

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 424 Session of
2011INTRODUCED BY GODSHALL, MICOZZIE, CALTAGIRONE, DeLUCA,
HENNESSEY, SWANGER AND TAYLOR, FEBRUARY 3, 2011AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 24, 2011

AN ACT

~~Amending the act of December 20, 1983 (P.L.260, No.72), entitled~~ ←
~~"An act providing for the licensing and regulating of public~~
~~adjusters and public adjuster solicitors," further providing~~
~~for violations; and providing for civil remedy.~~

AMENDING THE ACT OF DECEMBER 20, 1983 (P.L.260, NO.72), ENTITLED ←
"AN ACT PROVIDING FOR THE LICENSING AND REGULATING OF PUBLIC
ADJUSTERS AND PUBLIC ADJUSTER SOLICITORS," FURTHER PROVIDING
FOR DEFINITIONS AND FOR LICENSE; PROVIDING FOR APPLICATION
FOR PUBLIC ADJUSTER LICENSE, FOR LICENSING, FOR ISSUANCE AND
TERM OF LICENSE, FOR LICENSE RENEWALS AND FOR RECIPROCAL
LICENSING; FURTHER PROVIDING FOR FEES, FOR BOND AND FOR
CONTRACT; PROVIDING FOR WRITTEN DISCLOSURE OF FINANCIAL
INTEREST; FURTHER PROVIDING FOR REVOCATION, ETC., OF LICENSE
AND FOR VIOLATIONS; PROVIDING FOR CIVIL REMEDY; FURTHER
PROVIDING FOR ADMINISTRATION AND ENFORCEMENT; AND PROVIDING
FOR PERSONS LICENSED AS PUBLIC ADJUSTER SOLICITORS.

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

~~Section 1. Section 7 of the act of December 20, 1983~~ ←
~~(P.L.260, No.72), referred to as the Public Adjuster Licensing~~
~~Law, is amended to read:~~

~~Section 7. Violations.~~

~~[Any person, partnership, association or corporation~~
~~violating any of the provisions of this act shall be guilty of a~~

~~misdemeanor and, upon conviction thereof, shall be sentenced to~~
~~pay a fine of not less than \$500 nor more than \$1,000 for each~~
~~violation and conviction. Prosecution for any violation under~~
~~this section may be instituted by the Insurance Commissioner or~~
~~his duly authorized representative.] Any person, partnership,~~
~~association or corporation that willfully violates section 6(a)~~
~~(1), (2), (3), (5), (6) or (12) of this act, shall be guilty of~~
~~a felony of the third degree. A violation of any other provision~~
~~of this act shall constitute a misdemeanor and, upon conviction~~
~~thereof, a violator shall be sentenced to pay a fine of not less~~
~~than \$500 nor more than \$1000 for each violation and conviction.~~
~~Prosecution for any violation under this section is at the~~
~~discretion of the Insurance Commissioner and may be instituted~~
~~by the Insurance Commissioner or his duly authorized~~
~~representative.~~

~~Section 2. The act is amended by adding a section to read:~~
~~Section 7.1. Civil remedy.~~

~~A violation of this act may also be a violation of the act of~~
~~December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade~~
~~Practices and Consumer Protection Law.~~

~~Section 3. This act shall take effect in 60 days.~~

SECTION 1. SECTIONS 1 AND 2 OF THE ACT OF DECEMBER 20, 1983
(P.L.260, NO.72), REFERRED TO AS THE PUBLIC ADJUSTER LICENSING
LAW, ARE AMENDED TO READ:

SECTION 1. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
CONTEXT CLEARLY INDICATES OTHERWISE:

"APPLICATION." A FORM APPROVED BY THE INSURANCE DEPARTMENT
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 PUBLIC
10 ADJUSTER.

11 "LICENSEE." A PERSON LICENSED BY THE INSURANCE DEPARTMENT AS
12 A 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:

(I) A WRITTEN EXAMINATION IS REQUIRED OF APPLICANTS FOR AN INSURANCE PUBLIC ADJUSTER OR PUBLIC ADJUSTER SOLICITOR LICENSE IN SUCH OTHER STATE OR PROVINCE;

(II) THE APPROPRIATE OFFICIAL OF THE OTHER STATE OR PROVINCE CERTIFIES THAT THE APPLICANT HOLDS A CURRENTLY VALID LICENSE AS A PUBLIC ADJUSTER OR PUBLIC ADJUSTER SOLICITOR IN SUCH OTHER STATE OR PROVINCE AND EITHER PASSED SUCH A WRITTEN EXAMINATION OR WAS THE HOLDER OF AN INSURANCE AGENT'S LICENSE PRIOR TO THE TIME A WRITTEN EXAMINATION WAS REQUIRED; AND

(III) THAT IN SUCH OTHER STATE OR PROVINCE A RESIDENT OF THIS COMMONWEALTH IS PRIVILEGED TO PROCURE A PUBLIC ADJUSTER OR PUBLIC ADJUSTER SOLICITOR LICENSE UPON THE FOREGOING CONDITIONS AND WITHOUT DISCRIMINATION AS TO FEES OTHERWISE IN FAVOR OF THE RESIDENTS OF SUCH OTHER STATE OR PROVINCE.] (RESERVED).

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

SECTION 2. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:
SECTION 2.1. APPLICATION FOR PUBLIC ADJUSTER LICENSE.

(A) INDIVIDUALS.--AN INDIVIDUAL WHO IS A RESIDENT OF THIS COMMONWEALTH MAY APPLY TO THE DEPARTMENT FOR A RESIDENT PUBLIC ADJUSTER LICENSE. AN INDIVIDUAL WHO IS NOT A RESIDENT OF THIS COMMONWEALTH MAY APPLY FOR A NONRESIDENT PUBLIC ADJUSTER LICENSE. TO APPLY FOR A PUBLIC ADJUSTER LICENSE, AN INDIVIDUAL SHALL SUBMIT TO THE DEPARTMENT:

1 (1) A COMPLETED APPLICATION ON FORMS APPROVED BY THE
2 DEPARTMENT;

3 (2) THE APPLICANT'S FINGERPRINTS, FOR THE DEPARTMENT TO
4 RECEIVE NATIONAL CRIMINAL HISTORY RECORDS INFORMATION FROM
5 THE CRIMINAL JUSTICE INFORMATION SERVICES DIVISION OF THE
6 FEDERAL BUREAU OF INVESTIGATION;

7 (3) DOCUMENTATION VERIFYING THE APPLICANT PASSED OR IS
8 EXEMPT FROM THE PUBLIC ADJUSTER LICENSING EXAMINATION; AND

9 (4) THE REQUIRED LICENSE FEE AND FEES FOR OBTAINING
10 NATIONAL CRIMINAL HISTORY RECORDS INFORMATION.

