**MASSACHUSETTS PROPERTY INSURANCE**

**UNDERWRITING ASSOCIATION**

## &

**RHODE ISLAND JOINT**

**REINSURANCE ASSOCIATION**

**PROCEDURES AND STANDARDS FOR ADJUSTERS**

**TWO CENTER PLAZA**

**BOSTON, MA 02l08**

**617-723-3800**

**1-800-392-6108 (inside MA)**

**1-800-85l-8978 (outside MA)**

Revised December 2015

**PROCEDURES AND STANDARDS FOR ADJUSTERS**

**TABLE OF CONTENTS**

|  |  |  |
| --- | --- | --- |
| **Section** | **Title** | **Page** |
|  |  |  |
| I | Mission Statement | 4 |
|  |  |  |
| II | Listing of Claims Personnel | 5 |
|  |  |  |
| III | Standards for Selection of Adjusters and Consultants | 6 |
|  |  |  |
| IV | Procedures and Standards for Adjusters | 8 |
|  |  |  |
|  | 1. Assignment of Losses | 8 |
|  | 1. Special Instructions | 8 |
|  | 1. Reporting | 9 |
|  | 1. Coverage Confirmation | 9 |
|  | 1. Mortgage Confirmation 2. Investigation of Loss | 10  10 |
|  | * Rush Losses | 10 |
|  | * Photographs | 10 |
|  | * Insured and Insurable Interest | 11 |
|  | * Other Insurance | 11 |
|  | * Cause of Loss | 11 |
|  | * Determination of Values | 12 |
|  | * Determination of Amount of Loss | 13 |
|  | * Building Losses | 13 |
|  | * Commercial Contents Losses | 14 |
|  | * Habitational Contents Losses | 14 |
|  | * Burglary and Theft Losses | 15 |
|  | * Personal Articles Floater | 15 |
|  | G. Captioned Report Guidelines | 15 |
|  | H. Service and Expense Statements | 19 |
|  | I. Proof of Loss/Release | 20 |
|  |  |  |
| V | Additional Massachusetts Requirements and Various Statute Citations Under Chapter 804 of the Acts and Resolves of 1977 | 21 |
|  |  |  |
| VI | Additional Rhode Island Requirements and Various Statute Citations | 23 |
|  |  |  |
| VII | 1. Conclusion | 25 |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
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Revised December 2015

**SECTION I -- MISSION STATEMENT**

The Massachusetts Property Insurance Underwriting Association and Rhode Island Joint Reinsurance Association are organizations formed to provide property and liability insurance, to property owners unable to secure insurance through the voluntary market. Responding to Federal Legislation, the Massachusetts Legislature in l968 and the Rhode Island General Assembly in 1969 enacted legislation which established an urban area insurance placement facility and thereby gave rise to the two Associations. MPIUA and RIJRA are also known as the FAIR PLANS (Fair Access to Insurance Requirements). At the present time, there are 31 other FAIR PLANS across the country.

The Associations secure their authority to operate from the Massachusetts and Rhode Island General Laws as an Urban Area Placement Facility. The purposes of the Associations are as follows:

1. To make essential property insurance available to all qualified applicants.
2. To encourage the improvement of properties located in Massachusetts and Rhode Island and to further the orderly development of communities.
3. To fulfill the objectives of its enabling documents in an effective and efficient manner at the least cost to the Plan’s member insurance companies.

The Associations are required to provide "basic" property insurance; insurance against direct loss to property as defined and limited in the standard fire policy, the extended coverage endorsement, and insurance against direct loss to such property by the perils of vandalism, malicious mischief, sprinkler leakage and those coverages provided by the homeowners insurance program and Rhode Island additional coverages, i.e. lead paint and dwelling liability coverages.

The Associations consist of all insurance companies licensed in each state to provide all or any part of the coverages provided by the Association. There are in excess of 350 member insurance companies in each state. The Associations are administered by separate Boards of Directors, comprised of ten insurance companies elected annually, as well as six members of the public and two licensed insurance agents. The Boards have overall responsibility for the administration of each Association.

The procedures and standards which follow give recognition to the fact that, when coupled, sound practices and high standards produce a professional service of the highest quality.

