

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by adding
5 Article XLV as follows:

6 (215 ILCS 5/Art. XLV heading new)

7 ARTICLE XLV. PUBLIC ADJUSTERS

8 (215 ILCS 5/1501 new)

9 Sec. 1501. Short title. This Article may be cited as the
10 Public Adjusters Law.

11 (215 ILCS 5/1505 new)

12 Sec. 1505. Purpose and scope. This Article governs the
13 qualifications and procedures for the licensing of public
14 adjusters. It specifies the duties of and restrictions on
15 public adjusters, which include limiting their licensure to
16 assisting insureds in first party claims.

17 (215 ILCS 5/1510 new)

18 Sec. 1510. Definitions. In this Article:

19 "Business entity" means a corporation, association,
20 partnership, limited liability company, limited liability

1 partnership, or other legal entity.

2 "Director" means the Director of the Division of Insurance
3 of the Department of Financial and Professional Regulation.

4 "Division" means the Division of Insurance of the
5 Department of Financial and Professional Regulation.

6 "Fingerprints" means an impression of the lines on the
7 finger taken for the purpose of identification. The impression
8 may be electronic or in ink converted to electronic format.

9 "Home state" means the District of Columbia and any state
10 or territory of the United States where the public adjuster's
11 principal place of residence or principal place of business is
12 located. If neither the state in which the public adjuster
13 maintains the principal place of residence nor the state in
14 which the public adjuster maintains the principal place of
15 business has a substantially similar law governing public
16 adjusters, the public adjuster may declare another state in
17 which it becomes licensed and acts as a public adjuster to be
18 the home state.

19 "Individual" means a natural person.

20 "Person" means an individual or a business entity.

21 "Public adjuster" means any person who, for compensation or
22 any other thing of value on behalf of the insured:

23 (i) acts or aids, solely in relation to first party
24 claims arising under insurance contracts that insure the
25 real or personal property of the insured, on behalf of an
26 insured in negotiating for, or effecting the settlement of,

1 a claim for loss or damage covered by an insurance
2 contract;

3 (ii) advertises for employment as an public adjuster of
4 insurance claims or solicits business or represents
5 himself or herself to the public as an public adjuster of
6 first party insurance claims for losses or damages arising
7 out of policies of insurance that insure real or personal
8 property; or

9 (iii) directly or indirectly solicits business,
10 investigates or adjusts losses, consults, or advises an
11 insured about first party claims for losses or damages
12 arising out of policies of insurance that insure real or
13 personal property for another person engaged in the
14 business of adjusting losses or damages covered by an
15 insurance policy for the insured.

16 "Uniform individual application" means the current version
17 of the National Association of Directors (NAIC) Uniform
18 Individual Application for resident and nonresident
19 individuals.

20 "Uniform business entity application" means the current
21 version of the National Association of Insurance Commissioners
22 (NAIC) Uniform Business Entity Application for resident and
23 nonresident business entities.

24 (215 ILCS 5/1515 new)

25 Sec. 1515. License required.

1 (a) A person shall not act or hold himself out as a public
2 adjuster in this State unless the person is licensed as a
3 public adjuster in accordance with this Article.

4 (b) A person licensed as a public adjuster shall not
5 misrepresent to a claimant that he or she is an adjuster
6 representing an insurer in any capacity, including acting as an
7 employee of the insurer or acting as an independent adjuster
8 unless so appointed by an insurer in writing to act on the
9 insurer's behalf for that specific claim or purpose. A licensed
10 public adjuster is prohibited from charging that specific
11 claimant a fee when appointed by the insurer and the
12 appointment is accepted by the public adjuster.

13 (c) A business entity acting as a public adjuster is
14 required to obtain a public adjuster license. Application shall
15 be made using the Uniform Business Entity Application. Before
16 approving the application, the Director shall find that:

17 (1) the business entity has paid the required fees to
18 be registered as a business entity in this State; and

19 (2) all officers, shareholders, and persons with
20 ownership interests in the business entity are licensed
21 public adjusters responsible for the business entity's
22 compliance with the insurance laws, rules, and regulations
23 of this State.

24 (d) Notwithstanding subsections (a) through (c) of this
25 Section, a license as a public adjuster shall not be required
26 of the following:

1 (1) an attorney admitted to practice in this State,
2 when acting in his or her professional capacity as an
3 attorney;

4 (2) a person who negotiates or settles claims arising
5 under a life or health insurance policy or an annuity
6 contract;

7 (3) a person employed only for the purpose of obtaining
8 facts surrounding a loss or furnishing technical
9 assistance to a licensed public adjuster, including
10 photographers, estimators, private investigators,
11 engineers, and handwriting experts;

12 (4) a licensed health care provider, or employee of a
13 licensed health care provider, who prepares or files a
14 health claim form on behalf of a patient; or

15 (5) a person who settles subrogation claims between
16 insurers.