11 (B) BUSINESS ENTITIES.--UPON DESIGNATING ONE OR MORE
12 OFFICERS OR PARTNERS LICENSED UNDER THIS ACT TO BE RESPONSIBLE
13 FOR THE BUSINESS ENTITY'S COMPLIANCE WITH THE INSURANCE LAWS AND
14 REGULATIONS OF THE COMMONWEALTH, A BUSINESS ENTITY MAY APPLY TO
15 THE DEPARTMENT FOR A PUBLIC ADJUSTER LICENSE. A BUSINESS ENTITY
16 WITH AN OFFICE IN THIS COMMONWEALTH SHALL APPLY FOR A RESIDENT
17 PUBLIC ADJUSTER LICENSE. A BUSINESS ENTITY THAT DOES NOT HAVE AN
18 OFFICE IN THIS COMMONWEALTH SHALL APPLY FOR A NONRESIDENT PUBLIC
19 ADJUSTER LICENSE. THE DESIGNATED LICENSEES OF THE BUSINESS
20 ENTITY SHALL SUBMIT TO THE DEPARTMENT:

21 (1) A COMPLETED BUSINESS ENTITY APPLICATION ON FORMS
22 APPROVED BY THE DEPARTMENT;

23 (2) PROOF OF THE PUBLIC ADJUSTER LICENSE HELD BY THE
24 DESIGNATED LICENSEES; AND

25 (3) THE REQUIRED LICENSE FEE.

26 (C) LICENSE FEE.--A NONREFUNDABLE \$200 FEE SHALL ACCOMPANY A
27 COMPLETED APPLICATION FOR A RESIDENT OR NONRESIDENT PUBLIC
28 ADJUSTER LICENSE UNTIL MODIFIED BY THE DEPARTMENT BY REGULATION.
29 SECTION 2.2. LICENSING.

30 (A) INDIVIDUALS.--THE DEPARTMENT SHALL REVIEW EACH

1 APPLICATION AND MAY CONDUCT AN INVESTIGATION OF EACH INDIVIDUAL
2 WHO APPLIES FOR A LICENSE IN ACCORDANCE WITH THIS ACT. THE
3 DEPARTMENT SHALL ISSUE A RESIDENT OR NONRESIDENT PUBLIC ADJUSTER
4 LICENSE, AS APPROPRIATE, TO THE APPLICANT WHEN THE DEPARTMENT IS
5 SATISFIED THE FOLLOWING CRITERIA HAVE BEEN MET:

6 (1) THE APPLICANT HAS REACHED 18 YEARS OF AGE;

7 (2) THE APPLICANT HAS NOT COMMITTED ANY ACT WHICH IS
8 PROHIBITED UNDER THIS ACT;

9 (3) THE APPLICANT HAS PASSED OR IS EXEMPT FROM THE
10 PUBLIC INSURANCE ADJUSTER LICENSING EXAMINATION;

11 (4) THE APPLICANT HAS PAID THE APPLICABLE FEES
12 ESTABLISHED UNDER THIS ACT;

13 (5) THE APPLICANT POSSESSES THE GENERAL FITNESS,
14 COMPETENCE AND RELIABILITY SUFFICIENT TO SATISFY THE
15 DEPARTMENT THE APPLICANT IS WORTHY OF LICENSURE; AND

16 (6) OTHER CRITERIA AS THE DEPARTMENT MAY ESTABLISH.

17 (B) BUSINESS ENTITIES.--THE DEPARTMENT SHALL REVIEW EACH
18 BUSINESS ENTITY APPLICATION AND MAY CONDUCT AN INVESTIGATION OF
19 EACH BUSINESS ENTITY SEEKING LICENSURE AND ITS DESIGNATED
20 LICENSEES. THE DEPARTMENT SHALL ISSUE A RESIDENT OR NONRESIDENT
21 PUBLIC ADJUSTER LICENSE, AS APPROPRIATE, TO THE BUSINESS ENTITY
22 WHEN THE DEPARTMENT IS SATISFIED THE FOLLOWING CRITERIA HAVE
23 BEEN MET:

24 (1) THE BUSINESS ENTITY HAS ONE OR MORE DESIGNATED
25 LICENSEES WHO ARE RESPONSIBLE FOR THE BUSINESS ENTITY'S
26 COMPLIANCE WITH THE INSURANCE LAWS AND REGULATIONS OF THIS
27 COMMONWEALTH;

28 (2) THE BUSINESS ENTITY'S DESIGNATED LICENSEES AND
29 OFFICERS, PARTNERS OR MEMBERS ARE LICENSEES IN GOOD STANDING
30 WITH THE DEPARTMENT;

1 (3) IF A CORPORATION OR LIMITED LIABILITY COMPANY,
2 INDIVIDUAL PUBLIC ADJUSTER LICENSES SHALL BE HELD BY OR
3 SECURED FOR EACH OFFICER OF THE CORPORATION OR LIMITED
4 LIABILITY COMPANY;

5 (4) IF A PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP OR
6 ASSOCIATION, INDIVIDUAL PUBLIC ADJUSTER LICENSES SHALL BE
7 HELD BY OR SECURED FOR EACH PARTNER OR MEMBER OF THE
8 ASSOCIATION;

9 (5) THE BUSINESS ENTITY OR ITS DESIGNATED LICENSEES HAVE
10 NOT COMMITTED AN ACT WHICH IS PROHIBITED UNDER THIS ACT;

11 (6) THE BUSINESS ENTITY IS OWNED, OPERATED AND MANAGED
12 BY PERSONS POSSESSING THE GENERAL FITNESS, COMPETENCE AND
13 RELIABILITY SUFFICIENT TO SATISFY THE DEPARTMENT THAT THE
14 BUSINESS ENTITY IS WORTHY OF LICENSURE;

15 (7) THE BUSINESS ENTITY HAS PAID THE APPLICABLE FEES
16 ESTABLISHED UNDER THIS ACT; AND

17 (8) OTHER CRITERIA AS THE DEPARTMENT MAY ESTABLISH.

18 SECTION 2.3. ISSUANCE AND TERM OF LICENSE.

19 A PUBLIC ADJUSTER LICENSE ISSUED BY THE DEPARTMENT SHALL BE:

20 (1) ISSUED ONLY IN THE NAME OF THE INDIVIDUAL OR
21 BUSINESS ENTITY. IF A LICENSEE IS DOING BUSINESS UNDER A
22 FICTITIOUS NAME OTHER THAN THE NAME APPEARING ON THE PUBLIC
23 ADJUSTER LICENSE, THE LICENSEE IS REQUIRED TO NOTIFY THE
24 DEPARTMENT IN WRITING PRIOR TO USING THE FICTITIOUS NAME;

25 (2) ISSUED IN PAPER OR ELECTRONIC FORM;

26 (3) NONTRANSFERABLE; AND

27 (4) ISSUED FOR A PERIOD NOT TO EXCEED TWO YEARS.

