required fee for the license shall be the fee provided by law or the sum which is charged as a license fee for nonresident adjusters by the state of the applicant's residence, whichever is greater; and
 - (3) Applicants whose home state does not require a license to transact business may be licensed in this state, provided that the applicant takes the examination issued by the Commissioner where required pursuant to this chapter and the applicant submits written documentation from such applicant's resident state demonstrating the lack of licensing requirements in such state and such state's reciprocity with residents of this state.
- (d) The Commissioner shall issue a license to an individual to act as a nonresident adjuster if, by the laws of the state of the applicant's residence, residents of this state may be licensed as nonresident adjusters in the same manner.
- (e) The Commissioner is authorized to enter into reciprocal agreements with the appropriate official of any other jurisdiction for the purpose of implementing this Code section.
- (f) No resident of Canada may be licensed as a nonresident independent adjuster unless such person has obtained a resident or home state independent adjuster license.

HISTORY Laws 1992, p. 2830, s 1; Laws 2001, p. 925, s 1; Laws 2008, Act 767, s 16, eff. July 1, 2008; Laws 2012, Act 727, s 9, eff. July 1, 2012; Laws 2012, Act 776, s 8, eff. July 1, 2012; Laws 2019, Act 140, § 12, eff. July 1, 2019.

GA ST s 33-23-43. Adjusters; authority; prohibitions; penalties.

- (a) An adjuster licensed as both an independent and a public adjuster shall not represent both the insurer and the insured in the same transaction.
- (b) An adjuster shall have authority under his or her license only to investigate, settle, or adjust and report to his or her principal upon claims arising under insurance contracts on behalf of insurers only if licensed as an independent adjuster or on behalf of insureds only if licensed as a public adjuster.
- (c) No public adjuster, at any time, shall knowingly:
- (1) Misrepresent to an insured that he or she is required to hire an independent or public adjuster to help the insured meet his or her obligations under his or her policy;
 - (2) Accept or agree to accept any money or other compensation from an attorney or any person acting on behalf of an attorney which the adjuster knows or should reasonably know is payment for the suggestion or advice by the adjuster to seek the services of the attorney or for the referral of any portion of a person's claim to the attorney;
 - (3) Hire or procure another to do any act prohibited by this subsection;
 - (4) Advertise or promise to pay or rebate all or any portion of any insurance deductible as an inducement to the sale of goods or services. As used in this paragraph, the term "promise to pay or rebate" includes:
 - (A) Granting any allowance or offering any discount against the fees to be charged, including, but not limited to, an allowance or discount in return for displaying a sign or other advertisement at the insured's premises, or
 - (B) Paying the insured or any person directly or indirectly associated with the property any form of compensation, gift, prize, bonus, coupon, credit, referral fee, or other item of monetary value for any reason.

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- (5) Misrepresent to a claimant that he or she is an adjuster representing an insurer in any capacity, including acting as an employee of the insurer or as an independent adjuster, unless appointed by an insurer in writing to act on the insurer's behalf for that specific claim or purpose. A licensed public adjuster shall not charge a claimant a fee for adjusting a claim when he or she is appointed by the insurer for that specific claim or purpose and the appointment is accepted by the public adjuster;
 - (6) Solicit, or attempt to solicit, an insured during the progress of a loss-producing occurrence as defined in the insured's insurance contract;
 - (7) Have a direct or indirect financial interest in any aspect of a claim other than the salary, fee, commission, or other consideration established in a written contract with the insured which shall incorporate all of the conditions and provisions set out in Code Section 33-23-43.1;
 - (8) Charge to or collect from an insured any amount, other than reasonable compensation for services rendered based on time spent and expenses incurred, in any transaction where the insurer either pays or commits in writing to pay the policy limit or limits for all coverage under the insured's policy within three business days after the loss is reported to the insurer;
 - (9) Misrepresent to an insured or insurer that he or she is an attorney authorized by law to provide legal advice and services or that a policy covers a loss or losses outside the scope of the coverage provided by the insurance contract;
 - (10) Permit an unlicensed employee or representative of the adjuster to conduct business for which a license is required; or
 - (11) Hire or procure another to do any act prohibited by this subsection.
- (d) For purposes of subsection (c) of this Code section, the term "public adjuster" shall include licensed public adjusters as defined by Code Section 33-23-1, persons representing themselves to be public adjusters who are not properly licensed by the Commissioner, and persons committing any act under paragraph (4) of subsection (c) of this Code section.
- (e) Any person who violates any provision of subsection (c) of this Code section shall be guilty of a misdemeanor and such violation shall be grounds for suspension or revocation of licenses under this chapter.
- (f) The Commissioner may adopt reasonable and necessary rules to implement this article, including but not limited to rules regarding:
- (1) The qualifications for adjusters, in addition to those prescribed by this article, that are necessary to promote the public interest;
 - (2) The regulation of the conduct of adjusters, in accord with this article;
 - (3) The prescription of fees not prescribed elsewhere in this title that are necessary to cover the cost of filings or other administrative costs; and
 - (4) The regulation of advertisements and the definition of "advertisement" as the term is used in paragraph (4) of subsection (c) of this Code section.

HISTORY Laws 1992, p. 2830, s 1; Laws 2001, p. 925, s 1; Laws 2011, Act 201, s 2, eff. July 1, 2011; Laws 2014, Act 504, s 4, eff. July 1, 2014; Laws 2015, Act 9, s 33, eff. March 13, 2015; Laws 2019, Act 140, s 19, eff. July 1, 2019; Laws 2023, Act 185, s 1, eff. July 1, 2021.

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GA ST 33-23-43.2. Public adjuster service contracts; contents; prohibited terms; additional terms included by operation of law; execution.

- (a) No person may, directly or indirectly, act within this state as a public adjuster without, among other requirements, having first entered into a contract, in writing, on a form approved by the Commissioner, executed in duplicate by such person and the insured or the insured's duly authorized representative. A public adjuster shall not use any form of contract that is not approved by the Commissioner.
- (b) Public adjusters shall ensure that all contracts for their services are in writing, prominently captioned and titled "Public Adjuster Contract," and contain the following:
 - (1) Legible full name of the public adjuster signing the contract, as specified on the license issued by the department and attestation language that the public adjuster is fully bonded pursuant to state law;
 - (2) Permanent home state business address and contact information of the public adjuster, including email address;
 - (3) The public adjuster's department license number and a statement that the license is valid and in full force and effect as of the date the contract is signed;
 - (4) The insured's full name and street address;
 - (5) A description of the loss and its location, if applicable;
 - (6) A description of services to be provided to the insured;
 - (7) Signatures of the public adjuster and the insured;
 - (8) The date the contract was signed by the public adjuster, and the date the contract was signed by the insured;
 - (9) A statement of the fee, compensation, or other considerations that the public adjuster is to receive for services, including a listing of typical costs and expenses for which the public adjuster is to be reimbursed;
 - (10) A statement prominently captioned in a minimum 12 point font indicating that the public adjuster has no direct or indirect interest, including participation in activities that may be reasonably construed as a conflict of interest or as compensation by or interest in, any firm that performs any work in conjunction with the damages incident to any loss the public adjuster has been contracted to adjust, except for the compensation or fee from the insured for such public adjuster's services; and
 - (11) A prominently displayed notice in 12-point boldface type that states "WE REPRESENT THE INSURED ONLY."
- (c) Public adjuster contracts may not contain a contract term that:
 - (1) Restricts an insured's right to initiate and maintain direct communications with his or her attorney, the insurer, the insurer's adjuster, the insurer's attorney, or any other person regarding settlement of the insured's claim;
 - (2) Vests the public adjuster with the right to initiate direct communications with the insured's insurer, the insurer's adjuster, or the insurer's attorney regarding settlement of the insured's claim without specific written authorization from the insured;
 - (3) Allows the public adjuster's percentage fee to be collected when money is due from an insurance company but not paid or that allows a public adjuster to collect the entire fee from the first check issued by an insurance company rather than as a percentage of each check issued by an insurance company;

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- (4) Requires the insured to authorize an insurance company to issue a check only in the name of the public adjuster;
 - (5) Precludes or restricts an insured from pursuing any civil remedies relating to his or her claim;
 - (6) Purports to allow the public adjuster to act in multiple capacities; or
 - (7) Identifies the public adjuster as also being a contractor, appraiser, or other position.
- (d) All public adjuster contracts shall be construed to contain, by operation of law:
- (1) A provision granting the insured a right to rescind the contract within three business days after the date the contract was signed, so long as the rescission is in writing and mailed or delivered to the public adjuster at the address stated in the contract within three business days. For purposes of this subsection, rescission of the contract shall be considered delivered or mailed if it is delivered by electronic transmittal to the email address or facsimile specified in the contract for such communications;
 - (2) A provision that if the insured exercises the right to rescind the contract, anything of value given by the insured under the contract shall be returned to the insured within 15 business days following the receipt by the public adjuster of the rescission notice; and
 - (3) A provision requiring that, prior to initiating any contact with the insured's insurer, the insurer's adjuster, or the insurer's attorney regarding settlement of the insured's claim, a public adjuster must provide the insurer a notification letter signed by the insured confirming that the insured has authorized the public adjuster to communicate directly with the insurer, the insurer's adjuster, or the insurer's attorney on behalf of the insured.
- (e) All public adjuster contracts shall be executed in duplicate to provide an original contract to the public adjuster and an original contract to the insured. The public adjuster's original contract shall be available at all times for inspection without notice by the department.
- (f) No public adjuster shall enter into a contract with an insured and collect a commission as provided by Code Section 33-23-43.3, without having the intent to actually perform services customarily provided by a public adjuster for the insured.

HISTORY Laws 2014, Act 504, § 5, eff. July 1, 2014; Laws 2015, Act 9, § 33, eff. March 13, 2015; Laws 2019, Act 140, § 20, eff. July 1, 2019; Laws 2020, Act 521, § 33, eff. July 29, 2020; Laws 2021, Act 185, § 3, eff. July 1, 2021; Laws 2023, Act 265, § 4, eff. May 3, 2023.

GA ST s 33-24-39. Forms for proof of loss to be furnished. (Insurance – Insurance Generally – General Provisions)

An insurer shall furnish, upon written request of any person claiming to have a loss under an insurance contract issued by the insurer, forms for proof of loss for completion by the person, but the insurer shall not, by reason of the requirement so to furnish forms, have any responsibility for or with reference to the completion of the proof or the manner of any completion or attempted completion. Failure or refusal to furnish the form upon written request or written notice of a loss shall constitute waiver of the right of the insurer to require proof of loss.