**SECTION II -- LISTING OF CLAIMS PERSONNEL**

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|  |  |  |

617-723-3800

1-800-392-6108 (inside Massachusetts)

1-800-851-8978 (outside Massachusetts)

**SECTION III -- STANDARDS FOR SELECTION OF ADJUSTERS AND CONSULTANTS**

The Associations reserve the right and privilege of selecting and assigning adjusters, investigating personnel, and consultants to service the claims/losses of its policyholders and/or the Association.

The guidelines below have been adopted to aid the Associations in their evaluation of the individuals and/or firms.

# **Property Adjuster**

1. A firm and/or staff with supervisory personnel with at least five (5) years experience, including commercial risks. Adjusters working on Association claims who may not meet all of the criteria must be closely supervised by an individual with qualifications that do meet with those criteria.
2. Experience in handling losses on contents of residential and commercial risks and disposing of Commercial salvage.
3. Capable of preparing their own repair estimates and validating contractor's estimates of any dollar value.
4. Good understanding of life expectancies of various building materials and items of personal property, for depreciation consideration.
5. Thorough knowledge of the applicable policy provisions used by the Associations.
6. Technically proficient in the use of word processing and spreadsheet technology along with proficiency and access to use of electronic mail.
7. Familiarity with the operation of the Associations.
8. Proficiency in investigating fraud losses of any kind.
9. Provide excellent customer service by compliance with standards set by the Associations.
10. Appropriate Errors and Omission Insurance Coverage.
11. Comply with all applicable licensing provisions, Statutes, rules, regulations, case laws and standards for good faith and proper claim practices.
12. The Associations reserve the right to discontinue the services of any adjuster or adjusting firm, at their sole discretion.

# **Liability Adjuster/Investigator**

1. A firm and/or staff with supervisory personnel with at least five (5) years experience in investigating and adjusting liability losses. Adjusters working on Association claims who may not meet all of the criteria must be closely supervised by an individual with qualifications that do meet with those criteria.
2. Expertise in evaluation of all types of personal and bodily injury claims.
3. Thorough knowledge of policy provisions used by the Associations, as well as its customary applicable procedures.
4. Technically proficient in the use of word processing and spreadsheet technology along with proficiency and access to use of electronic mail.
5. Excellent customer service through compliance with liability file requirements and standards as established by the Associations.
6. Appropriate Errors and Omissions Insurance Coverage.
7. Compliance with all applicable state licensing provisions, Statutes, rules, regulations, case laws and standards for good faith and proper claim practices.
8. The Associations reserve the right to discontinue the services of any adjuster or adjusting firm that does not comply with these standards at the sole discretion of the Associations.

# **Consultant/Exp**ert

At the discretion of The Association, Consultants/Experts are chosen based on the degree of experience and expertise required to perform the functions or tasks required within the claim evaluation process.

On all claims with a reserve in excess of $10,000.00, the Association must be contacted for authorization to retain an expert or consultant.

On all building claims with a reserve below $10,000.00, the assigned adjuster must select the appropriate type of expert. The Association maintains a list of approved experts on the Association’s adjuster’s information website. An approved expert should be used unless there is good cause to use an unlisted expert.

**SECTION IV-- PROCEDURES AND STANDARDS FOR ADJUSTERS**

**A. Assignment of Loss**es

All Loss Assignments shall be made by the Association’s Claims Department or its designee during the Association’s usual business hours. Weekend and After Hours claim assignments will be assigned, as previously agreed with specified Independent Adjusting firms by the Associations Call Center.

No Loss Assignment shall be accepted by an adjuster when made directly from an agent, insured, broker or public adjuster.

Contact should be made with the insured within 24 hours.

Inspection should be completed within 48 hours.

Coverage will be provided by MPIUA/RIJRA only. (Dec page provided)

Reserves: $25000 and over and/or unique occurrences – examiner must be notified by a call and/or email.

**B. Special Instructions**

The adjuster shall immediately contact the Claims Department for instruction on any loss where it is evident subsequent to the initial inspection that a reservation of rights (including specialized lead, oil and mold letters) is appropriate to be issued. The adjuster will refrain from any course of action, other than issuing instructions for protecting the property from further damage, which prejudice the Association.