17 (215 ILCS 5/1520 new)

18 Sec. 1520. Application for license.

19 (a) A person applying for a public adjuster license shall
20 make application to the Director on the appropriate uniform
21 application or other application prescribed by the Director.

22 (b) The applicant shall declare under penalty of perjury
23 and under penalty of refusal, suspension, or revocation of the
24 license that the statements made in the application are true,
25 correct, and complete to the best of the applicant's knowledge

1 and belief.

2 (c) In order to make a determination of license
3 eligibility, the Director is authorized to require
4 fingerprints of applicants and submit such fingerprints and the
5 fee required to perform the criminal history record checks to
6 the Illinois State Police and the Federal Bureau of
7 Investigation (FBI) for State and national criminal history
8 record checks.

9 (d) The Director may adopt rules to establish procedures
10 necessary to carry out the requirements of subsection (c) of
11 this Section.

12 (e) The Director is authorized to submit electronic
13 fingerprint records and necessary identifying information to
14 the NAIC, its affiliates, or subsidiaries for permanent
15 retention in a centralized repository. The purpose of such a
16 centralized repository is to provide Directors with access to
17 fingerprint records in order to perform criminal history record
18 checks.

19 (215 ILCS 5/1525 new)

20 Sec. 1525. Resident license.

21 (a) Before issuing a public adjuster license to an
22 applicant under this Section, the Director shall find that the
23 applicant:

24 (1) is eligible to designate this State as his or her
25 home state or is a nonresident who is not eligible for a

1 license under Section 1540;

2 (2) has not committed any act that is a ground for
3 denial, suspension, or revocation of a license as set forth
4 in Section 1555;

5 (3) is trustworthy, reliable, competent, and of good
6 reputation, evidence of which may be determined by the
7 Director;

8 (4) is financially responsible to exercise the license
9 and has provided proof of financial responsibility as
10 required in Section 1560 of this Article; and

11 (5) maintains an office in the home state of residence
12 with public access by reasonable appointment or regular
13 business hours. This includes a designated office within a
14 home state of residence.

15 (b) In addition to satisfying the requirements of
16 subsection (a) of this Section, an individual shall

17 (1) be at least 18 years of age;

18 (2) have successfully passed the public adjuster
19 examination;

20 (3) designate a licensed individual public adjuster
21 responsible for the business entity's compliance with the
22 insurance laws, rules, and regulations of this State; and

23 (4) designate only licensed individual public
24 adjusters to exercise the business entity's license.

25 (c) The Director may require any documents reasonably
26 necessary to verify the information contained in the

1 application.

2 (215 ILCS 5/1530 new)

3 Sec. 1530. Examination.

4 (a) An individual applying for a public adjuster license
5 under this Article must pass a written examination unless he or
6 she is exempt pursuant to Section 1535 of this Article. The
7 examination shall test the knowledge of the individual
8 concerning the duties and responsibilities of a public adjuster
9 and the insurance laws and regulations of this State.
10 Examinations required by this Section shall be developed and
11 conducted under rules and regulations prescribed by the
12 Director.

13 (b) The Director may make arrangements, including
14 contracting with an outside testing service, for administering
15 examinations and collecting the nonrefundable fee. Each
16 individual applying for an examination shall remit a
17 nonrefundable fee as prescribed by the Director. An individual
18 who fails to appear for the examination as scheduled or fails
19 to pass the examination shall reapply for an examination and
20 remit all required fees and forms before being rescheduled for
21 another examination. An individual who fails to pass the
22 examination must wait 90 days prior to rescheduling an
23 examination.

24 (215 ILCS 5/1535 new)

1 Sec. 1535. Exemptions from examination.

2 (a) An individual who applies for a public adjuster license
3 in this State who was previously licensed as a public adjuster
4 in another state based on an public adjuster examination shall
5 not be required to complete any prelicensing education. This
6 exemption is only available if (i) the person is currently
7 licensed in that state or if the application is received within
8 12 months of the cancellation of the applicant's previous
9 license; and (ii) if the prior state issues a certification
10 that, at the time of cancellation, the applicant was in good
11 standing in that state or the state's producer database records
12 or records maintained by the NAIC, its affiliates, or
13 subsidiaries, indicate that the public adjuster is or was
14 licensed in good standing.

15 (b) A person licensed as a public adjuster in another state
16 based on a public adjuster examination who moves to this State
17 shall submit an application within 90 days of establishing
18 legal residence to become a resident licensee pursuant to
19 Section 1525 of this Article. No prelicensing examination shall
20 be required of that person to obtain a public adjuster license.

21 (c) An individual who applies for a public adjuster license
22 in this State who was previously licensed as a public adjuster
23 in this State shall not be required to complete any
24 prelicensing examination. This exemption is only available if
25 the application is received within 12 months of the
26 cancellation of the applicant's previous license in this State

1 and if, at the time of cancellation, the applicant was in good
2 standing in this State.