HISTORY Laws 1960, p. 289, s 1.

GA ST s 33-24-40. Claims administration not waiver.

Without limitation of any right or defense of an insurer otherwise, none of the following acts by or on behalf of an insurer shall be deemed to constitute a waiver of any provision of a policy or of any defense of the insurer under the policy:

- (1) Acknowledgment of the receipt of notice of loss or claim under the policy;

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- (2) Furnishing forms for reporting a loss or claim, for giving information relative to the loss or claim, or for making proof of loss or receiving or acknowledging receipt of any forms or proofs completed or uncompleted; or
- (3) Investigating any loss or claim under any policy or engaging in negotiations looking toward a possible settlement of any loss or claim.

HISTORY Laws 1960, p. 289, s 1.

GA ST s 33-24-43. Insurance to be payable only in legal tender.

It shall be unlawful for any insurer to provide in a policy or contract of insurance that the face amount thereof or any loss or indemnity which may accrue thereunder shall be payable in anything other than legal tender of the United States to the beneficiary named in the policy or contract of insurance or to the legal representative of the insured; and any provision to the contrary shall be null and void, provided that this Code section shall not prevent property insurance policies from including an option to the insurer authorizing it to repair the damage incurred or paying the debtor the dollar amount thereof.

HISTORY Laws 1960, p. 289, s 1.

GA ADC 120-2-3-.25. Resident Adjusters, Public Adjusters, Workers Compensation Adjusters, Crop Hail Adjusters and Emergency Disaster Adjusters. (Rules of Comptroller General – Office of Commissioner of Insurance – Regulations Regarding Agents, Subagents, Counselors, Adjusters, Surplus Lines Brokers, and Agencies)

- (1) Adjuster:
 - (a) Effective July 1, 2002, all licensees who currently hold an adjusting company adjuster or an independent adjuster license will be issued an adjuster license in lieu of their current license. All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 continue to apply after July 1, 2002.
 - (b) In order for all other resident applicants to be eligible for an adjuster license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.
 - (c) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.
 - (d) The resident adjuster applicant must complete an approved Prelicensing course in property and casualty unless specifically exempted by Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation. All prelicensing courses must contain a minimum of twenty (20) hours of instruction per major line of authority. The applicant must pass the required examination for licensure within 12 months of the completion of the prelicensing course. All applicants must pass the required adjuster examination and apply for licensure within 12 months from receiving a passing grade on the examination. Applicants are exempt from the examination requirement if they qualify for the exemption outlined in Rule 120-2-3-.09(1)(k) or hold either the designation of Chartered Property and Casualty Underwriter (CPCU) or Universal Claims Certification (UCC).
 - (e) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 apply to adjuster licensees.
 - (f) Exceptions to prelicensing course:
 - 1. Applicants who hold a designation of CPCU or UCC;
 - 2. Applicants who qualify for exemption under **C**O.C.G.A. §§ 33-23-5(a)(5)(A) and 33-23-5(a)(5)(B);

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3. Applicants who provide satisfactory evidence such as a transcript from a college or university indicating successful completion of two (2) college or university courses related to insurance. Such courses must relate to the lines of authority for which the Applicant has applied;
 4. Applicants who hold college degrees in insurance;
 5. Other applicants at the Commissioner's discretion.
- (2) Public adjuster:
- (a) To be eligible for a resident public adjuster license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.
 - (b) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.
 - (c) The resident public adjuster applicant must complete an approved prelicensing course in property and casualty unless specifically exempted by Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation. All prelicensing courses must contain a minimum of twenty (20) hours of instruction per major line of authority. The applicant must pass the required examination for licensure within 12 months of the completion of the prelicensing course. All applicants must pass the required public adjuster examination and apply for licensure within 12 months from receiving a passing grade on the examination. Applicants are exempt from the examination requirement if they qualify for the exemption outlined in Rule 120-2-3-.09(1)(k) or hold the designation of CPCU.
 - (d) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 apply to public adjusters.
 - (e) The applicant must include with his/her application a public adjuster bond in accordance with Rule 120-2-3-.18.
 - (f) Exceptions to prelicensing course:
 1. Applicants who hold a designation of CPCU;
 2. Applicants who qualify for exemption under **C**O.C.G.A. §§ 33-23-5(a)(5)(A) and 33-23-5(a)(5)(B);
 3. Applicants who provide satisfactory evidence such as a transcript from a college or university indicating successful completion of two (2) college or university courses related to insurance. Such courses must relate to the lines of authority for which the Applicant has applied;
 4. Applicants who hold college degrees in insurance;
 5. Other applicants at the Commissioner's discretion.
- (3) Workers' Compensation adjuster:
- (a) To be eligible for a resident workers' compensation adjuster license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.
 - (b) Applicants must hold and submit proof of the designation of CWCP, CPCU, or UCC, or qualify under Rule 120-2-3-.09(1)(k).
 - (c) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit

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electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

- (d) All continuing education requirements as outlined in Rule 120-2-3-.15(2)(c) and all renewal requirements as outlined in Rule 120-2-3-.16 apply to workers' compensation adjusters.
- (4) Crop Hail adjuster:
 - (a) To be eligible for a resident crop hail adjuster license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.
 - (b) All applicants must complete an approved proficiency testing program. Applicants are exempt from the proficiency testing program requirements if they qualify for the exemption outlined in Rule 120-2-3-.09(1)(k) or hold either the designation of CPCU or UCC.
 - (c) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.
 - (d) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 apply to crop hail adjusters.
- (5) Emergency Disaster adjuster:
 - (a) In the event of a Georgia Emergency Management Authority (GEMA) declared disaster or catastrophe, the insurer will be required to electronically file with the Department a list of non-licensed salaried staff adjusters and out of state licensees that will be handling claims relating to the catastrophe/disaster. Upon proper filing, Disaster Re-entry Permits will be assigned to each insurer. These re-entry permits are to be temporarily assigned to each adjuster for a period not to exceed 60 days.
 - (b) The Insurer's electronic emergency adjuster filing must include information regarding its adjuster Coordinator. The filing must include the adjuster coordinator's name, address, e-mail address, phone and fax number, as well as any additional information the Commissioner deems necessary. The adjuster coordinator will be responsible for the emergency disaster adjuster filings and assignment of the re-entry permits.
 - (c) In the event of a non-GEMA declared disaster, nonresident adjusters licensed in another state may enter Georgia for a period not to exceed 60 days. The adjuster must notify the Department prior to entry into this state. Such notification must include the adjuster's name, address, date of anticipated entry into this state and any other information that the Commissioner deems necessary to complete the filing. If the adjuster will be in this state for a period exceeding 60 days, the individual must apply for adjuster licensure.

HISTORY Adopted Sept. 30, 1992; Amended Aug. 29, 1996; Amended Feb. 4, 2003; Adopted Aug. 5, 2009. Amended April 21, 2013; Aug. 28, 2018.

Georgia Automobile Claims

GA ST s 33-4-7. Insurers' duties with respect to settlement of motor vehicle liability policy claims; bad faith refusal to pay claims. (Insurance – Actions Against Insurance Companies)

- (a) In the event of a loss because of injury to or destruction of property covered by a motor vehicle liability insurance policy, the insurer issuing such policy has an affirmative duty to adjust that loss fairly and promptly, to make a reasonable effort to investigate and evaluate the claim, and, where liability is reasonably clear, to make a good faith effort to settle with the claimant potentially entitled to recover against the insured under such policy. Any insurer who breaches this duty may be liable to pay the claimant, in addition to the loss, not more than 50 percent of the liability of the insured for the loss or \$5,000.00, whichever is greater, and all reasonable attorney's fees for the prosecution of the action.
- (b) An insurer breaches the duty of subsection (a) of this Code section when, after investigation of the claim, liability has become reasonably clear and the insurer in bad faith offers less than the amount reasonably owed under all the circumstances of which the insurer is aware.
- (c) A claimant shall be entitled to recover under subsection (a) of this Code section if the claimant or the claimant's attorney has delivered to the insurer a demand letter, by statutory overnight delivery or certified mail, return receipt requested, offering to settle for an amount certain; the insurer has refused or declined to do so within 60 days of receipt of such demand, thereby compelling the claimant to institute or continue suit to recover; and the claimant ultimately recovers an amount equal to or in excess of the claimant's demand.
- (d) At the expiration of the 60 days set forth in subsection (c) of this Code section, the claimant may serve the insurer issuing such policy by service of the complaint in accordance with law. The insurer shall be an unnamed party, not disclosed to the jury, until there has been a verdict resulting in recovery equal to or in excess of the claimant's demand. If that occurs, the trial shall be recommenced in order for the trier of fact to receive evidence to make a determination as to whether bad faith existed in the handling or adjustment of the attempted settlement of the claim or action in question.
- (e) The action for bad faith shall not be abated by payment after the 60 day period nor shall the testimony or opinion of an expert witness be the sole basis for a summary judgment or directed verdict on the issue of bad faith.
- (f) The amount of recovery, including reasonable attorney's fees, if any, shall be determined by the trier of fact and included in a separate judgment against the insurer rendered in the action; provided, however, that the attorney's fees shall be fixed on the basis of competent expert evidence as to the reasonable value of the services based on the time spent and legal and factual issues involved in accordance with prevailing fees in the locality where the action is pending; provided, further, that the trial court shall have the discretion, if it finds the jury verdict fixing attorney's fees to be greatly excessive or inadequate, to review and amend the portion of the verdict fixing attorney's fees without the necessity of disapproving the entire verdict. The limitations contained in this Code section in reference to the amount of attorney's fees are not controlling as to the fees which may be agreed upon by the plaintiff and his or her attorney for the services of the attorney.
- (g) In any action brought pursuant to subsection (b) of this Code section, and within 20 days of bringing such action, the plaintiff shall, in addition to service of process in accordance with Code Section 9-11-4, mail to the Commissioner of Insurance a copy of the demand and complaint by first-class mail. Failure to comply with this subsection may be cured by delivering same.

HISTORY Laws 2001, p. 784, s 1; Laws 2015, Act 187, s 22, eff. July 1, 2015; Laws 2016, Act 625, s 33, eff. May 3, 2016; Laws 2019, Act 139, s 1-22, eff. July 1, 2019.

GA ST s 33-7-11.1. Loss of use of motor vehicle; time when liability for payment of benefits to third party commences. (Insurance – Kinds of Insurance; Limits of Risks; Reinsurance)

- (a) As used in this Code section, the term "liability insurance policy" means an automobile liability or motor vehicle liability insurance policy issued or delivered in this state to the owner of such vehicle or issued or delivered by any insurer licensed in this state upon any such motor vehicle then principally garaged or principally used in this state.