28 SECTION 2.4. LICENSE RENEWALS.

29 (A) GENERAL RULE.--A LICENSEE MAY REQUEST RENEWAL OF THE
30 LICENSE. THE LICENSEE SHALL SUBMIT TO THE DEPARTMENT A COMPLETED

1 RENEWAL FORM, THE REQUIRED FEE AND VERIFICATION THE LICENSEE HAS
2 COMPLETED THE CONTINUING EDUCATION REQUIRED BY THIS ACT. UPON
3 RECEIPT AND REVIEW, THE DEPARTMENT SHALL RENEW THE LICENSE
4 UNLESS IT DETERMINES THE LICENSEE IS NOT IN COMPLIANCE WITH THIS
5 ACT.

6 (B) CONTINUING EDUCATION.--A LICENSEE WHO IS NOT A BUSINESS
7 ENTITY SHALL SUCCESSFULLY COMPLETE 24 CREDIT HOURS OF APPROVED
8 CONTINUING EDUCATION FOR EACH TWO-YEAR LICENSE PERIOD AS A
9 CONDITION FOR LICENSE RENEWAL UNLESS MODIFIED BY THE DEPARTMENT
10 BY REGULATION. A LICENSEE MAY CARRY FORWARD EXCESS CONTINUING
11 EDUCATION CREDIT HOURS UP TO 24 CREDIT HOURS FROM ONE LICENSING
12 PERIOD TO THE NEXT LICENSING PERIOD.

13 (C) LAPSES.--A LICENSEE WHO ALLOWS HIS LICENSE TO LAPSE BY
14 FAILING TO TIMELY RENEW THE LICENSE, PAY THE FEE REQUIRED BY
15 THIS ACT OR COMPLETE THE CONTINUING EDUCATION REQUIRED BY THIS
16 ACT MAY WITHIN 60 DAYS OF THE LICENSE RENEWAL DATE REQUEST THE
17 DEPARTMENT TO REINSTATE THE LICENSE. PERSONS REQUESTING
18 REINSTATEMENT OF A LAPSED LICENSE SHALL SUBMIT A COMPLETED
19 RENEWAL FORM, THE FEE REQUIRED BY THIS ACT AND VERIFICATION THE
20 PERSON HAS COMPLETED ALL CONTINUING EDUCATION REQUIRED BY
21 SUBSECTION (B) FOR THE PREVIOUSLY LICENSED AND LAPSED PERIODS.
22 IF THE DEPARTMENT RECEIVES A REQUEST FOR REINSTATEMENT TOGETHER
23 WITH A COMPLETED RENEWAL APPLICATION, PAYMENT OF THE LAPSED
24 LICENSE FEE AND PROOF OF CONTINUING EDUCATION COMPLIANCE WITHIN
25 60 DAYS AFTER THE LICENSE LAPSED, THE DEPARTMENT SHALL REINSTATE
26 THE LICENSE RETROACTIVELY WITH THE REINSTATEMENT EFFECTIVE ON
27 THE DATE THE LICENSE LAPSED. EXCEPT AS SET FORTH IN SUBSECTION
28 (D), IF A PERSON APPLIES FOR REINSTATEMENT MORE THAN 60 DAYS
29 AFTER THE LAPSE DATE, THE PERSON SHALL REAPPLY FOR A LICENSE
30 UNDER THIS ACT.

1 (D) EXTENUATING CIRCUMSTANCES.--A LICENSEE WHO IS UNABLE TO
2 TIMELY COMPLY WITH THE REQUIREMENTS OF SUBSECTION (A) AS A
3 RESULT OF MILITARY SERVICE OR OTHER EXTENUATING CIRCUMSTANCE MAY
4 REQUEST THE DEPARTMENT TO WAIVE THE REQUIREMENTS OF COMPLETING
5 CONTINUING EDUCATION FOR THE PERIOD IN WHICH THE LICENSE HAD
6 LAPSED AND PAYMENT OF THE LAPSED LICENSE FEE. THE REQUEST SHALL
7 INCLUDE SUFFICIENT DETAIL AND SUPPORTING DOCUMENTATION TO
8 DETERMINE THE NECESSITY OF THE WAIVER. IF THE DEPARTMENT
9 DETERMINES THAT THERE IS GOOD CAUSE FOR NONCOMPLIANCE, THE
10 DEPARTMENT SHALL GRANT THE WAIVER AND PERMIT THE LICENSEE TO
11 REQUEST RENEWAL OF THE LICENSE IN ACCORDANCE WITH THIS ACT.

12 (E) RENEWAL FEES.--THE FOLLOWING NONREFUNDABLE FEES SHALL
13 ACCOMPANY AN APPLICATION FOR RENEWAL OF A PUBLIC ADJUSTER
14 LICENSE UNLESS MODIFIED BY THE DEPARTMENT BY REGULATION:

15 (1) RESIDENT OR NONRESIDENT RENEWAL FEE, \$200.

16 (2) LAPSED LICENSE RENEWAL FEE, \$400.

17 SECTION 2.5. RECIPROCAL LICENSING.

18 (A) NONRESIDENT INDIVIDUALS.--

19 (1) AN INDIVIDUAL WHO IS CURRENTLY LICENSED AS A
20 RESIDENT PUBLIC ADJUSTER IN ANOTHER STATE OR TERRITORY MAY
21 APPLY TO THE DEPARTMENT FOR A NONRESIDENT PUBLIC ADJUSTER
22 LICENSE. THE INDIVIDUAL SHALL SUBMIT TO THE DEPARTMENT A
23 COMPLETED APPLICATION, PROOF OF THE INDIVIDUAL'S CURRENT HOME
24 STATE LICENSE IN A FORM OR MANNER DETERMINED ACCEPTABLE BY
25 THE DEPARTMENT AND THE REQUIRED LICENSE FEE.

26 (2) UPON RECEIPT AND REVIEW OF THE APPLICATION, PROOF OF
27 THE HOME STATE LICENSE IN A FORM OR MANNER DETERMINED
28 ACCEPTABLE BY THE DEPARTMENT AND THE FEE, THE DEPARTMENT
29 SHALL ISSUE A NONRESIDENT PUBLIC ADJUSTER LICENSE TO THE
30 INDIVIDUAL. THE DEPARTMENT MAY DENY THE APPLICATION IF THE

1 INDIVIDUAL'S HOME STATE DOES NOT AWARD NONRESIDENT PUBLIC
2 ADJUSTER LICENSES TO RESIDENT LICENSEES OF THIS COMMONWEALTH
3 ON THE SAME BASIS.