Examples of instances in which the Association should be contacted immediately include but are not limited to the following:

* The loss involves a suspicious origin;
* There is a question of coverage or liability;
* The services of an expert/vendor are required;
* Subrogation is involved;
* Significant reserve change is necessary;
* Insured location exhibits a potentially hazardous condition or any condition that would warrant submission of a Serious Risk Report;
* Any request for Reference or Appraisal;
* Any written correspondence that requires a reply within a statutory or a reasonable period of time (i.e., M.GL 93A, 176D, Rhode Island Regulation 73 correspondence response requirements, RI 27.29.06 notice requirement, tolling of statute of limitation request);
* Request for an Advance Payment on covered loss.
* Any additional matter in which the adjuster deems that time is a factor in the need to reply.

**C. Reporting**

* Preliminary Report shall be forwarded within 15 days of assignment. Thereafter, status reports are due in 30-day intervals, or more frequently if necessary.
* Reports of investigation are to follow the "Captions" set forth in these Procedures and Standards (Section III F). Full-captioned reports are necessary on all claims with reserves of over $10,000.00. An outline of the form which should be used for a full-captioned report is located on the Association’s adjuster’s information website.
* A Short Form Report may be used for claims with a reserve of $10,000.00 or less, but a Full Caption Report is appropriate if there is a complicated matter to be considered. An outline of the form which should be used for a short form report is located on the Association’s adjuster’s information website.
* All reports should contain only appropriate information and commentary.
* All reports should contain assignment, contact, method of contact and inspection dates, and all estimates and photos should be dated.
* ISONET (Property Insurance Loss Register) and ISO (Insurance Services Office) Claim Search (Central Index Bureau) Reports are required on ALL Claims.
* Photographs of the damage are MANDATORY.

**D. Coverage Confirmation**

The adjuster is responsible for verifying coverage and verifying that the correct current mortgagee is named on the policy. Coverage may only be verified through Association records.

While proceeding with the investigation, the adjuster must be certain that:

* The loss occurred within the policy inception and expiration date;
* The loss resulted from an insured peril;
* The policy insures the damaged property;
* Check for prior losses of a similar nature if circumstances of loss may indicate unrepaired damage.

**E. Mortgage Confirmation**

* The adjuster is responsible for verifying that the correct current mortgagee is named on the policy. Mortgagees are not required to be paid on checks of $5000 or less.
* Mortgagees must be named as payees on checks less than $5000 if any of the following occur:
  1. The insured property is in foreclosure.
  2. A notice of intent to foreclose has been issued for the property.
  3. There are particular circumstances which make it appropriate to include the mortgagee, including for example, a specific request by a mortgagee to be listed as a payee in connection with a particular claim or specific information suggesting that the insured will not use the payment for building repairs.
  4. Please contact the Examiner for advice if there is a question on a particular check.
* A current mortgage statement is required for all building losses over $5000.
* If there is a change in mortgagee, and it is a loss with a reserve of $10,000 or less, an insured mortgagee affidavit and a current mortgage statement should be obtained (see sample affidavit in forms).
* If there is a change in mortgagee, and it is a loss with a reserve over $10,000, the appropriate documentation of discharge of the original mortgage and placement of the new mortgagee and current mortgage statement must be obtained.
* If there is a discharge of a mortgagee with no new mortgagee, the adjuster must obtain a copy of the discharge.

**F. Investigation of Loss**

* Rush Losses
  + When a Rush Loss is assigned, telephone contact will be made immediately by the adjuster and an appointment set up for prompt inspection within 24 hours. Please note, in the initial report, the date contact was made, who was contacted and how contact was made, i.e., by phone, in-person or a letter or a postcard.

The adjuster shall call the MPIUA examiner with a reserve on all rush losses and losses in excess of $25,000 within 24 hours of inspection.

