

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2370 Session of 2010

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

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AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 22, 2010

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## 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, ~~AND for~~  
8 ~~contract~~; PROVIDING FOR WRITTEN DISCLOSURE OF FINANCIAL  
9 INTEREST; FURTHER PROVIDING for revocation, etc., of license, ~~—~~  
10 AND for violations ~~and~~; PROVIDING FOR CIVIL REMEDY; FURTHER  
11 PROVIDING for administration and enforcement; and providing  
12 for persons licensed as public adjuster solicitors.



13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

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

18 Section 1. Definitions.

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

22 "Application." A form approved by the Insurance Department

1 to be used to apply for a public adjuster license.

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

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

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

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

11 ~~publicadjuster~~ PUBLIC ADJUSTER.

12 "Licensee." A person licensed by the Insurance Department  
13 ~~asa~~ AS A public adjuster.

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

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

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

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

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

#### 14 Section 2. License.

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

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

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

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

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

1 applicant resident in such other state if:

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

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

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

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

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

28 Section 2.1. Application for public adjuster license.

29 (a) Individuals.--An individual who is a resident of this  
30 Commonwealth may apply to the department for a resident public

1 adjuster license. An individual who is not a resident of this  
2 Commonwealth may apply for a nonresident public adjuster  
3 license. To apply for a public adjuster license, an individual  
4 shall submit to the department:

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

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

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

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

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

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

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

29 (3) the required license fee.

30 (c) License fee.--A nonrefundable \$200 fee shall accompany a

1 completed application for a resident or nonresident public  
2 adjuster license until modified by the department by regulation.  
3 Section 2.2. Licensing.

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

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

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

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

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

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

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

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

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

1 Commonwealth;

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

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

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

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

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

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

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

22 Section 2.3. Issuance and term of license.

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

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

29 (2) issued in paper or electronic form;

30 (3) nontransferable; and



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

2   Section 2.4. License renewals.

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

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

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

1 the date the license lapsed. Except as set forth in subsection  
2 (d), if a person applies for reinstatement more than 60 days  
3 after the lapse date, the person shall reapply for a license  
4 under this act.

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

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

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

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

21 Section 2.5. Reciprocal licensing.

22 (a) Nonresident individuals.--

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

30 (2) Upon receipt and review of the application, proof of

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

8 (b) Nonresident business entities.--

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

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

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

SECTION 3 OF THE ACT IS amended to read:

Section 3. [Fees.

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

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

(Reserved).

SECTION 4. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

SECTION 3.1. WRITTEN DISCLOSURE OF FINANCIAL INTEREST.

(A) REQUIREMENT.--A PUBLIC ADJUSTER SHALL PROVIDE THE INSURED A WRITTEN DISCLOSURE CONCERNING A DIRECT OR INDIRECT FINANCIAL INTEREST THE PUBLIC ADJUSTER HAS WITH ANOTHER PARTY INVOLVED IN AN ASPECT OF THE CLAIM OTHER THAN THE SALARY, FEE, COMMISSION OR OTHER CONSIDERATION ESTABLISHED IN THE WRITTEN CONTRACT WITH THE INSURED, INCLUDING, BUT NOT LIMITED TO, OWNERSHIP OF OR COMPENSATION EXPECTED TO BE RECEIVED FROM A CONSTRUCTION FIRM, BUILDING APPRAISAL FIRM, MOTOR VEHICLE REPAIR SHOP OR ANOTHER FIRM THAT PROVIDES ESTIMATES FOR WORK OR THAT PERFORMS WORK IN CONJUNCTION WITH DAMAGES CAUSED BY THE INSURED LOSS ON WHICH THE PUBLIC ADJUSTER IS ENGAGED.