4 (B) NONRESIDENT BUSINESS ENTITIES.--

5 (1) UPON DESIGNATING ONE OR MORE INDIVIDUALS LICENSED
6 UNDER THIS ACT TO BE RESPONSIBLE FOR THE BUSINESS ENTITY'S
7 COMPLIANCE WITH THE INSURANCE LAWS AND REGULATIONS OF THIS
8 COMMONWEALTH, A BUSINESS ENTITY WHICH IS CURRENTLY LICENSED
9 AS A RESIDENT PUBLIC ADJUSTER IN ANOTHER STATE OR TERRITORY
10 MAY APPLY TO THE DEPARTMENT FOR A NONRESIDENT PUBLIC ADJUSTER
11 LICENSE. THE DESIGNATED LICENSEES OF THE BUSINESS ENTITY
12 SHALL REMIT TO THE DEPARTMENT A COMPLETED BUSINESS ENTITY
13 APPLICATION, PROOF OF THE BUSINESS ENTITY'S CURRENT HOME
14 STATE LICENSE IN A FORM OR MANNER DETERMINED ACCEPTABLE BY
15 THE DEPARTMENT AND THE REQUIRED LICENSE FEE.

16 (2) UPON RECEIPT AND REVIEW OF THE APPLICATION, PROOF OF
17 THE HOME STATE LICENSE IN A FORM OR MANNER DETERMINED
18 ACCEPTABLE BY THE DEPARTMENT AND THE FEE, THE DEPARTMENT
19 SHALL ISSUE A NONRESIDENT PUBLIC ADJUSTER LICENSE TO THE
20 BUSINESS ENTITY IF THE DEPARTMENT DETERMINES THAT THE
21 BUSINESS ENTITY, ITS PARTNERS, MEMBERS OR OFFICERS, AND ITS
22 DESIGNATED LICENSEES ARE LICENSEES IN GOOD STANDING IN THE
23 BUSINESS ENTITY'S HOME STATE. THE DEPARTMENT MAY DENY THE
24 APPLICATION IF THE BUSINESS ENTITY'S HOME STATE DOES NOT
25 AWARD NONRESIDENT PUBLIC ADJUSTER LICENSES TO RESIDENT
26 LICENSEES OF THIS COMMONWEALTH ON THE SAME BASIS.

27 SECTION 3. SECTION 3 OF THE ACT IS AMENDED TO READ:

28 SECTION 3. [FEES.

29 (A) PUBLIC ADJUSTER'S LICENSE.--A FEE SHALL BE PAID TO THE
30 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 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"
SHALL INCLUDE A CORPORATION, PARTNERSHIP, ASSOCIATION, JOINT-
STOCK COMPANY OR PERSON.

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

SECTION 4. BOND.

1 (A) PUBLIC ADJUSTER'S BOND.--EACH PERSON[, PARTNERSHIP,
2 ASSOCIATION OR CORPORATION] RECEIVING A PUBLIC ADJUSTER'S
3 LICENSE SHALL, BEFORE TRANSACTING ANY BUSINESS THEREUNDER,
4 EXECUTE AND DELIVER TO THE INSURANCE COMMISSIONER A BOND IN THE
5 MINIMUM PENAL SUM OF [\$40,000] \$20,000 WITH SUCH SURETIES AS THE
6 INSURANCE COMMISSIONER MAY APPROVE.

7 (B) [PUBLIC ADJUSTER SOLICITOR'S BOND.--EACH PERSON,
8 PARTNERSHIP, ASSOCIATION OR CORPORATION RECEIVING A PUBLIC
9 ADJUSTER SOLICITOR'S LICENSE SHALL, BEFORE TRANSACTING ANY
10 BUSINESS THEREUNDER, EXECUTE AND DELIVER TO THE INSURANCE
11 COMMISSIONER A BOND IN THE MINIMUM PENAL SUM OF \$8,000 WITH SUCH
12 SURETIES AS THE INSURANCE COMMISSIONER MAY APPROVE.] (RESERVED).

13 (C) CONDITION OF BOND.--THE BOND OF THE PUBLIC ADJUSTER [AND
14 THE PUBLIC ADJUSTER SOLICITOR] SHALL BE CONDITIONED THAT SAID
15 PUBLIC ADJUSTER [OR PUBLIC ADJUSTER SOLICITOR] WILL FAITHFULLY
16 COMPLY WITH ALL THE REQUIREMENTS OF THIS ACT AND SHALL NOT
17 EMBEZZLE, TAKE, SECRETE OR OTHERWISE DISPOSE OF OR FRAUDULENTLY
18 WITHHOLD, APPROPRIATE, LEND, INVEST OR OTHERWISE USE OR APPLY
19 ANY MONEY OR SUBSTITUTES FOR MONEY OR ANY SALVAGE, GOODS OR
20 PROPERTY RECEIVED BY HIM AS SUCH PUBLIC ADJUSTER [OR PUBLIC
21 ADJUSTER SOLICITOR] OR EMPLOYEE OF A PUBLIC ADJUSTER, CONTRARY
22 TO THE INSTRUCTIONS OR WITHOUT THE CONSENT OF THE ASSURED OR HIS
23 LEGAL REPRESENTATIVE. ANY PERSON, FIRM OR CORPORATION WHO HAS
24 ENTERED INTO A CONTRACT WITH A PUBLIC ADJUSTER, AS PROVIDED IN
25 SECTION 5, AND WHO SHALL SUFFER LOSS BY REASON OF THE FAILURE OF
26 THE PUBLIC ADJUSTER TO COMPLY WITH THIS ACT AND FAITHFULLY
27 PERFORM HIS DUTIES SHALL HAVE THE RIGHT TO INTERVENE AND BE MADE
28 A PARTY TO ANY ACTION INSTITUTED BY THE COMMONWEALTH ON THE BOND
29 OF THE PUBLIC ADJUSTER AND TO HAVE HIS, HER OR ITS RIGHTS AND
30 CLAIMS ADJUDICATED IN SUCH ACTION AND JUDGMENT RENDERED THEREON,

