
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 379

Session of
1983

INTRODUCED BY DAWIDA, J. L. WRIGHT, PISTELLA, FARGO, RYBAK,
KUKOVICH, MORRIS, PRATT, McVERRY, MICHLOVIC, FATTAH, WOGAN,
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DeLUCA, D. R. WRIGHT, TELEK, PERZEL, McINTYRE, LETTERMAN AND
ITKIN, MARCH 15, 1983

SENATOR HOLL, BANKING AND INSURANCE, IN SENATE, AS AMENDED,
JUNE 15, 1983

AN ACT

1 Providing for the licensing and regulating of public adjusters
2 and public adjuster solicitors.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Definitions.

6 The following words and phrases when used in this act shall
7 have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Public adjuster." Any person, partnership, association or
10 corporation advertising, soliciting business, or holding himself
11 or itself out to the public as an adjuster of claims for losses
12 or damages arising out of policies of insurance, surety or
13 indemnity upon property, persons or insurable business interests
14 within this Commonwealth, and receiving any compensation or
15 reward for the giving of advice or assistance to the insured in

1 the adjustment of claims for such losses, or who for
2 compensation or reward, whether by way of salary or commission
3 or otherwise, directly or indirectly, solicit business,
4 investigate or adjust losses, or advise the insured with
5 reference to claims for losses on behalf of any other person,
6 partnership, association or corporation engaged in the business
7 of adjusting losses. The term does not include an agent or
8 employee of an insurance company, association or an exchange,
9 through whom a policy of insurance was written, in adjusting
10 loss or damage under such policy, nor does it include a broker
11 or agent acting as an adjuster if the services of the agent or
12 broker in the adjustment are without compensation.

13 "Public adjuster solicitor." Any person, partnership,
14 association or corporation, who or which solicits, directly or
15 indirectly, FOR A FEE, or in any manner aids in securing for a <—
16 public adjuster a contract for the adjustment of a loss.

17 "REPAIRS." SHALL NOT INCLUDE TEMPORARY OR EMERGENCY REPAIRS <—
18 MADE FOR THE PURPOSE OF PROTECTING THE INSURED PROPERTY OR TO
19 COMPLY WITH POLICY TERMS AND CONDITIONS.

20 Section 2. License.

21 (a) License required.--No person, partnership, association
22 or corporation shall, directly or indirectly, act within the
23 Commonwealth as a public adjuster or a public adjuster solicitor
24 without first procuring from the Insurance Commissioner a
25 license as a public adjuster or public adjuster solicitor,
26 respectively.

27 (b) Insurance Commissioner to issue licenses.--The Insurance
28 Commissioner may issue a license as a public adjuster or public
29 adjuster solicitor to any person of at least 18 years of age,
30 and to any partnership, association or corporation which

1 maintains a bona fide office in the Commonwealth, readily
2 accessible to the general public. No license shall be granted to
3 any corporation unless by provisions of its charter it is
4 authorized to engage in the business of insurance claim
5 adjusting and unless individual licenses are also secured for
6 each active officer of such corporation. No license shall be
7 granted to a partnership or association unless individual
8 licenses are also secured for each active member of such
9 partnership or association. Before any such license is granted,
10 the applicant shall first make answer, in writing and under
11 oath, to interrogatories on forms and supplements such as the
12 Insurance Commissioner shall prepare: Provided, That any
13 applicant who shall have held such a license for a period of at
14 least two years prior to the effective date of this act shall be
15 entitled, upon proper application, to receive a license without
16 the necessity of submitting to an examination. When the
17 Insurance Commissioner is satisfied that the applicant is
18 trustworthy and competent to transact business as a public
19 adjuster and public adjuster solicitor, respectively, in such
20 manner as to safeguard the interest of the public, he shall
21 issue a license.

22 (c) Nonresident public adjusters and public adjuster
23 solicitors.--The insurance commissioner may issue a license as
24 public adjuster or public adjuster solicitor to a person not a
25 resident of this Commonwealth, upon compliance with the
26 applicable provisions of this act, if the State or the Province
27 of Canada of such person's residence will accord the same
28 privilege to a resident of this Commonwealth.