(B) DEFINITION.--AS USED IN THIS SECTION, THE TERM "FIRM"

1 SHALL INCLUDE A CORPORATION, PARTNERSHIP, ASSOCIATION, JOINT-  
2 STOCK COMPANY OR PERSON.

3 SECTION 5. SECTIONS 4, 5, 6 AND 7 OF THE ACT ARE AMENDED TO  
4 READ:

5 Section 4. Bond.

6 (a) Public adjuster's bond.--Each person[, partnership,  
7 association or corporation] receiving a public adjuster's  
8 license shall, before transacting any business thereunder,  
9 execute and deliver to the Insurance Commissioner a bond in the  
10 minimum penal sum of ~~[\$40,000]~~ \$20,000 with such sureties as the  
11 Insurance Commissioner may approve. ←

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

18 (c) Condition of bond.--The bond of the public adjuster [and  
19 the public adjuster solicitor] shall be conditioned that said  
20 public adjuster [or public adjuster solicitor] will faithfully  
21 comply with all the requirements of this act and shall not  
22 embezzle, take, secrete or otherwise dispose of or fraudulently  
23 withhold, appropriate, lend, invest or otherwise use or apply  
24 any money or substitutes for money or any salvage, goods or  
25 property received by him as such public adjuster [or public  
26 adjuster solicitor] or employee of a public adjuster, contrary  
27 to the instructions or without the consent of the assured or his  
28 legal representative. Any person, firm or corporation who has  
29 entered into a contract with a public adjuster, as provided in  
30 section 5, and who shall suffer loss by reason of the failure of

1 the public adjuster to comply with this act and faithfully  
2 perform his duties shall have the right to intervene and be made  
3 a party to any action instituted by the Commonwealth on the bond  
4 of the public adjuster and to have his, her or its rights and  
5 claims adjudicated in such action and judgment rendered thereon,  
6 subject, however, to the priority of the claim and judgment of  
7 the Commonwealth. If the amount of the liability of the surety  
8 on said bond is sufficient to pay the full amount due the  
9 Commonwealth, the remainder shall be distributed pro rata among  
10 said intervenors. If no suit should be brought by the  
11 Commonwealth of Pennsylvania, upon application therefore and  
12 furnishing affidavit to the Insurance Department that loss has  
13 been suffered by reason of failure of the public adjuster to  
14 comply with this act or faithfully perform his duties, such  
15 insured shall be furnished with a certified copy of said bond,  
16 upon which he, she or it shall have a right of action, and shall  
17 be and are hereby authorized to bring suit in the name of the  
18 Commonwealth for his, her or its use and benefit against said  
19 public adjuster and his sureties and to prosecute the same to  
20 final judgment and execution. Where suit is instituted by any  
21 such insureds on the bond of the public adjuster, it shall be  
22 commenced within one year after the performance and final  
23 settlement of said contract, and not later. Where suit is so  
24 instituted by an insured or insureds, no other action shall be  
25 brought by any other claimant, but any other claimant may file  
26 his claim in the action first brought and be made party thereto  
27 within one year from the completion of the work under said  
28 contract, and not later. If two or more actions be brought on  
29 the same day, the action in which the largest claim is demanded  
30 shall be regarded as the first action. Any creditor who has

1 brought an action within one year as aforesaid, but after suit  
2 brought by another creditor or on the same day, may intervene in  
3 the suit first brought within the year, notwithstanding the fact  
4 that the intervention in such case be after the expiration of  
5 the year, provided said intervention be made within 30 days  
6 after the expiration of the year. If the recovery on the bond  
7 should be inadequate to pay the amounts found due to all of said  
8 creditors, judgment shall be given to each creditor pro rata of  
9 the amount of the recovery. The surety on said bond may pay into  
10 the court, for distribution among said claimants and creditors,  
11 the full amount of the surety's liability, to wit, the penalty  
12 named in the bond, less any amount which said surety may have  
13 had to pay to the Commonwealth by reason of the execution of  
14 said bond, and, upon so doing, the surety will be relieved from  
15 further liability. In all suits instituted under the provisions  
16 of this act, such personal notice of the pendency of such suits,  
17 informing them of their right to intervene, as the court may  
18 order, shall be given to all known creditors and, in addition  
19 thereto, notice shall be given by publication in newspapers of  
20 general circulation, published in the county or municipality  
21 where the contract was performed, once a week for at least three  
22 successive weeks: Provided, however, That, when such suit has  
23 begun within three weeks of the end of the year within which  
24 suit may be brought, said notice by publication shall be only  
25 for the period intervening between the time of instituting such  
26 suit and the end of the year.