* Photographs
  + Photographs are required on all Property Damage losses (always provide an exterior photo of the risk) and on Liability Losses where applicable. The photographs must be meaningful and show the actual damage sustained. The adjuster must properly identify when they were taken, the location, the individual taking them, and each picture should be clearly explained in the accompanying report.
* Insured and Insurable Interest
  + The adjuster shall ascertain complete particulars related to the named insured, all persons, companies, corporations, mortgagees or other lien holders having an insurable interest in the covered property.
  + Any change of interest before or after the loss occasioned by the death of an insured, sale of the property, assignment of interest, mortgage foreclosure, bankruptcy or other irregularity should be immediately reported to the Association for instructions and the appropriate documentation requested from the insured.
* Other Insurance
* It is the adjuster's responsibility to establish the existence of other insurance; to determine whether or not and the extent to which such will contribute in the payment of the loss.
* Questions involving the applicability or collectability of other insurance are to be directed to the Association.
* Cause of Loss
* The adjuster shall, insofar as possible, ascertain the cause of loss. In this regard the adjuster should consult with local or state authorities (fire, police, code enforcement officials, fire marshal, etc.) who have investigated the origin.
* If the cause of loss cannot be determined without the assistance of an engineer or specialty vendor, i.e. roofer, and the loss is in excess of $10,000, the adjuster shall contact the examiner for further advice.
* The Staff Adjuster is to provide a Risk Report for any circumstance that may affect the future underwriting of the insured location. The Independent Adjuster is to provide risk assessment information for any circumstance that may affect future underwriting of the insured location within the body of the report.
* The adjuster shall immediately by telephone report all losses of fraudulent or suspicious origin to the Association. Predicated upon the available data, instructions will be given as to the course the investigation is to follow.
* The Associations provide a replacement cost figure per the Associations’ records on all homeowners policies. The adjuster will advise the Association of any discrepancies in these values.
* On losses involving possible subrogation, the adjuster is to promptly notify the Association of the circumstances of the loss and to seek instructions. On those losses the adjuster shall:
  + - * Make a thorough investigation of the facts with guidance from the Association’s subrogation unit;
      * Secure the necessary signed statements, i.e. Proof of Loss with assignment language in it (see sample Proof in Forms section) and/or a separate document with subrogation assignment language;
      * Arrange for appropriate photographs and/or any other necessary information gathering including names and addresses of potential subrogation targets/appropriate warranties/recent related work by outside vendor that may be related to the loss;
      * If necessary, preserve the physical evidence as well as a clear claim of custody records for said evidence. Lost, destroyed or improperly preserved evidence can prejudice an otherwise promising subrogation; and;
      * Provide in a subrogation report all of the necessary detail/photos, etc. necessary to allow the subrogation unit to properly evaluate the subrogation potential of the claim and pursue any such viable claim. If subrogation is not appropriate, also provide information as to why it would not be.
* Determination of Values
  + On all property losses when a building settlement should be subject to a coinsurance clause or insurance to value loss settlement provisions, the adjuster should accurately determine the replacement cost and actual cash value of the insured property. The MUA CL 5 form which comes with the assignment will provide the adjuster with the value established by the Association’s Underwriting Department.
  + On losses where coverage is not written subject to a coinsurance clause, the adjuster is expected to provide value information as such is of importance to the Association for underwriting purposes.
* Determination of the Amount of Loss
* The adjuster must personally inspect the loss or damage for which payment is recommended.
* Building Losses
* The adjuster is required to promptly prepare his/her own repair or replacement estimates showing dimensions, quantities, labor and material costs. Lump-sum estimates are not acceptable. When applicable, depreciation is to be shown.
* When the loss is total to the insurance and the adjustment is predicated upon a building's Actual Cash Value, the adjuster will provide conclusive data to support the settlement figure (including, where appropriate, market values and broad evidence approach documentation).
* Detailed statements of loss clearly setting forth the adjustment must be attached to the proof prior to the time it is given to the insured for evaluation and execution.
* The adjuster will forward to the Association original or duplicate copies of the following items with the closing report.

Estimates prepared by the Adjuster:

* + - * Estimates of experts prepared for the adjuster;
      * Estimates prepared for the insured;
      * Bills provided by the insured; in the case of thefts, original documentation is required.
      * Any other documentation having a bearing on the adjustment, including,where appropriate, the market value/broad evidence documentation or a statement as to why it would not be appropriate for consideration on said claim.
* Commercial Content Losses
* The adjuster will promptly arrange to have the damaged and undamaged stock separated, inventoried, priced and extent of damages indicated.
* Where the extent of damage prevents the adjuster from taking a physical inventory and the loss must be ascertained from the insured's books, the adjuster will contact the Association for instructions regarding the procedure to be employed and course to be pursued as respects the hiring of experts.
* The Association will be consulted prior to the taking over of any salvage or when and wherever practical before retaining the services of a salvor or salvage buyer.
* Where perishable commodities are involved, the adjuster may proceed using the adjuster’s best judgment but must consult with The Association as soon as possible after inspecting the loss.
* The Association will be provided with the original or duplicate of inventories used as a basis for an adjustment showing quantities, item descriptions, pricing and extensions. On losses involving furniture, equipment or machinery, the adjuster will inspect the damaged items, prepare an inventory and establish repair costs of value figures. The adjuster will provide complete details in support of value and loss figures.
* Detailed statements of loss shall be attached to proofs, clearly setting forth the basis of the adjustment prior to execution by the insured.
* Habitational Content Losses
* The adjuster is to promptly inspect the damaged property, review the inventory prepared by the insured or his public adjuster or, when appropriate, inventory the involved items. The inventory should establish the replacement/repair costs or actual cash value (replacement cost less depreciation) of totally destroyed articles or items. Wherever possible the description of an item shall include the age of the item as well as trade or manufacturers' names, serial or model numbers. (Please note if the policy is endorsed with Replacement Cost Coverage Endorsement HO 04/90 (10/00).
* The services of outside experts are NOT to be retained without the consent of the Association.
* Detailed Statements of Loss shall be provided with Proofs of Loss, clearly setting forth the basis of the adjustment.
* Burglary and Theft Losses
* The adjuster will obtain a “Report of Loss Form” (see adjusters information website) on all burglary and theft losses. This form will be supplemented by a signed or recorded statement from the insured for all claims of Burglary/Theft. The insured must have original documentation available for inspection. A check for prior similar losses should also be conducted.
* A signed release of credit information by the insured should be secured on any loss where a credit history is needed. See sample form in Forms section.
* Personal Articles Floater
* The Massachusetts Property Insurance Underwriting Association currently writes Personal Article Floaters (PAF) HO 04 60 10 00, and HO 04 61 10 00.
* These losses are handled separately from all other losses, with an individual file and claim number.
* The Association will provide a copy of the appraisal, when available, or a purchase invoice. The Association will assign an appraiser to evaluate the item or items being claimed. Please see the endorsement for the particulars as to the adjustment process. Any special instructions will be provided by the Examiner.

**G. Captioned Report Guidelines**

* Reserves

Reserve recommendations for all Lines of Coverage involved must be addressed in the heading of ALL Reports. The Reserve recommendation should be stated less any payments processed. There should also be a remark regarding recoverable depreciation.

After the initial Report of Investigation, unless there is a notable change of circumstance, it is not necessary to repeat information. (See the adjuster’s information website for an outline of the form for a captioned report.)