3 (215 ILCS 5/1540 new)

4 Sec. 1540. Nonresident license reciprocity.

5 (a) Unless denied licensure pursuant to Section 1555 of
6 this Article, a nonresident person shall receive a nonresident
7 public adjuster license if:

8 (1) the person is currently licensed as a resident
9 public adjuster and in good standing in his or her home
10 state;

11 (2) the person has submitted the proper request for
12 licensure and has provided proof of financial
13 responsibility as required in Section 1560 of this Article;

14 (3) the person has submitted or transmitted to the
15 Director the appropriate completed application for
16 licensure; and

17 (4) the person's home state awards nonresident public
18 adjuster licenses to residents of this State on the same
19 basis.

20 (b) The Director may verify the public adjuster's licensing
21 status through the producer database maintained by the NAIC,
22 its affiliates, or subsidiaries.

23 (c) As a condition to continuation of a public adjuster
24 license issued under this Section, the licensee shall maintain
25 a resident public adjuster license in his or her home state.

1 The nonresident public adjuster license issued under this
2 Section shall terminate and be surrendered immediately to the
3 Director if the home state public adjuster license terminates
4 for any reason, unless the public adjuster has been issued a
5 license as a resident public adjuster in his or her new home
6 state. Notification to the state or states where the
7 nonresident license is issued must be made as soon as possible,
8 yet no later than 30 days of change in new state resident
9 license. The licensee shall include his or her new and old
10 address on the notification. A new state resident license is
11 required for nonresident licenses to remain valid. The new
12 state resident license must have reciprocity with the licensing
13 nonresident state or states for the nonresident license not to
14 terminate.

15 (215 ILCS 5/1545 new)

16 Sec. 1545. License.

17 (a) Unless denied licensure under this Article, persons who
18 have met the requirements of this Article shall be issued a
19 public adjuster license.

20 (b) A public adjuster license shall remain in effect unless
21 revoked, terminated, or suspended as long as the requirements
22 for license renewal are met by the due date.

23 (c) The licensee shall inform the Director by any means
24 acceptable to the Director of a change of address, change of
25 legal name, or change of information submitted on the

1 application within 30 days of the change.

2 (d) A licensed public adjuster shall be subject to Article
3 XXVI of this Code.

4 (e) A public adjuster who allows his or her license to
5 lapse may, within 12 months from the due date of the renewal,
6 be issued a new public adjuster license without necessity of
7 passing a written examination. However, a penalty in the amount
8 of double the unpaid renewal fee shall be required for the
9 issue of the new public adjuster license.

10 (f) A licensed public adjuster that is unable to comply
11 with license renewal procedures due to military service or a
12 long-term medical disability may request a waiver of the
13 procedures in subsection (e) of this Section. The public
14 adjuster may also request a waiver of any examination
15 requirement, fine, or other sanction imposed for failure to
16 comply with renewal procedures.

17 (g) The license shall contain the licensee's name, city and
18 state of business address, personal identification number, the
19 date of issuance, the expiration date, and any other
20 information the Director deems necessary.

21 (h) In order to assist in the performance of the Director's
22 duties, the Director may contract with non-governmental
23 entities, including the NAIC or any affiliates or subsidiaries
24 that the NAIC oversees, to perform any ministerial functions,
25 including the collection of fees and data, related to licensing
26 that the Director may deem appropriate.

1 (215 ILCS 5/1555 new)

2 Sec. 1555. License denial, nonrenewal, or revocation.

3 (a) The Director may place on probation, suspend, revoke,
4 deny, or refuse to issue or renew a public adjuster's license
5 or may levy a civil penalty or any combination of actions, for
6 any one or more of the following causes:

7 (1) providing incorrect, misleading, incomplete, or
8 materially untrue information in the license application;

9 (2) violating any insurance laws, or violating any
10 regulation, subpoena, or order of the Director or of
11 another state's Director;

12 (3) obtaining or attempting to obtain a license through
13 misrepresentation or fraud;

14 (4) improperly withholding, misappropriating, or
15 converting any monies or properties received in the course
16 of doing insurance business;

17 (5) intentionally misrepresenting the terms of an
18 actual or proposed insurance contract or application for
19 insurance;

20 (6) having been convicted of a felony;

21 (7) having admitted or been found to have committed any
22 insurance unfair trade practice or insurance fraud;

23 (8) using fraudulent, coercive, or dishonest
24 practices; or demonstrating incompetence,
25 untrustworthiness, or financial irresponsibility in the

1 conduct of business in this State or elsewhere;

2 (9) having an insurance license or public adjuster
3 license or its equivalent, denied, suspended, or revoked in
4 any other state, province, district, or territory;