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- (b) Any insurer, upon acceptance of liability, pursuant to any automobile liability or motor vehicle liability insurance policy, shall pay reasonable benefits for losses, including total losses, to a third party on behalf of an insured for loss of use and towing and storage costs of such a motor vehicle, and the liability of the insurer for payment of benefits for losses, including total losses, to the third party shall commence as of the time of the incident or occurrence which results in such losses; provided, however, in no event shall this Code section be construed so as to relieve the claimant of his or her obligation to mitigate his or her losses or to require the payment of loss of use and towing and storage costs benefits in an amount which is greater than the actual losses suffered.
- (c) When making any payment to a third party for damage to an automobile for any loss, the insurer shall have printed on the loss estimate, if prepared directly by the insurer, the following:

Failure to use the insurance proceeds in accordance with a security agreement between you and a lienholder, if any, may be a violation of Code Section 16- 8-4 of the O.C.G.A. If you have any questions, contact your lending institution.

This subsection does not apply if the insurer does not prepare the loss estimate or if the estimate is not prepared in the State of Georgia.
- (d) The provisions of this Code section shall be applicable to all automobile liability or motor vehicle liability insurance policies that pay benefits to a third party on behalf of an insured for the loss of use and towing and storage costs of such motor vehicle issued, delivered, or renewed in this state on or after January 1, 2009.

HISTORY Laws 1982, p. 802, s 1; Laws 1982, p. 802, s 2; Laws 2002, p. 1192, s 1; Laws 2003, Act 9, s 33, eff. May 14, 2003; Laws 2008, Act 721, s 1, eff. July 1, 2008.

GA ST s 33-34-6. Motor vehicle repairs; restrictions on freedom of choice. (Insurance – Motor Vehicle Accident Reparations)

- (a) Subject to the provisions of subsection (b) of this Code section, no insurer shall represent to a person making a claim under a motor vehicle insurance policy that the use of or the failure to use a particular repair facility or particular repair facilities may result in the nonpayment of a claim.
- (b) No insurer shall require a person making a claim under a motor vehicle insurance policy to use a particular repair facility or particular repair facilities in order to settle a claim if the person making the claim can obtain the repair work on the motor vehicle at the same cost from another source.

HISTORY Laws 1991, p. 1608, s 1.12; Laws 1992, p. 2464, s 2; Laws 1999, p. 834, s 2.

GA ST s 33-34-8. Procedures for settlement of first-party property damage claims.

The Commissioner shall provide by rule or regulation procedures for the expeditious and efficient settlement of first-party property damage claims under personal private passenger motor vehicle policies. Such procedures may include, but shall not be limited to:

- (1) Loss of use reimbursements;
- (2) Cost of repairs;
- (3) Determination of fair market value on total losses;
- (4) Use of aftermarket parts;
- (5) Time limitations for payments of claims for property damage by insureds; and
- (6) Establishment of a panel for arbitration of disputed property damage claims where such claims involve total losses.

HISTORY Laws 1991, p. 1608, s 1.12.

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GA ST s 33-34-9. Procedure on total loss of vehicle subject to more than one lien; limited access to records of the Department.

- (a) Notwithstanding any other provision of law, in any claim involving a total loss of a vehicle which is subject to more than one lien, the proceeds of an insurance policy shall be applied to pay in full the debt owed to the senior lienholder before any proceeds of an insurance policy shall be applied to any other lien on the vehicle.
- (b) For the purpose of implementing this Code section, at the discretion of the state revenue commissioner, an insurer may be granted access via electronic means to individual motor vehicle records. Any such access shall be in accordance with Code Section 40-3-23, and the Department of Revenue shall establish the application and approval process before allowing any such access. The information provided to an insurer pursuant to this Code section shall be limited to the verification of the vehicle owner's name, vehicle information, and any recorded security interests or liens as shown on the records of the Department of Revenue.

HISTORY Laws 2002, p. 848, s 1; Laws 2005, Act 68, s 13-2, eff. July 1, 2005.

GA ST s 40-3-36. Cancellation of certificates of title for scrapped, dismantled, or demolished motor vehicles; certificate of title for salvage motor vehicles. (Motor Vehicles and Traffic – Certificates of Title, Security Interests, and Liens – Certificates of Title)

- (a) (1) Any registered owner or authorized agent of a registered owner who in any manner sells or disposes of any vehicle, including a trailer, as scrap metal or parts only or a secondary metals recycler, used motor vehicle parts dealer, or scrap metal processor who scraps, dismantles, or demolishes a vehicle shall within 72 hours cancel the certificate of title by electronic means in a manner designated by the department and securely destroy the certificate of title.
- (2) Notwithstanding any other provision of this article to the contrary, if the owner or authorized agent of the owner has not obtained a title in his or her name for the vehicle, including a trailer, to be transferred, or has lost the title for the vehicle or trailer to be transferred, he or she may sign a statement swearing that, in addition to the foregoing conditions, the vehicle or trailer is at least 12 model years old and is worth \$850.00 or less if the vehicle was used as a motor vehicle, or \$1,700.00 or less if the vehicle was used as a trailer. The statement described in this paragraph may be used only to transfer such a vehicle to a licensed used motor vehicle parts dealer under Code Section 43-47-7 or scrap metal processor under Code Section 43-43-1. The department shall promulgate a form for the statement which shall include, but not be limited to:
 - (A) A statement that the vehicle or trailer shall never be titled again; it must be dismantled or scrapped;
 - (B) A description of the vehicle including, where applicable, the year, make, model, vehicle identification number, and color;
 - (C) The name, address, and driver's license number of the owner;
 - (D) A certification that the owner:
 - (i) Never obtained a title to the vehicle in his or her name; or
 - (ii) Was issued a title for the vehicle, but the title was lost or stolen;
 - (E) A certification that the vehicle:
 - (i) Is worth \$850.00 or less, or \$1,700.00 or less if the vehicle is a trailer;
 - (ii) Is at least 12 model years old; and
 - (iii) Is not subject to any secured interest or lien;
 - (F) An acknowledgment that the owner realizes this form will be filed with the department and that it is a felony, punishable by imprisonment for not fewer than one nor more than

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three years or a fine of not less than \$1,000.00 nor more than \$5,000.00, or both, to knowingly falsify any information on this statement;

- (G) The owner's signature and the date of the transaction;
 - (H) The name, address, and National Motor Vehicle Title Information System identification number of the business acquiring the vehicle;
 - (I) A certification by the business that \$850.00 or less, or \$1,700.00 or less if the vehicle is a trailer, was paid to acquire the vehicle; and
 - (J) The business agent's signature and date along with a printed name and title if the agent is signing on behalf of a corporation.
 - (K) The business agent's signature and date along with a printed name and title if the agent is signing on behalf of a corporation.
- (3) (A) The secondary metals recycler, used motor vehicle parts dealer, or scrap metal processor shall mail or otherwise deliver the statement required under paragraph (2) of this subsection to the department within 72 hours of the completion of the transaction, requesting that the department cancel the Georgia certificate of title and registration.
- (B) Notwithstanding the requirement to mail or otherwise deliver the statement required under paragraph (2) of this subsection to the department, the department shall provide a mechanism for the receipt of the information required to be obtained in the statement by electronic means, at no cost to the used motor vehicle parts dealer or scrap metal processor, in lieu of the physical delivery of the statement, in which case the used motor vehicle parts dealer or scrap metal processor shall maintain the original statement for a period of not less than two years.
- (C) Within 48 hours of each day's close of business, the used motor vehicle parts dealer or scrap metal processor who purchases or receives motor vehicles for scrap or for parts shall deliver in a format approved by the department, either by facsimile or by other electronic means to be made available by the department by January 1, 2012, a list of all such vehicles purchased that day for scrap or for parts. That list shall contain the following information:
- (i) The name, address, and contact information for the reporting entity;
 - (ii) The vehicle identification numbers of such vehicles;
 - (iii) The dates such vehicles were obtained;
 - (iv) The names of the individuals or entities from whom the vehicles were obtained, for use by law enforcement personnel and appropriate governmental agencies only;
 - (v) A statement of whether the vehicles were, or will be, crushed or disposed of, or offered for sale or other purposes;
 - (vi) A statement of whether the vehicle is intended for export out of the United States; and
 - (vii) The National Motor Vehicle Title Information System identification number of the business acquiring the vehicle.

There shall be no charge to either a used motor vehicle parts dealer or scrap metal processor associated with providing this information to the department.

- (D) For purposes of this subsection, the term "motor vehicle" shall not include a vehicle which has been crushed or flattened by mechanical means such that it is no longer the motor vehicle as described by the certificate of title, or such that the vehicle identification number is no longer visible or accessible, in which case the purchasing or receiving secondary

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metals recycler, used motor vehicle parts dealer, or scrap metal processor shall verify that the seller has reported the vehicles in accordance with this subsection. Such verification may be in the form of a certification from the seller or contract between the seller and the purchasing or receiving secondary metals recycler, used motor vehicle parts dealer, or scrap metal processor which clearly identifies the seller by a government issued photograph identification card, or employer identification number, and shall be maintained for a period of not less than two years.

