

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 "Adjusting a claim for loss or damage covered by an
20 insurance contract" means negotiating values, damages, or

1 depreciation or applying the loss circumstances to insurance
2 policy provisions.

3 "Business entity" means a corporation, association,
4 partnership, limited liability company, limited liability
5 partnership, or other legal entity.

6 "Department" means the Department of Insurance.

7 "Director" means the Director of Insurance.

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

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

21 "Individual" means a natural person.

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

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

25 (i) acts or aids, solely in relation to first party
26 claims arising under insurance contracts that insure the

1 real or personal property of the insured, on behalf of an
2 insured in adjusting a claim for loss or damage covered by
3 an insurance contract;

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

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

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

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

1 Sec. 1515. License required.

2 (a) A person shall not act, advertise, solicit, or hold
3 himself out as a public adjuster or to be in the business of
4 adjusting insurance claims in this State, nor attempt to obtain
5 a contract for public adjusting services, unless the person is
6 licensed as a public adjuster in accordance with this Article.

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

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

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

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

1 (d) Notwithstanding subsections (a) through (c) of this
2 Section, a license as a public adjuster shall not be required
3 of the following:

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

7 (2) a person who negotiates or settles claims arising
8 under a life or health insurance policy or an annuity
9 contract;

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

15 (4) a licensed health care provider, or employee of a
16 licensed health care provider, who prepares or files a
17 health claim form on behalf of a patient; or

18 (5) a person who settles subrogation claims between
19 insurers.

20 (215 ILCS 5/1520 new)

21 Sec. 1520. Application for license.

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

25 (b) The applicant shall declare under penalty of perjury

1 and under penalty of refusal, suspension, or revocation of the
2 license that the statements made in the application are true,
3 correct, and complete to the best of the applicant's knowledge
4 and belief.

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

12 (d) The Director may adopt rules to establish procedures
13 necessary to carry out the requirements of subsection (c) of
14 this Section.

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

22 (f) Until such time as the Director can obtain and receive
23 national criminal history records, the applicant shall obtain a
24 copy of his or her fingerprints and complete criminal history
25 record from the FBI Criminal Justice Information Services
26 Division and the Illinois State Police and provide such

1 information to the Department of Insurance.

2 (215 ILCS 5/1525 new)

3 Sec. 1525. Resident license.

4 (a) Before issuing a public adjuster license to an
5 applicant under this Section, the Director shall find that the
6 applicant:

7 (1) is eligible to designate this State as his or her
8 home state or is a nonresident who is not eligible for a
9 license under Section 1540;

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

13 (3) is trustworthy, reliable, competent, and of good
14 reputation, evidence of which may be determined by the
15 Director;

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

19 (5) maintains an office in the home state of residence
20 with public access by reasonable appointment or regular
21 business hours. This includes a designated office within a
22 home state of residence.

23 (b) In addition to satisfying the requirements of
24 subsection (a) of this Section, an individual shall:

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

1 (2) have successfully passed the public adjuster
2 examination;

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

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

8 (c) The Director may require any documents reasonably
9 necessary to verify the information contained in the
10 application.

11 (215 ILCS 5/1530 new)

12 Sec. 1530. Examination.

13 (a) An individual applying for a public adjuster license
14 under this Article must pass a written examination unless he or
15 she is exempt pursuant to Section 1535 of this Article. The
16 examination shall test the knowledge of the individual
17 concerning the duties and responsibilities of a public adjuster
18 and the insurance laws and regulations of this State.
19 Examinations required by this Section shall be developed and
20 conducted under rules and regulations prescribed by the
21 Director.

22 (b) The Director may make arrangements, including
23 contracting with an outside testing service, for administering
24 examinations and collecting the nonrefundable fee. Each
25 individual applying for an examination shall remit a

1 nonrefundable fee as prescribed by the Director. An individual
2 who fails to appear for the examination as scheduled or fails
3 to pass the examination shall reapply for an examination and
4 remit all required fees and forms before being rescheduled for
5 another examination. An individual who fails to pass the
6 examination must wait 90 days prior to rescheduling an
7 examination.