5 (10) forging another's name to an application for
6 insurance or to any document related to an insurance
7 transaction;

8 (11) cheating, including improperly using notes or any
9 other reference material, to complete an examination for an
10 insurance license or public adjuster license;

11 (12) knowingly accepting insurance business from or
12 transacting business with an individual who is not licensed
13 but who is required to be licensed by the Director;

14 (13) failing to comply with an administrative or court
15 order imposing a child support obligation;

16 (14) failing to pay State income tax or comply with any
17 administrative or court order directing payment of State
18 income tax;

19 (15) failing to comply with or having violated any of
20 the standards set forth in Section 1590 of this Law; or

21 (16) failing to maintain the records required by
22 Section 1585 of this Law.

23 (b) If the action by the Director is to nonrenew, suspend,
24 or revoke a license or to deny an application for a license,
25 the Director shall notify the applicant or licensee and advise,
26 in writing, the applicant or licensee of the reason for the

1 suspension, revocation, denial, or nonrenewal of the
2 applicant's or licensee's license. The applicant or licensee
3 may make written demand upon the Director within 30 days after
4 the date of mailing for a hearing before the Director to
5 determine the reasonableness of the Director's action. The
6 hearing must be held within not fewer than 20 days nor more
7 than 30 days after the mailing of the notice of hearing and
8 shall be held pursuant to 50 Ill. Adm. Code 2402.

9 (c) The license of a business entity may be suspended,
10 revoked, or refused if the Director finds, after hearing, that
11 an individual licensee's violation was known or should have
12 been known by one or more of the partners, officers, or
13 managers acting on behalf of the business entity and the
14 violation was neither reported to the Director, nor corrective
15 action taken.

16 (d) In addition to or in lieu of any applicable denial,
17 suspension or revocation of a license, a person may, after
18 hearing, be subject to a civil penalty. In addition to or
19 instead of any applicable denial, suspension, or revocation of
20 a license, a person may, after hearing, be subject to a civil
21 penalty of up to \$10,000 for each cause for denial, suspension,
22 or revocation, however, the civil penalty may total no more
23 than \$100,000.

24 (e) The Director shall retain the authority to enforce the
25 provisions of and impose any penalty or remedy authorized by
26 this Article against any person who is under investigation for

1 or charged with a violation of this Article even if the
2 person's license or registration has been surrendered or has
3 lapsed by operation of law.

4 (f) Any individual whose public adjuster's license is
5 revoked or whose application is denied pursuant to this Section
6 shall be ineligible to apply for a public adjuster's license
7 for 5 years. A suspension pursuant to this Section may be for
8 any period of time up to 5 years.

9 (215 ILCS 5/1560 new)

10 Sec. 1560. Bond or letter of credit.

11 (a) Prior to the issuance of a license as a public adjuster
12 and for the duration of the license, the applicant shall secure
13 evidence of financial responsibility in a format prescribed by
14 the Director through a surety bond or irrevocable letter of
15 credit, subject to all of the following requirements:

16 (1) A surety bond executed and issued by an insurer
17 authorized to issue surety bonds in this State, which bond:

18 (A) shall be in the minimum amount of \$20,000;

19 (B) shall be in favor of this State and shall
20 specifically authorize recovery by the Director on
21 behalf of any person in this State who sustained
22 damages as the result of erroneous acts, failure to
23 act, conviction of fraud, or conviction of unfair
24 practices in his or her capacity as a public adjuster;
25 and

1 (C) shall not be terminated unless at least 30
2 days' prior written notice will have been filed with
3 the Director and given to the licensee; and

4 (2) An irrevocable letter of credit issued by a
5 qualified financial institution, which letter of credit

6 (A) shall be in the minimum amount of \$20,000;

7 (B) shall be to an account to the Director and
8 subject to lawful levy of execution on behalf of any
9 person to whom the public adjuster has been found to be
10 legally liable as the result of erroneous acts, failure
11 to act, fraudulent acts, or unfair practices in his or
12 her capacity as a public adjuster; and

13 (C) shall not be terminated unless at least 30
14 days' prior written notice will have been filed with
15 the and given to the licensee.

16 (b) The issuer of the evidence of financial responsibility
17 shall notify the Director upon termination of the bond or
18 letter of credit, unless otherwise directed by the Director.

19 (c) The Director may ask for the evidence of financial
20 responsibility at any time he or she deems relevant.

21 (d) The authority to act as a public adjuster shall
22 automatically terminate if the evidence of financial
23 responsibility terminates or becomes impaired.

24 (215 ILCS 5/1565 new)

25 Sec. 1565. Continuing education.

1 (a) An individual who holds a public adjuster license and
2 who is not exempt under subsection (b) of this Section shall
3 satisfactorily complete a minimum of 24 hours of continuing
4 education courses, including 3 hours of classroom ethics
5 instruction, reported on a biennial basis in conjunction with
6 the license renewal cycle.

