

Draft: 6/18/24

Adopted by the Executive Committee and Plenary, XX, 2024

Adopted by the Market Regulation and Consumer Affairs (D) Committee, XX, 2024

Adopted by the Producer Licensing (D) Task Force, XX, 2024

Adopted by the Public Adjuster Licensing (D) Working Group, July 17, 2024

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sector capabilities to begin and sustain response activities. A catastrophic disaster shall be declared by the President of the United States or the Governor of the state or district in which the disaster occurred.

- D. "Fingerprints" for the purposes of this act, means an impression of the lines on the finger taken for purpose of identification. The impression may be electronic or in ink converted to electronic format.
- E. "Home state" means the District of Columbia and 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 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
 - (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, solicit, or negotiate a contract for public adjusting services in this state unless the person is licensed as a public adjuster in accordance with this Act.
- B. A person licensed as a public adjuster shall not misrepresent to a claimant that or she is they are an

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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 insurance commissioner shall find that:
- (1) The business entity has paid the fees set forth in insert appropriate reference to state law or regulation; and
 - (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: Subsection C is optional and would apply only to those states that have a business entity license requirement.

- D. Notwithstanding subsection A through C, a license as a public adjuster shall not be required of the following:
- (1) An attorney-at-law 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.

Section 4. Application for License

- A. A person applying for a public adjuster license shall make application to the commissioner on the appropriate uniform application or other application prescribed by the commissioner.
- B.

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resident licensee pursuant to Section 5. No preclicensing 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 a preclicensing examination. This exemption is only available if the application is received within twelve (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.

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 8. Nonresident License Reciprocity

- A. Unless denied licensure pursuant to Section 11, a resident 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

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of such applicant;

- (2) The apprentice public adjuster is authorized to adjust claims in the state that has issued licensure only;
- (3) The apprentice public adjuster shall not be required to take and successfully complete the prescribed public adjuster examination;
- (4) The licensee shall at all times be an employee public adjuster and subject to training, direction, and control by a licensed public adjuster;
- (5) The apprentice public adjuster license is for a period not to exceed twelve (12) months, the license shall not be renewed;
- (6) The licensee is restricted to participation in actual investigation, tentative closing and solicitation of losses subject to the review and final determination of a licensed public adjuster;
- (7) Compensation of an apprentice public adjuster shall be on a salaried or hourly basis only; and
- (8) The licensee shall be subject to suspension, revocation, or conditions in accordance with [Insert Ss

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- 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 to deny an application for or not renew a license, the commissioner shall notify the applicant licensee and advise, in writing, the applicant or licensee of the reason for the non-renewal or denial of the applicant 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 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 ~~insert appropriate reference to state law~~.
- C. The license of a business entity may be suspended, ~~revoked~~ or refused if the commissioner 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 commissioner 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 fine according ~~to~~ ~~insert appropriate reference to state law~~.
- E. The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this Act and Title ~~insert appropriate reference to state law~~ against any person who is under investigation for or charged with a violation of this Act Title ~~insert appropriate reference to state law~~ even if the person's license or registration has been ~~revoked~~ or has lapsed by operation of law.

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

Section 12. Bond or Letter of Credit

Prior to 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 insurance commissioner through a security bond or irrevocable letter of credit:

- A. A surety bond executed and issued by an insurer ~~authorized~~ to issue surety bonds in this state, which bond:
 - (1) Shall be in the minimum amount of \$20,000;

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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 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

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public adjuster;

- (3) Imposes collection costs or late fees; or
- (4) Precludes a public adjuster from pursuing civil remedies.

F. Prior to the signing of the contract the public adjuster shall provide the insured with a separate disclosure document regarding the claim process that states:

- (1) Property insurance policies obligate the insured to present a claim to his or her insurance company for consideration. There are three (3) types of adjusters that could be involved in that process. The definitions of the three 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 process.

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- 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 fifteen (15) business days following the receipt by the public adjuster of the cancellation notice.

- L. Subject to its terms relating to assignability, a property insurance policy, whether heretofore or hereafter issued, under the terms of which the policy and its benefits are assignable, may provide that the rights and benefits under the insurance may only be assigned to a person who has the legal authority to represent the named insured or to a subsequent owner of the property to whom title is transferred, and may explicitly prohibit assignment of rights and benefits to any other person, including a property repair contractor. For purposes of this subsection, having legal authority to represent the named insured" includes the person named by the named insured as having the named insured's power of attorney, the person who is the named insured's licensed public adjuster, or any other comparable person. Property repair contractor

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

Drafting Note: Optional language for Subsection 5 "Licensees may not solicit a client for payment between the hours of ___ pm and ___ am."

~~G. The public adjuster shall disclose to an insured if he has any interest or will be compensated by any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop 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 15A(4).~~

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. 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

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Section 2021. Regulations

The commissioner may, in accordance with [insert appropriate reference to state law], promulgate reasonable regulations as are necessary or proper to carry out the purposes of this Act.

Section 2122. Severability

If any provisions of this Act, or the application of a provision to any person or circumstances, shall be held invalid, the

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