1 SUBJECT, HOWEVER, TO THE PRIORITY OF THE CLAIM AND JUDGMENT OF
2 THE COMMONWEALTH. IF THE AMOUNT OF THE LIABILITY OF THE SURETY
3 ON SAID BOND IS SUFFICIENT TO PAY THE FULL AMOUNT DUE THE
4 COMMONWEALTH, THE REMAINDER SHALL BE DISTRIBUTED PRO RATA AMONG
5 SAID INTERVENORS. IF NO SUIT SHOULD BE BROUGHT BY THE
6 COMMONWEALTH OF PENNSYLVANIA, UPON APPLICATION THEREFORE AND
7 FURNISHING AFFIDAVIT TO THE INSURANCE DEPARTMENT THAT LOSS HAS
8 BEEN SUFFERED BY REASON OF FAILURE OF THE PUBLIC ADJUSTER TO
9 COMPLY WITH THIS ACT OR FAITHFULLY PERFORM HIS DUTIES, SUCH
10 INSURED SHALL BE FURNISHED WITH A CERTIFIED COPY OF SAID BOND,
11 UPON WHICH HE, SHE OR IT SHALL HAVE A RIGHT OF ACTION, AND SHALL
12 BE AND ARE HEREBY AUTHORIZED TO BRING SUIT IN THE NAME OF THE
13 COMMONWEALTH FOR HIS, HER OR ITS USE AND BENEFIT AGAINST SAID
14 PUBLIC ADJUSTER AND HIS SURETIES AND TO PROSECUTE THE SAME TO
15 FINAL JUDGMENT AND EXECUTION. WHERE SUIT IS INSTITUTED BY ANY
16 SUCH INSUREDS ON THE BOND OF THE PUBLIC ADJUSTER, IT SHALL BE
17 COMMENCED WITHIN ONE YEAR AFTER THE PERFORMANCE AND FINAL
18 SETTLEMENT OF SAID CONTRACT, AND NOT LATER. WHERE SUIT IS SO
19 INSTITUTED BY AN INSURED OR INSUREDS, NO OTHER ACTION SHALL BE
20 BROUGHT BY ANY OTHER CLAIMANT, BUT ANY OTHER CLAIMANT MAY FILE
21 HIS CLAIM IN THE ACTION FIRST BROUGHT AND BE MADE PARTY THERETO
22 WITHIN ONE YEAR FROM THE COMPLETION OF THE WORK UNDER SAID
23 CONTRACT, AND NOT LATER. IF TWO OR MORE ACTIONS BE BROUGHT ON
24 THE SAME DAY, THE ACTION IN WHICH THE LARGEST CLAIM IS DEMANDED
25 SHALL BE REGARDED AS THE FIRST ACTION. ANY CREDITOR WHO HAS
26 BROUGHT AN ACTION WITHIN ONE YEAR AS AFORESAID, BUT AFTER SUIT
27 BROUGHT BY ANOTHER CREDITOR OR ON THE SAME DAY, MAY INTERVENE IN
28 THE SUIT FIRST BROUGHT WITHIN THE YEAR, NOTWITHSTANDING THE FACT
29 THAT THE INTERVENTION IN SUCH CASE BE AFTER THE EXPIRATION OF
30 THE YEAR, PROVIDED SAID INTERVENTION BE MADE WITHIN 30 DAYS

1 AFTER THE EXPIRATION OF THE YEAR. IF THE RECOVERY ON THE BOND
2 SHOULD BE INADEQUATE TO PAY THE AMOUNTS FOUND DUE TO ALL OF SAID
3 CREDITORS, JUDGMENT SHALL BE GIVEN TO EACH CREDITOR PRO RATA OF
4 THE AMOUNT OF THE RECOVERY. THE SURETY ON SAID BOND MAY PAY INTO
5 THE COURT, FOR DISTRIBUTION AMONG SAID CLAIMANTS AND CREDITORS,
6 THE FULL AMOUNT OF THE SURETY'S LIABILITY, TO WIT, THE PENALTY
7 NAMED IN THE BOND, LESS ANY AMOUNT WHICH SAID SURETY MAY HAVE
8 HAD TO PAY TO THE COMMONWEALTH BY REASON OF THE EXECUTION OF
9 SAID BOND, AND, UPON SO DOING, THE SURETY WILL BE RELIEVED FROM
10 FURTHER LIABILITY. IN ALL SUITS INSTITUTED UNDER THE PROVISIONS
11 OF THIS ACT, SUCH PERSONAL NOTICE OF THE PENDENCY OF SUCH SUITS,
12 INFORMING THEM OF THEIR RIGHT TO INTERVENE, AS THE COURT MAY
13 ORDER, SHALL BE GIVEN TO ALL KNOWN CREDITORS AND, IN ADDITION
14 THERETO, NOTICE SHALL BE GIVEN BY PUBLICATION IN NEWSPAPERS OF
15 GENERAL CIRCULATION, PUBLISHED IN THE COUNTY OR MUNICIPALITY
16 WHERE THE CONTRACT WAS PERFORMED, ONCE A WEEK FOR AT LEAST THREE
17 SUCCESSIVE WEEKS: PROVIDED, HOWEVER, THAT, WHEN SUCH SUIT HAS
18 BEGUN WITHIN THREE WEEKS OF THE END OF THE YEAR WITHIN WHICH
19 SUIT MAY BE BROUGHT, SAID NOTICE BY PUBLICATION SHALL BE ONLY
20 FOR THE PERIOD INTERVENING BETWEEN THE TIME OF INSTITUTING SUCH
21 SUIT AND THE END OF THE YEAR.

22 SECTION 5. CONTRACT.

23 (A) WRITTEN CONTRACT REQUIRED.--NO PUBLIC ADJUSTER SHALL,
24 DIRECTLY OR INDIRECTLY, ACT WITHIN THIS COMMONWEALTH AS A PUBLIC
25 ADJUSTER WITHOUT HAVING FIRST ENTERED INTO A CONTRACT, IN
26 WRITING, ON A FORM APPROVED BY THE [INSURANCE COMMISSIONER]
27 DEPARTMENT AND EXECUTED IN DUPLICATE BY THE PUBLIC ADJUSTER AND
28 THE INSURED OR A DULY AUTHORIZED REPRESENTATIVE. ONE COPY OF
29 THIS CONTRACT SHALL BE KEPT ON FILE BY THE PUBLIC ADJUSTER,
30 AVAILABLE AT ALL TIMES FOR INSPECTION[, WITHOUT NOTICE,] BY THE

1 [INSURANCE COMMISSIONER OR HIS DULY AUTHORIZED REPRESENTATIVE.
2 NO PUBLIC ADJUSTER OR PUBLIC ADJUSTER SOLICITOR SHALL SOLICIT A
3 CLIENT FOR EMPLOYMENT WITHIN 24 HOURS OF A FIRE OR OTHER
4 CATASTROPHE OR OCCURRENCE WHICH IS THE BASIS OF THE
5 SOLICITATION. WITH RESPECT TO A FIRE, THE 24-HOUR PERIOD SHALL
6 BEGIN AT SUCH TIME AS THE FIRE DEPARTMENT IN CHARGE DETERMINES
7 THAT THE FIRE IS EXTINGUISHED. ANY CONTRACT WITH A PUBLIC
8 ADJUSTER MAY BE RESCINDED BY ANY PERSON SIGNING THE CONTRACT.
9 SUCH ACTION MUST BE TAKEN WITHIN FOUR CALENDAR DAYS AFTER
10 SIGNATURE. THE INSURANCE COMMISSIONER MAY ISSUE REGULATIONS TO
11 ASSURE THE IMPLEMENTATION OF THIS SECTION. NO PUBLIC ADJUSTER
12 SOLICITOR SHALL USE ANY FORM OF CONTRACT OTHER THAN THAT
13 APPROVED FOR THE PUBLIC ADJUSTER FOR WHOM HE IS SOLICITING, NOR
14 SHALL HE MAKE ANY CONTRACTS OR AGREEMENTS FOR HIMSELF OR FOR THE
15 PUBLIC ADJUSTER OTHER THAN SUCH AS ARE SPECIFIED IN THE APPROVED
16 CONTRACT.] DEPARTMENT. THE DEPARTMENT SHALL DISAPPROVE A
17 CONTRACT FORM IF, IN THE DEPARTMENT'S OPINION, THE CONTRACT OR
18 ITS PROVISIONS:

19 (1) FAIL TO COMPLY WITH THIS SECTION.