* Questions Submitted
* When the adjuster submits a "question", the report/reporter should preface with a caption entitled "Question Submitted" setting forth thereunder the problem which is raised. Further, it is expected that the adjuster will set forth recommendations as respects the question.
* Do not bury the question in the body of the report.
* Immediate phone, fax and/or e-mail contact with the Association may be utilized if the circumstances are deemed appropriate to do so.
* Coverage
* Coverage Data: Per the appropriate Declaration Sheet which should include policy number, effective-expiration dates, amounts of insurance, description of property covered, form numbers, deductibles and mortgagees.
* Policy Violations: Provide complete particulars as it may pertain to any policy violation(s), i.e, HO policy written, but building is not owner occupied.
* The adjuster should specifically inquire whether other insurance is available and note the answer in the report. List any other insurance (show carrier and amount) and indicate the extent of participation.
* Insured
* Set forth complete particulars as they relate to the insured(s) and/or any others having an insurable interest in the involved property as it is applicable to the claim in question. This caption should also contain a history of any previous losses.
* Risk
* Set forth a complete description of the risk.
  + Building specifications and descriptive details including adjuster's estimated replacement and actual cash values.
  + Personal Property - description of class of property (stock, furniture, machinery, equipment or household furnishings) involved as well as adjuster's estimated values.
  + Occupancy - mercantile, manufacturing, office, warehouse, hotel, apartment, dwelling, school or other. The adjuster should set forth factors which affect the risk including "exposures" and "protection".
  + All substandard conditions should be listed. The file examiner will file a risk report when appropriate.
* Origin
* Date, time and location of loss. Provide complete information as to the cause of loss.
* Adjustment and General Remarks
* Description of damage and factors which affected the magnitude of the loss.
* Narrative explanation of adjustment (refer to statements of loss in substantiation of settlement).
* Subrogation
* All initial claim reports must include remarks regarding Subrogation, and include all the needed information for the file examiner to provide to our Subrogation Examiner for an active investigation and pursuit for The Association and file.
* Salvage
  + When applicable, provide complete details surrounding procurement and disposition of salvage.
* Recommendations
* Payments – on Section I losses, provide your recommendation for payment through Payment Tracker in Xactimate, listing all of the required payees and amounts to be paid for each coverage (A,B,C,D) under which a payment is to be made.
* Denial of Liability – if denial of liability is appropriate, even a partial denial of coverage, it must be provided to the insured in writing, citing the appropriate policy language the denial is based on.
  + 1. If a file is Closed Without Payment because it is below the deductible, then a full estimate of damages and photographs of all damaged items must be prepared.
    2. For other claims with reserves under $5,000 where a denial is issued, provide a copy of field notes setting out the scope of damages and photographs of all damaged areas.
    3. For claims with reserves over $5,000 where a denial is issued, prepare a full estimate of the damages and photographs of all damaged areas.
* Request for Authority:
* For all claims under $10,000, the independent adjuster has authority to determine coverage, retain experts and request payments.
* Independent adjusters: on losses in excess of $10,000, the adjuster should forward to the examiner a full report including a payment request, an unsigned Proof of Loss, a Statement of Loss and all other appropriate attachments.
* Staff adjusters: approval from the examiner must be obtained for all settlements beyond the adjuster’s settlement authority.
* When a vendor is retained by an insured, a direction to pay must be forwarded to the Association and so noted in the forwarding report. Vendors with assignments should be listed as payees on any report requesting payment for appropriate coverage and from which a Direction To Pay form has been signed and provided to the claim file.
* Enclosures
  + All enclosures should be identified somewhere in the body of report and so identified as an enclosure.
  + Provide a copy of the contract for any public adjuster on the loss.
  + Provide a copy of a current mortgage statement.

**H. Service and Expense Statements**

**A signed Proof of Loss must be submitted on all losses in excess of $5,000.**

All service and expense statements must contain the following:

1. Claim Number
2. Policy Number
3. Amount of Policy
4. Name and Address of Insured
5. Date and Type of Loss
6. The total gross loss for all coverages
7. Please refer to the appropriate designated Fee Schedule for all acceptable charges and billing.

Consultant/vendor and service statements for other expenses incurred on behalf of the Association are to be attached and marked to show approval of the amount by the adjuster. Under no circumstances are bills of that nature to be paid by the adjuster.

**I. Proof of Loss/Release**

**A Proof of Loss with subrogation language, a copy of the estimate and, if appropriate, a statement as to full cost of repair or replacement shall be sent to the insured on all losses.**

* Losses up to $2,500 are paid at replacement cost. A returned signed copy of the Proof of Loss is not required.
* For losses from $2,501 to $5,000 a returned signed copy of the Proof of Loss is not necessary to make an ACV payment.
* For losses of $5,001 and over, a signed replacement cost Proof of Loss must be obtained prior to making an ACV payment.
* On claims submitted for recoverable depreciation, a signed proof and full Replacement Cost Statement must be obtained before any recoverable depreciation amount will be paid (see adjusters information website for samples), and the standard Association letter must be provided to the insured.
* On all losses, the insured should be provided with an estimate and a Statement of Loss which provides detail of the proposed adjustment, i.e. proposed payments for appropriate coverage(s), i.e., A, B, C, D, etc.
* If a signed Proof of Loss is not received within 30 days of being forwarded to the insured, the adjuster should file a question submitted report to the examiner for further recommendation and possible undisputed payment.
* For all Liability losses, the Associations require a release be secured from the plaintiff. (See Forms section for sample.) In an effort to protect the insured and the insurer from additional loss of consortium claims, the signature of both spouses/parents is desired. In the case of a minor, the release should be signed by the legal guardian or by a parent and next friend. In settlements involving a minor of over $10,000.00, Court approval must be obtained.
* Special provisions regarding Proofs of Loss may be enacted during the handling of a catastrophe. Contact the Association.
* No payments can be made by the Association on a liability matter until clearance is received from the appropriate governmental agency, i.e., the Department of Revenue – child support lien – see M.G.L. c.175 sec. 24D). (See specialized relocation forms for 175 sec. 24D in Forms section.) (Also see Rhode Island Child Support Intercept Act. Chapter 27-51-1.)

