

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2370 Session of 2010

INTRODUCED BY D. COSTA, DeLUCA, BARBIN, DEASY, FABRIZIO,
FRANKEL, HALUSKA, MATZIE, MELIO, PASHINSKI, READSHAW,
SHAPIRO, SIPTROTH, THOMAS AND WHITE, MARCH 24, 2010

REFERRED TO COMMITTEE ON INSURANCE, MARCH 24, 2010

AN ACT

1 Amending the act of December 20, 1983 (P.L.260, No.72), entitled
2 "An act providing for the licensing and regulating of public
3 adjusters and public adjuster solicitors," further providing
4 for definitions and for license; providing for application
5 for public adjuster license, for licensing, for issuance and
6 term of license, for license renewals and for reciprocal
7 licensing; further providing for fees, for bond, for
8 contract, for revocation, etc., of license, for violations
9 and for administration and enforcement; and providing for
10 persons licensed as public adjuster solicitors.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Sections 1 and 2 of the act of December 20, 1983
14 (P.L.260, No.72), referred to as the Public Adjuster Licensing
15 Law, are amended to read:

16 Section 1. Definitions.

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

20 "Application." A form approved by the Insurance Department
21 to be used to apply for a public adjuster license.

1 "Business entity." A corporation, partnership, association,
2 limited liability company or limited liability partnership.

3 "Business entity application." A form approved by the
4 department to be used by a business entity to apply for a public
5 adjuster license.

6 "Department." The Insurance Department of the Commonwealth.

7 "Home state." The District of Columbia, a state,
8 commonwealth or territory of the United States in which a public
9 adjuster resides and is licensed to act as a resident
10 publicadjuster.

11 "Licensee." A person licensed by the Insurance Department
12 asa public adjuster.

13 "Nonresident public adjuster." A public adjuster whose home
14 state is not this Commonwealth.

15 "Public adjuster." Any person[, partnership, association or
16 corporation advertising,] soliciting business or holding himself
17 [or itself] out to the public as an adjuster of claims for
18 losses or damages arising out of policies of insurance, surety
19 or indemnity upon property, persons or insurable business
20 interests within this Commonwealth, and receiving any
21 compensation or reward for the giving of advice or assistance to
22 the insured in the adjustment of claims for such losses, or who
23 for compensation or reward, whether by way of salary or
24 commission or otherwise, directly or indirectly, [solicit]
25 solicits business, [investigate] investigates or [adjust]
26 adjusts losses or [advise] advises the insured with reference to
27 claims for losses on behalf of any other person[, partnership,
28 association or corporation] engaged in the business of adjusting
29 losses. The term does not include an agent or employee of an
30 insurance company, association or an exchange, through whom a

1 policy of insurance was written, in adjusting loss or damage
2 under such policy, nor does it include [a broker or agent] an
3 insurance producer acting as an adjuster if the services of the
4 [agent or broker] insurance producer in the adjustment are
5 without compensation.

6 ["Public adjuster solicitor." Any person, partnership,
7 association or corporation, who or which solicits, directly or
8 indirectly, for a fee, or in any manner aids in securing for a
9 public adjuster a contract for the adjustment of a loss.]

10 "Repairs." Shall not include temporary or emergency repairs
11 made for the purpose of protecting the insured property or to
12 comply with policy terms and conditions.

13 Section 2. License.

14 (a) License required.--No person[, partnership, association
15 or corporation] shall, directly or indirectly, act within the
16 Commonwealth as a public adjuster [or a public adjuster
17 solicitor] without first procuring from the Insurance
18 Commissioner a license as a public adjuster [or public adjuster
19 solicitor, respectively].