29 (1) The insurance commissioner may enter into reciprocal
30 agreements with the appropriate official of any such other

1 state or province waiving the written examination of any
2 applicant resident in such other state if:

3 (i) a written examination is required of applicants
4 for an insurance public adjuster or public adjuster
5 solicitor license in such other state or province;

6 (ii) the appropriate official of the other state or
7 province certifies that the applicant holds a currently
8 valid license as a public adjuster or public adjuster
9 solicitor in such other state or province and either
10 passed such a written examination or was the holder of an
11 insurance agent's license prior to the time a written
12 examination was required; and

13 (iii) that in such other state or province a
14 resident of this Commonwealth is privileged to procure a
15 public adjuster or public adjuster solicitor license upon
16 the foregoing conditions and without discrimination as to
17 fees otherwise in favor of the residents of such other
18 state or province.

19 ~~(d) Periodic reexaminations. The Insurance Commissioner may~~ <—
20 ~~require periodic reexamination of all licensees as he deems~~
21 ~~necessary to establish their competence.~~

22 ~~(e) License not to be issued to certain persons. No license~~
23 ~~as a public adjuster or public adjuster solicitor shall be~~
24 ~~issued to any person, partnership, association or corporation~~
25 ~~engaged in or having any direct, indirect or beneficial interest~~
26 ~~in any business doing business within the Commonwealth involving~~
27 ~~salvage, repair, replacement, restoration, renovation or~~
28 ~~demolition of damaged property, real or personal, or any other~~
29 ~~business which may be prohibited by the Insurance Commissioner~~
30 ~~as being a conflict of interest.~~

1 (D) LICENSE NOT TO BE ISSUED TO CERTAIN PERSONS.--NO LICENSE <—
2 AS A PUBLIC ADJUSTER OR PUBLIC ADJUSTER SOLICITOR SHALL BE
3 ISSUED TO ANY PERSON, PARTNERSHIP, ASSOCIATION OR CORPORATION
4 ENGAGED OR INTERESTED IN, OR RECEIVING ANY PROFIT FROM, NOR
5 SHALL THE HOLDER OF ANY SUCH LICENSE ENGAGE OR BE INTERESTED IN,
6 OR RECEIVE ANY PROFIT FROM, ANY SALVAGE OR SIMILAR BUSINESS.

7 Section 3. Fees.

8 (a) Public adjuster's license.--A fee shall be paid to the
9 Insurance Commissioner by the applicant for a public adjuster's
10 license at the time application is made, and annually thereafter
11 for the renewal thereof, of \$100. If the applicant is a
12 corporation, partnership or association, such fee shall be paid
13 for each person specified in the license.

14 (b) Public adjuster solicitor's license.--A fee shall be
15 paid to the Insurance Commissioner by the applicant for a public
16 adjuster solicitor's license at the time application is made,
17 and annually thereafter for the renewal thereof, of \$50. If the
18 applicant is a corporation, partnership, or association, such
19 fee shall be paid for each person specified in the license.

20 Section 4. Bond.

21 (a) Public adjuster's bond.--Each person, partnership,
22 association or corporation receiving a public adjuster's
23 license, shall, before transacting any business thereunder,
24 execute and deliver to the Insurance Commissioner a bond in the
25 minimum penal sum of ~~\$100,000~~ \$40,000 with such sureties as the <—
26 Insurance Commissioner may approve.

27 (b) Public adjuster solicitor's bond.--Each person,
28 partnership, association or corporation receiving a public
29 adjuster solicitor's license, shall, before transacting any
30 business thereunder, execute and deliver to the Insurance

1 Commissioner a bond in the minimum penal sum of ~~\$50,000~~ \$8,000 <—

2 with such sureties as the Insurance Commissioner may approve.

3 (c) Condition of bond.--The bond of the public adjuster and
4 the public adjuster solicitor shall be conditioned that said
5 public adjuster or public adjuster solicitor will faithfully
6 comply with all the requirements of this act, and shall not
7 embezzle, take, secrete or otherwise dispose of or fraudulently
8 withhold, appropriate, lend, invest or otherwise use or apply,
9 any money or substitutes for money or any salvage, goods or
10 property received by him as such public adjuster or public
11 adjuster solicitor or employee of a public adjuster, contrary to
12 the instructions or without the consent of the assured or his
13 legal representative. Any person, firm or corporation who has
14 entered into a contract with a public adjuster, as provided in
15 section 5, and who shall suffer loss by reason of the failure of
16 the public adjuster to comply with this act and faithfully
17 perform his duties, shall have the right to intervene and be
18 made a party to any action instituted by the Commonwealth on the
19 bond of the public adjuster and to have his, her or its rights
20 and claims adjudicated in such action and judgment rendered
21 thereon, subject, however, to the priority of the claim and
22 judgment of the Commonwealth. If the amount of the liability of
23 the surety on said bond is sufficient to pay the full amount due
24 the Commonwealth, the remainder shall be distributed pro rata
25 among said intervenors. If no suit should be brought by the
26 Commonwealth of Pennsylvania, upon application therefore and
27 furnishing affidavit to the Insurance Department that loss has
28 been suffered by reason of failure of the public adjuster to
29 comply with this act or faithfully perform his duties, such
30 insured shall be furnished with a certified copy of said bond,

