

ma.10.5(h) Commission 0000 v 04 .95 μoÁ , W'047 Z"ppAš!EnÁ `!•] P vp0 v šCE}ú Onã P.Z(šoi bš)6(e)2020
}všCE š}CE ÁZ} Á}μo Z Á šZ %oCE}(••]} Commissioner Navarro saidCE %oCE • vš }v•μu CE•
]• v}š]vš v š} %o%oÇ š} %oμ o] iμ•š CE• and]hã v P]Ÿ}v μu CE•]v μš}u}]o o
be added to the model to clarify scope. Z •š CE •] šZ]• •μ • changed}tp o
lude auto repair contractors.

2. Received Comments on Proposed Amendments Model #228

A. Contract Between Public Adjuster and Insured

Commissioner Navarro said proposed language was added to S• Ÿ}v , š} CE <μ]CE šZ]v•μCE CE
public adjuster holds a valid license with the department of insurance (DOI) Nancy Dominguez & o}CE] ••}] Ÿ}v
of Public Insurance Adjusters (FAPIA) asked if proof of licensure would CE <μ]CE •μ u]••}Ÿ. }Ÿ}v }(
CE %oCE • vš Ÿ}v o © CE }CE šZ }vš š šÁ v š Rodriguez said proof of licensure šZ
should o © CE š} šZ]v•μCE CE v}Ÿ(Ç]vP šZ]v•μCE CE šZ š }v4 TJ-2.317 -1.2

John Schuppert (Insurance Adjustment Bureau (IAB) •] šZ v Á •μ • Ÿ}v }μo u%o}Á CE v
company to prohibit the ••}P v u vš }(, w .šv]v•μCE v %o}o] ÇZ}o CE Z • šZ CE]P.
L CE Ica)••}CE (Insurance Adjustment Bureau (IAB) said a property owner may want to sell a property
L CE s rather than repair the property and that a property owner has a right to sell a property while a claim
]• •Ÿo o %o vw]& CE}Z u v ~E Ÿ}v o ••}] Ÿ}v } (W μ—NAPIA suggested adding the š CE •

Draft: 6/18/24

Revisions marks reflect proposed changes from Public Adjuster Model Act adopted by the NAIC in 2005.

Draft: 6/18/24

Draft: 6/18/24

Revisions marks reflect proposed changes from Public Adjuster Model Act adopted by the NAIC in 2005.

- (2) The business entity has designated a licensed public adjuster responsible for the business entity's compliance with the insurance laws, rules and regulations of this state.

Drafting Note:

Draft: 6/18/24

Revisions marks reflect proposed changes from Public Adjuster Model Act adopted by the NAIC in 2005.

Draft: 6/18/24

Revisions marks reflect proposed changes from Public Adjuster Model Act adopted by the NAIC in 2005.

Revisions marks reflect proposed changes from Public Adjuster Model Act adopted by the NAIC in 2005.

- (4) The person's home state awards non-resident public adjuster licenses to residents of this state on the same basis.
- B. The commissioner 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 non-resident public adjuster license issued under this section shall terminate and be surrendered immediately to the commissioner 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 non-resident license is issued must be made as soon as possible, yet no later than thirty (30) days of change in new state resident license. Licensee shall include new and old address. A new state resident license is required for non-resident licenses to remain valid. The new state resident license must have reciprocity with the licensing non-resident state(s) for the non-resident license not to terminate.

Drafting Note: If the state has adopted the PLMA, it may not be necessary to adopt this section. Rather, the state may want to amend its relevant insurance producer statute to include public adjusters.