20 (2) ARE UNREASONABLE.

21 (3) ARE CONTRARY TO THE INTERESTS OF THE PUBLIC.

22 (4) ARE MISLEADING OR UNFAIR TO THE INSURED.

23 AT THE DEPARTMENT'S DISCRETION, THE DEPARTMENT MAY ALSO REQUIRE
24 THE SUBMISSION OF ADVERTISING OR SOLICITATION MATERIAL.

25 (A.1) RESCISSION.--A CONTRACT WITH A PUBLIC ADJUSTER MAY BE
26 RESCINDED BY ANY PERSON SIGNING THE CONTRACT.

27 (A.2) DISCLOSURE.--THE CONTRACTS SHALL DISCLOSE THE
28 FOLLOWING ITEMS WITH EACH OF THESE ITEMS SEPARATELY SIGNED OR
29 INITIALED BY THE INSURED AND THE PUBLIC ADJUSTER:

30 (1) THAT THE INSURED HAS THE RIGHT TO RESCIND THE

1 CONTRACT WITHIN FIVE BUSINESS DAYS AFTER SIGNATURE.

2 (2) FEES TO BE CHARGED OR ASSESSED BY THE PUBLIC
3 ADJUSTER TOGETHER WITH AN EXPLANATION ABOUT HOW THE FEES WILL
4 COME FROM A PORTION OF THE CLAIMS PAYMENT, IF ANY, MADE BY
5 THE INSURER UNDER THE POLICY AND ARE NOT IN ADDITION TO THE
6 PAYMENTS.

7 (3) THAT THE ADJUSTER WILL PROVIDE THE INSURED A COPY OF
8 AN ESTIMATE OR REPORT OF LOSSES AND SUPPORTING DOCUMENTATION
9 IT SENDS TO THE INSURER.

10 (4) THAT THE PUBLIC ADJUSTER IS NOT A REPRESENTATIVE OR
11 EMPLOYEE OF THE INSURER AND THE INSUREDS ARE NOT REQUIRED TO
12 HIRE A PUBLIC ADJUSTER BUT HAVE THE RIGHT TO DO SO.

13 (A.3) REGULATIONS.--THE INSURANCE COMMISSIONER MAY ISSUE
14 REGULATIONS TO ASSURE THE IMPLEMENTATION OF THIS SECTION.

15 (B) CONTRACTS ONLY AUTHORIZED BY INSURED AGAINST HIS OWN
16 CARRIER.--NO PUBLIC ADJUSTER [OR PUBLIC ADJUSTER SOLICITOR] MAY
17 ADJUST OR SOLICIT A CONTRACT FOR THE ADJUSTMENT OF ANY CLAIM FOR
18 LOSSES OR DAMAGES ON BEHALF OF ANY PERSON EXCEPT CLAIMS BY AN
19 INSURED AGAINST HIS OWN INSURANCE CARRIER.

20 (C) PERSONAL INJURY AND AUTOMOBILE PROPERTY DAMAGE CLAIMS
21 PROHIBITED.--NO PUBLIC ADJUSTER [OR PUBLIC ADJUSTER SOLICITOR]
22 SHALL ACT IN ANY MANNER IN RELATION TO CLAIMS FOR PERSONAL
23 INJURY OR AUTOMOBILE PROPERTY DAMAGE.

24 (D) CONTRACTS LIMITED TO ADJUSTMENT OF INSURANCE LOSSES.--NO
25 PUBLIC ADJUSTER [OR PUBLIC ADJUSTER SOLICITOR] SHALL, DIRECTLY
26 OR INDIRECTLY, THROUGH OR WITH ANY PERSON, PARTNERSHIP,
27 CORPORATION OR ASSOCIATION IN WHICH IT HAS AN INDIRECT OR
28 BENEFICIAL INTEREST, ENTER INTO ANY CONTRACT WITH ANY INSURED
29 FOR THE REPAIR, REPLACEMENT, RESTORATION, RENOVATION OR
30 DEMOLITION OF DAMAGED PROPERTY, REAL OR PERSONAL, AT ANY TIME

1 PRIOR TO THE DATE A VERDICT OR AWARD IS ENTERED OR PAYMENT IS
2 RECEIVED FROM THE INSURANCE CARRIER, WHICHEVER EVENT SHALL OCCUR
3 FIRST.

4 SECTION 6. REVOCATION, ETC., OF LICENSE.

5 (A) GROUNDS FOR FINES, SUSPENSIONS OR REVOCATIONS.--
6 COMMITTING ANY OF THE FOLLOWING ACTS SHALL BE GROUNDS FOR FINE,
7 SUSPENSION OR REVOCATION OF A PUBLIC ADJUSTER'S [OR PUBLIC
8 ADJUSTER SOLICITOR'S] LICENSE:

9 (1) MATERIAL MISREPRESENTATION OF THE TERMS AND EFFECT
10 OF ANY INSURANCE CONTRACT.

11 (2) ENGAGING IN, OR ATTEMPTING TO ENGAGE IN, ANY
12 FRAUDULENT [TRANSACTION] OR MISLEADING CONDUCT WITH RESPECT
13 TO A CLAIM OR LOSS THAT THE LICENSEE IS ADJUSTING. MISLEADING
14 CONDUCT SHALL NOT BE CONSIDERED A FELONY UNLESS THE CONDUCT
15 CONSTITUTES FRAUD.

16 (3) MISREPRESENTATION OF THE SERVICES OFFERED OR THE
17 FEES OR COMMISSION TO BE CHARGED.

18 (4) CONVICTION BY ANY COURT OF OR A PLEA OF NOLO
19 CONTENDERE TO A FELONY UNDER THE LAWS OF THIS COMMONWEALTH,
20 ANY OTHER STATE, THE UNITED STATES OR ANY TERRITORY OR
21 FOREIGN COUNTRY.

22 (5) MISAPPROPRIATION, CONVERSION TO HIS OWN USE OR
23 IMPROPER WITHHOLDING OF MONEYS HELD ON BEHALF OF ANOTHER
24 PARTY TO THE CONTRACT.