27 Section 5. Contract.

28 (a) Written contract required.--No public adjuster shall,  
29 directly or indirectly, act within this Commonwealth as a public  
30 adjuster without having first entered into a contract, in

1 writing, on a form approved by the [Insurance Commissioner]  
2 department and executed in duplicate by the public adjuster and  
3 the insured or a duly authorized representative. One copy of  
4 this contract shall be kept on file by the public adjuster,  
5 available at all times for inspection[, without notice,] by the  
6 [Insurance Commissioner or his duly authorized representative.  
7 No public adjuster or public adjuster solicitor shall solicit a  
8 client for employment within 24 hours of a fire or other  
9 catastrophe or occurrence which is the basis of the  
10 solicitation. With respect to a fire, the 24-hour period shall  
11 begin at such time as the fire department in charge determines  
12 that the fire is extinguished. Any contract with a public  
13 adjuster may be rescinded by any person signing the contract.  
14 Such action must be taken within four calendar days after  
15 signature. The Insurance Commissioner may issue regulations to  
16 assure the implementation of this section. No public adjuster  
17 solicitor shall use any form of contract other than that  
18 approved for the public adjuster for whom he is soliciting, nor  
19 shall he make any contracts or agreements for himself or for the  
20 public adjuster other than such as are specified in the approved  
21 contract.] department. The department shall disapprove a  
22 contract form if, in the department's opinion, the contract or  
23 its provisions:  
24 (1) Fail to comply with this section.  
25 (2) Are unreasonable.  
26 (3) Are contrary to the interests of the public.  
27 (4) Are misleading or unfair to the insured.  
28 At the department's discretion, the department may also require  
29 the submission of advertising or solicitation material.  
30 (a.1) Rescission.--A contract with a public adjuster may be



1 rescinded by any person signing the contract.

2 (a.2) Disclosure.--The contracts shall disclose THE ←  
3 FOLLOWING ITEMS WITH EACH OF THESE ITEMS SEPARATELY SIGNED OR  
4 INITIALED BY THE INSURED AND THE PUBLIC ADJUSTER:

5 (1) That the insured has the right to rescind the  
6 contract within ~~15 calendar~~ FIVE BUSINESS days after ←  
7 signature.

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

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

16 (4) THAT THE PUBLIC ADJUSTER IS NOT A REPRESENTATIVE OR ←  
17 EMPLOYEE OF THE INSURER AND THE INSUREDS ARE NOT REQUIRED TO  
18 HIRE A PUBLIC ADJUSTER BUT HAVE THE RIGHT TO DO SO.

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

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

26 (c) Personal injury and automobile property damage claims  
27 prohibited.--No public adjuster [or public adjuster solicitor]  
28 shall act in any manner in relation to claims for personal  
29 injury or automobile property damage.


30 (d) Contracts limited to adjustment of insurance losses.--No

1 public adjuster [or public adjuster solicitor] shall, directly  
2 or indirectly, through or with any person, partnership,  
3 corporation or association in which it has an indirect or  
4 beneficial interest, enter into any contract with any insured  
5 for the repair, replacement, restoration, renovation or  
6 demolition of damaged property, real or personal, at any time  
7 prior to the date a verdict or award is entered or payment is  
8 received from the insurance carrier, whichever event shall occur  
9 first.

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

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

15 (1) Material misrepresentation of the terms and effect  
16 of any insurance contract.

17 (2) Engaging in, or attempting to engage in, any  
18 fraudulent [transaction] OR MISLEADING CONDUCT with respect   
19 to a claim or loss that licensee is adjusting.

20 (3) Misrepresentation of the services offered or the  
21 fees or commission to be charged.

22 (4) Conviction by any court of or a plea of nolo  
23 contendere to a felony under the laws of this Commonwealth,  
24 any other state, the United States or any territory or  
25 foreign country.

26 (5) Misappropriation, conversion to his own use or  
27 improper withholding of moneys held on behalf of another  
28 party to the contract.

29 (6) [To pay or cause] Paying or causing to be paid any  
30 commission or any other compensation or thing of value

1       whatsoever to any agent, broker, attorney, partner, clerk,  
2       servant, employee or any other person, whosoever hired by or  
3       employed by or with any insured named in any policy of  
4       insurance as an inducement or solicitation to influence the  
5       contracting of services for the services of public adjuster  
6       [or public adjuster solicitor] with any insured. A public  
7       adjuster may utilize the services of any person authorized by  
8       the insurer to assist in connection with an insurance claim:  
9       Provided, That said services must not conflict with the  
10      services required to be rendered by a public adjuster.