Section 9. License

- A. Unless denied licensure under this Act, persons who have met the requirements of this Act 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 request for renewal and fee set forth in [insert appropriate reference to state law or regulation] is paid and any other requirements for license renewal are met by the due date.
- C. The licensee shall inform the commissioner by any means acceptable to the commissioner of a change of address, change of legal name, or change of information submitted on the application within thirty (30) days of the change.
- D. A licensed public adjuster shall be subject to [cite state's Unfair Claims Settlement Act and state's Trade Practices and Fraud sections of the Insurance Code].
- E. A public adjuster who allows his or her license to lapse may, within twelve (12) months from the due date of the renewal, be issued a new public adjuster license upon the commissioner's receipt of the request for renewal. However, a penalty in the amount of double the unpaid renewal fee shall be required for the issue of the new public adjuster license. The new public adjuster license shall be effective the date the commissioner receives the request for renewal and the late payment penalty.
- F. Any public adjuster licensee that fails to apply for renewal of a license before expiration of the current license shall pay a lapsed license fee of twice the license fee and be subject to other penalties as provided by law before the license will be renewed. If the Department receives the request for reinstatement and the required lapsed license fee within sixty (60) days of the date the license lapsed, the Department shall reinstate the license retroactively to the date the license lapsed. If the Department receives the request for reinstatement and the required lapsed license fee after sixty (60) days but within one year of the date the license lapsed, the Department shall reinstate the license prospectively with the date the license is reinstated. If the person applies for reinstatement more than one year from date of lapse, the person shall reapply for the license under this Act.
- G. A licensed public adjuster that is unable to comply with license renewal procedures due to military service, a long-term medical disability, or some other extenuating circumstance, may request a waiver of those procedures. The public adjuster may also request a waiver of any examination requirement, fine, or other sanction imposed for failure to comply with renewal procedures.

Drafting Note: References to license "renewal" should be deleted in those states that do not require license renewal.

Revisions marks reflect proposed changes from Public Adjuster Model Act adopted by the NAIC in 2005.

- H. 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 commissioner deems necessary. I. In order to assist in the performance of the commissioner's duties, the commissioner 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 commissioner may deem appropriate.]

Drafting Note: If the state has adopted the Producer Licensing Model Act, it may not be necessary to adopt this section. Rather, the state may want to amend its relevant insurance producer statute to include public adjusters.

Section 10. Apprentice Public Adjuster License [Optional]

- A. The apprentice public adjuster license is an optional license to facilitate the training necessary to ensure reasonable competency to fulfill the responsibilities of a public adjuster as defined in [insert state statute].
- B. The apprentice public adjuster license shall be subject to the following terms and conditions:
 - (1)

Draft: 6/18/24

Revisions marks reflect proposed changes from Public Adjuster Model Act adopted by the NAIC in 2005.

Revisions marks reflect proposed changes from Public Adjuster Model Act adopted by the NAIC in 2005.

Section 14. Public Adjuster Fees

- ~~A.~~ ~~{Optional} A public adjuster may charge the insured a reasonable fee as determined by state law [insert appropriate reference to state law or regulation].~~

~~Drafting Note: This model designates Section 14A as optional. A majority of the states do not require a cap on fees of public adjusters.~~

- BA. 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 Act and is not so licensed.
- CB. 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 Act and is not so licensed.
- DC. A public adjuster may pay or assign commission, service fees or other valuable consideration to persons

Revisions marks reflect proposed changes from Public Adjuster Model Act adopted by the NAIC in 2005.

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 commissioner. Such a redaction shall constitute an omission of material fact in violation of [insert reference to relevant state law].
- C. If the insurer, not later than seventy-two (72) hours 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

Revisions marks reflect proposed changes from Public Adjuster Model Act adopted by the NAIC in 2005.

- (1) Property insurance policies obligate the insurer to pay the claimant's reasonable and necessary costs and expenses incurred by the claimant in the investigation, negotiation, and adjustment of a claim, including reasonable attorney's fees, up to the limits of the policy.

Draft: 6/18/24

Revisions marks reflect proposed changes from Public Adjuster Model Act adopted by the NAIC in 2005.

Draft: 6/18/24

Revisions marks reflect proposed changes from Public Adjuster Model Act adopted by the NAIC in 2005.

NAIC Public Insurance Adjuster Surety Bond Sample

BOND NO. _____

Know All Persons by These Presents:

That we, _____ as Principal, whose address is _____
and _____ as Surety, being a surety company authorized

WR GR EXVLQHVV LQ WKH 6WDWH RI BBBBBBUH ERXQG WR WKH BBBBBB