**SECTION V-- MASSACHUSETTS**

Additional Massachusetts requirements for insurers:

Massachusetts insurance policies containing the language of the statutory fire policy (Mass. G.L.C. l75, Sec. 99) require insurers to perform additional procedures prior to making payment in certain situations.

A. ON ALL PROPERTY LOSSES:

### M.G.L.c. 139 sec. 3B

Before paying any claim, MPIUA will give notice to the following three entities:

* + The Building Commissioner or Inspector of Buildings appointed pursuant to the State Building Code;
  + The Board of Health or the Board of Selectmen of the City or Town in which the property is located;
  + The Fire Department-Arson Squad in the City or Town in which the property is located (See sample letter in Forms section applicable to both Sections A and B.)
  + Make no payment for at least ten days after giving the above notice.

If at any time before payment, the City or Town notifies the insurer by certified mail of its intent to begin proceedings to perfect a lien, the insurer must make NO PAYMENTS TO ANYONE for at least THIRTY (30) DAYS after receiving the above notification of the City or Town’s intent.

If the City or Town fails to begin the above lien proceedings within thirty days after the insurer receives the notification of its intent to do so, the insurer may make payments in accordance with its policy. (See sample letter in Forms section applicable to both Sections A and B.)

B. NON-OWNER OCCUPIED PROPERTY WHERE LOSS, DAMAGE OR DESTRUCTION TO A BUILDING OR OTHER STRUCTURE AMOUNTS TO $5,000.00 OR MORE:

M.G.L.c. 174 sec. 97A

(If the real property involved in the loss is a 1, 2, 3 or 4 family dwelling which is occupied by the owner as his domicile at the time of the loss, the insurer should disregard the steps under this category.) Before paying any claim, an insurer must obtain a Municipal Lien Certificate from the owner/insured; thus the owner/insured must be instructed to obtain, at their own expense, a Municipal Lien Certificate from the Collector of Taxes in the City or Town in which the property is situated and provide the same to the Association.

* The Lien Certificate should be presented prior to the securing of a Release or Proof of Loss in settlement of the claim. The Certificate should be reviewed by the adjuster/Association representative to confirm the tax status of the real property. Certificates reflecting taxes due and owing should be brought to the attention of the Association immediately. Specific instructions will be tendered by the Association based on dates of the due and owing taxes as they relate to the information provided on the application for insurance.

The amount shown on the Municipal Lien Certificate must be honored by the Association before the claims of any other parties are paid. The Association should include as payees on the insurance proceeds check the City or Town for any amounts shown on the Certificate of Municipal Liens as outstanding on the date of loss and upon which interest is accruing as of the date of loss.

However, any amount due from the Association to the City, Town and/or insured under this section cannot exceed the amount of loss payable under the policy. For example, if the amount of the loss payable under the policy was $6,000.00, and the amount of the Municipal Liens totaled $8,000.00, the insurer would only have to pay $6,000.00 to the City or Town.

* + The amount claimed by the City or Town has priority over any claims of any other parties unless otherwise provided by federal law. For example, the claim of the City or Town would be satisfied before the claim of an ordinary mortgagee. However, if the Internal Revenue Service, for example, claims the proceeds payable under the policy, the IRS would be paid before the City or Town received its payment.
  + Cities or towns may, upon notice of a loss to real property, request a portion of the proceeds be held in an escrow account until such time as the repairs are generated. The Association requests that it be notified when said procedure is acted upon by the City.

### Other Miscellaneous Insurance Statutes - Massachusetts

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| M.G.L.c. 175 § 97 | Payment of Morgagees |
| M.G.L.c. 175 §100-101D | Reference Procedure |
| M.G.L.c. 93A & 176D | Unfair Claim Practices--Insurer |
| M.G.L.c 175 § 99 (15th) | Tenant Relocation |
| M.G.L.c 175 § 99 | Standard MA Fire Policy |
| M.G.L.c 148 § 32 | Sharing Information of Insurer/Immunity |
| M.G.L.c 175 § 112C | Request for Limits of Liability |
| M.G.L.c 175 § 24D | Child Support Lien |
| M.G.L.c 143 § 6 | Building Unused, Uninhabited or Abandoned Triggers 138 sec. 3B Notice Requirements |

(The above cite(s) are provided as a matter of convenient reference and are not meant to be, nor should they be deemed to be, an all-encompassing list of all of the appropriate statutes, regulations, etc. regarding the claim process.)

