

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 424 Session of
2011

INTRODUCED BY GODSHALL, MICOZZIE, CALTAGIRONE, DeLUCA,
HENNESSEY, SWANGER, TAYLOR, KORTZ, MILLER AND HESS,
FEBRUARY 3, 2011

SENATOR D. WHITE, BANKING AND INSURANCE, IN SENATE, AS AMENDED,
OCTOBER 26, 2011

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; 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:

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

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

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

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

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

13 "Licensee." A person licensed by the Insurance Department as
14 a public adjuster.

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

17 "Public adjuster." Any person[, partnership, association or
18 corporation advertising,] soliciting business or holding himself
19 [or itself] out to the public as an adjuster of claims for
20 losses or damages arising out of policies of insurance, surety
21 or indemnity upon property, persons or insurable business
22 interests within this Commonwealth, and receiving any
23 compensation or reward for the giving of advice or assistance to
24 the insured in the adjustment of claims for such losses, or who
25 for compensation or reward, whether by way of salary or
26 commission or otherwise, directly or indirectly, [solicit]
27 solicits business, [investigate] investigates or [adjust]
28 adjusts losses or [advise] advises the insured with reference to
29 claims for losses on behalf of any other person[, partnership,
30 association or corporation] engaged in the business of adjusting

1 losses. The term does not include an agent or employee of an
2 insurance company, association or an exchange, through whom a
3 policy of insurance was written, in adjusting loss or damage
4 under such policy, nor does it include [a broker or agent] an
5 insurance producer acting as an adjuster if the services of the
6 [agent or broker] insurance producer in the adjustment are
7 without compensation.

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

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

15 Section 2. License.

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

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

1 each active officer of such corporation. No license shall be
2 granted to a partnership or association unless individual
3 licenses are also secured for each active member of such
4 partnership or association. Before any such license is granted,
5 the applicant shall first make answer, in writing and under
6 oath, to interrogatories on forms and supplements such as the
7 Insurance Commissioner shall prepare: Provided, That any
8 applicant who shall have held such a license for a period of at
9 least two years prior to the effective date of this act shall be
10 entitled, upon proper application, to receive a license without
11 the necessity of submitting to an examination. When the
12 Insurance Commissioner is satisfied that the applicant is
13 trustworthy and competent to transact business as a public
14 adjuster and public adjuster solicitor, respectively, in such
15 manner as to safeguard the interest of the public, he shall
16 issue a license.] (Reserved).

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

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

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

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

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

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

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

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

26 Section 2.1. Application for public adjuster license.

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

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

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

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

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

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

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

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

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

27 (3) the required license fee.

28 (c) License fee.--A nonrefundable \$200 fee shall accompany a
29 completed application for a resident or nonresident public
30 adjuster license until modified by the department by regulation.

1 Section 2.2. Licensing.

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

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

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

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

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

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

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

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

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

30 (2) the business entity's designated licensees and

1 officers, partners or members are licensees in good standing
2 with the department;

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

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

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

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

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

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

20 Section 2.3. Issuance and term of license.

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

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

27 (2) issued in paper or electronic form;

28 (3) nontransferable; and

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

30 Section 2.4. License renewals.

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

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

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

1 after the lapse date, the person shall reapply for a license
2 under this act.

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

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

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

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

19 Section 2.5. Reciprocal licensing.

20 (a) Nonresident individuals.--

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

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

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

6 (b) Nonresident business entities.--

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

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

29 Section 3. Section 3 of the act is amended to read:

30 Section 3. [Fees.

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

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

13 (Reserved).

14 Section 4. The act is amended by adding a section to read:
15 Section 3.1. Written disclosure of financial interest.

16 (a) Requirement.--A public adjuster shall provide the
17 insured a written disclosure concerning a direct or indirect
18 financial interest the public adjuster has with another party
19 involved in an aspect of the claim other than the salary, fee,
20 commission or other consideration established in the written
21 contract with the insured, including ownership of or
22 compensation expected to be received from a construction firm,
23 building appraisal firm, motor vehicle repair shop or another
24 firm that provides estimates for work or that performs work in
25 conjunction with damages caused by the insured loss on which the
26 public adjuster is engaged.

27 (b) Definition.--As used in this section, the term "firm"
28 shall include a corporation, partnership, association, joint-
29 stock company or person.

30 Section 5. Sections 4, 5, 6 and 7 of the act are amended to

1 read:

2 Section 4. Bond.

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

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

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

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

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

24 Section 5. Contract.

25 (a) Written contract required.--No public adjuster shall,
26 directly or indirectly, act within this Commonwealth as a public
27 adjuster without having first entered into a contract, in
28 writing, on a form approved by the [Insurance Commissioner]
29 department and executed in duplicate by the public adjuster and
30 the insured or a duly authorized representative. One copy of

1 this contract shall be kept on file by the public adjuster,
2 available at all times for inspection[, without notice,] by the
3 [Insurance Commissioner or his duly authorized representative.
4 No public adjuster or public adjuster solicitor shall solicit a
5 client for employment within 24 hours of a fire or other
6 catastrophe or occurrence which is the basis of the
7 solicitation. With respect to a fire, the 24-hour period shall
8 begin at such time as the fire department in charge determines
9 that the fire is extinguished. Any contract with a public
10 adjuster may be rescinded by any person signing the contract.
11 Such action must be taken within four calendar days after
12 signature. The Insurance Commissioner may issue regulations to
13 assure the implementation of this section. No public adjuster
14 solicitor shall use any form of contract other than that
15 approved for the public adjuster for whom he is soliciting, nor
16 shall he make any contracts or agreements for himself or for the
17 public adjuster other than such as are specified in the approved
18 contract.] department. The department shall disapprove a
19 contract form if, in the department's opinion, the contract or
20 its provisions:

21 (1) Fail to comply with this section.

