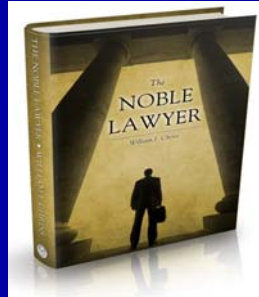


# THE DUTIES AND LIABILITIES OF PUBLIC ADJUSTERS



**William J. Chriss**

## Adjusters Are Licensed by the State of Texas (TDI)



- Insurance Company Adjusters have been regulated for decades.
- In 2005, Chapter 4102 was added to the Tex. Ins. Code to require licenses of PUBLIC Adjusters.

## STATUTORY PROVISIONS

- Limited to 1<sup>st</sup> Party Property Claims.
- Must use contracts that comply with TDI law and regs. 4102.162. (Rule 19.713(10) ).
- Any violation of the licensing law is a Class B Misdemeanor.
- Ergo: Any non-conforming contract violates expressed public policy of the State.

## Statutory Effects

- Contracts not compliant with Code and Regs violate public policy and are void or voidable. This is generally a question of law: *Hoover v. Slovacek*, 206 SW3d 557, 562 (Tex. 2006)
- No licensed party may recover on a contract founded upon illegal acts: *Denson v. Dallas County Credit Union*, 262 S.W.3d 846, 855 (Tex. App.—Dallas, 2008, pet. denied)

## Specific Examples

- Sec. 4102.162: “A license holder may not use a name different from the name under which the license holder is currently licensed in an advertisement, solicitation, or contract for business.”
- Sec. 4102.160: “a license holder may not...” pay a referral fee “to a person who is not a licensed public adjuster...”

## Specific Examples

- Texas Administrative Code Title 28, Part 1, Chapter 19, Subchapter H, Rule §19.708(b): “A public insurance adjuster's written contract...must contain: (1) the name, address, and license number of the public insurance adjuster negotiating the contract and, if applicable, the name, address, and license number of the public insurance adjuster's employing public insurance adjuster”;

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"Duties and Liability of Public Adjusters"