**SECTION VI -- RHODE ISLAND**

Additional Rhode Island Requirements under Chapter 45-47- Municipal Liens on Fire Insurance Proceeds:

A. Lien certificates are required on all fire or explosion losses to a building or other structure in excess of $l0,000.00 when the property is non-owner occupied orowner-occupied in excess of four units or a commercial risk. The insured must obtain the certificate at their own expense. The certificate shall be in the form and from the taxing jurisdiction official. When the lien is secured, it should be reviewed for any outstanding taxes. The Association requires immediate notification of any lien showing outstanding taxes. Specific instructions will be tendered by the Association after review of the application for insurance and the dates of any and all outstanding taxes.

B. Insurance Settlements, Section 9-l-50 General Laws

Insurers, when settling claims, must make payment in full within 30 days of being sent a release under Chapter 901, Sec. 9-l-50

C. Skaling v Aetna Co. 799 A 2nd 997 (2002)

This Rhode Island case strongly reinforces the requirement that Insurers promptly, fairly and fully respond to and investigate all claims made by their insureds. Improper handling of a claim can lead to a bad faith action against an insurer even if a “denial of coverage” is proper. Insurers doing business in Rhode Island have an implied obligation to promptly and fully respond to their insureds, to investigate a claim and subject that claim to appropriate review. An insurer has a responsibility to assemble all of the facts necessary for a fair and comprehensive investigation before it decides the disposition of a claim.

The Claims Adjuster plays an intricate role in meeting this duty for the insurer. It is the adjuster’s prompt and full investigation of a claim that will provide the basis of the insurer’s decision on a claim and if necessary a defense to a later bad faith action. It is the adjuster’s responsibility to recognize the possible need for “appropriate review” by an engineer, architect, attorney or other professional to support a decision or further clarify an issue on a claim and communicate that need to the insurer ASAP. Any Claims Adjuster working for the Association in the state of Rhode Island should familiarize themselves with the Skaling Case (I and II).

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| Chapter 27 – 7.5 | Request for Limits of Liability |
| Chapter 27 – 5.3 | Standard RI Fire Insurance Policy |
| Chapter 27 – 5.3 (68) | Mortgagee-not necessary on checks under $3500 |
| Chapter 27 – 5.3 (123T-142) | Appraisal |
| Chapter 27 – 57-1 | Child Support Intercept Act |
| RI Dept. of Business Reg 73 | Standards for Claim Handling, including timely responses to insured inquiries, etc. (see Reg 73) |
| Chapter 9-3-1 & 9-3-2 | Attorney Lien Law—no formal lien request needed; begins at time of attorney/client relationship |
| Chapter 27 – 9.1 | Unfair Claim Practices |
| Chapter 27 – 8.1-3 (d) 1 & 27-54-4A | Information Reporting and Immunity to Fire Losses as well as suspicion of insurance fraud notice requirement to appropriate fraud units and Fire Marshall’s Office |
| Chapter 10 – 7.2 | Wrongful Death Suit $250,000 Minimum Liability |
| Chapter 27-29-11 | Notice to Claimant—Whenever a claim of $5,000 or more is paid by the claimant’s attorney, notice of payment must be given directly to the claimants |

(The above cite(s) are provided as a matter of a convenient reference and are not meant to be, nor should they be deemed to be, an all-encompassing list of all appropriate statutes, regulations, etc. regarding the claim process.)

**SECTION VII -- CONCLUSION**

The procedures and standards in this booklet for adjusters are guidelines for adjusters working on behalf of the Associations. The information contained within this document, by the very nature of the claim process, cannot be all-encompassing or not subject to change as circumstances within that process may dictate. If you have any questions regarding your understanding of these guidelines, or, if, under the circumstances of a particular claim you deem it appropriate that these procedures and standards should be modified or not utilized, please ask an Association Claims Examiner(s) or the Claims Manager(s) for guidance in that regard.

The Association’s goal is to provide an accurate, fair, timely and accountable claims adjustment for the Association and its insureds. It is the Association’s belief that the utilization of these guidelines will serve that goal.