



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

SB1495

Introduced 2/7/2023, by Sen. Napoleon Harris, III

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/1510  
215 ILCS 5/1550  
215 ILCS 5/1555  
215 ILCS 5/1560  
215 ILCS 5/1575  
215 ILCS 5/1585  
215 ILCS 5/1586 new  
215 ILCS 5/1590  
815 ILCS 625/Act rep.

Amends the Public Adjuster Article of the Illinois Insurance Code. Provides that the Director of Insurance, upon finding that an applicant for a public adjuster license was previously convicted of any felony or a misdemeanor involving dishonesty or fraud (rather than a felony or misdemeanor involving dishonesty or fraud), shall consider any mitigating factors and evidence of rehabilitation contained in the applicant's record to determine if a license may be denied. Provides that the Director may place on probation, suspend, revoke, deny, or refuse to issue or renew a public adjuster's license or may levy a civil penalty for having been convicted of any felony or a misdemeanor involving dishonesty or fraud (rather than a felony or misdemeanor involving dishonesty or fraud), and failing to comply with specified provisions concerning associated contractors. Provides that an applicant's surety bond or irrevocable letter of credit shall be in the minimum amount of \$50,000 (rather than \$20,000). Provides that public adjusters shall ensure that all contracts for their services contain an email address and a scope of damages. Sets forth language required to be contained in a written disclosure provided to the insured. Provides that a public adjuster may provide emergency services before a written contract with the insured has been executed. Sets forth provisions concerning associated contractors. Makes other changes. Repeals the Fire Damage Representation Agreement Act.

LRB103 05818 BMS 50838 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by  
5 changing Sections 1510, 1550, 1555, 1560, 1575, 1585, and 1590  
6 and by adding Section 1586 as follows:

7 (215 ILCS 5/1510)

8 Sec. 1510. Definitions. In this Article:

9 "Adjusting a claim for loss or damage covered by an  
10 insurance contract" means negotiating values, damages, or  
11 depreciation or applying the loss circumstances to insurance  
12 policy provisions.

13 "Adjusting insurance claims" means representing an insured  
14 with an insurer for compensation and, while representing that  
15 insured, either negotiating values, damages, or depreciation  
16 or applying the loss circumstances to insurance policy  
17 provisions.

18 "Associated contractor" means any contractor or related  
19 service provider owned or operated by:

20 (1) the named public adjuster, spouse, or any family  
21 member; or

22 (2) any contractor recommended by the public adjuster  
23 if the fee stated in the public adjuster contract is

1       waived when the recommended contractor is utilized by the  
2       insured.

3       "Business entity" means a corporation, association,  
4       partnership, limited liability company, limited liability  
5       partnership, or other legal entity.

6       "Department" means the Department of Insurance.

7       "Director" means the Director of Insurance.

8       "Fingerprints" means an impression of the lines on the  
9       finger taken for the purpose of identification. The impression  
10      may be electronic or in ink converted to electronic format.

11      "Home state" means the District of Columbia and any state  
12      or territory of the United States where the public adjuster's  
13      principal place of residence or principal place of business is  
14      located. If neither the state in which the public adjuster  
15      maintains the principal place of residence nor the state in  
16      which the public adjuster maintains the principal place of  
17      business has a substantially similar law governing public  
18      adjusters, the public adjuster may declare another state in  
19      which it becomes licensed and acts as a public adjuster to be  
20      the home state.

21      "Individual" means a natural person.

22      "Person" means an individual or a business entity.