20 (b) [Insurance Commissioner to issue licenses.--The
21 Insurance Commissioner may issue a license as a public adjuster
22 or public adjuster solicitor to any person of at least 18 years
23 of age and to any partnership, association or corporation which
24 maintains a bona fide office in the Commonwealth, readily
25 accessible to the general public. No license shall be granted to
26 any corporation unless, by provisions of its charter, it is
27 authorized to engage in the business of insurance claim
28 adjusting and unless individual licenses are also secured for
29 each active officer of such corporation. No license shall be
30 granted to a partnership or association unless individual

1 licenses are also secured for each active member of such
2 partnership or association. Before any such license is granted,
3 the applicant shall first make answer, in writing and under
4 oath, to interrogatories on forms and supplements such as the
5 Insurance Commissioner shall prepare: Provided, That any
6 applicant who shall have held such a license for a period of at
7 least two years prior to the effective date of this act shall be
8 entitled, upon proper application, to receive a license without
9 the necessity of submitting to an examination. When the
10 Insurance Commissioner is satisfied that the applicant is
11 trustworthy and competent to transact business as a public
12 adjuster and public adjuster solicitor, respectively, in such
13 manner as to safeguard the interest of the public, he shall
14 issue a license.] (Reserved).

15 (c) [Nonresident public adjusters and public adjuster
16 solicitors.--The Insurance Commissioner may issue a license as
17 public adjuster or public adjuster solicitor to a person not a
18 resident of this Commonwealth, upon compliance with the
19 applicable provisions of this act, if the State or the Province
20 of Canada of such person's residence will accord the same
21 privilege to a resident of this Commonwealth. The provisions of
22 this subsection relating to noneligibility for licensure shall
23 not apply to any nonresident public adjusters and public
24 adjuster solicitors who did business in Pennsylvania as licensed
25 public adjusters or public adjuster solicitors prior to the
26 effective date of this act.

27 (1) The Insurance Commissioner may enter into reciprocal
28 agreements with the appropriate official of any such other
29 state or province waiving the written examination of any
30 applicant resident in such other state if:

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

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

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

17 (d) License not to be issued to certain persons.--No license
18 as a public adjuster [or public adjuster solicitor] shall be
19 issued to any person[, partnership, association or corporation]
20 engaged or interested in, or receiving any profit from[, nor
21 shall the holder of any such license engage or be interested in,
22 or receive any profit from,] any salvage, restoration company or
23 similar business. No licensee shall be engaged in or have an
24 interest in or receive any profit from any salvage, restoration
25 company or similar business.

26 Section 2. The act is amended by adding sections to read:

27 Section 2.1. Application for public adjuster license.

28 (a) Individuals.--An individual who is a resident of this
29 Commonwealth may apply to the department for a resident public
30 adjuster license. An individual who is not a resident of this

1 Commonwealth may apply for a nonresident public adjuster
2 license. To apply for a public adjuster license, an individual
3 shall submit to the department:

4 (1) a completed application on forms approved by the
5 department;

6 (2) the applicant's fingerprints, for the department to
7 receive national criminal history records information from
8 the Criminal Justice Information Services Division of the
9 Federal Bureau of Investigation;

10 (3) documentation verifying the applicant passed or is
11 exempt from the public adjuster licensing examination; and

12 (4) the required license fee and fees for obtaining
13 national criminal history records information.

14 (b) Business entities.--Upon designating one or more
15 officers or partners licensed under this act to be responsible
16 for the business entity's compliance with the insurance laws and
17 regulations of the Commonwealth, a business entity may apply to
18 the department for a public adjuster license. A business entity
19 with an office in this Commonwealth shall apply for a resident
20 public adjuster license. A business entity that does not have an
21 office in this Commonwealth shall apply for a nonresident public
22 adjuster license. The designated licensees of the business
23 entity shall submit to the department:

24 (1) a completed business entity application on forms
25 approved by the department;

26 (2) proof of the public adjuster license held by the
27 designated licensees; and

28 (3) the required license fee.

29 (c) License fee.--A nonrefundable \$200 fee shall accompany a
30 completed application for a resident or nonresident public

1 adjuster license until modified by the department by regulation.
2 Section 2.2. Licensing.