7 The Director may not approve a course of study unless the
8 course provides for classroom, seminar, or self-study
9 instruction methods. A course given in a combination
10 instruction method of classroom or seminar and self-study shall
11 be deemed to be a self-study course unless the classroom or
12 seminar certified hours meets or exceeds two-thirds of the
13 total hours certified for the course. The self-study material
14 used in the combination course must be directly related to and
15 complement the classroom portion of the course in order to be
16 considered for credit. An instruction method other than
17 classroom or seminar shall be considered as self-study
18 methodology. Self-study credit hours require the successful
19 completion of an examination covering the self-study material.
20 The examination may not be self-evaluated. However, if the
21 self-study material is completed through the use of an approved
22 computerized interactive format whereby the computer validates
23 the successful completion of the self-study material, no
24 additional examination is required. The self-study credit
25 hours contained in a certified course shall be considered
26 classroom hours when at least two-thirds of the hours are given

1 as classroom or seminar instruction.

2 The public adjuster must complete the course in advance of
3 the renewal date to allow the education provider time to report
4 the credit to the Department.

5 (b) This Section shall not apply to:

6 (1) licensees not licensed for one full year prior to
7 the end of the applicable continuing education biennium; or

8 (2) licensees holding nonresident public adjuster
9 licenses who have met the continuing education
10 requirements of their home state and whose home state gives
11 credit to residents of this State on the same basis.

12 (c) Only continuing education courses approved by the
13 Director shall be used to satisfy the continuing education
14 requirement of subsection (a) of this Section.

15 (215 ILCS 5/1570 new)

16 Sec. 1570. Public adjuster fees.

17 (a) A public adjuster shall not pay a commission, service
18 fee, or other valuable consideration to a person for
19 investigating or settling claims in this State if that person
20 is required to be licensed under this Article and is not so
21 licensed.

22 (b) A person shall not accept a commission, service fee, or
23 other valuable consideration for investigating or settling
24 claims in this State if that person is required to be licensed
25 under this Article and is not so licensed.

1 (c) A public adjuster may pay or assign commission, service
2 fees, or other valuable consideration to persons who do not
3 investigate or settle claims in this State, unless the payment
4 would violate State law.

5 (215 ILCS 5/1575 new)

6 Sec. 1575. Contract between public adjuster and insured.

7 (a) Public adjusters shall ensure that all contracts for
8 their services are in writing and contain the following terms:

9 (1) legible full name of the adjuster signing the
10 contract, as specified in Department records;

11 (2) permanent home state business address and phone
12 number;

13 (3) license number;

14 (4) title of "Public Adjuster Contract";

15 (5) the insured's full name, street address, insurance
16 company name, and policy number, if known or upon
17 notification;

18 (6) a description of the loss and its location, if
19 applicable;

20 (7) description of services to be provided to the
21 insured;

22 (8) signatures of the public adjuster and the insured;

23 (9) date contract was signed by the public adjuster and
24 date the contract was signed by the insured;

25 (10) attestation language stating that the public

1 adjuster is fully bonded pursuant to State law; and

2 (11) full salary, fee, commission, compensation, or
3 other considerations the public adjuster is to receive for
4 services.

5 (b) The contract may specify that the public adjuster shall
6 be named as a co-payee on an insurer's payment of a claim.

7 (1) If the compensation is based on a share of the
8 insurance settlement, the exact percentage shall be
9 specified.

10 (2) Initial expenses to be reimbursed to the public
11 adjuster from the proceeds of the claim payment shall be
12 specified by type, with dollar estimates set forth in the
13 contract and with any additional expenses first approved by
14 the insured.

15 (3) Compensation provisions in a public adjusting
16 contract shall not be redacted in any copy of the contract
17 provided to the Director.

18 (c) If the insurer, not later than 5 business days after
19 the date on which the loss is reported to the insurer, either
20 pays or commits in writing to pay to the insured the policy
21 limit of the insurance policy, the public adjuster shall:

22 (1) not receive a commission consisting of a percentage
23 of the total amount paid by an insurer to resolve a claim;

24 (2) inform the insured that loss recovery amount might
25 not be increased by insurer; and

26 (3) be entitled only to reasonable compensation from

1 the insured for services provided by the public adjuster on
2 behalf of the insured, based on the time spent on a claim
3 and expenses incurred by the public adjuster, until the
4 claim is paid or the insured receives a written commitment
5 to pay from the insurer.