23      "Public adjuster" means any person who, for compensation  
24      or any other thing of value on behalf of the insured:

25           (i) acts, ~~or~~ aids, or represents the insured solely in  
26      relation to first party claims arising under insurance

1 contracts that insure the real or personal property of the  
2 insured, ~~on behalf of an insured~~ in adjusting a claim for  
3 loss or damage covered by an insurance contract;

4 (ii) advertises for employment as a public adjuster of  
5 insurance claims or solicits business or represents  
6 himself or herself to the public as a public adjuster of  
7 first party insurance claims for losses or damages arising  
8 out of policies of insurance that insure real or personal  
9 property; or

10 (iii) directly or indirectly solicits business,  
11 investigates or adjusts losses, or advises an insured  
12 about first party claims for losses or damages arising out  
13 of policies of insurance that insure real or personal  
14 property for another person engaged in the business of  
15 adjusting losses or damages covered by an insurance policy  
16 for the insured.

17 "Scope of damages" means a document that describes the  
18 amount and type of damage to a structure and includes, at  
19 minimum, an itemized description of the materials to be used  
20 in the repair estimates of the quantity and costs of the  
21 materials.

22 "Uniform individual application" means the current version  
23 of the National Association of Directors (NAIC) Uniform  
24 Individual Application for resident and nonresident  
25 individuals.

26 "Uniform business entity application" means the current

1 version of the National Association of Insurance Commissioners  
2 (NAIC) Uniform Business Entity Application for resident and  
3 nonresident business entities.

4 "Webinar" means an online educational presentation during  
5 which a live and participating instructor and participating  
6 viewers, whose attendance is periodically verified throughout  
7 the presentation, actively engage in discussion and in the  
8 submission and answering of questions.

9 (Source: P.A. 102-135, eff. 7-23-21.)

10 (215 ILCS 5/1550)

11 Sec. 1550. Applicant convictions.

12 (a) The Director and the Department shall not require  
13 applicants to report the following information and shall not  
14 collect or consider the following criminal history records in  
15 connection with a public adjuster license application:

16 (1) Juvenile adjudications of delinquent minors as  
17 defined in Section 5-105 of the Juvenile Court Act of  
18 1987, subject to the restrictions set forth in Section  
19 5-130 of that Act.

20 (2) Law enforcement records, court records, and  
21 conviction records of an individual who was 17 years old  
22 at the time of the offense and before January 1, 2014,  
23 unless the nature of the offense required the individual  
24 to be tried as an adult.

25 (3) Records of arrest not followed by a formal charge

1 or conviction.

2 (4) Records of arrest where charges were dismissed  
3 unless related to the duties and responsibilities of a  
4 public adjuster. However, applicants shall not be asked to  
5 report any arrests, and any arrest not followed by a  
6 conviction shall not be the basis of a denial and may be  
7 used only to assess an applicant's rehabilitation.

8 (5) Convictions overturned by a higher court.

9 (6) Convictions or arrests that have been sealed or  
10 expunged.

11 (b) The Director, upon a finding that an applicant for a  
12 license under this Act was previously convicted of any a  
13 felony or a misdemeanor involving dishonesty or fraud, shall  
14 consider any mitigating factors and evidence of rehabilitation  
15 contained in the applicant's record, including any of the  
16 following factors and evidence, to determine if a license may  
17 be denied because the prior conviction will impair the ability  
18 of the applicant to engage in the position for which a license  
19 is sought:

20 (1) the bearing, if any, of the offense for which the  
21 applicant was previously convicted on the duties,  
22 functions, and responsibilities of the position for which  
23 a license is sought;

24 (2) whether the conviction suggests a future  
25 propensity to endanger the safety and property of others  
26 while performing the duties and responsibilities for which

1 a license is sought;

2 (3) if the applicant was previously licensed or  
3 employed in this State or other states or jurisdictions,  
4 then the lack of prior misconduct arising from or related  
5 to the licensed position or position of employment;

6 (4) whether 5 years since a felony conviction or 3  
7 years since release from confinement for the conviction,  
8 whichever is later, have passed without a subsequent  
9 conviction;

10 (5) successful completion of sentence and, for  
11 applicants serving a term of parole or probation, a  
12 progress report provided by the applicant's probation or  
13 parole officer that documents the applicant's compliance  
14 with conditions of supervision;

15 (6) evidence of the applicant's present fitness and  
16 professional character;

17 (7) evidence of rehabilitation or rehabilitative  
18 effort during or after incarceration or during or after a  
19 term of supervision, including, but not limited to, a  
20 certificate of good conduct under Section 5-5.5-25 of the  
21 Unified Code of Corrections or certificate of relief from  
22 disabilities under Section 5-5.5-10 of the Unified Code of  
23 Corrections; and

24 (8) any other mitigating factors that contribute to  
25 the person's potential and current ability to perform the  
26 duties and responsibilities of a public adjuster.