3 (a) Individuals.--The department shall review each
4 application and may conduct an investigation of each individual
5 who applies for a license in accordance with this act. The
6 department shall issue a resident or nonresident public adjuster
7 license, as appropriate, to the applicant when the department is
8 satisfied the following criteria have been met:

9 (1) the applicant has reached 18 years of age;

10 (2) the applicant has not committed any act which is
11 prohibited under this act;

12 (3) the applicant has passed or is exempt from the
13 public insurance adjuster licensing examination;

14 (4) the applicant has paid the applicable fees
15 established under this act;

16 (5) the applicant possesses the general fitness,
17 competence and reliability sufficient to satisfy the
18 department the applicant is worthy of licensure; and

19 (6) other criteria as the department may establish.

20 (b) Business entities.--The department shall review each
21 business entity application and may conduct an investigation of
22 each business entity seeking licensure and its designated
23 licensees. The department shall issue a resident or nonresident
24 public adjuster license, as appropriate, to the business entity
25 when the department is satisfied the following criteria have
26 been met:

27 (1) the business entity has one or more designated
28 licensees who are responsible for the business entity's
29 compliance with the insurance laws and regulations of this
30 Commonwealth;

1 (2) the business entity's designated licensees and
2 officers, partners or members are licensees in good standing
3 with the department;

4 (3) if a corporation or limited liability company,
5 individual public adjuster licenses shall be held by or
6 secured for each officer of the corporation or limited
7 liability company;

8 (4) if a partnership, limited liability partnership or
9 association, individual public adjuster licenses shall be
10 held by or secured for each partner or member of the
11 association;

12 (5) the business entity or its designated licensees have
13 not committed an act which is prohibited under this act;

14 (6) the business entity is owned, operated and managed
15 by persons possessing the general fitness, competence and
16 reliability sufficient to satisfy the department that the
17 business entity is worthy of licensure;

18 (7) the business entity has paid the applicable fees
19 established under this act; and

20 (8) other criteria as the department may establish.

21 Section 2.3. Issuance and term of license.

22 A public adjuster license issued by the department shall be:

23 (1) issued only in the name of the individual or
24 business entity. If a licensee is doing business under a
25 fictitious name other than the name appearing on the public
26 adjuster license, the licensee is required to notify the
27 department in writing prior to using the fictitious name;

28 (2) issued in paper or electronic form;

29 (3) nontransferable; and

30 (4) issued for a period not to exceed two years.

1 Section 2.4. License renewals.

2 (a) General rule.--A licensee may request renewal of the
3 license. The licensee shall submit to the department a completed
4 renewal form, the required fee and verification the licensee has
5 completed the continuing education required by this act. Upon
6 receipt and review, the department shall renew the license
7 unless it determines the licensee is not in compliance with this
8 act.

9 (b) Continuing education.--A licensee who is not a business
10 entity shall successfully complete 24 credit hours of approved
11 continuing education for each two-year license period as a
12 condition for license renewal unless modified by the department
13 by regulation. A licensee may carry forward excess continuing
14 education credit hours up to 24 credit hours from one licensing
15 period to the next licensing period.

16 (c) Lapses.--A licensee who allows his license to lapse by
17 failing to timely renew the license, pay the fee required by
18 this act or complete the continuing education required by this
19 act may within 60 days of the license renewal date request the
20 department to reinstate the license. Persons requesting
21 reinstatement of a lapsed license shall submit a completed
22 renewal form, the fee required by this act and verification the
23 person has completed all continuing education required by
24 subsection (b) for the previously licensed and lapsed periods.
25 If the department receives a request for reinstatement together
26 with a completed renewal application, payment of the lapsed
27 license fee and proof of continuing education compliance within
28 60 days after the license lapsed, the department shall reinstate
29 the license retroactively with the reinstatement effective on
30 the date the license lapsed. Except as set forth in subsection

1 (d), if a person applies for reinstatement more than 60 days
2 after the lapse date, the person shall reapply for a license
3 under this act.

4 (d) Extenuating circumstances.--A licensee who is unable to
5 timely comply with the requirements of subsection (a) as a
6 result of military service or other extenuating circumstance may
7 request the department to waive the requirements of completing
8 continuing education for the period in which the license had
9 lapsed and payment of the lapsed license fee. The request shall
10 include sufficient detail and supporting documentation to
11 determine the necessity of the waiver. If the department
12 determines that there is good cause for noncompliance, the
13 department shall grant the waiver and permit the licensee to
14 request renewal of the license in accordance with this act.