25 (6) [TO PAY OR CAUSE] PAYING OR CAUSING TO BE PAID ANY
26 COMMISSION OR ANY OTHER COMPENSATION OR THING OF VALUE
27 WHATSOEVER TO ANY AGENT, BROKER, ATTORNEY, PARTNER, CLERK,
28 SERVANT, EMPLOYEE OR ANY OTHER PERSON, WHOSOEVER HIRED BY OR
29 EMPLOYED BY OR WITH ANY INSURED NAMED IN ANY POLICY OF
30 INSURANCE AS AN INDUCEMENT OR SOLICITATION TO INFLUENCE THE

1 CONTRACTING OF SERVICES FOR THE SERVICES OF PUBLIC ADJUSTER
2 [OR PUBLIC ADJUSTER SOLICITOR] WITH ANY INSURED. A PUBLIC
3 ADJUSTER MAY UTILIZE THE SERVICES OF ANY PERSON AUTHORIZED BY
4 THE INSURER TO ASSIST IN CONNECTION WITH AN INSURANCE CLAIM:
5 PROVIDED, THAT SAID SERVICES MUST NOT CONFLICT WITH THE
6 SERVICES REQUIRED TO BE RENDERED BY A PUBLIC ADJUSTER.

7 (7) [TO RECEIVE] RECEIVING, DIRECTLY OR INDIRECTLY, ANY
8 COMPENSATION, COMMISSION OR THING OF VALUE OR PROFIT FROM ANY
9 PERSON, PARTNERSHIP, ASSOCIATION OR CORPORATION ENGAGED OR
10 INTERESTED IN THE BUSINESS OF SALVAGE, REPAIR, REPLACEMENT,
11 RESTORATION, RENOVATION OR DEMOLITION OF DAMAGED PROPERTY,
12 REAL OR PERSONAL, UNLESS SUCH COMPENSATION, COMMISSION OR
13 THING OF VALUE OR PROFIT IS DISCLOSED TO THE INSURED AND
14 AGREED TO IN THE CONTRACT.

15 (8) [REMOVAL OF A PUBLIC ADJUSTER'S OR A PUBLIC ADJUSTER
16 SOLICITOR'S OFFICE, ACCOUNTS OR RECORDS FROM THE
17 COMMONWEALTH] (RESERVED).

18 (9) [THE CLOSURE] CLOSING OF A LICENSEE'S OFFICE FOR A
19 PERIOD IN EXCESS OF 30 DAYS, UNLESS GRANTED PERMISSION BY THE
20 INSURANCE COMMISSIONER TO CLOSE THE OFFICE FOR A LONGER
21 PERIOD.

22 (10) VIOLATION OF ANY PROVISION OF THIS ACT OR ANY RULE
23 OR REGULATION PROMULGATED, PUBLISHED AND ADOPTED THEREUNDER.

24 (11) MAKING A MATERIAL MISSTATEMENT IN THE APPLICATION
25 FOR ANY SUCH LICENSE.

26 (12) THE COMMISSION OF FRAUDULENT PRACTICES.

27 (13) [HAS] DEMONSTRATING, IN THE JUDGMENT OF THE
28 INSURANCE COMMISSIONER, [DEMONSTRATED] HIS INCOMPETENCY OR
29 UNTRUSTWORTHINESS TO TRANSACT THE BUSINESS OF A PUBLIC
30 ADJUSTER.

1 (14) HAVING A PUBLIC ADJUSTER LICENSE OR OTHER
2 PROFESSIONAL LICENSE, OR ITS EQUIVALENT, DENIED, SUSPENDED OR
3 REVOKED BY A GOVERNMENTAL ENTITY OR SELF-REGULATING
4 PROFESSIONAL ASSOCIATION.

5 (15) FAILING TO COMPLY WITH AN ADMINISTRATIVE OR COURT
6 ORDER IMPOSING A CHILD SUPPORT OBLIGATION.

7 (16) FAILING TO PAY STATE INCOME TAX OR COMPLY WITH ANY
8 ADMINISTRATIVE OR COURT ORDER DIRECTING THE PAYMENT OF STATE
9 INCOME TAX.

10 (17) COMMITTING A MISDEMEANOR THAT INVOLVES THE MISUSE
11 OR THEFT OF MONEY OR PROPERTY BELONGING TO ANOTHER PERSON.

12 (18) FAILING TO NOTIFY THE DEPARTMENT OF A CHANGE OF
13 ADDRESS WITHIN 30 DAYS.

14 (19) SOLICITING BUSINESS DURING THE PROGRESS OF A LOSS-
15 PRODUCING OCCURRENCE SUCH AS A FIRE, TORNADO, SEVERE STORM OR
16 OTHER CATASTROPHE WHERE THE IMMEDIATE SAFETY AND SECURITY OF
17 PERSONS AND PROPERTY IS PARAMOUNT. FOR PURPOSES OF THIS
18 PARAGRAPH, IT SHALL BE PRESUMED THAT THE LOSS-PRODUCING
19 OCCURRENCE IS STILL IN PROGRESS WHILE EMERGENCY RESPONDERS
20 ARE PRESENT AT THE SCENE, UNLESS THE EMERGENCY RESPONDERS
21 HAVE DETERMINED THAT THE EMERGENCY STATUS OF THE EVENT HAS
22 ENDED.

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

26 (B) CIVIL PENALTY.--REGARDLESS OF WHETHER THE PUBLIC
27 ADJUSTER [OR PUBLIC ADJUSTER SOLICITOR] WAS LICENSED OR NOT, THE
28 INSURANCE COMMISSIONER MAY, AT HIS DISCRETION, IN CASES
29 WARRANTING SUCH ACTION, IMPOSE A CIVIL PENALTY OF NOT MORE THAN
30 [\$1,000] \$5,000 FOR EACH AND EVERY VIOLATION OF THIS ACT.

1 (C) NOTICE AND HEARING.--BEFORE THE INSURANCE COMMISSIONER
2 SHALL TAKE ANY ACTION AS ABOVE SET FORTH, HE SHALL GIVE WRITTEN
3 NOTICE TO THE PERSON[, PARTNERSHIP, ASSOCIATION OR CORPORATION]
4 ACCUSED OF VIOLATING THE LAW, STATING SPECIFICALLY THE NATURE OF
5 SUCH ALLEGED VIOLATION AND FIXING A TIME AND PLACE, AT LEAST TEN
6 DAYS THEREAFTER, WHEN A HEARING OF THE MATTER SHALL BE HELD.
7 AFTER SUCH HEARING OR UPON FAILURE OF THE ACCUSED TO APPEAR AT
8 SUCH A HEARING, THE INSURANCE COMMISSIONER SHALL IMPOSE SUCH OF
9 THE ABOVE PENALTIES AS HE DEEMS ADVISABLE. WHEN THE INSURANCE
10 COMMISSIONER SHALL HAVE TAKEN ANY ACTIONS AS ABOVE SET FORTH,
11 THE PARTY AGGRIEVED MAY APPEAL THEREFROM TO THE COMMONWEALTH
12 COURT.