6 (d) A public adjuster shall provide the insured a written
7 disclosure concerning any direct or indirect financial
8 interest that the public adjuster has with any other party who
9 is involved in any aspect of the claim, other than the salary,
10 fee, commission, or other consideration established in the
11 written contract with the insured, including, but not limited
12 to, any ownership of or any compensation expected to be
13 received from, any construction firm, salvage firm, building
14 appraisal firm, motor vehicle repair shop, or any other firm
15 which that provides estimates for work, or that performs any
16 work, in conjunction with damages caused by the insured loss on
17 which the public adjuster is engaged. The word "firm" shall
18 include any corporation, partnership, association, joint-stock
19 company, or person.

20 (e) A public adjuster contract may not contain any contract
21 term that:

22 (1) allows the public adjuster's percentage fee to be
23 collected when money is due from an insurance company, but
24 not paid, or that allows a public adjuster to collect the
25 entire fee from the first check issued by an insurance
26 company, rather than as percentage of each check issued by

1 an insurance company;

2 (2) requires the insured to authorize an insurance
3 company to issue a check only in the name of the public
4 adjuster; or

5 (3) precludes a public adjuster or an insured from
6 pursuing civil remedies.

7 (f) The following provisions apply to a contract between a
8 public adjuster and an insured:

9 (1) Prior to the signing of the contract, the public
10 adjuster shall provide the insured with a separate signed
11 and dated disclosure document regarding the claim process
12 that states:

13 "Property insurance policies obligate the insured to
14 present a claim to his or her insurance company for
15 consideration. There are 3 types of adjusters that could be
16 involved in that process. The definitions of the 3 types
17 are as follows:

18 (A) "Company adjuster" means the insurance
19 adjusters who are employees of an insurance company.
20 They represent the interest of the insurance company
21 and are paid by the insurance company. They will not
22 charge you a fee.

23 (B) "Independent adjuster" means the insurance
24 adjusters who are hired on a contract basis by an
25 insurance company to represent the insurance company's
26 interest in the settlement of the claim. They are paid

1 by your insurance company. They will not charge you a
2 fee.

3 (C) "Public adjuster" means the insurance
4 adjusters who do not work for any insurance company.
5 They work for the insured to assist in the preparation,
6 presentation and settlement of the claim. The insured
7 hires them by signing a contract agreeing to pay them a
8 fee or commission based on a percentage of the
9 settlement, or other method of compensation."

10 (2) The insured is not required to hire a public
11 adjuster to help the insured meet his or her obligations
12 under the policy, but has the right to do so.

13 (3) The insured has the right to initiate direct
14 communications with the insured's attorney, the insurer,
15 the insurer's adjuster, and the insurer's attorney, or any
16 other person regarding the settlement of the insured's
17 claim. Once a public adjuster has been retained, the
18 company adjuster or other insurance representative may not
19 communicate directly with the insured without the
20 permission or consent of the public adjuster or the
21 insured's legal counsel.

22 (4) The public adjuster is not a representative or
23 employee of the insurer.

24 (5) The salary, fee, commission, or other
25 consideration is the obligation of the insured, not the
26 insurer, except when rights have been assigned to the

1 public adjuster by the insured.

2 (g) The contracts shall be executed in duplicate to provide
3 an original contract to the public adjuster, and an original
4 contract to the insured. The public adjuster's original
5 contract shall be available at all times for inspection without
6 notice by the Director.

7 (h) The public adjuster shall provide the insurer with an
8 exact copy of the contract by the insured, authorizing the
9 public adjuster to represent the insured's interest.

10 (i) The public adjuster shall give the insured written
11 notice of the insured's rights as a consumer under the law of
12 this State.

13 (j) A public adjuster shall not provide services until a
14 written contract with the insured has been executed, on a form
15 filed with and approved by the Director. At the option of the
16 insured, any such contract that is executed within 5 business
17 days after conclusion of the loss producing occurrence shall be
18 voidable for 10 days after execution. The insured may void the
19 contract by notifying the public adjuster in writing by (i)
20 registered or certified mail, return receipt requested, to the
21 address shown on the contract or (ii) personally serving the
22 notice on the public adjuster.

23 (k) If the insured exercises the right to rescind the
24 contract, anything of value given by the insured under the
25 contract will be returned to the insured within 15 business
26 days following the receipt by the public adjuster of the

1 cancellation notice.

2 (215 ILCS 5/1580 new)

3 Sec. 1580. Escrow or trust accounts. A public adjuster who
4 receives, accepts, or holds any funds on behalf of an insured
5 towards the settlement of a claim for loss or damage shall
6 deposit the funds in a non-interest bearing escrow or trust
7 account in a financial institution that is insured by an agency
8 of the federal government in the public adjuster's home state
9 or where the loss occurred.