- (E) The information obtained by the department in accordance with this subsection shall be reported to the National Motor Vehicle Title Information System, in a format which will satisfy the requirement for reporting this information, in accordance with rules adopted by the United States Department of Justice in 28 C.F.R. 25.56.
 - (F) The information obtained by the department in accordance with this subsection shall be made available only to law enforcement agencies, and for purposes of canceling certificates of title, and shall otherwise be considered to be confidential business information of the respective reporting entities.
 - (G) All records required under the provisions of this Code section shall be maintained for a period of two years by the reporting entity and shall include a scanned or photocopied copy of the seller's or seller's representative's driver's license or state issued identification card.
- (4) (A) The registered owner of any motor vehicle which is damaged to the extent that its restoration to an operable condition would require the replacement of the front clip assembly, which includes the fenders, hood, and bumper; the rear clip assembly, which includes the quarter panels, the floor panel assembly, and the roof assembly, excluding a soft top; the frame; and a complete side, which includes the fenders, door, and quarter panel shall mail or deliver the certificate of title to the commissioner for cancellation.
- (B) A motor vehicle owner who retains possession of a damaged vehicle which is a salvage motor vehicle as defined in paragraph (11) of Code Section 40-3-2 shall surrender the license plates and registration for such vehicle, shall not operate such vehicle upon the roads of this state, and shall not sell, trade, or otherwise dispose of such vehicle prior to obtaining a salvage certificate of title for such vehicle.
- (C) (i) Any insurance company which acquires a damaged motor vehicle by virtue of having paid a total loss claim shall deliver by electronic means the certificate of title to the commissioner for cancellation. If an insurance company or its authorized agent, including, but not limited to, a salvage dealer as such term is defined in Code Section 40-11-13, is unable to obtain a certificate of title within 30 days after acceptance by the motor vehicle owner of a total loss claim, the insurance company or its authorized agent may apply to the department for a salvage certificate of title on a form provided by the department for such purpose. Such application shall require submission by electronic means of evidence that the insurance company or its authorized agent has fulfilled the settlement through payment of a total loss claim and has made two or more written or other verifiable forms of communication with the owner in order to obtain such owner's certificate of title. Any such application made by a salvage dealer shall also include written documentation of support that an insurance company has transferred all its claims or rights to such vehicle to the salvage dealer. Any salvage certificate of title issued by the department pursuant to this subdivision shall comply with any applicable requirements relating to salvage, rebuilt, or restored certificates of title in this Code section and Code Section 40-3-37.
- (ii) In every case in which a total loss claim is paid and the insurance company does not acquire such damaged motor vehicle, the insurance company paying such total loss claim, the vehicle owner, and the lienholder or security interest holder, as applicable, shall take the following steps to secure a salvage certificate of title for such motor vehicle:

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- (I) If the vehicle owner is in possession of the certificate of title, the owner shall deliver the certificate of title to the insurance company prior to any payment of the claim, and the insurance company shall deliver by electronic means the certificate of title, an application for a salvage certificate of title, and the form provided by the commissioner for issuance of a salvage certificate of title;
 - (II) If the certificate of title has been lost, destroyed, or misplaced, the vehicle owner shall, prior to payment of the claim on such vehicle, complete an application for a replacement title on the form provided by the commissioner and deliver such application and form to the insurance company and the insurance company shall deliver by electronic means such application and form to the commissioner for issuance of a replacement original title marked salvage;
 - (III) If the lienholder or security interest holder has possession of the certificate of title, the vehicle owner shall complete an application for a replacement title on a form provided by the commissioner and shall deliver the completed form to the insurance company prior to the payment of the claim; the insurance company shall thereafter deliver by electronic means the application to the commissioner with notice of the payment of the total loss claim and the name and address of the lienholder or security interest holder in possession of the title. The commissioner shall mail notice to the lienholder or security interest holder that a total loss claim has been paid on the vehicle and that the title to such vehicle has been canceled, and the commissioner shall provide to the lienholder or security interest holder a salvage certificate of title for such vehicle, provided that the validity of the security interest shall not be affected by issuance of a salvage certificate of title. The lienholder or security interest holder shall, within ten days after receipt of such notice of total loss claim and cancellation of the original certificate of title, deliver by electronic means the canceled original certificate of title to the commissioner; or.
 - (IV) For the sole purpose of payment of a total loss claim, for any vehicle ten years of age or older for which neither the vehicle owner nor the lienholder or security interest holder, if any, possesses a certificate of title, the vehicle owner shall deliver the vehicle license plate and certificate of registration for such vehicle to the insurance company prior to payment of any claim and the insurance company shall mail or deliver the license plate and deliver by electronic means the certificate of registration to the commissioner with a completed form provided by the commissioner; provided, however, that the vehicle owner shall not operate such vehicle and the owner shall obtain a certificate of title for such vehicle as provided by law, which certificate of title shall then be subject to cancellation as provided in this paragraph.
- (D) The department shall give priority to the title submissions provided for in subparagraph (C) of this paragraph and shall issue a salvage certificate of title for such vehicles within seven days of receipt of such submissions by an insurance company.
- (a.1) In the case of a motor vehicle which is subject to more than one perfected security interest or lien which motor vehicle is a total loss, if the insurer is to acquire title to the damaged motor vehicle, the holder of the senior security interest or lien, upon receipt of the settlement proceeds of the insurance policy in accordance with Code Section 33-34-9, shall apply for a new certificate of title for a transferee other than by voluntary transfer in accordance with subsection (b) of Code Section 40-3-35, naming the insurer only as transferee.
 - (b) Except as provided in subsection (a) of this Code section, any person, firm, or corporation which purchases or otherwise acquires a salvage motor vehicle shall apply to the commissioner for a salvage

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certificate of title for such motor vehicle within 30 days of the purchase or acquisition of the motor vehicle or within 30 days of the payment of a total loss claim as provided in paragraph (4) of subsection (a) of this Code section to the registered owner of the salvage motor vehicle, if the person, firm, or corporation intends to operate or to sell, convey, or transfer the motor vehicle; and no such person, firm, or corporation shall sell, transfer, or convey a salvage motor vehicle until such person, firm, or corporation has applied for and obtained a salvage certificate of title.

- (c) The application for a salvage certificate of title shall be made in a manner to be prescribed by the commissioner.
- (d) Any certificate of title which is issued to a salvage motor vehicle, as provided for in this Code section, shall contain the word "salvage" on the face of the certificate in such a manner as the commissioner may prescribe, so as to indicate clearly that the motor vehicle described is a salvage motor vehicle. The legend "rebuilt" in no larger than 12 point font shall be placed on a certificate of title to a vehicle which was declared a salvage vehicle and subsequently repaired with less than two major component parts to restore the vehicle to an operable condition.
- (e) Notwithstanding this subsection and subsections (c) and (d) of Code Section 40-3-37, the legend "rebuilt" shall only be required to be placed on the certificate of title to a vehicle which was declared a salvage vehicle on or after July 1, 2004, and which was subsequently rebuilt.
- (f) As an alternative to criminal or other civil enforcement, the commissioner, in order to enforce this Code section or any orders, rules, and regulations promulgated pursuant to this Code section, may issue an administrative fine not to exceed \$ 1,000.00 for each violation, whenever the commissioner, after a hearing, determines that any person has violated any provisions of this Code section or any regulations or orders promulgated under this Code section. The hearing and any administrative review thereof shall be conducted in accordance with the procedure for contested cases under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." Any person who has exhausted all administrative remedies available and who is aggrieved or adversely affected by a final order or action of the commissioner shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50. All fines recovered under this subsection shall be paid into the state treasury. The commissioner may file, in the superior court (1) wherein the person under order resides; (2) if such person is a corporation, in the county wherein the corporation maintains its principal place of business; or (3) in the county wherein the violation occurred, a certified copy of a final order of the commissioner, whether unappealed from or affirmed upon appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and proceedings in relation thereto shall thereafter be the same as though the judgment had been rendered in an action duly heard and determined by the court. The penalty prescribed in this Code section shall be concurrent, alternative, and cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties provided, allowed, or available to the commissioner with respect to any violation of this Code section or any order, rules, or regulations promulgated pursuant thereto.
- (g) The Commissioner of Insurance is authorized to enforce the provisions of this Code section to the extent such provisions are applicable to insurers which are under the jurisdiction of the Insurance Department. The Commissioner of Insurance is also authorized to cooperate with the commissioner in enforcing this Code section and to provide the commissioner with any information acquired by the Commissioner of Insurance during any investigation or proceeding involving this Code section. Nothing in this subsection shall be construed to limit the powers and duties of the commissioner to enforce the provisions of this Code section as such provisions apply to insurers.
- (h) It shall be unlawful for any person, firm, or corporation to violate the provisions of subsection (a), (b), or (c) of this Code section; and any person, firm, or corporation convicted of violating such provisions shall be guilty of a misdemeanor. Any owner of a salvage motor vehicle who transfers or attempts to transfer such vehicle without obtaining a salvage certificate of title for such vehicle shall be guilty of a misdemeanor of a high and aggravated nature, punishable by a fine not to exceed \$ 5,000.00. Any lienholder or security interest holder who, after notice by the commissioner of payment of a total loss claim and cancellation of the title of a vehicle, fails or refuses to return the title to the commissioner or

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who surrenders the title to anyone other than the commissioner shall be guilty of a misdemeanor of a high and aggravated nature, punishable by a fine not to exceed \$ 5,000.00.

- (i) The registered owner who retains possession of a salvage motor vehicle to whom a total loss claim has been paid shall promptly remove the license plate from such vehicle and return such plate to the commissioner for cancellation. An insurer which pays a total loss claim shall, on a form prescribed by the commissioner, notify the owner of the duty to remove and return such license plate for cancellation and of all inspection requirements for rebuilding or restoring such vehicle.
- (j) As used in this Code section, the terms:
 - (1) "Scrap metal processor" shall have the same meaning as set forth in Code Section 43-43-1.
 - (2) "Secondary metals recycler" shall have the same meaning as set forth in Code Section 10-1-350.
 - (3) "Used motor vehicle parts dealer" shall have the same meaning as set forth in Code Section 43-47-2.

HISTORY Laws 1961, p. 68, s 20; Laws 1965, p. 264, s 1; Laws 1966, p. 139, s 1; Laws 1970, p. 185, s 1; Laws 1975, p. 1596, s 1; Laws 1979, p. 1108, s 1; Laws 1981, p. 644, ss 2, 4; Laws 1985, p. 1227, s 1; Laws 1990, p. 8, s 40; Laws 1990, p. 1657, s 5; Laws 1990, p. 2048, s 3; Laws 1992, p. 2978, ss 6, 7; Laws 1993, p. 1260, s 7; Laws 1998, p. 1179, s 35; Laws 2000, p. 951, s 4-7; Laws 2002, p. 848, s 2; Laws 2004, Act 514, s 2, eff. July 1, 2004; Laws 2007, Act 323, s 1, eff. July 1, 2007; Laws 2007, Act 340, s 2, eff. July 1, 2007; Laws 2007, Act 346, s 12, eff. Jan. 1, 2008; Laws 2011, Act 245, s 40, eff. May 13, 2011; Laws 2011, Act 89, s .1, eff. Jan. 1, 2012; Laws 2012, Act 584, s 1, eff. July 1, 2012; Laws 2012, Act 590, ss 1-3, 1-4, eff. July 1, 2012; Laws 2013, Act 33, s 40, eff. April 24, 2013; Laws 2019, Act 139, § 1-99, eff. July 1, 2019; Laws 2019, Act 275, § 2; Laws 2020, Act 521, § 40, eff. July 29, 2020; Laws 2021, Act 182, § 2, eff. July 1, 2021.

GA ST s 40-3-36.1. Designation of flood damaged or fire damaged motor vehicles; indication of designation on certificate of title.

