

TITLE 11 – DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Department of Insurance intends to adopt the rules cited as 11 NCAC 06A .1001, .1002 and readopt with substantive changes the rules cited as 11 NCAC 04 .0418, .0419, .0421, and .0425.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncdoi.gov/insurance-industry/rules-and-rules-review>

Proposed Effective Date: *April 1, 2020*

Public Hearing:

Date: *January 14, 2020*

Time: *10:00 a.m.*

Location: *1st Floor Hearing Room, Room 131 (Albemarle Building) located at 325 N. Salisbury Street, Raleigh, NC 27603*

Reason for Proposed Action: *The rules are being submitted to provide clarity, modifications, and guidance on existing and new regulations to industry, motor vehicle damage appraisers, consumers, and interested parties about the expectations for all parties involved in the claims process. This includes providing motor vehicle damage appraisers ethical standards they shall follow, provide industry, motor vehicle damage appraisers, consumers, and interested party's guidance on how to address motor vehicle repair estimates, handling of loss and claims payments, and managing total loss claims settlements.*

11 NCAC 04 .0418; 11 NCAC 04 .0419; 11 NCAC 04 .0421; 11 NCAC 04 .0425 are being proposed for re adoption in accordance with G.S. 150-B21.3A(d)(2).

Comments may be submitted to: *Loretta Peace-Bunch, NC Department of Insurance, 1201 Mail Service Center, Raleigh, NC 27699-1201; phone (919) 807-6004; email loretta.peace-bunch@ncdoi.gov*

Comment period ends: *February 14, 2020*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

History Note: Authority G.S. 58-2-40; 20-279.2; 20-279.21;

Readopted Eff. April 1, 2020.

CHAPTER 06 - AGENT SERVICES DIVISION

SUBCHAPTER 06A - AGENT SERVICES DIVISION

SECTION .1000 - MOTOR VEHICLE DAMAGE APPRAISERS

11 NCAC 06A .1001 DEFINITIONS

As used in this Section, the following terms shall mean:

- (1) "Claimant" means as defined in 11 NCAC 04 .0425.
- (2) "Motor vehicle damage appraiser" means as defined in G.S. 58-33-10(14).

History Note: Authority G.S. 58-2-40;
Adopted Eff. April 1, 2020.

11 NCAC 06A .1002 ETHICAL STANDARDS

(a) Every licensed motor vehicle damage appraiser, when conducting business, shall:

- (1) identify himself or herself and his or her job title;
- (2) when requested, provide his or her National Producer Number, and the Department's website address and phone number for verification of license status;
- (3) prepare an independent appraisal of damages; and
- (4) comply with all local, State, and federal laws, in the motor vehicle damage appraiser's business affairs.

(b) Every licensed motor vehicle damage appraiser shall refrain from:

- (1) disparaging the professional reputation of a motor vehicle damage appraiser or other persons associated with the claim;
- (2) recommending the utilization of a particular motor vehicle repair service without informing the claimant that he or she is under no obligation to use the recommended repair service and that he or she may use the service of his choice;
- (3) recommending a claimant needing repairs or other services in connection with a loss to any person with whom the motor vehicle damage appraiser has a financial interest or who provides the motor vehicle damage appraiser any compensation for the referral or any resulting business;
- (4) impeding the appraisal process or the settlement of a property damage claim;
- (5) receiving any gratuity or other consideration in connection with his or her appraisal services except from his or her employer or, if self-employed, his or her customer;
- (6) advising or recommending a claimant to obtain or not obtain legal advice or counsel from a particular legal counsel;
- (7) giving legal advice on property damage claims in violation of G.S. 84-4;
- (8) solicit a power of attorney from a consumer that authorizes the motor vehicle damage appraiser to sign insurance-related forms;
- (9) attempting to influence a magistrate in the selection of an umpire pursuant to G.S. 20-279.21(d1), including using influence through a client or claimant;
- (10) engaging in the salvage of automobiles if the salvage is obtained as a result of appraisal services rendered by the motor vehicle damage appraiser; and
- (11) act in any manner outside the scope of a motor vehicle damage appraiser, as set forth in Chapter 58, Article 33 of the General Statutes.

(c) Pursuant to G.S. 58-2-70 and G.S. 58-33-46, the Commissioner may consider the failure of a licensed motor vehicle damage appraiser to comply with this Rule as a basis for administrative action.

History Note: Authority G.S. 58-2-40;
Adopted Eff. April 1, 2020.