8 (215 ILCS 5/1535 new)

9 Sec. 1535. Exemptions from examination.

10 (a) An individual who applies for a public adjuster license
11 in this State who was previously licensed as a public adjuster
12 in another state based on a public adjuster examination shall
13 not be required to complete any prelicensing education. This
14 exemption is only available if (i) the person is currently
15 licensed in that state or if the application is received within
16 12 months of the cancellation of the applicant's previous
17 license; and (ii) if the prior state issues a certification
18 that, at the time of cancellation, the applicant was in good
19 standing in that state or the state's producer database records
20 or records maintained by the NAIC, its affiliates, or
21 subsidiaries, indicate that the public adjuster is or was
22 licensed in good standing.

23 (b) A person licensed as a public adjuster in another state
24 based on a public adjuster examination who moves to this State
25 shall submit an application within 90 days of establishing

1 legal residence to become a resident licensee pursuant to
2 Section 1525 of this Article. No prelicensing examination shall
3 be required of that person to obtain a public adjuster license.

4 (c) An individual who applies for a public adjuster license
5 in this State who was previously licensed as a public adjuster
6 in this State shall not be required to complete any
7 prelicensing examination. This exemption is only available if
8 the application is received within 12 months of the
9 cancellation of the applicant's previous license in this State
10 and if, at the time of cancellation, the applicant was in good
11 standing in this State.

12 (215 ILCS 5/1540 new)

13 Sec. 1540. Nonresident license reciprocity.

14 (a) Unless denied licensure pursuant to Section 1555 of
15 this Article, a nonresident person shall receive a nonresident
16 public adjuster license if:

17 (1) the person is currently licensed as a resident
18 public adjuster and in good standing in his or her home
19 state;

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

23 (3) the person has submitted or transmitted to the
24 Director the appropriate completed application for
25 licensure; and

1 (4) the person's home state awards nonresident public
2 adjuster licenses to residents of this State on the same
3 basis.

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

7 (c) As a condition to continuation of a public adjuster
8 license issued under this Section, the licensee shall maintain
9 a resident public adjuster license in his or her home state.
10 The nonresident public adjuster license issued under this
11 Section shall terminate and be surrendered immediately to the
12 Director if the home state public adjuster license terminates
13 for any reason, unless the public adjuster has been issued a
14 license as a resident public adjuster in his or her new home
15 state. Notification to the state or states where the
16 nonresident license is issued must be made as soon as possible,
17 yet no later than 30 days of change in new state resident
18 license. The licensee shall include his or her new and old
19 address on the notification. A new state resident license is
20 required for nonresident licenses to remain valid. The new
21 state resident license must have reciprocity with the licensing
22 nonresident state or states for the nonresident license not to
23 terminate.

24 (215 ILCS 5/1545 new)

25 Sec. 1545. License.

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

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

7 (c) The licensee shall inform the Director by any means
8 acceptable to the Director of a change of address, change of
9 legal name, or change of information submitted on the
10 application within 30 days of the change.

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

13 (e) A public adjuster who allows his or her license to
14 lapse may, within 12 months from the due date of the renewal,
15 be issued a new public adjuster license without necessity of
16 passing a written examination. However, a penalty in the amount
17 of double the unpaid renewal fee shall be required for the
18 issue of the new public adjuster license.

19 (f) A licensed public adjuster that is unable to comply
20 with license renewal procedures due to military service or a
21 long-term medical disability may request a waiver of the
22 procedures in subsection (e) of this Section. The public
23 adjuster may also request a waiver of any examination
24 requirement, fine, or other sanction imposed for failure to
25 comply with renewal procedures.

26 (g) The license shall contain the licensee's name, city and

1 state of business address, personal identification number, the
2 date of issuance, the expiration date, and any other
3 information the Director deems necessary.

4 (h) In order to assist in the performance of the Director's
5 duties, the Director may contract with non-governmental
6 entities, including the NAIC or any affiliates or subsidiaries
7 that the NAIC oversees, to perform any ministerial functions,
8 including the collection of fees and data, related to licensing
9 that the Director may deem appropriate.