1 (c) If a nonresident licensee meets the standards set  
2 forth in items (1) through (4) of subsection (a) of Section  
3 1540 and has received consent pursuant to 18 U.S.C. 1033(e) (2)  
4 from his or her home state, the Director shall grant the  
5 nonresident licensee a license.

6 (d) If the Director refuses to issue a license to an  
7 applicant based on a conviction or convictions, in whole or in  
8 part, then the Director shall notify the applicant of the  
9 denial in writing with the following included in the notice of  
10 denial:

11 (1) a statement about the decision to refuse to issue  
12 a license;

13 (2) a list of convictions that the Director determined  
14 will impair the applicant's ability to engage in the  
15 position for which a license is sought;

16 (3) a list of the convictions that were the sole or  
17 partial basis for the refusal to issue a license; and

18 (4) a summary of the appeal process or the earliest  
19 the applicant may reapply for a license, whichever is  
20 applicable.

21 (Source: P.A. 100-286, eff. 1-1-18.)

22 (215 ILCS 5/1555)

23 Sec. 1555. License denial, nonrenewal, or revocation.

24 (a) The Director may place on probation, suspend, revoke,  
25 deny, or refuse to issue or renew a public adjuster's license



1 or may levy a civil penalty or any combination of actions, for  
2 any one or more of the following causes:

3 (1) providing incorrect, misleading, incomplete, or  
4 materially untrue information in the license application;

5 (2) violating any insurance laws, or violating any  
6 regulation, subpoena, or order of the Director or of  
7 another state's Director;

8 (3) obtaining or attempting to obtain a license  
9 through misrepresentation or fraud;

10 (4) improperly withholding, misappropriating, or  
11 converting any monies or properties received in the course  
12 of doing insurance business;

13 (5) intentionally misrepresenting the terms of an  
14 actual or proposed insurance contract or application for  
15 insurance;

16 (6) having been convicted of any ~~a~~ felony or a  
17 misdemeanor involving dishonesty or fraud, unless the  
18 individual demonstrates to the Director sufficient  
19 rehabilitation to warrant the public trust; consideration  
20 of such conviction of an applicant shall be in accordance  
21 with Section 1550;

22 (7) having admitted or been found to have committed  
23 any insurance unfair trade practice or insurance fraud;

24 (8) using fraudulent, coercive, or dishonest  
25 practices; or demonstrating incompetence,  
26 untrustworthiness, or financial irresponsibility in the

1 conduct of business in this State or elsewhere;

2 (9) having an insurance license or public adjuster  
3 license or its equivalent, denied, suspended, or revoked  
4 in any other state, province, district, or territory;

5 (10) forging another's name to an application for  
6 insurance or to any document related to an insurance  
7 transaction;

8 (11) cheating, including improperly using notes or any  
9 other reference material, to complete an examination for  
10 an insurance license or public adjuster license;

11 (12) knowingly accepting insurance business from or  
12 transacting business with an individual who is not  
13 licensed but who is required to be licensed by the  
14 Director;

15 (13) failing to comply with an administrative or court  
16 order imposing a child support obligation;

17 (14) failing to pay State income tax or comply with  
18 any administrative or court order directing payment of  
19 State income tax;

20 (15) failing to comply with or having violated any of  
21 the standards set forth in Section 1590 of this Law; ~~or~~

22 (16) failing to maintain the records required by  
23 Section 1585 of this Law; or -

24 (17) failing to comply with Section 1586 of this Law.