For any salvage motor vehicle which, after inspection, it is determined that repair to an operable condition does not require replacement of two or more major component parts but it is determined that the damage to the vehicle is a result of flood or fire shall be designated as flood damaged or fire damaged by the commissioner and such designation shall be indicated on the face of the certificate of title for such vehicle.

HISTORY Laws 1993, p. 1260, s 8.

GA ST s 40-3-43. Transfer of certificate of title on stolen vehicle upon payment of total loss claim.

- (a) Any person, firm, or corporation which pays a total loss claim on a vehicle as a result of such vehicle's being stolen shall within 15 days of the payment of such total loss claim apply to the commissioner for a transfer of the certificate of title into such person's, firm's, or corporation's name. No person, firm, or corporation shall sell, transfer, or convey such vehicle until the requirements of this Code section have been met.
- (b) As an alternative to criminal or other civil enforcement, the commissioner, in order to enforce this Code section or any orders, rules, and regulations promulgated pursuant to this Code section, may issue an administrative fine not to exceed \$1,000.00 for each violation, whenever the commissioner, after a hearing, determines that any person has violated any provisions of this Code section or any regulations or orders promulgated under this Code section. The hearing and any administrative review thereof shall be conducted in accordance with the procedure for contested cases under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." Any person who has exhausted all administrative remedies available and who is aggrieved or adversely affected by a final order or action of the commissioner shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50. All fines recovered under this subsection shall be paid into the state treasury. The commissioner may file, in the superior court (1) wherein the person under order resides; (2) if such person is a corporation, in the county wherein the corporation maintains its principal place of business; or (3) in the county wherein the violation occurred, a certified copy of a final order of the commissioner, whether unappealed from

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or affirmed upon appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and proceedings in relation thereto shall thereafter be the same as though the judgment had been rendered in an action duly heard and determined by the court. The penalty prescribed in this Code section shall be concurrent, alternative, and cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties provided, allowed, or available to the commissioner with respect to any violation of this Code section or any order, rules, or regulations promulgated pursuant thereto.

- (c) The Commissioner of Insurance is authorized to enforce the provisions of this Code section to the extent such provisions are applicable to insurers which are under the jurisdiction of the Department of Insurance. The Commissioner of Insurance is also authorized to cooperate with the commissioner in enforcing this Code section and to provide the commissioner with any information acquired by the Commissioner of Insurance during any investigation or proceeding involving this Code section. Nothing in this subsection shall be construed to limit the powers and duties of the commissioner to enforce the provisions of this Code section as such provisions apply to insurers..

HISTORY Laws 1988, p. 1340, s 1; Laws 1990, p. 2048, s 3; Laws 2019, Act 139, § 1-99, eff. July 1, 2019.

GA ADC 120-2-52-.02. Purpose. (Comptroller General – Rules of Comptroller General Office of Commissioner of Insurance – Fair and Equitable Settlement of First Party Property Damage Claims)

The purpose of this Regulation is to provide procedures for the expeditious and efficient settlement of first party property damage claims arising under personal private passenger motor vehicle policies (hereinafter referred to as "claims").

HISTORY Adopted April 18, 1994.

GA ADC 120-2-52-.03. Standards for Prompt and Fair Settlements of First Party Property Damage Claims.

- (1) Every insurer, upon receiving notification of a claim shall, within fifteen (15) days, acknowledge the receipt of such notice by the insured, unless payment is made within that time period. If an acknowledgment is made by means other than writing, a notation of the acknowledgment shall be made in the claim file of the insurer and dated. Notification of a claim given to an agent of an insurer shall be notification to the insurer.
- (2) Every insurer, upon receiving notification of a claim shall, within fifteen (15) days, provide the insured with the proof of loss forms, if applicable, with reasonable explanations regarding their use. The providing of these forms will constitute an acknowledgment of receipt of the claim referred to in paragraph (1) above.
- (3) The insurer shall affirm or deny liability on claims within fifteen (15) days of receiving the completed proof of loss from the insured for losses arising from motor vehicle policies, and sixty (60) days of receiving the completed proof of loss from the insured for losses arising from fire or extended coverage type policies. If the insurer does not require the proof of loss to be completed, a coverage investigation as is reasonably necessary to affirm or deny shall take place within thirty (30) days from the day communication of the claim was received by the insurer.
- (4) Payment shall be tendered within ten (10) days after coverage is confirmed and the full amount of the claim is determined and not in dispute. In claims where multiple coverages are involved, payments for individual coverages, which are not in dispute and where the payee is known, shall be tendered within ten (10) days, if such payment would terminate the insurer's known liability under that individual coverage.
- (5) If the insurer needs more time than that specified in paragraph (3) above, to determine whether a first party claim should be accepted or denied, it shall notify the claimant within five (5) business days after the time limitation has elapsed in paragraph (3) above giving the reason that more time is needed and an estimate of additional time needed to establish liability. This can be accomplished in writing or if by other means, a proper notation shall be made in the claim file and dated. The total time the insurer has

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to accept or deny liability shall not exceed 60 days from the company being notified of the claim, unless the company has documented the claim file where information that has been requested necessary to determine liability has not been submitted.

- (6) If the insurer has affirmed liability on a claim, or affirmed liability for individual coverages where the claim involves multiple coverages and the amount payable is in dispute, the insured, or the insurer, may submit to the Commissioner a request for their case to be arbitrated. The request must be in writing and must include the facts of the case to include where each party currently stands in the negotiations.

The Commissioner may establish a panel of arbitrators consisting of attorneys authorized to practice law in this State and insurance adjusters licensed to act as such in this State. The arbitrators will be charged with the duty of establishing a fair and equitable monetary settlement of the case. If an arbitration panel has been established, three (3) individuals from the panel of arbitrators, at least one of whom shall be an attorney authorized to practice law in this State and at least one of whom shall be an insurance adjuster licensed to act as such in this State, will be designated to hear each request for arbitration. Any claim settled pursuant to this Chapter shall be binding on both parties and fulfill any arbitration provision currently contained in the motor vehicle insurance policy, but shall not preclude or waive any other rights either party has under common law. The decision of the arbitration panel shall in no way be construed as a decision of the Commissioner.

If an arbitration panel has been established, the Commissioner shall forward the written request for arbitration to the three (3) individuals selected to hear such request. The cost of the arbitration shall be borne equally by the parties to the arbitration.

- (7) No insurer shall deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to such provision, condition, or exclusion is included in the denial. The denial shall be given to the insured in writing and the claim file of the insurer shall contain documentation of the denial.
- (8) The insurer shall pay according to the terms of its policy for the covered loss up to the actual cash value to repair or to replace the damaged or stolen property subject to any deductibles. However, the insured has the right to choose the place of repair and pay the difference in cost, if the cost of the repair shop selected by the insured is greater than that obtained by the insurer.
- (a) Unless permitted pursuant to the provisions of the policy of insurance, no insurer shall require an insured to utilize a particular person, firm, or corporation to repair a motor vehicle in order to settle a first party claim if the insured can obtain the repair work on the motor vehicle at the same cost from another source.

HISTORY Adopted April 18, 1994; Amended Sept. 25, 1997. Amended July 1, 2022.

GA ADC 120-2-52-.04. Vehicle Repairs.

- (1) If losses are settled on the basis of a written estimate prepared by or for the insurer, the insurer shall supply, upon request of the insured, a copy of the estimate upon which the settlement is based. The estimate prepared by or for the insurer shall be reasonable, and of an amount which will allow for repairs to be made in a workmanlike manner which would restore the damaged vehicle to its pre-accident condition relative to quality, safety, function and appearance. If the insured subsequently shows, based upon a written estimate which he obtains, that necessary repairs will exceed the written estimate prepared by or for the insurer, the insurer shall review and respond within fifteen (15) days. The insurer shall either provide the insured with the name of a repair shop that will make the repairs according to the written estimate obtained by the insurer which are commercially acceptable and conform with industry standards, or pay the difference between the written estimate and the one obtained by the insured.
- (2) When the monetary amount claimed by the insured is reduced because of betterment or depreciation, all reasons for such reduction shall be contained and documented in the insurer's claim file. Such deductions shall be itemized and specified as to dollar amount and shall be appropriate for the amount of deductions. Deductions for betterment and depreciation shall be allowable only if:

Georgia Automobile Claims

- (a) They reflect a measurable decrease in market value attributable to the poorer condition of, or prior damage to, the vehicle;
 - (b) They reflect the general overall condition of the vehicle considering its age, for either or both:
 - 1. The wear and tear, or trust, limited to no more than a deduction of \$1,000, and/or
 - 2. Missing parts, limited to no more of a deduction than the replacement cost of such part or parts.
 - (c) The deductions set forth in subparagraphs (2)(a) and (b) above shall be limited to 20% of the market value of the vehicle prior to the loss.
- (3) No insurer shall require the insured to supply parts for replacement.

HISTORY Adopted April 18, 1994.

GA ADC 120-2-52-.05. Aftermarket Crash Parts.

- (1) Purpose. The purpose of this section is to set forth standards for the use of aftermarket crash parts. It sets forth certain requirements relative to the identity, quality and disclosure of after market crash parts.
- (2) Definition. For purposes of this regulation, the term "aftermarket crash part" shall mean a replacement for any of the non-mechanical sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels.
- (3) Identification. All aftermarket crash parts which are subject to this section and manufactured after the effective date of this section, shall carry sufficient permanent identification so as to identify their manufacturer. Such identification shall be accessible to the extent practicable after installation.
- (4) The price of nonoriginal manufacturer aftermarket crash parts may be used by insurers to determine repair costs, provided the use of such parts would restore the damaged vehicle to its pre-accident condition relative to quality, safety, function and appearance. If an insurer includes nonoriginal manufacturer aftermarket crash parts in its repair estimate, the insurer shall notify the insured in writing as follows:
 - (a) The written repair estimate shall clearly identify each such part.
 - (b) A disclosure document containing the following information in no smaller print than 10 point type shall appear on or be attached to the insurer's copy of the estimate:

"THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF AFTERMARKET CRASH PARTS SUPPLIED BY A SOURCE OTHER THAN THE MANUFACTURER OF YOUR MOTOR VEHICLE.

THE AFTERMARKET CRASH PARTS USED IN THE PREPARATION OF THIS ESTIMATE ARE WARRANTED BY THE MANUFACTURER OR DISTRIBUTOR OF SUCH PARTS RATHER THAN THE MANUFACTURER OF YOUR VEHICLE."
- (5) No insurer, as part of a claims settlement, may require an insured to authorize the use of nonoriginal manufacturer aftermarket crash parts in the repair of a damaged vehicle.