1 upon which he, she or it shall have a right of action, and shall
2 be and are hereby authorized to bring suit in the name of the
3 Commonwealth, for his, her or its use and benefit against said
4 public adjuster and his sureties and to prosecute the same to
5 final judgment and execution. Where suit is instituted by any
6 such insureds on the bond of the public adjuster, it shall be
7 commenced within one year after the performance and final
8 settlement of said contract, and not later. Where suit is so
9 instituted by an insured or insureds, no other action shall be
10 brought by any other claimant, but any other claimant may file
11 his claim in the action first brought and be made party thereto
12 within one year from the completion of the work under said
13 contract, and not later. If two or more actions be brought on
14 the same day, the action in which the largest claim is demanded
15 shall be regarded as the first action. Any creditor who has
16 brought an action within one year as aforesaid, but after suit
17 brought by another creditor or on the same day, may intervene in
18 the suit first brought within the year, notwithstanding the fact
19 that the intervention in such case be after the expiration of
20 the year, provided said intervention be made within 30 days
21 after the expiration of the year. If the recovery on the bond
22 should be inadequate to pay the amounts found due to all of said
23 creditors, judgment shall be given to each creditor pro rata of
24 the amount of the recovery. The surety on said bond may pay into
25 the court, for distribution among said claimants and creditors,
26 the full amount of the surety's liability, to wit, the penalty
27 named in the bond, less any amount which said surety may have
28 had to pay to the Commonwealth by reason of the execution of
29 said bond, and, upon so doing, the surety will be relieved from
30 further liability. In all suits instituted under the provisions

1 of this act, such personal notice of the pendency of such suits,
2 informing them of their right to intervene, as the court may
3 order shall be given to all known creditors, and, in addition
4 thereto, notice shall be given by publication in newspapers of
5 general circulation, published in the county or municipality
6 where the contract was performed, once a week for at least three
7 successive weeks: Provided, however, That when such suit has
8 begun within three weeks of the end of the year within which
9 suit may be brought, said notice by publication shall be only
10 for the period intervening between the time of instituting such
11 suit and the end of the year.

12 Section 5. Contract.

13 (a) Written contract required.--No public adjuster shall,
14 directly or indirectly, act within this Commonwealth as a public
15 adjuster without having first entered into a contract, in
16 writing, on a form approved by the Insurance Commissioner, and
17 executed in duplicate by the public adjuster and the insured or
18 a duly authorized representative. One copy of this contract
19 shall be kept on file by the public adjuster, available at all
20 times for inspection, without notice, by the Insurance
21 Commissioner or his duly authorized representative. NO PUBLIC
22 ADJUSTER OR PUBLIC ADJUSTER SOLICITOR SHALL SOLICIT A CLIENT FOR
23 EMPLOYMENT WITHIN 24 HOURS OF A FIRE OR OTHER CATASTROPHE OR
24 OCCURRENCE WHICH IS THE BASIS OF THE SOLICITATION. WITH RESPECT
25 TO A FIRE, THE 24-HOUR PERIOD SHALL BEGIN AT SUCH TIME AS THE
26 FIRE DEPARTMENT IN CHARGE DETERMINES THAT THE FIRE IS
27 EXTINGUISHED. Any contract with a public adjuster may be
28 rescinded by any person signing the contract. Such action must
29 be taken within four calendar days after signature. The
30 Insurance Commissioner may issue regulations to assure the

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1 implementation of this section. No public adjuster solicitor
2 shall use any form of contract other than that approved for the
3 public adjuster for whom he is soliciting, nor shall he make any
4 contracts or agreements for himself or for the public adjuster
5 other than such as are specified in the approved contract.

6 (b) Contracts only authorized by insured against his own
7 carrier.--No public adjuster or public adjuster solicitor may
8 adjust or solicit a contract for the adjustment of any claim for
9 losses or damages on behalf of any person except claims by an
10 insured against his own insurance carrier.