15 (e) Renewal fees.--The following nonrefundable fees shall
16 accompany an application for renewal of a public adjuster
17 license unless modified by the department by regulation:

18 (1) Resident or nonresident renewal fee, \$200.

19 (2) Lapsed license renewal fee, \$400.

20 Section 2.5. Reciprocal licensing.

21 (a) Nonresident individuals.--

22 (1) An individual who is currently licensed as a
23 resident public adjuster in another state or territory may
24 apply to the department for a nonresident public adjuster
25 license. The individual shall submit to the department a
26 completed application, proof of the individual's current home
27 state license in a form or manner determined acceptable by
28 the department and the required license fee.

29 (2) Upon receipt and review of the application, proof of
30 the home state license in a form or manner determined

1 acceptable by the department and the fee, the department
2 shall issue a nonresident public adjuster license to the
3 individual. The department may deny the application if the
4 individual's home state does not award nonresident public
5 adjuster licenses to resident licensees of this Commonwealth
6 on the same basis.

7 (b) Nonresident business entities.--

8 (1) Upon designating one or more individuals licensed
9 under this act to be responsible for the business entity's
10 compliance with the insurance laws and regulations of this
11 Commonwealth, a business entity which is currently licensed
12 as a resident public adjuster in another state or territory
13 may apply to the department for a nonresident public adjuster
14 license. The designated licensees of the business entity
15 shall remit to the department a completed business entity
16 application, proof of the business entity's current home
17 state license in a form or manner determined acceptable by
18 the department and the required license fee.

19 (2) Upon receipt and review of the application, proof of
20 the home state license in a form or manner determined
21 acceptable by the department and the fee, the department
22 shall issue a nonresident public adjuster license to the
23 business entity if the department determines that the
24 business entity, its partners, members or officers, and its
25 designated licensees are licensees in good standing in the
26 business entity's home state. The department may deny the
27 application if the business entity's home state does not
28 award nonresident public adjuster licenses to resident
29 licensees of this Commonwealth on the same basis.

30 Section 3. Sections 3, 4, 5, 6, 7 and 8 of the act are

1 amended to read:

2 Section 3. [Fees.

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

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

16 Section 4. Bond.

17 (a) Public adjuster's bond.--Each person[, partnership,
18 association or corporation] receiving a public adjuster's
19 license shall, before transacting any business thereunder,
20 execute and deliver to the Insurance Commissioner a bond in the
21 minimum penal sum of \$40,000 with such sureties as the Insurance
22 Commissioner may approve.

23 (b) [Public adjuster solicitor's bond.--Each person,
24 partnership, association or corporation receiving a public
25 adjuster solicitor's license shall, before transacting any
26 business thereunder, execute and deliver to the Insurance
27 Commissioner a bond in the minimum penal sum of \$8,000 with such
28 sureties as the Insurance Commissioner may approve.] (Reserved).

29 (c) Condition of bond.--The bond of the public adjuster [and
30 the public adjuster solicitor] shall be conditioned that said

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

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

1 general circulation, published in the county or municipality
2 where the contract was performed, once a week for at least three
3 successive weeks: Provided, however, That, when such suit has
4 begun within three weeks of the end of the year within which
5 suit may be brought, said notice by publication shall be only
6 for the period intervening between the time of instituting such
7 suit and the end of the year.

