

# Insurance Fraud

## Be an Educated Consumer!

Please take a few minutes and Read this document!  
Discounted or "free" insurance claim roofing work is **AGAINST THE LAW**.  
(All over Texas.)

### ***Paying for deductibles, even partially, is illegal in Texas.***

Paying for placing a sign in an insured's yard is in fact considered a rebate since the insured receive a betterment from their loss. When you submit an invoice to the insurance company to recover the depreciation do you show that you paid the insured? Do you show that you collected the FULL & required dollar figure? If not, & you stated that you collected hundreds or even thousands less than the correct deductible, the insurance company would reduce the recoverable depreciation by the amount you discounted the deductible.

I'm seeing language on claim summaries now that address this issue informing insured's that it's illegal for them to not pay their fully required deductible.

#### **Example:**

Insurance claim for a roof is estimated by insurance @ \$ 10,000.00.

Insured (homeowner) has a deductible for \$ 1,500.00.

This means the insurance company's portion of "buying the roof" is \$ 8,500.00.

However, along comes "Roofer X" who only charges the homeowner / insured \$ 500.00 for the deductible \*not\* the full amount.

Roofer X then faxes off an invoice to the insurance company stating that they collected \$ 1,500.00 from the homeowner / insured.

Roofer X is telling the insurance company they should send out the balance of the claim (the rest of the amount due) and the insurance company now thinks they have satisfied their part.

If, on the other hand, Roofer X were to send in an invoice with the dollar figure of \$ 500.00 paid by homeowner / insured & NOT \$ 1,500.00, then the insurance company would then back off their final check by the amount that Roofer X did NOT collect.

Homeowner / insured is happy, however, because they just paid less than they were supposed to ("hey, it's OK; everyone does it, right?"). **WRONG.**

**Fact:** The very moment Roofer X sends off a false invoice showing a higher dollar amount collected from homeowner / insured, then Roofer X has committed fraud.

**Fact:** If Roofer X provides an invoice (or receipt) to the homeowner / insured & they (not the roofer) then forward this off to insurance, both parties have now committed insurance fraud, however the homeowner has also committed wire fraud AND they are also committing collusion (conspiring to perform an illegal act). ... How nice; Roofer X has just dragged the homeowner down right along with them.

#### **It's really quite simple:**

Find a roofing contractor that has good references & one that you think will provide you with the highest level of service / do the best quality job. Pay your full & legally required deductible. If you have a problem with your deductible, then maybe you need to rethink your premiums. A higher premium will mean a lower deductible, but YOU, the consumer,

are the one who makes that choice.

Now, one scam ("on the behalf of the homeowner / insured") is that Roofer X could pay to place a sign in someone's yard that they are not re-roofing, that's legal but it's also not very likely.

Since roofing is by its very nature dangerous and potentially deadly these kickbacks can be considered a first degree felony offense. At the minimum it's a state jail felony. If you get caught doing it multiple times they will aggregate the charges.

All it takes is an insurance companies SIU Department to audit an insured. Or the Texas Department of Insurance to investigate. <http://www.tdi.state.tx.us/fraud/index.html>

See Chapter 35 Insurance Fraud Section 35.02(7)(B)

## **BUSINESS & COMMERCE CODE**

### **CHAPTER 27. FRAUD**

#### **§ 27.02. CERTAIN INSURANCE CLAIMS FOR EXCESSIVE CHARGES.**

(a) A person who sells goods or services commits an offense if:

(1) the person advertises or promises to provide the good or service and to pay:

(A) all or part of any applicable insurance deductible; or (B) a rebate in an amount equal to all or part of any applicable insurance deductible;

(2) the good or service is paid for by the consumer from proceeds of a property or casualty insurance policy; and

(3) the person knowingly charges an amount for the good or service that exceeds the usual and customary charge by the person for the good or service by an amount equal to or greater than all or part of the applicable insurance deductible paid by the person to an insurer on behalf of an insured or remitted to an insured by the person as a rebate.