11 (C) PERSONAL INJURY AND AUTOMOBILE PROPERTY DAMAGE CLAIMS <—
12 PROHIBITED.--NO PUBLIC ADJUSTER OR PUBLIC ADJUSTER SOLICITOR
13 SHALL ACT IN ANY MANNER IN RELATION TO CLAIMS FOR PERSONAL
14 INJURY OR AUTOMOBILE PROPERTY DAMAGE.

15 (D) CONTRACTS LIMITED TO ADJUSTMENT OF INSURANCE LOSSES.--NO
16 PUBLIC ADJUSTER OR PUBLIC ADJUSTER SOLICITOR SHALL, DIRECTLY OR
17 INDIRECTLY, THROUGH OR WITH ANY PERSON, PARTNERSHIP, CORPORATION
18 OR ASSOCIATION IN WHICH IT HAS AN INDIRECT OR BENEFICIAL
19 INTEREST, ENTER INTO ANY CONTRACT WITH ANY INSURED FOR THE
20 REPAIR, REPLACEMENT, RESTORATION, RENOVATION OR DEMOLITION OF
21 DAMAGED PROPERTY, REAL OR PERSONAL, AT ANY TIME PRIOR TO THE
22 DATE A VERDICT OR AWARD IS ENTERED OR PAYMENT IS RECEIVED FROM
23 THE INSURANCE CARRIER, WHICHEVER EVENT SHALL OCCUR FIRST.

24 Section 6. Revocation, etc., of license.

25 (a) Grounds for fines, suspensions or revocations.--
26 Committing any of the following acts shall be grounds for fine,
27 suspension or revocation of a public adjuster's or public
28 adjuster solicitor's license:

29 (1) Material misrepresentation of the terms and effect
30 of any insurance contract.

1 (2) Engaging in, or attempting to engage in, any
2 fraudulent transaction with respect to a claim or loss that
3 licensee is adjusting.

4 (3) Misrepresentation of the services offered or the
5 fees or commission to be charged.

6 (4) Conviction by any court of or a plea of nolo
7 contendere to a felony under the laws of this Commonwealth,
8 any other state, the United States or any territory or
9 foreign country.

10 (5) Misappropriation, conversion to his own use or
11 improper withholding of moneys held on behalf of another
12 party to the contract.

13 (6) To pay or cause to be paid any commission or any
14 other compensation or thing of value whatsoever to any agent,
15 broker, attorney, partner, clerk, servant, employee or any
16 other person, whosoever hired by or employed by or with any
17 insured named in any policy of insurance as an inducement or
18 solicitation to influence the contracting of services for the
19 services of public adjuster or public adjuster solicitor with
20 any insured. A PUBLIC ADJUSTER MAY UTILIZE THE SERVICES OF <—
21 ANY AUTHORIZED PERSON FOR ASSISTANCE IN CONNECTION WITH AN
22 INSURANCE CLAIM: PROVIDED, THAT SAID SERVICES MUST NOT
23 CONFLICT WITH THE SERVICES REQUIRED TO BE RENDERED BY A
24 PUBLIC ADJUSTER. THE COMPENSATION FOR SUCH SERVICES SHALL NOT
25 EXCEED 25% OF THE PUBLIC ADJUSTER'S FEE.

26 (7) To receive, directly or indirectly, any
27 compensation, commission or thing of value or profit from any
28 person, partnership, association or corporation engaged or
29 interested in the business of salvage, repair, replacement,
30 restoration, renovation or demolition of damaged property,

1 real or personal, unless such compensation, commission or
2 thing of value or profit is disclosed to the insured and
3 agreed to in the contract.

4 (8) Removal of a public adjuster's or a public adjuster
5 solicitor's office, accounts or records from the
6 Commonwealth.

7 (9) The closure of a licensee's office for a period in
8 excess of 30 days, unless granted permission by the Insurance
9 Commissioner to close the office for a longer period.

10 (10) Violation of any provision of this act or any rule
11 or regulation promulgated, published and adopted thereunder.

12 (11) Making a material misstatement in the application
13 for any such license.

14 (12) The commission of fraudulent practices.

15 (13) Has, in the judgment of the Insurance Commissioner,
16 demonstrated his incompetency or untrustworthiness to
17 transact the business of a public adjuster.