10 (215 ILCS 5/1585 new)

11 Sec. 1585. Record retention.

12 (a) A public adjuster shall maintain a complete record of
13 each transaction as a public adjuster. The records required by
14 this Section shall include the following:

15 (1) name of the insured;

16 (2) date, location and amount of the loss;

17 (3) a copy of the contract between the public adjuster
18 and insured and a copy of the separate disclosure document;

19 (4) name of the insurer, amount, expiration date and
20 number of each policy carried with respect to the loss;

21 (5) itemized statement of the insured's recoveries;

22 (6) itemized statement of all compensation received by
23 the public adjuster, from any source whatsoever, in
24 connection with the loss;

1 (7) a register of all monies received, deposited,
2 disbursed, or withdrawn in connection with a transaction
3 with an insured, including fees transfers and
4 disbursements from a trust account and all transactions
5 concerning all interest bearing accounts;

6 (8) name of public adjuster who executed the contract;

7 (9) name of the attorney representing the insured, if
8 applicable, and the name of the claims representatives of
9 the insurance company; and

10 (10) evidence of financial responsibility in a format
11 prescribed by the Director.

12 (b) Records shall be maintained for at least 7 years after
13 the termination of the transaction with an insured and shall be
14 open to examination by the Director at all times.

15 (c) Records submitted to the Director in accordance with
16 this Section that contain information identified in writing as
17 proprietary by the public adjuster shall be treated as
18 confidential by the Director and shall not be subject to the
19 Freedom of Information Act.

20 (215 ILCS 5/1590 new)

21 Sec. 1590. Standards of conduct of public adjuster.

22 (a) A public adjuster is obligated, under his or her
23 license, to serve with objectivity and complete loyalty for the
24 interests of his client alone, and to render to the insured
25 such information, counsel, and service, as within the

1 knowledge, understanding, and opinion in good faith of the
2 licensee, as will best serve the insured's insurance claim
3 needs and interest.

4 (b) A public adjuster may not propose or attempt to propose
5 to any person that the public adjuster represent that person
6 while a loss-producing occurrence is continuing, nor while the
7 fire department or its representatives are engaged at the
8 damaged premises, nor between the hours of 7:00 p.m. and 8:00
9 a.m.

10 (c) A public adjuster shall not permit an unlicensed
11 employee or representative of the public adjuster to conduct
12 business for which a license is required under this Article.

13 (d) A public adjuster shall not have a direct or indirect
14 financial interest in any aspect of the claim, other than the
15 salary, fee, commission, or other consideration established in
16 the written contract with the insured, unless full written
17 disclosure has been made to the insured as set forth in
18 subsection (g) of Section 1575.

19 (e) A public adjuster shall not acquire any interest in the
20 salvage of property subject to the contract with the insured
21 unless the public adjuster obtains written permission from the
22 insured after settlement of the claim with the insurer as set
23 forth in subsection (g) of Section 1575 of this Article.

24 (f) The public adjuster shall abstain from referring or
25 directing the insured to get needed repairs or services in
26 connection with a loss from any person, unless disclosed to the

1 insured:

2 (1) with whom the public adjuster has a financial
3 interest; or

4 (2) from whom the public adjuster may receive direct or
5 indirect compensation for the referral.

6 (g) The public adjuster shall disclose to an insured if he
7 or she has any interest or will be compensated by any
8 construction firm, salvage firm, building appraisal firm,
9 motor vehicle repair shop, or any other firm that performs any
10 work in conjunction with damages caused by the insured loss.
11 The word "firm" shall include any corporation, partnership,
12 association, joint-stock company or individual as set forth in
13 Section 1575 of this Article.

14 (h) Any compensation or anything of value in connection
15 with an insured's specific loss that will be received by a
16 public adjuster shall be disclosed by the public adjuster to
17 the insured in writing including the source and amount of any
18 such compensation.

19 (i) In all cases where the loss giving rise to the claim
20 for which the public adjuster was retained arise from damage to
21 a personal residence, the insurance proceeds shall be delivered
22 in person to the named insured or his or her designee. Where
23 proceeds paid by an insurance company are paid jointly to the
24 insured and the public adjuster, the insured shall release such
25 portion of the proceeds that are due the public adjuster within
26 30 calendar days after the insured's receipt of the insurance

1 company's check, money order, draft, or release of funds. If
2 the proceeds are not so released to the insured within 30
3 calendar days, the insured shall provide the public adjuster
4 with a written explanation of the reason for the delay.

5 (j) Public adjusters shall adhere to the following general
6 ethical requirements:

7 (1) a public adjuster shall not undertake the
8 adjustment of any claim if the public adjuster is not
9 competent and knowledgeable as to the terms and conditions
10 of the insurance coverage, or which otherwise exceeds the
11 public adjuster's current expertise;

12 (2) a public adjuster shall not knowingly make any oral
13 or written material misrepresentations or statements which
14 are false or maliciously critical and intended to injure
15 any person engaged in the business of insurance to any
16 insured client or potential insured client;

17 (3) no public adjuster, while so licensed by the
18 Department, may represent or act as a company adjuster or
19 independent adjuster on the same claim;

20 (4) the contract shall not be construed to prevent an
21 insured from pursuing any civil remedy after the 3-business
22 day revocation or cancellation period;

23 (5) a public adjuster shall not enter into a contract
24 or accept a power of attorney that vests in the public
25 adjuster the effective authority to choose the persons who
26 shall perform repair work;

1 (6) a public adjuster shall ensure that all contracts
2 for the public adjuster's services are in writing and set
3 forth all terms and conditions of the engagement; and

4 (7) a public adjuster shall not advance money or any
5 valuable consideration, except emergency services to an
6 insured pending adjustment of a claim.