10 (215 ILCS 5/1555 new)

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

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

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

18 (2) violating any insurance laws, or violating any
19 regulation, subpoena, or order of the Director or of
20 another state's Director;

21 (3) obtaining or attempting to obtain a license through
22 misrepresentation or fraud;

23 (4) improperly withholding, misappropriating, or
24 converting any monies or properties received in the course
25 of doing insurance business;

1 (5) intentionally misrepresenting the terms of an
2 actual or proposed insurance contract or application for
3 insurance;

4 (6) having been convicted of a felony or misdemeanor
5 involving dishonesty or fraud, unless the individual
6 demonstrates to the Director sufficient rehabilitation to
7 warrant the public trust;

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

10 (8) using fraudulent, coercive, or dishonest
11 practices; or demonstrating incompetence,
12 untrustworthiness, or financial irresponsibility in the
13 conduct of business in this State or elsewhere;

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

17 (10) forging another's name to an application for
18 insurance or to any document related to an insurance
19 transaction;

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

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

26 (13) failing to comply with an administrative or court

1 order imposing a child support obligation;

2 (14) failing to pay State income tax or comply with any
3 administrative or court order directing payment of State
4 income tax;

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

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

9 (b) If the action by the Director is to nonrenew, suspend,
10 or revoke a license or to deny an application for a license,
11 the Director shall notify the applicant or licensee and advise,
12 in writing, the applicant or licensee of the reason for the
13 suspension, revocation, denial, or nonrenewal of the
14 applicant's or licensee's license. The applicant or licensee
15 may make written demand upon the Director within 30 days after
16 the date of mailing for a hearing before the Director to
17 determine the reasonableness of the Director's action. The
18 hearing must be held within not fewer than 20 days nor more
19 than 30 days after the mailing of the notice of hearing and
20 shall be held pursuant to 50 Ill. Adm. Code 2402.

21 (c) The license of a business entity may be suspended,
22 revoked, or refused if the Director finds, after hearing, that
23 an individual licensee's violation was known or should have
24 been known by one or more of the partners, officers, or
25 managers acting on behalf of the business entity and the
26 violation was neither reported to the Director, nor corrective

1 action taken.

2 (d) In addition to or in lieu of any applicable denial,
3 suspension or revocation of a license, a person may, after
4 hearing, be subject to a civil penalty. In addition to or
5 instead of any applicable denial, suspension, or revocation of
6 a license, a person may, after hearing, be subject to a civil
7 penalty of up to \$10,000 for each cause for denial, suspension,
8 or revocation, however, the civil penalty may total no more
9 than \$100,000.

10 (e) The Director shall retain the authority to enforce the
11 provisions of and impose any penalty or remedy authorized by
12 this Article against any person who is under investigation for
13 or charged with a violation of this Article even if the
14 person's license or registration has been surrendered or has
15 lapsed by operation of law.

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

21 (215 ILCS 5/1560 new)

22 Sec. 1560. Bond or letter of credit.

23 (a) Prior to the issuance of a license as a public adjuster
24 and for the duration of the license, the applicant shall secure
25 evidence of financial responsibility in a format prescribed by

1 the Director through a surety bond or irrevocable letter of
2 credit, subject to all of the following requirements:

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

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

6 (B) shall be in favor of this State and shall
7 specifically authorize recovery by the Director on
8 behalf of any person in this State who sustained
9 damages as the result of erroneous acts, failure to
10 act, conviction of fraud, or conviction of unfair
11 practices in his or her capacity as a public adjuster;
12 and

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

16 (2) An irrevocable letter of credit issued by a
17 qualified financial institution, which letter of credit:

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

19 (B) shall be to an account to the Director and
20 subject to lawful levy of execution on behalf of any
21 person to whom the public adjuster has been found to be
22 legally liable as the result of erroneous acts, failure
23 to act, fraudulent acts, or unfair practices in his or
24 her capacity as a public adjuster; and

25 (C) shall not be terminated unless at least 30
26 days' prior written notice will have been filed with

1 the and given to the licensee.

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

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

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

10 (215 ILCS 5/1563 new)

11 Sec. 1563. Fees.

12 (a) The fees required by this Article are as follows:

13 (1) Public adjuster license fee of \$250, payable once
14 every 2 years.

15 (2) Business entity license fee of \$250, payable once
16 every 2 years.

17 (3) Application fee of \$50 for processing each request
18 to take the written examination for a public adjuster
19 license.