18 (b) Civil penalty.--Regardless of whether the public
19 adjuster or public adjuster solicitor was licensed or not, the
20 Insurance Commissioner may, at his discretion, in cases
21 warranting such action, impose a civil penalty of not more than
22 \$1,000 for each and every violation of this act.

23 (c) Notice and hearing.--Before the Insurance Commissioner
24 shall take any action as above set forth, he shall give written
25 notice to the person, partnership, association or corporation
26 accused of violating the law, stating specifically the nature of
27 such alleged violation, and fixing a time and place, at least
28 ten days thereafter, when a hearing of the matter shall be held.
29 After such hearing or upon failure of the accused to appear at
30 such a hearing, the Insurance Commissioner shall impose such of

1 the above penalties as he deems advisable. When the Insurance
2 Commissioner shall have taken any actions as above set forth,
3 the party aggrieved may appeal therefrom to the Commonwealth
4 Court.

5 (d) Adjusters and solicitors responsible for conduct of
6 employees.--Any public adjuster or public adjuster solicitor
7 employing, or using the services of, any person to solicit
8 business shall be held fully responsible for the conduct of that
9 person in connection with business dealings, including but not
10 limited to, making certain that such person has a valid license
11 as a public adjuster or public adjuster solicitor.

12 Section 7. Violations.

13 Any person, partnership, association or corporation violating
14 any of the provisions of this act shall be guilty of a
15 misdemeanor, and, upon conviction thereof, shall be sentenced to
16 pay a fine of not less than \$500 nor more than \$1,000 for each
17 violation and conviction. Prosecution for any violation under
18 this section may be instituted by the Insurance Commissioner or
19 his duly authorized representative.

20 Section 8. Administration and enforcement.

21 (a) Insurance Commissioner to administer and enforce act.--
22 The Insurance Commissioner is hereby charged with the
23 administration and enforcement of this act and shall prescribe,
24 publish, adopt and promulgate rules and regulations in
25 connection herewith.

26 (b) Insurance Commissioner may bring actions.--The Insurance
27 Commissioner or a duly authorized representative may maintain an
28 action for an injunction or other process against any person,
29 partnership, association, corporation or other entity to
30 restrain and prevent any of the foregoing from transacting

1 business as a public adjuster or public adjuster solicitor
2 without a license. Any such action shall be instituted in the
3 Court of Common Pleas in any county where the alleged unlicensed
4 activity occurred. Such court may issue a temporary restraining
5 order or injunction under this act but shall determine any such
6 action on its merits as soon as possible whether in term time or
7 in vacation. No bond shall be required of and no costs shall be
8 taxed against the Insurance Commissioner, his duly authorized
9 representative or the Insurance Department on account of any
10 such action.

11 (c) Act to be supplementary.--The provisions of this act
12 shall be constructed as supplementary to all other acts dealing
13 with the same subject matter. No action brought under the
14 provisions of this act shall prevent the prosecution or
15 institution of any civil or criminal action otherwise provided
16 by law for violation of any licensing act or departmental rule
17 or regulation promulgated thereunder.

18 Section 9. Repeals.

19 (a) Specific act.--The act of April 25, 1921 (P.L.276,
20 No.136), entitled, as amended, "An act requiring persons,
21 partnerships, associations, or corporations advertising for or
22 soliciting business as adjusters of claims within this
23 Commonwealth for loss or damage arising out of policies of
24 insurance, surety, or indemnity on property, persons, or
25 insurable business interests within this Commonwealth, to be
26 licensed by the Insurance Commissioner; requiring persons,
27 partnerships, associations, or corporations acting as solicitors
28 for said adjusters to be licensed by the Insurance Commissioner;
29 regulating the issuance and revocation of such licenses;
30 prescribing certain conditions for the transaction of such

1 business; providing for the filing of bonds by public adjusters
2 and public adjuster solicitors, and for recovery thereon by
3 parties in interest; and providing penalties," is repealed.

4 (b) General repeal.--All other acts and parts of acts are
5 repealed insofar as they are inconsistent with this act.

6 Section 10. Severability.

7 If any provision of this act or the application thereof to
8 any person or circumstances is held invalid, such invalidity
9 shall not affect other provisions or applications of the act
10 which can be given effect without the invalid provision or
11 application, and to this end the provisions of this act are
12 declared to be severable.

13 Section 11. Effective date.

14 This act shall take effect ~~immediately~~ IN 90 DAYS.

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