(b) A person who is insured under a property or casualty insurance policy commits an offense if the person:

(1) submits a claim under the policy based on charges that are in violation of Subsection (a) of this section; or

(2) knowingly allows a claim in violation of Subsection (a) of this section to be submitted, unless the person promptly notifies the insurer of the excessive charges.

**(c) An offense under this section is a Class A misdemeanor.**

Added by Acts 1989, 71st Leg., ch. 898, § 1, eff. Sept. 1, 1989.

### **PENAL CODE CHAPTER 35. INSURANCE FRAUD**

§ 35.02. INSURANCE FRAUD. (a) A person commits an offense if, with intent to defraud or deceive an insurer, the person, in support of a claim for payment under an insurance policy:

(1) prepares or causes to be prepared a statement that:

(A) the person knows contains false or misleading material information; and

(B) is presented to an insurer; or

(2) presents or causes to be presented to an insurer a statement that the person knows contains false or misleading material information.

(a-1) A person commits an offense if the person, with intent to defraud or deceive an insurer and in support of an application for an insurance policy:

(1) prepares or causes to be prepared a statement that:

(A) the person knows contains false or misleading material information; and

(B) is presented to an insurer; or

- (2) presents or causes to be presented to an insurer a statement that the person knows contains false or misleading material information.
- (b) A person commits an offense if, with intent to defraud or deceive an insurer, the person solicits, offers, pays, or receives a benefit in connection with the furnishing of goods or services for which a claim for payment is submitted under an insurance policy.
- (c) An offense under Subsection (a) or (b) is:
- (1) a Class C misdemeanor if the value of the claim is less than \$50;
  - (2) a Class B misdemeanor if the value of the claim is \$50 or more but less than \$500;
  - (3) a Class A misdemeanor if the value of the claim is \$500 or more but less than \$1,500;
  - (4) a state jail felony if the value of the claim is \$1,500 or more but less than \$20,000;
  - (5) a felony of the third degree if the value of the claim is \$20,000 or more but less than \$100,000;
  - (6) a felony of the second degree if the value of the claim is \$100,000 or more but less than \$200,000; or
  - (7) a felony of the first degree if:
    - (A) the value of the claim is \$200,000 or more; or
    - (B) an act committed in connection with the commission of the offense places a person at risk of death or serious bodily injury.
- (d) An offense under Subsection (a-1) is a state jail felony.
- (e) The court shall order a defendant convicted of an offense under this section to pay restitution, including court costs and attorney's fees, to an affected insurer.
- (f) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.
- (g) For purposes of this section, if the actor proves by a preponderance of the evidence that a portion of the claim for payment under an insurance policy resulted from a valid loss, injury, expense, or service covered by the policy, the value of the claim is equal to the difference between the total claim amount and the amount of the valid portion of the claim.
- (h) If it is shown on the trial of an offense under this section that the actor submitted a bill for goods or services in support of a claim for payment under an insurance policy to the insurer issuing the policy, a rebuttable presumption exists that the actor caused the claim for payment to be prepared or presented.

Added by Acts 1995, 74th Leg., ch. 621, § 1, eff. Sept. 1, 1995.  
Amended by Acts 2003, 78th Leg., ch. 605, § 1, eff. Sept. 1, 2003.

Amended by:  
Acts 2005, 79th Leg., Ch. 1162, § 4, eff. September 1, 2005.

§ 35.03. AGGREGATION AND MULTIPLE OFFENSES. (a) When separate claims in violation of this chapter are communicated to an insurer or group of insurers pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense and the value of the claims aggregated in determining the classification of the offense. If claims are aggregated under this subsection, Subsection (b) shall not apply.

(b) When three or more separate claims in violation of this chapter are communicated to an insurer or group of insurers pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense, and the classification of the offense shall be one category higher than the most serious single offense proven from the separate claims, except that if the most serious offense is a felony of the first degree, the offense is a felony of the first degree. This subsection shall not be applied if claims are aggregated under Subsection (a).

Added by Acts 1995, 74th Leg., ch. 621, § 1, eff. Sept. 1, 1995