8 Section 5. Contract.

9 (a) Written contract required.--No public adjuster shall,
10 directly or indirectly, act within this Commonwealth as a public
11 adjuster without having first entered into a contract, in
12 writing, on a form approved by the [Insurance Commissioner]
13 department and executed in duplicate by the public adjuster and
14 the insured or a duly authorized representative. One copy of
15 this contract shall be kept on file by the public adjuster,
16 available at all times for inspection[, without notice,] by the
17 [Insurance Commissioner or his duly authorized representative.
18 No public adjuster or public adjuster solicitor shall solicit a
19 client for employment within 24 hours of a fire or other
20 catastrophe or occurrence which is the basis of the
21 solicitation. With respect to a fire, the 24-hour period shall
22 begin at such time as the fire department in charge determines
23 that the fire is extinguished. Any contract with a public
24 adjuster may be rescinded by any person signing the contract.
25 Such action must be taken within four calendar days after
26 signature. The Insurance Commissioner may issue regulations to
27 assure the implementation of this section. No public adjuster
28 solicitor shall use any form of contract other than that
29 approved for the public adjuster for whom he is soliciting, nor
30 shall he make any contracts or agreements for himself or for the

1 public adjuster other than such as are specified in the approved
2 contract.] department. The department shall disapprove a
3 contract form if, in the department's opinion, the contract or
4 its provisions:

5 (1) Fail to comply with this section.

6 (2) Are unreasonable.

7 (3) Are contrary to the interests of the public.

8 (4) Are misleading or unfair to the insured.

9 At the department's discretion, the department may also require
10 the submission of advertising or solicitation material.

11 (a.1) Rescission.--A contract with a public adjuster may be
12 rescinded by any person signing the contract.

13 (a.2) Disclosure.--The contracts shall disclose:

14 (1) That the insured has the right to rescind the
15 contract within 15 calendar days after signature.

16 (2) Fees to be charged or assessed by the public
17 adjuster together with an explanation about how the fees will
18 come from a portion of the claims payment, if any, made by
19 the insurer under the policy and are not in addition to the
20 payments.

21 (3) That the adjuster will provide the insured a copy of
22 an estimate or report of losses and supporting documentation
23 it sends to the insurer.

24 (a.3) Regulations.--The Insurance Commissioner may issue
25 regulations to assure the implementation of this section.

26 (b) Contracts only authorized by insured against his own
27 carrier.--No public adjuster [or public adjuster solicitor] may
28 adjust or solicit a contract for the adjustment of any claim for
29 losses or damages on behalf of any person except claims by an
30 insured against his own insurance carrier.

1 (c) Personal injury and automobile property damage claims
2 prohibited.--No public adjuster [or public adjuster solicitor]
3 shall act in any manner in relation to claims for personal
4 injury or automobile property damage.

5 (d) Contracts limited to adjustment of insurance losses.--No
6 public adjuster [or public adjuster solicitor] shall, directly
7 or indirectly, through or with any person, partnership,
8 corporation or association in which it has an indirect or
9 beneficial interest, enter into any contract with any insured
10 for the repair, replacement, restoration, renovation or
11 demolition of damaged property, real or personal, at any time
12 prior to the date a verdict or award is entered or payment is
13 received from the insurance carrier, whichever event shall occur
14 first.

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

16 (a) Grounds for fines, suspensions or revocations.--
17 Committing any of the following acts shall be grounds for fine,
18 suspension or revocation of a public adjuster's [or public
19 adjuster solicitor's] license:

20 (1) Material misrepresentation of the terms and effect
21 of any insurance contract.

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

25 (3) Misrepresentation of the services offered or the
26 fees or commission to be charged.

27 (4) Conviction by any court of or a plea of nolo
28 contendere to a felony under the laws of this Commonwealth,
29 any other state, the United States or any territory or
30 foreign country.

1 (5) Misappropriation, conversion to his own use or
2 improper withholding of moneys held on behalf of another
3 party to the contract.

4 (6) [To pay or cause] Paying or causing to be paid any
5 commission or any other compensation or thing of value
6 whatsoever to any agent, broker, attorney, partner, clerk,
7 servant, employee or any other person, whosoever hired by or
8 employed by or with any insured named in any policy of
9 insurance as an inducement or solicitation to influence the
10 contracting of services for the services of public adjuster
11 [or public adjuster solicitor] with any insured. A public
12 adjuster may utilize the services of any person authorized by
13 the insurer to assist in connection with an insurance claim:
14 Provided, That said services must not conflict with the
15 services required to be rendered by a public adjuster.

