



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

- E. “Home state” means the District of Columbia and any state or territory of the United States in which 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.’
- F. “Individual” means a natural person.
- G. “Person” means an individual or a business entity.
- H. “Public adjuster” means any person who, for compensation or any other thing of value on behalf of the insured:
  - (1) 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 negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;
  - (2) Advertises for employment as a public adjuster of insurance claims or solicits business or represents himself or herself to the public as an public adjuster of first party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or
  - (3) 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.
- I. “Uniform individual application” means the current version of the National Association of Insurance Commissioners (NAIC) Uniform Individual Application for resident and nonresident individuals.
- J. [Optional] “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.

Drafting Note: Subsection J is optional and would apply only to those states that have a business entity license requirement.

Drafting Note: If any term is similarly defined in a relevant section of the state’s insurance code, do not include the definition of the term in this Act or, in the alternative, reference the statute: “[term] is defined in [insert appropriate reference to state law or regulation].”

### Section 3. License Required

- A. A person shall not act, or hold himself out as a public adjuster, or negot[(hol)1MC /H1 (-)1 3cnstnNø9JSt2ARU%#A]



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centralized repository. The purpose of such a centralized repository is to provide insurance commissioners with access to fingerprint records in order to perform criminal history record checks.

**Drafting Note:** The FBI requires that fingerprints be submitted to the state Department of Law Enforcement, Public Safety or Criminal Justice for a check of state records before the fingerprints are submitted to the FBI for a criminal history check. The FBI recommends all fingerprint submissions to be in an electronic format. The FBI has approved the language in Section 4 (C) to authorize a state identification bureau to submit fingerprints on behalf of its applicants in conjunction with licensing and employment.

**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.

**Drafting Note:** This provision does not permit the sharing of criminal history record information with the NAIC or other insurance commissioners as such sharing of information is prohibited by 28 CFR 20.33.

**Section 5. Resident License**

A. Before issuing a public adjuster license to an applicant under this section, the commissioner 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 8;
- (2) Has not committed any act that is a ground for denial, suspension or revocation of a license as set forth in Section 11;
- (3) Is trustworthy, reliable, and of good reputation, evidence of which may be determined by the commissioner;
- (4) Is financially responsible to exercise the license and has provided proof of financial responsibility as required in Section 12 of this Act;
- (5) Has paid the fees set forth in [insert appropriate reference to state law or regulation]; and
- (6) Maintains an office in the home state of residence with public access by reasonable appointment and/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, an individual shall

- (1) Be at least eighteen (18) years of age; and
- (2) Have successfully passed the public adjuster examination.
- (3)

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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 terminate2i1sTrg (n)-(e:4 (b)-ab3h 07 ( t)6.98 ( a)-.2 (r)1.5 (t (8)12 (r)1.6 ( )12 (he)4..2 (b

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- (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
- (6) Having been convicted of a felony;
- (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 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;
- (12) Knowingly accepting insurance business from an individual who is not licensed but who is required to be licensed by the commissioner;
- (13) Failing to comply with an administrative or court order imposing a child support obligation; or
- (14) Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

Drafting Note: Paragraph (14) is for those states that have a state income tax.

- B. In the event that the action by the commissioner is to deny an application for or not renew a license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the non-renewal or denial of the applicant's or licensee's license. The applicant or licensee may make written demand upon the commissioner within [insert appropriate time period from state's administrative procedure act] for a hearing before the commissioner to determine the reasonableness of the commissioner's action. The hearing shall be held within [insert time period from state law] and shall be held pursuant to [6.9 (i)9 (t)6.9 ((o)-4 (e (en)-4.1f(en)-4.1(i)9 (t)s)5.5 ce9 (h5 ( )12.4(e.)-1 t.6.9 ((o)-4 (e (d)-4 (a







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- 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 4.2 (l)6.9 ( a)dEMC /P( 4. (t)6.9 (e)4.2 on. (t)6.2 (y t)6.9 (i)8)12 (r)1.6 (e)34.2 (a)4.2 (s)5.4n2 (a)4.b. (t)6.



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Drafting Note: The details in this section should comply with your state's consumer protection contract rescission law.

Section 16.     Unlicensed Actors

A person or entity commits a fraudulent insurance act if he or she:

- A.     Represents or advertises themselves to be a public adjuster who has not met the requirements of licensure under [insert appropriate reference to state law].

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Section ~~18~~<sup>19</sup>. Standards of Conduct of Public Adjuster

- A. A public adjuster is obligated, under his or her license, to serve with objectivity and complete loyalty the

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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  
to do business in the State of \_\_\_\_\_re bound to the \_\_\_\_\_ Department of Insurance in the sum of \$10,000.00 as specified  
at [ insert reference to state law or regulation]. The specified sum is payable to the [insert state] Department of Insurance for