7 (k) A public adjuster may not agree to any loss settlement
8 without the insured's knowledge and consent.

9 (215 ILCS 5/1595 new)

10 Sec. 1595. Reporting of actions.

11 (a) The public adjuster shall report to the Director any
12 administrative action taken against the public adjuster in
13 another jurisdiction or by another governmental agency in this
14 State within 30 days of the final disposition of the matter.
15 This report shall include a copy of the order, consent to
16 order, or other relevant legal documents.

17 (b) Within 30 days of the initial pretrial hearing date,
18 the public adjuster shall report to the Director any criminal
19 prosecution of the public adjuster taken in any jurisdiction.
20 The report shall include a copy of the initial complaint filed,
21 the order resulting from the hearing, and any other relevant
22 legal documents.

23 (215 ILCS 5/1600 new)

24 Sec. 1600. Examinations.

1 (a) The Director shall have the power to examine any
2 applicant or any person licensed or registered pursuant to this
3 Article.

4 (b) Every person being examined and its officers,
5 directors, and members must provide to the Director convenient
6 and free access, at all reasonable hours, to all books,
7 records, documents, and other papers relating to its public
8 adjusting affairs. The officers, directors, members, and
9 employees must facilitate and aid in such examinations so far
10 as it is in their power to do so.

11 (c) Examiners may be designated by the Director. Such
12 examiners shall make their reports to the Director pursuant to
13 this Section. Any report alleging substantive violations shall
14 be in writing and shall be based upon the facts ascertained
15 from the books, records, documents, papers, and other evidence
16 obtained by the examiners or ascertained from the testimony of
17 the officers, directors, members, or other individuals
18 examined under oath or ascertained by notarized affidavits
19 received by the examiners. The reports shall be verified by the
20 examiners.

21 (215 ILCS 5/1605 new)

22 Sec. 1605. Injunctive relief. Any person who acts as or
23 holds himself out to be a public adjuster without holding a
24 valid and current license to do so is hereby declared to be
25 inimical to the public welfare and to constitute a public

1 nuisance. The Director may report such practice to the Attorney
2 General of the State of Illinois whose duty it is to apply
3 forthwith by complaint on relation of the Director in the name
4 of the people of the State of Illinois, as plaintiff, for
5 injunctive relief in the circuit court of the county where such
6 practice occurred to enjoin the person from engaging in such
7 practice; and upon the filing of a verified petition in such
8 court, the court, if satisfied by affidavit or otherwise that
9 the person has been engaged in such practice without a valid
10 and current license to do so, may enter a temporary restraining
11 order without notice or bond enjoining the defendant from such
12 further practice. A copy of the verified complaint shall be
13 served upon the defendant and the proceedings shall thereafter
14 be conducted as in other civil cases. If it is established that
15 the defendant has been or is engaged in such unlawful practice,
16 then the court may enter an order or judgment perpetually
17 enjoining the defendant from such further practice. In all
18 proceedings hereunder, the court, in its discretion, may
19 apportion the costs among the parties interested in the action,
20 including the costs of filing the complaint, service of
21 process, witness fees and expenses, court reporter charges, and
22 reasonable attorney fees. In case of violation of any
23 injunctive order entered under the provisions of this Section,
24 the court may try and punish the offender for contempt of
25 court. Such injunction proceedings shall be in addition to, and
26 not in lieu of, all penalties and other remedies.

1 (215 ILCS 5/1610 new)

2 Sec. 1610. Additional penalties. In addition to any other
3 penalty set forth in this Article, any person violating Section
4 1605 of this Code shall be guilty of a Class A misdemeanor and
5 any person misappropriating or converting any monies collected
6 as a public adjuster, whether licensed or not, shall be guilty
7 of a Class 4 felony.

8 (215 ILCS 5/1615 new)

9 Sec. 1615. Rules. The Director shall promulgate reasonable
10 rules as are necessary or proper to carry out the purposes of
11 this Article.

12 (215 ILCS 5/Art. XXXI.75 rep.)

13 Section 910. The Illinois Insurance Code is amended by
14 repealing Article XXXI.75.

15 Section 997. Severability. The provisions of this Act are
16 severable under Section 1.31 of the Statute on Statutes.