16 (7) [To receive] Receiving, directly or indirectly, any
17 compensation, commission or thing of value or profit from any
18 person, partnership, association or corporation engaged or
19 interested in the business of salvage, repair, replacement,
20 restoration, renovation or demolition of damaged property,
21 real or personal, unless such compensation, commission or
22 thing of value or profit is disclosed to the insured and
23 agreed to in the contract.

24 (8) [Removal of a public adjuster's or a public adjuster
25 solicitor's office, accounts or records from the
26 Commonwealth] (Reserved).

27 (9) [The closure] Closing of a licensee's office for a
28 period in excess of 30 days, unless granted permission by the
29 Insurance Commissioner to close the office for a longer
30 period.

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

3 (11) Making a material misstatement in the application
4 for any such license.

5 (12) The commission of fraudulent practices.

6 (13) [Has] Demonstrating, in the judgment of the
7 Insurance Commissioner, [demonstrated] his incompetency or
8 untrustworthiness to transact the business of a public
9 adjuster.

10 (14) Having a public adjuster license or other
11 professional license, or its equivalent, denied, suspended or
12 revoked by a governmental entity or self-regulating
13 professional association.

14 (15) Failing to comply with an administrative or court
15 order imposing a child support obligation.

16 (16) Failing to pay State income tax or comply with any
17 administrative or court order directing the payment of State
18 income tax.

19 (17) Committing a misdemeanor that involves the misuse
20 or theft of money or property belonging to another person.

21 (18) Failing to notify the department of a change
22 of address within 30 days.

23 (b) Civil penalty.--Regardless of whether the public
24 adjuster [or public adjuster solicitor] was licensed or not, the
25 Insurance Commissioner may, at his discretion, in cases
26 warranting such action, impose a civil penalty of not more than
27 [\$1,000] \$5,000 for each and every violation of this act.

28 (c) Notice and hearing.--Before the Insurance Commissioner
29 shall take any action as above set forth, he shall give written
30 notice to the person[, partnership, association or corporation]

1 accused of violating the law, stating specifically the nature of
2 such alleged violation and fixing a time and place, at least ten
3 days thereafter, when a hearing of the matter shall be held.
4 After such hearing or upon failure of the accused to appear at
5 such a hearing, the Insurance Commissioner shall impose such of
6 the above penalties as he deems advisable. When the Insurance
7 Commissioner shall have taken any actions as above set forth,
8 the party aggrieved may appeal therefrom to the Commonwealth
9 Court.

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

17 Section 7. Violations.

18 Any person[, partnership, association or corporation]
19 violating any of the provisions of this act shall be guilty of a
20 misdemeanor and, upon conviction thereof, shall be sentenced to
21 pay a fine of not less than \$500 nor more than [\$1,000] \$5,000
22 for each violation and conviction. [Prosecution for any
23 violation under this section may be instituted by the Insurance
24 Commissioner or his duly authorized representative.]

25 Section 8. Administration and enforcement.

26 (a) Insurance Commissioner to administer and enforce act.--
27 The Insurance Commissioner is hereby charged with the
28 administration and enforcement of this act and shall prescribe,
29 publish, adopt and promulgate rules and regulations in
30 connection herewith.

1 (b) Insurance Commissioner may bring actions.--The Insurance
2 Commissioner or a duly authorized representative may maintain an
3 action for an injunction or other process against any person[,
4 partnership, association, corporation] or other entity to
5 restrain and prevent any of the foregoing from transacting
6 business as a public adjuster [or public adjuster solicitor]
7 without a license. Any such action shall be instituted in the
8 court of common pleas in any county where the alleged unlicensed
9 activity occurred. Such court may issue a temporary restraining
10 order or injunction under this act but shall determine any such
11 action on its merits as soon as possible whether in term time or
12 in vacation. No bond shall be required of and no costs shall be
13 taxed against the Insurance Commissioner, his duly authorized
14 representative or the Insurance Department on account of any
15 such action.

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

23 Section 4. A person licensed as a public adjuster solicitor
24 before this section takes effect shall be licensed as a public
25 adjuster in accordance with the act and subject to its
26 requirements.

27 Section 5. This act shall take effect in 180 days.