13 (D) ADJUSTERS [AND SOLICITORS] RESPONSIBLE FOR CONDUCT OF
14 EMPLOYEES.--ANY PUBLIC ADJUSTER [OR PUBLIC ADJUSTER SOLICITOR]
15 EMPLOYING, OR USING THE SERVICES OF, ANY PERSON TO SOLICIT
16 BUSINESS SHALL BE HELD FULLY RESPONSIBLE FOR THE CONDUCT OF THAT
17 PERSON IN CONNECTION WITH BUSINESS DEALINGS, INCLUDING, BUT NOT
18 LIMITED TO, MAKING CERTAIN THAT SUCH PERSON HAS A VALID LICENSE
19 AS A PUBLIC ADJUSTER [OR PUBLIC ADJUSTER SOLICITOR].

20 SECTION 7. VIOLATIONS.

21 [ANY PERSON, PARTNERSHIP, ASSOCIATION OR CORPORATION
22 VIOLATING ANY OF THE PROVISIONS OF THIS ACT SHALL BE GUILTY OF A
23 MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE SENTENCED TO
24 PAY A FINE OF NOT LESS THAN \$500 NOR MORE THAN \$1,000 FOR EACH
25 VIOLATION AND CONVICTION. PROSECUTION FOR ANY VIOLATION UNDER
26 THIS SECTION MAY BE INSTITUTED BY THE INSURANCE COMMISSIONER OR
27 HIS DULY AUTHORIZED REPRESENTATIVE.] A PERSON, PARTNERSHIP,
28 ASSOCIATION OR CORPORATION THAT WILLFULLY VIOLATES SECTION 6(A)
29 (1), (2), (3), (5), (6) OR (12) SHALL BE GUILTY OF A FELONY OF
30 THE THIRD DEGREE. A VIOLATION OF ANOTHER PROVISION OF THIS ACT

1 SHALL CONSTITUTE A MISDEMEANOR AND, UPON CONVICTION, A VIOLATOR
2 SHALL BE SENTENCED TO PAY A FINE OF NOT LESS THAN \$500 NOR MORE
3 THAN \$1,000 FOR EACH VIOLATION AND CONVICTION.

4 SECTION 6. THE ACT IS AMENDED BY ADDING A SECTION TO READ:
5 SECTION 7.1. CIVIL REMEDY.

6 IN ADDITION TO THE AUTHORITY OF THE ATTORNEY GENERAL UNDER
7 THE ACT OF JULY 6, 1984 (P.L.614, NO.127), KNOWN AS THE SHERIFF
8 FEE ACT, AND 18 PA.C.S. § 4117 (RELATING TO MOTOR VEHICLE
9 INSURANCE FRAUD), IF THE ATTORNEY GENERAL FINDS THAT THERE HAS
10 BEEN A VIOLATION OF THIS ACT, THE ATTORNEY GENERAL MAY BRING AN
11 ACTION TO IMPOSE A CIVIL PENALTY AND TO SEEK OTHER RELIEF,
12 INCLUDING INJUNCTIVE RELIEF, UNDER THE ACT OF DECEMBER 17, 1968
13 (P.L.1224, NO.387), KNOWN AS THE UNFAIR TRADE PRACTICES AND
14 CONSUMER PROTECTION LAW.

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

16 SECTION 8. ADMINISTRATION AND ENFORCEMENT.

17 (A) INSURANCE COMMISSIONER TO ADMINISTER AND ENFORCE ACT.--
18 THE INSURANCE COMMISSIONER IS HEREBY CHARGED WITH THE
19 ADMINISTRATION AND ENFORCEMENT OF THIS ACT AND SHALL PRESCRIBE,
20 PUBLISH, ADOPT AND PROMULGATE RULES AND REGULATIONS IN
21 CONNECTION HERewith.

22 (B) INSURANCE COMMISSIONER MAY BRING ACTIONS.--THE INSURANCE
23 COMMISSIONER OR A DULY AUTHORIZED REPRESENTATIVE MAY MAINTAIN AN
24 ACTION FOR AN INJUNCTION OR OTHER PROCESS AGAINST ANY PERSON[,
25 PARTNERSHIP, ASSOCIATION, CORPORATION] OR OTHER ENTITY TO
26 RESTRAIN AND PREVENT ANY OF THE FOREGOING FROM TRANSACTING
27 BUSINESS AS A PUBLIC ADJUSTER [OR PUBLIC ADJUSTER SOLICITOR]
28 WITHOUT A LICENSE. ANY SUCH ACTION SHALL BE INSTITUTED IN THE
29 COURT OF COMMON PLEAS IN ANY COUNTY WHERE THE ALLEGED UNLICENSED
30 ACTIVITY OCCURRED. SUCH COURT MAY ISSUE A TEMPORARY RESTRAINING

1 ORDER OR INJUNCTION UNDER THIS ACT BUT SHALL DETERMINE ANY SUCH
2 ACTION ON ITS MERITS AS SOON AS POSSIBLE WHETHER IN TERM TIME OR
3 IN VACATION. NO BOND SHALL BE REQUIRED OF AND NO COSTS SHALL BE
4 TAXED AGAINST THE INSURANCE COMMISSIONER, HIS DULY AUTHORIZED
5 REPRESENTATIVE OR THE INSURANCE DEPARTMENT ON ACCOUNT OF ANY
6 SUCH ACTION.

7 (C) ACT TO BE SUPPLEMENTARY.--THE PROVISIONS OF THIS ACT
8 SHALL BE CONSTRUCTED AS SUPPLEMENTARY TO ALL OTHER ACTS DEALING
9 WITH THE SAME SUBJECT MATTER. NO ACTION BROUGHT UNDER THE
10 PROVISIONS OF THIS ACT SHALL PREVENT THE PROSECUTION OR
11 INSTITUTION OF ANY CIVIL OR CRIMINAL ACTION OTHERWISE PROVIDED
12 BY LAW FOR VIOLATION OF ANY LICENSING ACT OR DEPARTMENTAL RULE
13 OR REGULATION PROMULGATED THEREUNDER.

14 SECTION 8. A PERSON LICENSED AS A PUBLIC ADJUSTER SOLICITOR
15 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION SHALL BE LICENSED AS
16 A PUBLIC ADJUSTER IN ACCORDANCE WITH THE ACT.

17 SECTION 9. REGULATIONS WHICH ARE INCONSISTENT WITH THE
18 PROVISIONS OF THIS ACT ARE HEREBY ABROGATED TO THE EXTENT OF
19 THEIR INCONSISTENCY.

20 SECTION 10. THIS ACT SHALL TAKE EFFECT IN 180 DAYS.