22 (2) Are unreasonable.

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

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

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

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

29 (a.2) Disclosure.--The contracts shall disclose the
30 following items with each of these items separately signed or

1 initialed by the insured and the public adjuster:

2 (1) That the insured has the right to rescind the
3 contract within ~~five business~~ THREE CALENDAR days after ←
4 signature.

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

10 (3) That the adjuster will provide the insured a copy of
11 an estimate or report of losses and, UPON THE INSURED'S ←
12 REQUEST, ANY supporting documentation it sends to the
13 insurer.

14 (4) That the public adjuster is not a representative or
15 employee of the insurer and the insureds are not required to ←
16 hire a public adjuster but have the right to do so AND IS AN ←
17 INDEPENDENT LICENSEE OF THE DEPARTMENT.

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

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

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

29 (d) Contracts limited to adjustment of insurance losses.--No
30 public adjuster [or public adjuster solicitor] shall, directly

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

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

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

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

16 (2) Engaging in, or attempting to engage in, any
17 fraudulent [transaction] or misleading conduct with respect
18 to a claim or loss that the licensee is adjusting. Misleading
19 conduct shall not be considered a felony unless the conduct
20 constitutes fraud.

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

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

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

30 (6) [To pay or cause] Paying or causing to be paid any

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

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

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

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

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

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

1 (12) The commission of fraudulent practices.

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

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

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

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

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

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

19 (19) Soliciting business during the progress of a loss-
20 producing occurrence such as a fire, tornado, severe storm or
21 other catastrophe where the immediate safety and security of
22 persons and property is paramount. For purposes of this
23 paragraph, it shall be presumed that the loss-producing
24 occurrence is still in progress while emergency responders
25 are present at the scene, unless the emergency responders
26 have determined that the emergency status of the event has
27 ended.

28 (20) ~~Interfering with or seeking to prohibit~~ PROHIBITING ←
29 communication ~~or any form of contact~~ between the insurer and ←
30 the insured.

1 (21) FAILING TO NOTIFY THE INSURED'S INSURER WITHIN TWO
2 CALENDAR DAYS OF ENTERING INTO A CONTRACT.

3 (b) Civil penalty.--Regardless of whether the public
4 adjuster [or public adjuster solicitor] was licensed or not, the
5 Insurance Commissioner may, at his discretion, in cases
6 warranting such action, impose a civil penalty of not more than
7 [\$1,000] \$5,000 for each and every violation of this act.

8 (c) Notice and hearing.--Before the Insurance Commissioner
9 shall take any action as above set forth, he shall give written
10 notice to the person[, partnership, association or corporation]
11 accused of violating the law, stating specifically the nature of
12 such alleged violation and fixing a time and place, at least ten
13 days thereafter, when a hearing of the matter shall be held.

14 After such hearing or upon failure of the accused to appear at
15 such a hearing, the Insurance Commissioner shall impose such of
16 the above penalties as he deems advisable. When the Insurance
17 Commissioner shall have taken any actions as above set forth,
18 the party aggrieved may appeal therefrom to the Commonwealth
19 Court.

20 (d) Adjusters [and solicitors] responsible for conduct of
21 employees.--Any public adjuster [or public adjuster solicitor]
22 employing, or using the services of, any person to solicit
23 business shall be held fully responsible for the conduct of that
24 person in connection with business dealings, including, but not
25 limited to, making certain that such person has a valid license
26 as a public adjuster [or public adjuster solicitor].

27 Section 7. Violations.

28 [Any person, partnership, association or corporation
29 violating any of the provisions of this act shall be guilty of a
30 misdemeanor and, upon conviction thereof, shall be sentenced to

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

11 Section 6. The act is amended by adding a section to read:
12 Section 7.1. Civil remedy.

13 In addition to the authority of the Attorney General under
14 Article XI of the act of May 17, 1921 (P.L.789, No.285), known
15 as The Insurance Department Act of 1921, and 18 Pa.C.S. § 4117
16 (relating to motor vehicle insurance fraud), if the Attorney
17 General finds that there has been a violation of this act, the
18 Attorney General may bring an action to impose a civil penalty
19 and to seek other relief, including injunctive relief, under the
20 act of December 17, 1968 (P.L.1224, No.387), known as the Unfair
21 Trade Practices and Consumer Protection Law.

22 Section 7. Section 8 of the act is amended to read:

23 Section 8. Administration and enforcement.

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

29 (b) Insurance Commissioner may bring actions.--The Insurance
30 Commissioner or a duly authorized representative may maintain an

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

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

21 Section 8. A person licensed as a public adjuster solicitor
22 prior to the effective date of this section shall be licensed as
23 a public adjuster in accordance with the act.

24 Section 9. Regulations which are inconsistent with the
25 provisions of this act are hereby abrogated to the extent of
26 their inconsistency.

27 Section 10. This act shall take effect in 180 days.