20 (215 ILCS 5/1565 new)

21 Sec. 1565. Continuing education.

22 (a) An individual who holds a public adjuster license and
23 who is not exempt under subsection (b) of this Section shall
24 satisfactorily complete a minimum of 24 hours of continuing

1 education courses, including 3 hours of classroom ethics
2 instruction, reported on a biennial basis in conjunction with
3 the license renewal cycle.

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

25 The public adjuster must complete the course in advance of
26 the renewal date to allow the education provider time to report

1 the credit to the Department.

2 (b) This Section shall not apply to:

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

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

9 (c) Only continuing education courses approved by the
10 Director shall be used to satisfy the continuing education
11 requirement of subsection (a) of this Section.

12 (215 ILCS 5/1570 new)

13 Sec. 1570. Public adjuster fees.

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

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

23 (c) A public adjuster may pay or assign commission, service
24 fees, or other valuable consideration to persons who do not
25 investigate or settle claims in this State, unless the payment

1 would violate State law.

2 (215 ILCS 5/1575 new)

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

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

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

8 (2) permanent home state business address and phone
9 number;

10 (3) license number;

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

12 (5) the insured's full name, street address, insurance
13 company name, and policy number, if known or upon
14 notification;

15 (6) a description of the loss and its location, if
16 applicable;

17 (7) description of services to be provided to the
18 insured;

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

20 (9) date and time the contract was signed by the public
21 adjuster and date and time the contract was signed by the
22 insured;

23 (10) attestation language stating that the public
24 adjuster is fully bonded pursuant to State law; and

25 (11) full salary, fee, commission, compensation, or

1 other considerations the public adjuster is to receive for
2 services.

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

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

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

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

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

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

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

24 (3) be entitled only to reasonable compensation from
25 the insured for services provided by the public adjuster on
26 behalf of the insured, based on the time spent on a claim

1 and expenses incurred by the public adjuster, until the
2 claim is paid or the insured receives a written commitment
3 to pay from the insurer.

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

18 (e) A public adjuster contract may not contain any contract
19 term that:

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

26 (2) requires the insured to authorize an insurance

1 company to issue a check only in the name of the public
2 adjuster;

3 (3) precludes a public adjuster or an insured from
4 pursuing civil remedies;

5 (4) includes any hold harmless agreement that provides
6 indemnification to the public adjuster by the insured for
7 liability resulting from the public adjuster's negligence;
8 or

9 (5) provides power of attorney by which the public
10 adjuster can act in the place and instead of the insured.

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

13 (1) Prior to the signing of the contract, the public
14 adjuster shall provide the insured with a separate signed
15 and dated disclosure document regarding the claim process
16 that states:

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

22 (A) "Company adjuster" means the insurance
23 adjusters who are employees of an insurance company.
24 They represent the interest of the insurance company
25 and are paid by the insurance company. They will not
26 charge you a fee.

1 (B) "Independent adjuster" means the insurance
2 adjusters who are hired on a contract basis by an
3 insurance company to represent the insurance company's
4 interest in the settlement of the claim. They are paid
5 by your insurance company. They will not charge you a
6 fee.

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

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

17 (3) The public adjuster is not a representative or
18 employee of the insurer.

19 (4) The salary, fee, commission, or other
20 consideration is the obligation of the insured, not the
21 insurer, except when rights have been assigned to the
22 public adjuster by the insured.

23 (g) The contracts shall be executed in duplicate to provide
24 an original contract to the public adjuster, and an original
25 contract to the insured. The public adjuster's original
26 contract shall be available at all times for inspection without

1 notice by the Director.

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

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

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

17 (k) If the insured exercises the right to rescind the
18 contract, anything of value given by the insured under the
19 contract will be returned to the insured within 15 business
20 days following the receipt by the public adjuster of the
21 cancellation notice.

22 (215 ILCS 5/1580 new)

23 Sec. 1580. Escrow or trust accounts. A public adjuster who
24 receives, accepts, or holds any funds on behalf of an insured
25 towards the settlement of a claim for loss or damage shall

1 deposit the funds in a non-interest bearing escrow or trust
2 account in a financial institution that is insured by an agency
3 of the federal government in the public adjuster's home state
4 or where the loss occurred.