HISTORY Adopted April 18, 1994.

GA ADC 120-2-52-.06. Total Loss Vehicle Claims.

If the insurer determines the insured vehicle to be a total loss, and the insurance policy provides for the adjustment and settlement of first party vehicle claims on the basis of actual cash value or replacement, the insurer may elect to pay a cash equivalent settlement or replace the insured vehicle. The insurer shall use one of the following methods:

- (a) Cash Equivalent Method. The insurer may elect to pay a cash equivalent settlement based upon the actual cost less any deductible provided in the policy, to purchase a comparable automobile by the same manufacturer, same model year, with similar body style, similar options and mileage, including all

Georgia Automobile Claims

applicable taxes, license fees and other fees incident to the transfer of ownership of a comparable automobile. The amount payable on taxes, license fees, and transfer fees shall be limited to the amount that would have been paid on the totaled, insured vehicle at the time of settlement. Such cost shall be based on one or more of the following methods:

1. The cost of two or more comparable automobiles in the local market area, defined in this subsection as fifty (50) miles from the county seat where the insured vehicle was principally garaged, when comparable automobiles are available or were available within the last thirty (30) days to consumers in the local market area. These sources may include dealer's sales price, any established printed automobile sales publication or newspaper.
 2. The cost of two (2) or more comparable automobiles in areas proximate to the local market area defined in this subsection as 100 miles from the county seat where the insured vehicle was principally garaged, including the closest major metropolitan area within or without the state, that are available or were available within the last thirty (30) days to consumers when comparable automobiles are not available in subparagraph (a) 1 above. These sources shall include the same as in subparagraph (a) 1 above.
 3. One of two or more quotations obtained by the insurer from two or more licensed dealers located within the local market area defined in this subparagraph as 50 miles from the county seat where the insured vehicle was principally garaged, when the cost of comparable automobiles are not available in subparagraphs (a) 1 and 2 above.
 4. Any source for determining statistically valid fair market values that meet all of the following criteria which may be in electronic or printed format:
 - (i) The source shall give primary consideration to the values of vehicles in the local market area, or may consider data on vehicles outside the area when comparable vehicles have not been available for data collection in the local market area.
 - (ii) The source's database shall produce values for at least 85% of all makes and models for at least the last fifteen (15) model years, taking into account the values of all major options for such vehicles.
 - (iii) The source shall produce fair market values based on current data available from the area surrounding the location where the insured vehicle was principally garaged or a necessary expansion of parameters (such as time and area) to assure statistical validity.
- (b) Replacement Vehicle Method. The insurer may elect to replace the insured vehicle, including all applicable taxes, license fees, and other fees necessary to transfer ownership. The following requirements and standards shall apply if the insurer elects the replacement vehicle method:
1. The replacement vehicle must be comparable to the insured vehicle in that it is the same manufacturer model, same or newer model year, similar body style, similar options and mileage as the insured vehicle and in good overall condition.
 2. The replacement vehicle shall be available for inspection by the insured within fifty (50) miles of the insured's residence or further if agreeable to the insured.
 3. The insurer's claim file shall contain a full description of the replacement vehicle, including, but not limited to, the vehicle identification number and the schedule of options.
 4. A replacement vehicle of the same or newer model year must be available for purchase through a licensed dealer or through an established printed sales publication.
 5. In the event that a replacement vehicle meeting the requirements in subparagraphs 1 through 4 above is not available, the cash equivalent method should be used.
 6. If the insured rejects a replacement vehicle, the option to replace the insured vehicle may not be exercised. The rejection shall be documented in the claim file. The insurer need only pay the

Georgia Automobile Claims

amount it would have otherwise paid if the insured had accepted the replacement vehicle, including the applicable taxes, license fees, or other fees to transfer ownership.

7. If the insured selects another vehicle substantially similar in value, the insurer may either replace the insured vehicle with this substitute, or only pay the amount it would have otherwise paid if the insured had accepted the replacement vehicle, including the applicable taxes, license fees or other fees to transfer ownership.

HISTORY Adopted April 18, 1994.

GA ADC 120-2-52-.07. Loss of Use.

If a policy provides loss of use or rental reimbursement coverage, reimbursement is limited to actual expenses incurred while an insured vehicle is inoperable due to a loss payable under either comprehensive or collision coverage. It is not necessary that the policy include coverage for the kind of loss itself (i.e., a comprehensive loss, but no comprehensive coverage), as long as rental reimbursement is applicable to the loss.

- (a) Actual expenses include reasonable fares for substitute transportation. If a rental car is used, the expense can include daily charges, mileage expenses and taxes, subject to policy limitations.
- (b) The insurer may apply daily or aggregate monetary limitations to the actual expenses subject to policy provisions.
- (c) The insurer may limit the benefits to the period the vehicle is inoperable or under repair, or ending when an offer to pay for a total loss is made. The offer to pay for the total loss must be made in accordance with these rules, and the date of the offer must be clearly documented in the insurer's claim file.

HISTORY Adopted April 18, 1994.

GA ADC 560-10-21-.05. Notice of Insurance Company Settlement. (Rules of Department of Revenue – Motor Vehicle Division – Motor Vehicle Certificate of Title Forms)

Notice of insurance company settlement form may be obtained from the Internal Administration Unit, Trinity-Washington Building, Atlanta, Georgia 30334. This form must be completed, signed by company and/or authorized representative, notarized and submitted as required by 560-10-13-.12.

HISTORY Adopted June 30, 1965; Amended Jan. 1, 1967; Amended Sept. 15, 1969; Amended Dec. 6, 1976.

Georgia Property Claims

GA ST § 10-1-393.12. Cancellation of residential roofing contracts. (Commerce and Trade – Selling and Other Trade Practices – Deceptive or Unfair Practices – Fair Business Practices Act)

- (a) As used in this Code section, the term:
- (1) “Residential real estate” means a new or existing building constructed for habitation by one to four families, including detached garages.
 - (2) “Residential roofing contractor” means a person or entity in the business of contracting or offering to contract with an owner or possessor of residential real estate to repair or replace roof systems.
 - (3) “Roof system” means a roof covering, roof sheathing, roof weatherproofing, roof framing, roof ventilation system, and insulation.
- (b) A person who has entered into a written contract with a residential roofing contractor to provide goods or services to be paid from the proceeds of a property and casualty insurance policy may cancel the contract prior to midnight on the fifth business day after the insured has received written notice from the insurer that all or any part of the claim or contract is not a covered loss under such insurance policy. Cancellation shall be evidenced by the insured giving written notice of cancellation to the residential roofing contractor at the address stated in the contract. Notice of cancellation, if given by mail, shall be effective upon deposit into the United States mail, postage prepaid and properly addressed to the residential roofing contractor. Notice of cancellation need not take a particular form and shall be sufficient if it indicates, by any form of written expression, the intention of the insured not to be bound by the contract.
- (c) Before entering a contract as provided in subsection (b) of this Code section, the residential roofing contractor shall:
- (1) Furnish the insured a statement in boldface type of a minimum size of ten points, in substantially the following form:

“You may cancel this contract at any time before midnight on the fifth business day after you have received written notification from your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy. This right to cancel is in addition to any other rights of cancellation which may be found in state or federal law or regulation. See attached notice of cancellation form for an explanation of this right”; and
 - (2) Furnish each insured a fully completed form in duplicate, captioned “NOTICE OF CANCELLATION,” which shall be attached to the contract but easily detachable, and which shall contain in boldface type of a minimum size of ten points the following statement:

“NOTICE OF CANCELLATION”

If you are notified by your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy, you may cancel the contract by mailing or delivering a signed and dated copy of this cancellation notice or any other written notice to (name of contractor) at (address of contractor's place of business) at any time prior to midnight on the fifth business day after you have received such notice from your insurer.

I HEREBY CANCEL THIS TRANSACTION

Date

Insured's signature.

Georgia Property Claims

- (d) In circumstances in which payment may be made from the proceeds of a property and casualty insurance policy, a residential roofing contractor shall not require any payments from an insured until the five-day cancellation period has expired. If, however, the residential roofing contractor has performed any emergency services, acknowledged by the insured in writing to be necessary to prevent damage to the premises, the residential roofing contractor shall be entitled to collect the amount due for the emergency services at the time they are rendered. Any provision in a contract as provided in subsection (b) of this Code section that requires the payment of any fee for anything except emergency services shall not be enforceable against any insured who has canceled a contract under this Code section.
- (e) A residential roofing contractor shall not represent or negotiate, or offer or advertise to represent or negotiate, on behalf of an owner or possessor of residential real estate on any insurance claim in connection with the repair or replacement of roof systems. This subsection shall not apply to a public adjuster licensed under Chapter 23 of Title 33.

HISTORY Laws 2011, Act 201, s 1, eff. July 1, 2011; Laws 2015, Act 187, § 2, eff. July 1, 2015.

GA ST s 25-2-33.1. Reports of arson or suspected arson. (Fire Protection and Safety – Regulation of Fire and Other Hazards to Persons and Property Generally)

- (a) The fire department of each county and municipality and any other organized fire department operating within this state shall report every incident or suspected incident of arson to the local law enforcement agency, the state fire marshal, and every insurance company with a known pecuniary interest in the cause of the fire in which arson is involved or suspected to be involved. In any local jurisdiction where an organized fire department is not operating, the local law enforcement agency investigating a fire shall make the reports required by this Code section. Such reports shall be made on forms provided for that purpose by the state fire marshal.
- (b) Any insurance company which has received a report of an incident or suspected incident of arson under subsection (a) of this Code section shall not pay any claim relating thereto prior to notifying in writing the state fire marshal and local fire department of the date the claim is to be paid.

HISTORY Laws 1982, p. 792, s 1.

GA ST s 33-32-3. Privilege of rebuilding or reinstating property. (Insurance – Property Insurance)

The privilege of rebuilding or reinstating property sustaining loss or damage shall not exist unless it is reserved in the policy.

HISTORY Laws 1960, p. 289, s 1.

GA ST s 33-32-4. Total loss less than policy amount; partial refund of premiums.

In the event of a total loss of property, if an insurer shall pay to the insured an amount less than the maximum amount authorized to be paid under an insurance policy covering the property, the insurer shall refund to the insured the difference between the amount of premiums actually paid for the insurance policy and the amount of premiums which would have been charged for a property insurance policy having a maximum amount payable equal to the amount actually paid by the insurer to the insured.

HISTORY Laws 1895, p. 51, s 1; Laws 1960, p. 289, s 1.