25 (b) If the action by the Director is to nonrenew, suspend,  
26 or revoke a license or to deny an application for a license,

1 the Director shall notify the applicant or licensee and  
2 advise, in writing, the applicant or licensee of the reason  
3 for the suspension, revocation, denial, or nonrenewal of the  
4 applicant's or licensee's license. The applicant or licensee  
5 may make written demand upon the Director within 30 days after  
6 the date of mailing for a hearing before the Director to  
7 determine the reasonableness of the Director's action. The  
8 hearing must be held within not fewer than 20 days nor more  
9 than 30 days after the mailing of the notice of hearing and  
10 shall be held pursuant to 50 Ill. Adm. Code 2402.

11 (c) The license of a business entity may be suspended,  
12 revoked, or refused if the Director finds, after hearing, that  
13 an individual licensee's violation was known or should have  
14 been known by one or more of the partners, officers, or  
15 managers acting on behalf of the business entity and the  
16 violation was neither reported to the Director, nor corrective  
17 action taken.

18 (d) In addition to or in lieu of any applicable denial,  
19 suspension or revocation of a license, a person may, after  
20 hearing, be subject to a civil penalty. In addition to or  
21 instead of any applicable denial, suspension, or revocation of  
22 a license, a person may, after hearing, be subject to a civil  
23 penalty of up to \$10,000 for each cause for denial,  
24 suspension, or revocation, however, the civil penalty may  
25 total no more than \$100,000.

26 (e) The Director shall retain the authority to enforce the

1 provisions of and impose any penalty or remedy authorized by  
2 this Article against any person who is under investigation for  
3 or charged with a violation of this Article even if the  
4 person's license or registration has been surrendered or has  
5 lapsed by operation of law.

6 (f) Any individual whose public adjuster's license is  
7 revoked or whose application is denied pursuant to this  
8 Section shall be ineligible to apply for a public adjuster's  
9 license for 5 years. A suspension pursuant to this Section may  
10 be for any period of time up to 5 years.

11 (Source: P.A. 100-286, eff. 1-1-18.)

12 (215 ILCS 5/1560)

13 Sec. 1560. Bond or letter of credit.

14 (a) Prior to the issuance of a license as a public adjuster  
15 and for the duration of the license, the applicant shall  
16 secure evidence of financial responsibility in a format  
17 prescribed by the Director through a surety bond or  
18 irrevocable letter of credit, subject to all of the following  
19 requirements:

20 (1) A surety bond executed and issued by an insurer  
21 authorized to issue surety bonds in this State, which  
22 bond:

23 (A) shall be in the minimum amount of \$50,000

24 ~~\$20,000;~~

25 (B) shall be in favor of this State and shall

1 specifically authorize recovery by the Director on  
2 behalf of any person in this State who sustained  
3 damages as the result of erroneous acts, failure to  
4 act, conviction of fraud, or conviction of unfair  
5 practices in his or her capacity as a public adjuster;  
6 and

7 (C) shall not be terminated unless at least 30  
8 days' prior written notice will have been filed with  
9 the Director and given to the licensee; and

10 (2) An irrevocable letter of credit issued by a  
11 qualified financial institution, which letter of credit:

12 (A) shall be in the minimum amount of \$50,000  
13 ~~\$20,000~~;

14 (B) shall be to an account to the Director and  
15 subject to lawful levy of execution on behalf of any  
16 person to whom the public adjuster has been found to be  
17 legally liable as the result of erroneous acts,  
18 failure to act, fraudulent acts, or unfair practices  
19 in his or her capacity as a public adjuster; and

20 (C) shall not be terminated unless at least 30  
21 days' prior written notice will have been filed with  
22 the and given to the licensee.

23 (b) The issuer of the evidence of financial responsibility  
24 shall notify the Director upon termination of the bond or  
25 letter of credit, unless otherwise directed by the Director.

26 (c) The Director may ask for the evidence of financial

1 responsibility at any time he or she deems relevant.