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

19       (8) [Removal of a public adjuster's or a public adjuster  
20      solicitor's office, accounts or records from the  
21      Commonwealth] (Reserved).

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

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

28       (11) Making a material misstatement in the application  
29      for any such license.

30       (12) The commission of fraudulent practices.

1           (13) [Has] Demonstrating, in the judgment of the  
2 Insurance Commissioner, [demonstrated] his incompetency or  
3 untrustworthiness to transact the business of a public  
4 adjuster.

5           (14) Having a public adjuster license or other  
6 professional license, or its equivalent, denied, suspended or  
7 revoked by a governmental entity or self-regulating  
8 professional association.

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

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

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

16           (18) Failing to notify the department of a change  
17 of address OF ADDRESS within 30 days.

18           (19) SOLICITING BUSINESS DURING THE PROGRESS OF A LOSS-  
19 PRODUCING OCCURRENCE.

20           (20) INTERFERING WITH OR SEEKING TO PROHIBIT  
21 COMMUNICATION OR ANY FORM OF CONTACT BETWEEN THE INSURER AND  
22 THE INSURED.

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.] A PERSON, ←  
25 PARTNERSHIP, ASSOCIATION OR CORPORATION THAT WILLFULLY VIOLATES  
26 SECTION 6(A) (1), (2), (3), (5), (6) OR (12) SHALL BE GUILTY OF A  
27 FELONY OF THE THIRD DEGREE. A VIOLATION OF ANOTHER PROVISION OF  
28 THIS ACT SHALL CONSTITUTE A MISDEMEANOR AND, UPON CONVICTION, A  
29 VIOLATOR SHALL BE SENTENCED TO PAY A FINE OF NOT LESS THAN \$500  
30 NOR MORE THAN \$1,000 FOR EACH VIOLATION AND CONVICTION.

1 SECTION 6. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

2 SECTION 7.1. CIVIL REMEDY.

3 A VIOLATION OF THIS ACT MAY ALSO BE A VIOLATION OF THE ACT OF  
4 DECEMBER 17, 1968 (P.L.1224, NO.387), KNOWN AS THE UNFAIR TRADE  
5 PRACTICES AND CONSUMER PROTECTION LAW.

6 SECTION 7. SECTION 8 OF THE ACT IS AMENDED TO READ:


7 Section 8. Administration and enforcement.


8 (a) Insurance Commissioner to administer and enforce act.--  
9 The Insurance Commissioner is hereby charged with the  
10 administration and enforcement of this act and shall prescribe,  
11 publish, adopt and promulgate rules and regulations in  
12 connection herewith.

13 (b) Insurance Commissioner may bring actions.--The Insurance  
14 Commissioner or a duly authorized representative may maintain an  
15 action for an injunction or other process against any person[,  
16 partnership, association, corporation] or other entity to  
17 restrain and prevent any of the foregoing from transacting  
18 business as a public adjuster [or public adjuster solicitor]  
19 without a license. Any such action shall be instituted in the  
20 court of common pleas in any county where the alleged unlicensed  
21 activity occurred. Such court may issue a temporary restraining  
22 order or injunction under this act but shall determine any such  
23 action on its merits as soon as possible whether in term time or  
24 in vacation. No bond shall be required of and no costs shall be  
25 taxed against the Insurance Commissioner, his duly authorized  
26 representative or the Insurance Department on account of any  
27 such action.

28 (c) Act to be supplementary.--The provisions of this act  
29 shall be constructed as supplementary to all other acts dealing  
30 with the same subject matter. No action brought under the

1 provisions of this act shall prevent the prosecution or  
2 institution of any civil or criminal action otherwise provided  
3 by law for violation of any licensing act or departmental rule  
4 or regulation promulgated thereunder.

5 Section ~~4~~ 8. A person licensed as a public adjuster   
6 solicitor before this section takes effect shall be licensed as  
7 a public adjuster in accordance with the act and subject to its  
8 requirements.

9 SECTION 9. REGULATIONS NOT CLEARLY INCONSISTENT WITH THE   
10 PROVISIONS OF THIS ACT SHALL REMAIN IN EFFECT UNTIL REPLACED,  
11 REVISED OR AMENDED.

12 Section ~~5~~ 10. This act shall take effect in 180 days. 