GA ST s 33-32-5. Amount of insurance in certain fire policies conclusive as to value.

- (a) Whenever any policy of insurance is issued to a natural person or persons or to any legal entity wholly owned by a natural person or persons insuring a specifically described one or two family residential building or structure located in this state against loss by fire and the building or structure is wholly destroyed by fire without fraudulent or criminal fault on the part of the insured or one acting in his or her behalf, the amount of insurance set forth in the policy relative to the building or structure shall be taken conclusively to be the value of the property, except to the extent of any depreciation in value occurring between the date of the policy or its renewal and the loss, provided that, if loss occurs within 30 days of the original effective date of the policy, the insured shall be entitled to the actual loss sustained not

Georgia Property Claims

exceeding the sum insured. Nothing in this Code section shall be construed as prohibiting the use of coinsurance or as preventing the insurer from repairing or replacing damaged property at its own expense without contribution on the part of the insured.

- (b) Subsection (a) of this Code section shall not apply where:
- (1) The building or structure is not wholly destroyed by fire;
 - (2) Insurance policies are issued or renewed by more than one company insuring the same building or structure against fire and the existence of the additional insurance is not disclosed by the insured to all insurers issuing policies;
 - (3) Two or more buildings or structures are insured under a blanket form for a single amount of insurance; or
 - (4) The completed value of a building or structure is insured under a builders' risk policy.

HISTORY Laws 1971, p. 657, s 1; Laws 2016, Act 365, s 1, eff. July 1, 2016.



BULLETIN 22-EX-3

TO: ALL INSURERS AUTHORIZED TO WRITE PROPERTY AND CASUALTY
INSURANCE AND INDEPENDENT ADJUSTERS IN THE STATE OF
GEORGIA

FROM: JOHN F. KING
INSURANCE AND SAFETY FIRE COMMISSIONER

DATE: APRIL 6, 2022

RE: EMERGENCY DISASTER ADJUSTER REQUESTS

On April 6, Governor Brian Kemp issued a [State of Emergency](#) for Georgia due to the damage caused by severe storms and tornadoes that moved through the state on April 5.

In the event of a declared catastrophe, an insurer, or employer who is a licensed adjuster in this state, or is a regular employer of insurance adjusters in this state may request emergency disaster adjuster status for Georgia registered staff adjusters, out-of-state staff adjusters, or out-of-state licensees.

An insurer will be required to register with the Department a list of non-licensed salaried staff adjusters and out-of-state licensees that will be handling claims relating to the disaster via the [Emergency Disaster Adjuster Registration Platform](#) on our website.

After filing, Disaster Entry Permits will be assigned to each adjuster for a period not to exceed 60 days.

JOHN F. KING
INSURANCE AND SAFETY FIRE COMMISSIONER
STATE OF GEORGIA



**Office of Commissioner of
Insurance and Safety Fire**
Protect | Enforce | Educate | Inform

JOHN F. KING
*Commissioner of Insurance
and Safety Fire*

Two Martin Luther King Jr. Drive
West Tower, Suite 702
Atlanta, Georgia 30334

BULLETIN 21-EX-14

TO: ALL INSURERS AUTHORIZED TO WRITE PROPERTY AND CASUALTY
INSURANCE IN THE STATE OF GEORGIA

FROM: JOHN F. KING
INSURANCE AND SAFETY FIRE COMMISSIONER

DATE: NOVEMBER 22, 2021

RE: CLARIFYING LANGUAGE ON PAYMENTS MADE BY INSURERS TO
AND ON BEHALF OF INSURED

It has come to my attention that, since the enactment of [House Bill 254](#), questions have been raised about the method in which insurers can make payments to and on behalf of insureds.

It is the Department's position that the provisions of House Bill 254 only apply to payments involving public adjusters. The Department recognizes that insurers may, for the convenience of their insureds, issue payments and/or reimbursements on behalf of their insureds to others who have provided services to the insured.

Further, the Department recognizes that those payments may be made electronically, or by any other method allowed under Georgia law.

JOHN F. KING
INSURANCE AND SAFETY FIRE COMMISSIONER
STATE OF GEORGIA



DIRECTIVE 21-EX-4

TO: ALL LICENSED INSURERS, AGENTS, AND ADJUSTERS
IN THE STATE OF GEORGIA

FROM: JOHN F. KING
INSURANCE AND SAFETY FIRE COMMISSIONER

DATE: SEPTEMBER 27, 2021

RE: DUTY TO PROPERLY RESPOND TO CONSUMER SERVICES DIVISION

Recently, it has come to the Department's attention that some insurers, agents, and public adjusters have not responded expeditiously to requests for information sent to them by the Consumer Services Division. Under Georgia law, the Department of Insurance has a duty to examine or investigate licensed individuals and entities, and license holders must cooperate with the Department. The failure of various licensees to respond to the Consumer Services Division's inquiries promptly compels the issuance of this Directive.

- The Consumer Services Division must receive a response from any individual or entity licensed by the Department and/or authorized to do business in this state within fifteen business days of the date that the Consumer Services Division sends an inquiry via email, fax, or the U.S. Mail.
- A de minimis response merely noting receipt of the inquiry or a generic request for more time to respond will not be considered a sufficient response.

Failure to comply with this Directive may result in further regulatory action by the Department. Should you have any questions regarding this Directive, please contact the Consumer Services Division at (404) 656-2070.

JOHN F. KING
INSURANCE AND SAFETY FIRE COMMISSIONER
STATE OF GEORGIA



BULLETIN 21-EX-6

TO: ALL INSURERS AUTHORIZED TO WRITE PROPERTY AND CASUALTY
INSURANCE AND INDEPENDENT ADJUSTERS IN THE STATE OF
GEORGIA

FROM: JOHN F. KING
INSURANCE AND SAFETY FIRE COMMISSIONER

DATE: MARCH 29, 2021

RE: EMERGENCY DISASTER ADJUSTER REQUESTS

In the event of a declared disaster or catastrophe, an insurer, or employer who is a licensed adjuster in this state, or is a regular employer of insurance adjusters in this state may request emergency disaster adjuster status for Georgia Registered Staff Adjusters, Out-of-State Staff Adjusters, or Out-of-State Licensees.

Instructions for Insurers

The Adjusting Coordinator will be responsible for the emergency disaster adjuster filings and assignment of re-entry permits. These re-entry permits are to be temporarily assigned to each adjuster for a period not to exceed sixty (60) days. The re-entry permits should be returned to the Department upon expiration of the sixty (60) day period. Upon proper filing by an Adjusting Coordinator, Disaster Re-entry Permits will be assigned to the insurer's Adjusting Coordinator.

Please make your request by submitting the information in a cover letter, filling out the [provided excel spreadsheet](#), and sending all documents to the following e-mail: adjusters@oci.ga.gov.

Cover letter should contain the following information:

- Name of Insurance Company
- Name of the Adjusting Coordinator.
 - Name,
 - Address,
 - E-mail address,
 - Phone,
 - If applicable, please provide the home state where a license is held or NPN or home state license number.
- Name of Declared Disaster

Spreadsheet should contain the following information:

- List of Out-of-State Licensees for emergency insurance adjustment work:
 - Name,
 - Home state where a license is held, and
 - NPN or home state license number.

Instructions for Independent Adjusters

Notification must be submitted by a person who regularly adjusts in another state and who is licensed in such other state and performed for an employer that is an insurance adjuster licensed by this state or one that is a regular employer of one or more insurance adjusters licensed by this state. If the adjuster will be in this state for a period exceeding sixty (60) days, the individual must apply for a Georgia adjuster license.

Notice should be provided immediately upon the beginning of any emergency adjustment work. Please make your notification by submitting the information in a cover letter and please fill out the provided excel spreadsheet and submit the documents to the following e-mail: adjusters@oci.ga.gov.

Cover letter should contain the following information:

- Name of Employer who is an Insurance Adjuster licensed in this state or Name of employer that is a regular employer of one or more insurance adjusters licensed by this state.
 - Name,
 - Address,
 - E-mail address,
 - Phone,
 - NPN or home state license number of the employer or license number of one insurance adjuster licensed in this state.
- Name of Declared Disaster

Spreadsheet should contain the following information:

- List of Out-of-State Licensees for emergency insurance adjustment work:
 - Name,
 - Address,
 - E-mail address,
 - Phone,
 - The home state where a license is held, and
 - NPN or home state license number.

Public Adjusters:

- The emergency adjuster provision does not include Public Adjusters. Public Adjusters must hold a Georgia license to enter the state and adjust claims.



JOHN F. KING
INSURANCE AND SAFETY FIRE COMMISSIONER
STATE OF GEORGIA

The Georgia Office of Insurance and Safety Fire Commissioner no longer lists the following bulletins or directives on their website but has not issued any withdrawals. The Bulletins are provided for informational purposes.

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Insurance Department Publications

INSURANCE DEPARTMENT BULLETINS AND DIRECTIVES...EX -- EXECUTIVE

Directive 17-EX-3

Property damage liability claims involving the removal of vehicles after an accident

TO: All Property & Casualty Insurers Writing Automobile Liability or Motor Vehicle Liability Insurance Policies in Georgia

FROM: Ralph T. Hudgens Insurance and Safety Fire Commissioner

DATE: April 18, 2017

RE: Property Damage Liability Claims involving the Removal of Vehicles after an Accident

It has come to my attention that some insurers may not be complying with legal requirements in O.C.G.A. § 33-7-11.1(b), related to the prompt payment of towing costs. According to that code section, "[a]ny insurer, upon acceptance of liability, pursuant to any automobile liability or motor vehicle liability insurance policy, shall pay reasonable benefits for losses. . . to a third party on behalf of an insured for. . . towing. . . costs of such a motor vehicle, and the liability of the insurer for payment. . . shall commence as of the time of the incident or occurrence which results in such [loss]. . . ." All auto insurance companies must provide such coverage to any policyholder whose vehicle is principally garaged or principally used in this state.¹ Moreover, as with all claims, after determining coverage and accepting liability, the insurer must issue payment promptly. Be aware that "[n]ot attempting in good faith to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear" constitutes a violation of the Unfair Claims Settlement Practices Act.² Govern yourselves accordingly.

Any consumer or service provider who would like to submit a complaint should go to www.oci.ga.gov or call 800-656-2298.

