

AN ACT concerning regulation.

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

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

(215 ILCS 5/Art. XLV heading new)

ARTICLE XLV. PUBLIC ADJUSTERS

(215 ILCS 5/1501 new)

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

(215 ILCS 5/1505 new)

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

(215 ILCS 5/1510 new)

Sec. 1510. Definitions. In this Article:
"Adjusting a claim for loss or damage covered by an insurance contract" means negotiating values, damages, or

depreciation or applying the loss circumstances to insurance policy provisions.

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

"Department" means the Department of Insurance.

"Director" means the Director of Insurance.

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

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

"Individual" means a natural person.

"Person" means an individual or a business entity.

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

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

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

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

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

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

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

Sec. 1515. License required.

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

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

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

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

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

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

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

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

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

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

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

(215 ILCS 5/1520 new)

Sec. 1520. Application for license.

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

(b) The applicant shall declare under penalty of perjury

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

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

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

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

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

information to the Department of Insurance.

(215 ILCS 5/1525 new)

Sec. 1525. Resident license.

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

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

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

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

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

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

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

(1) be at least 18 years of age;

(2) have successfully passed the public adjuster examination;

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

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

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

(215 ILCS 5/1530 new)

Sec. 1530. Examination.

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

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

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

(215 ILCS 5/1535 new)

Sec. 1535. Exemptions from examination.

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

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

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

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

(215 ILCS 5/1540 new)

Sec. 1540. Nonresident license reciprocity.

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

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

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

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

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

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

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

(215 ILCS 5/1545 new)

Sec. 1545. License.

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

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

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

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

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

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

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

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

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

(215 ILCS 5/1555 new)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) failing to comply with an administrative or court

order imposing a child support obligation;

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

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

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

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

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

action taken.

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

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

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

(215 ILCS 5/1560 new)

Sec. 1560. Bond or letter of credit.

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

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

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

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

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

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

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

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

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

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

the and given to the licensee.

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

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

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

(215 ILCS 5/1563 new)

Sec. 1563. Fees.

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

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

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

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

(215 ILCS 5/1565 new)

Sec. 1565. Continuing education.

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

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

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

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

the credit to the Department.

(b) This Section shall not apply to:

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

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

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

(215 ILCS 5/1570 new)

Sec. 1570. Public adjuster fees.

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

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

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

would violate State law.

(215 ILCS 5/1575 new)

Sec. 1575. Contract between public adjuster and insured.

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

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

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

(3) license number;

(4) title of "Public Adjuster Contract";

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

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

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

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

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

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

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

other considerations the public adjuster is to receive for services.

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

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

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

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

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

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

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

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

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

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

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

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

(2) requires the insured to authorize an insurance

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

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

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

or

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

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

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

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

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

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

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

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

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

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

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

notice by the Director.

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

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

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

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

(215 ILCS 5/1580 new)

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

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

(215 ILCS 5/1585 new)

Sec. 1585. Record retention.

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

- (1) name of the insured;
- (2) date, location and amount of the loss;
- (3) a copy of the contract between the public adjuster and insured and a copy of the separate disclosure document;
- (4) name of the insurer, amount, expiration date and number of each policy carried with respect to the loss;
- (5) itemized statement of the insured's recoveries;
- (6) itemized statement of all compensation received by the public adjuster, from any source whatsoever, in connection with the loss;
- (7) a register of all monies received, deposited, disbursed, or withdrawn in connection with a transaction with an insured, including fees transfers and disbursements from a trust account and all transactions concerning all interest bearing accounts;
- (8) name of public adjuster who executed the contract;

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

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

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

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

(215 ILCS 5/1590 new)

Sec. 1590. Standards of conduct of public adjuster.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(215 ILCS 5/1595 new)

Sec. 1595. Reporting of actions.

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

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

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

(215 ILCS 5/1600 new)

Sec. 1600. Examinations.

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

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

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

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

(215 ILCS 5/1605 new)

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

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

(215 ILCS 5/1610 new)

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

(215 ILCS 5/1615 new)

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

(215 ILCS 5/500-75 rep.)

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

Public Act 096-1332

SB0660 Enrolled

LRB096 06719 MJR 16803 b

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