2 (d) The authority to act as a public adjuster shall  
3 automatically terminate if the evidence of financial  
4 responsibility terminates or becomes impaired.

5 (Source: P.A. 96-1332, eff. 1-1-11.)

6 (215 ILCS 5/1575)

7 Sec. 1575. Contract between public adjuster and insured.

8 (a) Public adjusters shall ensure that all contracts for  
9 their services are in writing and contain the following terms:

10 (1) legible full name of the adjuster signing the  
11 contract, as specified in Department records;

12 (2) permanent home state business address, email  
13 address, and phone number;

14 (3) license number;

15 (4) title of "Public Adjuster Contract";

16 (5) the insured's full name, street address, insurance  
17 company name, and policy number, if known or upon  
18 notification;

19 (6) a description of the loss and its location and a  
20 scope of damages, ~~if applicable~~;

21 (7) description of services to be provided to the  
22 insured;

23 (8) signatures of the public adjuster and the insured;

24 (9) date and time the contract was signed by the  
25 public adjuster and date and time the contract was signed

1 by the insured;

2 (10) attestation language stating that the public  
3 adjuster is fully bonded pursuant to State law; and

4 (11) full salary, fee, commission, compensation, or  
5 other considerations the public adjuster is to receive for  
6 services.

7 (b) The contract may specify that the public adjuster  
8 shall be named as a co-payee on an insurer's payment of a  
9 claim.

10 (1) If the compensation is based on a share of the  
11 insurance settlement, the exact percentage shall be  
12 specified.

13 (2) Initial expenses to be reimbursed to the public  
14 adjuster from the proceeds of the claim payment shall be  
15 specified by type, with dollar estimates set forth in the  
16 contract and with any additional expenses first approved  
17 by the insured.

18 (3) Compensation provisions in a public adjuster  
19 contract shall not be redacted in any copy of the contract  
20 provided to the Director.

21 (c) If the insurer, not later than 5 business days after  
22 the date on which the loss is reported to the insurer, either  
23 pays or commits in writing to pay to the insured the policy  
24 limit of the insurance policy, the public adjuster shall:

25 (1) not receive a commission consisting of a  
26 percentage of the total amount paid by an insurer to

1 resolve a claim;

2 (2) inform the insured that loss recovery amount might  
3 not be increased by insurer; and

4 (3) be entitled only to reasonable compensation from  
5 the insured for services provided by the public adjuster  
6 on behalf of the insured, based on the time spent on a  
7 claim and expenses incurred by the public adjuster, until  
8 the claim is paid or the insured receives a written  
9 commitment to pay from the insurer.

10 (d) A public adjuster shall provide the insured a written  
11 disclosure concerning any direct or indirect financial  
12 interest that the public adjuster has with any other party or  
13 associated contractor who is involved in any aspect of the  
14 claim, other than the salary, fee, commission, or other  
15 consideration established in the written contract with the  
16 insured, including, but not limited to, any ownership of or  
17 any compensation expected to be received from, any  
18 construction firm, salvage firm, building appraisal firm,  
19 board-up company, or any other firm that provides estimates  
20 for work, or that performs any work, in conjunction with  
21 damages caused by the insured loss on which the public  
22 adjuster is engaged. The word "firm" shall include any  
23 corporation, partnership, association, joint-stock company, or  
24 person. The written disclosure must contain, at a minimum, the  
25 following:

26 (1) A statement clarifying the amount of ownership in



1       the recommended contractor by the public adjuster and the  
2       name and relation of the family member that owns or  
3       operates the recommended contractor, if applicable.

4           (2) The specific amount of compensation the public  
5       adjuster will receive from the recommended contractor;  
6       this disclosure of compensation may be stated in an actual  
7       dollar amount or as a percentage of the payment.