RALPH T. HUDGENS
INSURANCE AND SAFETY FIRE COMMISSIONER
STATE OF GEORGIA

¹ O.C.G.A. § 33-7-11.1

² O.C.G.A. § 33-6-34(4)

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Insurance Department Publications

INSURANCE DEPARTMENT BULLETINS AND DIRECTIVES...PC -- PROPERTY-CASUALTY

Directive 09-PC-1

Formerly R — RATING

O.C.G.A. §33-24-46

TO: ALL LICENSED PROPERTY AND CASUALTY INSURANCE COMPANIES
IN THE STATE OF GEORGIA

FROM: JOHN W. OXENDINE
INSURANCE AND SAFETY FIRE COMMISSIONER

DATE: OCTOBER 28, 2009

RE: O.C.G.A. §33-24-46

As you are aware catastrophic flooding occurred in Georgia during the previous month.

It has come to my attention that one of the eligibility criteria of the federal Individual and Household Program and possibly other programs is a requirement for filing claims for insurance benefits with property insurers and proof that the damage to the property is not covered by insurance.

This requirement which is a prerequisite for federal assistance will necessitate the filing of many claims that would not otherwise be filed due to a lack of available coverage.

In order to ensure that all victims of the recent flooding ultimately receive equitable and uniform treatment under the protection afforded to consumers by O.C.G.A. § 33-24-46, you are hereby directed not to consider these flood and flood related claims as a "claim against a policy" as defined by O.C.G.A. § 33-24-46 unless some coverage is actually afforded by the policy and a claim payment is made pursuant to the policy.

You are further directed to inform all personnel including agents, adjusters, and independent adjusters of the content of this Directive.

Any questions concerning this Directive should be addressed to the Property & Casualty Division, 916 West Tower, Floyd Building, 2 Martin Luther King, Jr. Drive, Atlanta, Georgia 30334, (404) 656-4449.

John W. Oxendine
Insurance and Safety Fire Commissioner
State of Georgia

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Insurance Department Publications

INSURANCE DEPARTMENT BULLETINS AND DIRECTIVES...PC -- PROPERTY-CASUALTY

Directive 08-PC-2

Formerly R — RATING

Diminution of value – property and physical damage claims

TO: ALL PROPERTY & CASUALTY COMPANIES LICENSED TO CONDUCT BUSINESS IN THE STATE OF GEORGIA

FROM: JOHN W. OXENDINE

INSURANCE AND SAFETY FIRE COMMISSIONER

DATE: DECEMBER 1, 2008

RE: DIMINUTION OF VALUE – PROPERTY & PHYSICAL DAMAGE CLAIMS

On December 1, 2001, our office issued Directive No. 01-P&C-1 which notified the industry of the Georgia Supreme Court's ruling in *State Farm Mutual Automobile Insurance Company v. Mabry et al.*, 274 Ga. 498 (2001) and directed the industry to adjust diminution of value claims accordingly. It has come to our attention that certain carriers are incorrectly suggesting to their insureds that the Department has approved a specific formula for determining diminution of value. It also has come to our attention that certain carriers are incorrectly suggesting to their insureds that the diminished value result arrived at by the carrier's use of a selected formula reflects the definitive amount to which the insured is entitled under *Mabry* and for which the insurer may be liable. The purpose of this Directive is to clarify the Department's position as it relates to diminution of value claims.

The Department has never promulgated or produced by regulation any formula for use in the determination of diminution of value as it relates to physical damage claims nor has the Department endorsed any specific formula or method.

The Department also has never indicated that the diminished value result obtained by a carrier's use of a particular formula or method constitutes the definitive determination of the carrier's liability to its insured. The nature of each claim demands that carriers must take into consideration all relevant information in the evaluation of diminished value claims including, but not limited to, relevant information provided by an insured regarding diminution of value.

Our original Directive only identified the court ruling and stated that diminution of value shall be assessed when determining a value on first party physical damage losses. However, defining the amount of loss associated with diminution of value is a subjective process where even experts can have a difference of opinion. For this reason, the Department has not endorsed a particular formula or method. Each claim is unique and should be evaluated as such. Every carrier has the obligation to evaluate the vehicle prior to loss and after the loss to determine the amount of diminution in value in accordance with Georgia law and applicable contractual language. Total reliance on one particular formula or method in making that evaluation may not be appropriate given the subjective nature of the claim. Effective immediately, any insurer disseminating information and/or appraisals to their insureds shall cease using any language which implies the Department has endorsed a particular formula or method to determine diminution of value. Specifically, any insurer disseminating information and/or appraisals to their insureds shall cease using any language which implies that the *Mabry* decision or any other requirement of the Department supports the proposition that the diminished value result obtained by a carrier's use of a particular formula or method constitutes the definitive determination of the carrier's liability to its insured.

Any questions concerning this Directive should be addressed to the Property & Casualty Division, 916 West Tower, Floyd Building, 2 Martin Luther King, Jr. Drive, Atlanta, Georgia 30334, (404) 656-4449.

John W. Oxendine

Insurance and Safety Fire Commissioner

State of Georgia

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Insurance Department Publications

INSURANCE DEPARTMENT BULLETINS AND DIRECTIVES...PC -- PROPERTY-CASUALTY

Directive 07-PC-1

Formerly R — RATING

Annual staff adjuster registration and adjuster re-entry permits authorizing access to a restricted area during a GEMA declared catastrophe/disaster

TO: ALL INSURERS AUTHORIZED TO WRITE PROPERTY INSURANCE IN THE STATE OF GEORGIA.

FROM: JOHN W. OXENDINE
INSURANCE AND SAFETY FIRE COMMISSIONER

DATE: MAY 16, 2007

RE: ANNUAL STAFF ADJUSTER REGISTRATION AND ADJUSTER RE-ENTRY PERMITS AUTHORIZING ACCESS TO A RESTRICTED AREA DURING A GEMA DECLARED CATASTROPHE/DISASTER.

The Department of Insurance in its effort to provide more efficient online services to the Property & Casualty insurance industry, is implementing a new web based annual Staff Adjuster Registration system. The online registration system will replace the older paper registration requirement and will accommodate both electronic batch processing and individual additions as Staff Adjusters are either added or removed during the year.

In conjunction with this new web based annual registration system, we are providing a new service that will expedite Staff Adjuster access into restricted disaster areas.

This new Adjuster Re-Entry Permit identification system was developed in cooperation with the State Fire Marshal and the Georgia Emergency Management Authority (GEMA).

The Re-Entry permit program will be activated only when access to an area is restricted during a GEMA declared catastrophe/disaster.

In order to facilitate the online annual registration and the permit distribution, management and identification, this directive requires each Property & Casualty insurance company to submit data pertaining to their registered staff adjusters and to identify a company Adjuster Coordinator. For the purpose of this directive, a staff adjuster is defined as a non licensed adjuster that is a salaried employee of the insurer and is registered with the Georgia Department of Insurance. Each staff adjuster is required to have a supervisor and that individual's information must also be submitted.

The information we are requesting for Staff Adjusters is as follows:

Company NAIC number
Staff Adjuster's Name – Salutation, First, Middle, Last
Staff Adjuster Employee Identification Number
Staff Adjuster Business address – Street, City, State, Zip
Staff Adjuster Phone number and E-Mail address
Staff Adjuster Supervisor

The staff adjuster information may be submitted to the Georgia Department of Insurance by selecting the "PORTAL for Companies" menu item, under the "INSURANCE" tab located on our web site's HOME Page, www.gainsurance.org When you are logged into the PORTAL, select the "Go To: Staff Adjusters" entry from the "GOTO" drop down menu. Once you have clicked on this selection, please print and follow the detailed instructions available in the "Instructions" area on this web page (click on "Instructions: Please Read"). This information may be transmitted as a bulk upload or entered individually.

If you have difficulty logging into the PORTAL, please contact our support line at (404) 463-6407.

For Procedural and Implementation Questions contact Agents Licensing at (404) 656-2101

Please Note: If your situation is such that your staff adjusters work for several companies under common ownership (each company having a separate NAIC number), please submit your staff adjuster information for each separate company.

Assignment of the Disaster Re-Entry Permits will be managed and tracked by the company Adjuster Coordinator. Upon declaration by GEMA of a catastrophe/disaster, company Adjuster Coordinators responsible for the assignment of the Disaster Re-Entry Permits will be required to notify the Insurance Department via the Department's website www.gainsurance.org of those Staff Adjusters assigned to that event. Instructions on this notification procedure will be emailed directly to the Adjuster Coordinator. At this time, we are requesting the name, address, phone number and email address of the person assigned as your company's Adjuster Coordinator. Please submit your Adjuster Coordinator information by selecting the "PORTAL for Companies" menu item, under the "INSURANCE" tab located on the Home Page of www.gainsurance.org. Once logged into the Portal, select "- Go To GA – GID Contact" from the drop down menu and update your Adjuster Coordinator record.

An estimate of the number of re-entry permits that you anticipate assigning is also requested. It is not necessary to request re-entry permits for all company Staff Adjusters since these re-entry permits are to be temporarily assigned only to non-licensed emergency/catastrophe salaried staff adjusters and out of state licensees adjusting claims related to a GEMA declared event in Georgia.

Requests for the Disaster Re-Entry Permits should be sent via email to Adjusters@oci.ga.gov and include your NAIC number, number of permits requested, company address (to be used for receipt of permits), Adjuster Coordinator name and email address.

Sincerely,

John W. Oxendine
Insurance And Safety Fire Commissioner

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Insurance Department Publications

INSURANCE DEPARTMENT BULLETINS AND DIRECTIVES...PC -- PROPERTY-CASUALTY

Directive 01-PC-1

Formerly R — RATING

Diminution of value — first party physical damage claims

December 7, 2001

On November 28, 2001, the Georgia Supreme Court issued a ruling in the case of *State Farm Mutual Automobile Insurance Company v. Mabry et al.* (S01A0982).

This ruling states that physical damage resulting from a covered event can reduce the value of a vehicle, even if repairs return it to pre-loss condition in terms of appearance and function. The Court determined that the insurer involved in the case is obligated to assess diminution of value ". . . along with the elements of physical damage when a policyholder make a general claim of loss."

You are hereby directed to review this case and adjust claims accordingly, including assessment and payment of diminution of value relative to physical damage. Policyholders should be reimbursed consistent with the Court's holdings and applicable language contained in the relevant policies issued by your company.

Any insurer not complying with the spirit of the above-cited case will be subject to appropriate disciplinary action.

Any questions concerning this Directive should be addressed to Mr. Greg Hawkins, Director, Property and Casualty Division, Office of Commissioner of Insurance, 916 West Tower, Floyd Building, #2 Martin Luther King, Jr. Drive, Atlanta, Georgia 30334, 404-656-6876.

John W. Oxendine
Commissioner of Insurance

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