5 (215 ILCS 5/1585 new)

6 Sec. 1585. Record retention.

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

10 (1) name of the insured;

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

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

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

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

17 (6) itemized statement of all compensation received by
18 the public adjuster, from any source whatsoever, in
19 connection with the loss;

20 (7) a register of all monies received, deposited,
21 disbursed, or withdrawn in connection with a transaction
22 with an insured, including fees transfers and
23 disbursements from a trust account and all transactions
24 concerning all interest bearing accounts;

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

1 (9) name of the attorney representing the insured, if
2 applicable, and the name of the claims representatives of
3 the insurance company; and

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

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

9 (c) Records submitted to the Director in accordance with
10 this Section that contain information identified in writing as
11 proprietary by the public adjuster shall be treated as
12 confidential by the Director and shall not be subject to the
13 Freedom of Information Act.

14 (215 ILCS 5/1590 new)

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

16 (a) A public adjuster is obligated, under his or her
17 license, to serve with objectivity and complete loyalty for the
18 interests of his client alone, and to render to the insured
19 such information, counsel, and service, as within the
20 knowledge, understanding, and opinion in good faith of the
21 licensee, as will best serve the insured's insurance claim
22 needs and interest.

23 (b) A public adjuster may not propose or attempt to propose
24 to any person that the public adjuster represent that person
25 while a loss-producing occurrence is continuing, nor while the

1 fire department or its representatives are engaged at the
2 damaged premises, nor between the hours of 7:00 p.m. and 8:00
3 a.m.

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

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

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

18 (f) The public adjuster shall abstain from referring or
19 directing the insured to get needed repairs or services in
20 connection with a loss from any person, unless disclosed to the
21 insured:

22 (1) with whom the public adjuster has a financial
23 interest; or

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

26 (g) The public adjuster shall disclose to an insured if he

1 or she has any interest or will be compensated by any
2 construction firm, salvage firm, building appraisal firm,
3 board-up company, or any other firm that performs any work in
4 conjunction with damages caused by the insured loss. The word
5 "firm" shall include any corporation, partnership,
6 association, joint-stock company or individual as set forth in
7 Section 1575 of this Article.

8 (h) Any compensation or anything of value in connection
9 with an insured's specific loss that will be received by a
10 public adjuster shall be disclosed by the public adjuster to
11 the insured in writing including the source and amount of any
12 such compensation.

13 (i) In all cases where the loss giving rise to the claim
14 for which the public adjuster was retained arise from damage to
15 a personal residence, the insurance proceeds shall be delivered
16 to the named insured or his or her designee. Where proceeds
17 paid by an insurance company are paid jointly to the insured
18 and the public adjuster, the insured shall release such portion
19 of the proceeds that are due the public adjuster within 30
20 calendar days after the insured's receipt of the insurance
21 company's check, money order, draft, or release of funds. If
22 the proceeds are not so released to the public adjuster within
23 30 calendar days, the insured shall provide the public adjuster
24 with a written explanation of the reason for the delay.

25 (j) Public adjusters shall adhere to the following general
26 ethical requirements:

1 (1) a public adjuster shall not undertake the
2 adjustment of any claim if the public adjuster is not
3 competent and knowledgeable as to the terms and conditions
4 of the insurance coverage, or which otherwise exceeds the
5 public adjuster's current expertise;

6 (2) a public adjuster shall not knowingly make any oral
7 or written material misrepresentations or statements which
8 are false or maliciously critical and intended to injure
9 any person engaged in the business of insurance to any
10 insured client or potential insured client;

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

14 (4) the contract shall not be construed to prevent an
15 insured from pursuing any civil remedy after the 5-business
16 day revocation or cancellation period;

17 (5) a public adjuster shall not enter into a contract
18 or accept a power of attorney that vests in the public
19 adjuster the effective authority to choose the persons who
20 shall perform repair work;

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

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

1 (k) A public adjuster may not agree to any loss settlement
2 without the insured's knowledge and consent and shall, upon the
3 insured's request, provide the insured with a document setting
4 forth the scope, amount, and value of the damages prior to
5 request by the insured for authority to settle the loss.

6 (l) A public adjuster shall not provide legal advice or
7 representation to the insured or engage in the unauthorized
8 practice of law.