8       (e) A public adjuster contract may not contain any  
9 contract term that:

10           (1) allows the public adjuster's percentage fee to be  
11       collected when money is due from an insurance company, but  
12       not paid, or that allows a public adjuster to collect the  
13       entire fee from the first check issued by an insurance  
14       company, rather than as a percentage of each check issued  
15       by an insurance company;

16           (2) requires the insured to authorize an insurance  
17       company to issue a check only in the name of the public  
18       adjuster;

19           (3) precludes a public adjuster or an insured from  
20       pursuing civil remedies;

21           (4) includes any hold harmless agreement that provides  
22       indemnification to the public adjuster by the insured for  
23       liability resulting from the public adjuster's negligence;  
24       or

25           (5) provides power of attorney by which the public  
26       adjuster can act in the place and instead of the insured.

1 (f) The following provisions apply to a contract between a  
2 public adjuster and an insured:

3 (1) Prior to the signing of the contract, the public  
4 adjuster shall provide the insured with a separate signed  
5 and dated disclosure document regarding the claim process  
6 that states:

7 "Property insurance policies obligate the insured to  
8 present a claim to his or her insurance company for  
9 consideration. There are 3 types of adjusters that could  
10 be involved in that process. The definitions of the 3  
11 types are as follows:

12 (A) "Company adjuster" means the insurance  
13 adjusters who are employees of an insurance company.  
14 They represent the interest of the insurance company  
15 and are paid by the insurance company. They will not  
16 charge you a fee.

17 (B) "Independent adjuster" means the insurance  
18 adjusters who are hired on a contract basis by an  
19 insurance company to represent the insurance company's  
20 interest in the settlement of the claim. They are paid  
21 by your insurance company. They will not charge you a  
22 fee.

23 (C) "Public adjuster" means the insurance  
24 adjusters who do not work for any insurance company.  
25 They represent ~~work for~~ the insured to assist in the  
26 preparation, presentation and settlement of the claim.

1           The insured hires them by signing a contract agreeing  
2           to pay them a fee or commission based on a percentage  
3           of the settlement, or other method of compensation."

4           (2) The insured is not required to hire a public  
5           adjuster to help the insured meet his or her obligations  
6           under the policy, but has the right to do so.

7           (3) The public adjuster is not a representative or  
8           employee of the insurer or the Department of Insurance.

9           (4) The salary, fee, commission, or other  
10          consideration is the obligation of the insured, not the  
11          insurer, except when rights have been assigned to the  
12          public adjuster by the insured.

13          (g) The contracts shall be executed in duplicate to  
14          provide an original contract to the public adjuster, and an  
15          original contract to the insured. The public adjuster's  
16          original contract shall be available at all times for  
17          inspection without notice by the Director.

18          (h) The public adjuster shall provide the insurer or its  
19          authorized representative for receiving notice of loss or  
20          damage with an exact copy of the contract with ~~by~~ the insured  
21          by email after execution of the contract, authorizing the  
22          public adjuster to represent the insured's interest.

23          (i) The public adjuster shall give the insured written  
24          notice of the insured's rights as a consumer under the law of  
25          this State.

26          (j) A public adjuster shall not provide services, other

1 than emergency services, until a written contract with the  
2 insured has been executed, on a form filed with and approved by  
3 the Director, and an exact copy of the contract has been  
4 provided to the insurer in accordance with subsection (h). At  
5 the option of the insured, any such contract shall be voidable  
6 for 5 business days after execution. The insured may void the  
7 contract by notifying the public adjuster in writing by (i)  
8 registered or certified mail, return receipt requested, to the  
9 address shown on the contract, ~~or~~ (ii) personally serving the  
10 notice on the public adjuster, or (iii) sending an email to the  
11 email address shown on the contract.

12 (k) If the insured exercises the right to rescind the  
13 contract, anything of value given by the insured under the  
14 contract will be returned to the insured within 15 business  
15 days following the receipt by the public adjuster of the  
16 cancellation notice.

17 (Source: P.A. 96-1332, eff. 1-1-11; 97-333, eff. 8-12-11.)

18 (215 ILCS 5/1585)

19 Sec. 1585. Record retention.

20 (a) A public adjuster shall maintain a complete record of  
21 each transaction as a public adjuster. The records required by  
22 this Section shall include the following:

23 (1) name of the insured;

24 (2) date, location and amount of the loss;

25 (3) a copy of the contract between the public adjuster

1 and insured, a copy of the scope of work document, and a  
2 copy of the separate disclosure documents ~~document~~;

3 (4) name of the insurer, amount, expiration date and  
4 number of each policy carried with respect to the loss;

5 (5) itemized statement of the insured's recoveries;

6 (6) itemized statement of all compensation received by  
7 the public adjuster, from any source whatsoever, in  
8 connection with the loss;

9 (7) a register of all monies received, deposited,  
10 disbursed, or withdrawn in connection with a transaction  
11 with an insured, including fees transfers and  
12 disbursements from a trust account and all transactions  
13 concerning all interest bearing accounts;

14 (8) name of public adjuster who executed the contract;

15 (9) name of the attorney representing the insured, if  
16 applicable, and the name of the claims representatives of  
17 the insurance company; and

18 (10) evidence of financial responsibility in a format  
19 prescribed by the Director.

20 (b) Records shall be maintained for at least 7 years after  
21 the termination of the transaction with an insured and shall  
22 be open to examination by the Director at all times.

23 (c) Records submitted to the Director in accordance with  
24 this Section that contain information identified in writing as  
25 proprietary by the public adjuster shall be treated as  
26 confidential by the Director and shall not be subject to the

1 Freedom of Information Act.

2 (Source: P.A. 96-1332, eff. 1-1-11.)

3 (215 ILCS 5/1586 new)

4 Sec. 1586. Associated contractors.

5 (a) A public adjuster license may be denied, suspended, or  
6 revoked under Section 1555 if the Director determines that,  
7 during either of the 2 calendar years following the issuance  
8 or extension date of the license, the aggregate amount of  
9 insureds' recoveries that were referred to associated  
10 contractors exceeded the aggregate amount of insureds'  
11 recoveries that were not referred to associated contractors of  
12 the licensee.

13 (b) A public adjuster who refers any insured to an  
14 associated contractor shall be responsible for tracking and  
15 maintaining current lists of all insureds' recoveries that  
16 were referred to associated contractors and all insureds'  
17 recoveries that were not referred to an associated contractor.

18 (215 ILCS 5/1590)

19 Sec. 1590. Standards of conduct of public adjuster.

20 (a) A public adjuster is obligated, under his or her  
21 license, to serve with objectivity and complete loyalty for  
22 the interests of his client alone, and to render to the insured  
23 such information, counsel, and service, as within the  
24 knowledge, understanding, and opinion in good faith of the

1 licensee, as will best serve the insured's insurance claim  
2 needs and interest.

3 (b) A public adjuster may not propose or attempt to  
4 propose to any person that the public adjuster represent that  
5 person while a loss-producing occurrence is continuing, nor  
6 while the fire department or its representatives are engaged  
7 at the damaged premises, nor between the hours of 7:00 p.m. and  
8 8:00 a.m.

9 (c) A public adjuster shall not permit an unlicensed  
10 employee or representative of the public adjuster to conduct  
11 business for which a license is required under this Article.

12 (d) A public adjuster shall not have a direct or indirect  
13 financial interest in any aspect of the claim, other than the  
14 salary, fee, commission, or other consideration established in  
15 the written contract with the insured, unless full written  
16 disclosure has been made to the insured as set forth in  
17 subsection (d) ~~(g)~~ of Section 1575.

18 (e) A public adjuster shall not acquire any interest in  
19 the salvage of property subject to the contract with the  
20 insured unless the public adjuster obtains written permission  
21 from the insured after settlement of the claim with the  
22 insurer as set forth in subsection (d) ~~(g)~~ of Section 1575 of  
23 this Article.