9 (m) A public adjuster shall not represent that he or she is
10 a representative of an insurance company, a fire department, or
11 the State of Illinois, that he or she is a fire investigator,
12 that his or her services are required for the insured to submit
13 a claim to the insured's insurance company, or that he or she
14 may provide legal advice or representation to the insured. A
15 public adjuster may represent that he or she has been licensed
16 by the State of Illinois.

17 (215 ILCS 5/1595 new)

18 Sec. 1595. Reporting of actions.

19 (a) The public adjuster shall report to the Director any
20 administrative action taken against the public adjuster in
21 another jurisdiction or by another governmental agency in this
22 State within 30 days of the final disposition of the matter.
23 This report shall include a copy of the order, consent to
24 order, or other relevant legal documents.

25 (b) Within 30 days of the initial pretrial hearing date,

1 the public adjuster shall report to the Director any criminal
2 prosecution of the public adjuster taken in any jurisdiction.
3 The report shall include a copy of the initial complaint filed,
4 the order resulting from the hearing, and any other relevant
5 legal documents.

6 (215 ILCS 5/1600 new)

7 Sec. 1600. Examinations.

8 (a) The Director shall have the power to examine any
9 applicant or any person licensed or registered pursuant to this
10 Article.

11 (b) Every person being examined and its officers,
12 directors, and members must provide to the Director convenient
13 and free access, at all reasonable hours, to all books,
14 records, documents, and other papers relating to its public
15 adjusting affairs. The officers, directors, members, and
16 employees must facilitate and aid in such examinations so far
17 as it is in their power to do so.

18 (c) Examiners may be designated by the Director. Such
19 examiners shall make their reports to the Director pursuant to
20 this Section. Any report alleging substantive violations shall
21 be in writing and shall be based upon the facts ascertained
22 from the books, records, documents, papers, and other evidence
23 obtained by the examiners or ascertained from the testimony of
24 the officers, directors, members, or other individuals
25 examined under oath or ascertained by notarized affidavits

1 received by the examiners. The reports shall be verified by the
2 examiners.

3 (215 ILCS 5/1605 new)

4 Sec. 1605. Injunctive relief. Any person who acts as or
5 holds himself out to be a public adjuster without holding a
6 valid and current license to do so is hereby declared to be
7 inimical to the public welfare and to constitute a public
8 nuisance. The Director may report such practice to the Attorney
9 General of the State of Illinois whose duty it is to apply
10 forthwith by complaint on relation of the Director in the name
11 of the people of the State of Illinois, as plaintiff, for
12 injunctive relief in the circuit court of the county where such
13 practice occurred to enjoin the person from engaging in such
14 practice; and upon the filing of a verified petition in such
15 court, the court, if satisfied by affidavit or otherwise that
16 the person has been engaged in such practice without a valid
17 and current license to do so, may enter a temporary restraining
18 order without notice or bond enjoining the defendant from such
19 further practice. A copy of the verified complaint shall be
20 served upon the defendant and the proceedings shall thereafter
21 be conducted as in other civil cases. If it is established that
22 the defendant has been or is engaged in such unlawful practice,
23 then the court may enter an order or judgment perpetually
24 enjoining the defendant from such further practice. In all
25 proceedings hereunder, the court, in its discretion, may

1 apportion the costs among the parties interested in the action,
2 including the costs of filing the complaint, service of
3 process, witness fees and expenses, court reporter charges, and
4 reasonable attorney fees. In case of violation of any
5 injunctive order entered under the provisions of this Section,
6 the court may try and punish the offender for contempt of
7 court. Such injunction proceedings shall be in addition to, and
8 not in lieu of, all penalties and other remedies.

9 (215 ILCS 5/1610 new)

10 Sec. 1610. Additional penalties. In addition to any other
11 penalty set forth in this Article, any person violating Section
12 1605 of this Code shall be guilty of a Class A misdemeanor and
13 any person misappropriating or converting any monies collected
14 as a public adjuster, whether licensed or not, shall be guilty
15 of a Class 4 felony.

16 (215 ILCS 5/1615 new)

17 Sec. 1615. Rules. The Director shall promulgate reasonable
18 rules as are necessary or proper to carry out the purposes of
19 this Article.

20 (215 ILCS 5/500-75 rep.)

21 Section 910. The Illinois Insurance Code is amended by
22 repealing Section 500-75.

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