24 (f) The public adjuster shall abstain from referring or  
25 directing the insured to get needed repairs or services in  
26 connection with a loss from any person, unless disclosed to

1 the insured:

2 (1) with whom the public adjuster has a financial  
3 interest or who is an associated contractor of the public  
4 adjuster; or

5 (2) from whom the public adjuster may receive direct  
6 or indirect compensation for the referral.

7 (g) The public adjuster shall disclose to an insured if he  
8 or she has any interest or will be compensated by any  
9 construction firm, salvage firm, building appraisal firm,  
10 board-up company, or any other firm that performs any work in  
11 conjunction with damages caused by the insured loss. The word  
12 "firm" shall include any corporation, partnership,  
13 association, joint-stock company or individual as set forth in  
14 Section 1575 of this Article.

15 (h) Any compensation or anything of value in connection  
16 with an insured's specific loss that will be received by a  
17 public adjuster shall be disclosed by the public adjuster to  
18 the insured in writing including the source and amount of any  
19 such compensation.

20 (i) In all cases where the loss giving rise to the claim  
21 for which the public adjuster was retained arise from damage  
22 to a personal residence, the insurance proceeds shall be  
23 delivered to the named insured or his or her designee. Where  
24 proceeds paid by an insurance company are paid jointly to the  
25 insured and the public adjuster, the insured shall release  
26 such portion of the proceeds that are due the public adjuster



1 within 30 calendar days after the insured's receipt of the  
2 insurance company's check, money order, draft, or release of  
3 funds. If the proceeds are not so released to the public  
4 adjuster within 30 calendar days, the insured shall provide  
5 the public adjuster with a written explanation of the reason  
6 for the delay.

7 (j) Public adjusters shall adhere to the following general  
8 ethical requirements:

9 (1) a public adjuster shall not undertake the  
10 adjustment of any claim if the public adjuster is not  
11 competent and knowledgeable as to the terms and conditions  
12 of the insurance coverage, or which otherwise exceeds the  
13 public adjuster's current expertise;

14 (2) a public adjuster shall not knowingly make any  
15 oral or written material misrepresentations or statements  
16 which are false or maliciously critical and intended to  
17 injure any person engaged in the business of insurance to  
18 any insured client or potential insured client;

19 (3) no public adjuster, while so licensed by the  
20 Department, may represent or act as a company adjuster or  
21 independent adjuster on the same claim;

22 (4) the contract shall not be construed to prevent an  
23 insured from pursuing any civil remedy after the  
24 5-business day revocation or cancellation period;

25 (5) a public adjuster shall not enter into a contract  
26 or accept a power of attorney that vests in the public

1 adjuster the effective authority to choose the persons who  
2 shall perform repair work;

3 (6) a public adjuster shall ensure that all contracts  
4 for the public adjuster's services are in writing and set  
5 forth all terms and conditions of the engagement; and

6 (7) a public adjuster shall not advance money or any  
7 valuable consideration, except emergency services to an  
8 insured pending adjustment of a claim.

9 (k) A public adjuster may not agree to any loss settlement  
10 without the insured's knowledge and consent and shall, upon  
11 the insured's request, provide the insured with a document  
12 setting forth the scope, amount, and value of the damages  
13 prior to request by the insured for authority to settle the  
14 loss.

15 (l) A public adjuster shall not provide legal advice or  
16 representation to the insured or engage in the unauthorized  
17 practice of law.

18 (m) A public adjuster shall not represent that he or she is  
19 a representative of an insurance company, a fire department,  
20 or the State of Illinois, that he or she is a fire  
21 investigator, that his or her services are required for the  
22 insured to submit a claim to the insured's insurance company,  
23 or that he or she may provide legal advice or representation to  
24 the insured. A public adjuster may represent that he or she has  
25 been licensed by the State of Illinois.

26 (Source: P.A. 96-1332, eff. 1-1-11.)

1 (815 ILCS 625/Act rep.)

2 Section 10. The Fire Damage Representation Agreement Act

3 is repealed.