



Rep. John A. Fritchey

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09600SB0660ham001

LRB096 06719 RPM 38945 a

1 AMENDMENT TO SENATE BILL 660

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 660 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by  
5 adding Article XLV as follows:

6 (215 ILCS 5/Art. XLV heading new)

7 ARTICLE XLV. PUBLIC ADJUSTERS

8 (215 ILCS 5/1501 new)

9 Sec. 1501. Short title. This Article may be cited as the  
10 Public Adjusters Law.

11 (215 ILCS 5/1505 new)

12 Sec. 1505. Purpose and scope. This Article governs the  
13 qualifications and procedures for the licensing of public  
14 adjusters. It specifies the duties of and restrictions on

1 public adjusters, which include limiting their licensure to  
2 assisting insureds in first party claims.

3 (215 ILCS 5/1510 new)

4 Sec. 1510. Definitions. In this Article:

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

8 "Department" means the Department of Insurance.

9 "Director" means the Director of Insurance.

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

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

23 "Individual" means a natural person.

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

25 "Public adjuster" means any person who, for compensation or

1 any other thing of value on behalf of the insured:

2 (i) acts or aids, solely in relation to first party  
3 claims arising under insurance contracts that insure the  
4 real or personal property of the insured, on behalf of an  
5 insured in negotiating for, or effecting the settlement of,  
6 a claim for loss or damage covered by an insurance  
7 contract;

8 (ii) advertises for employment as an public adjuster of  
9 insurance claims or solicits business or represents  
10 himself or herself to the public as an public adjuster of  
11 first party insurance claims for losses or damages arising  
12 out of policies of insurance that insure real or personal  
13 property; or

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

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

25 "Uniform business entity application" means the current  
26 version of the National Association of Insurance Commissioners

1 (NAIC) Uniform Business Entity Application for resident and  
2 nonresident business entities.

3 (215 ILCS 5/1515 new)

4 Sec. 1515. License required.

5 (a) A person shall not act, advertise, solicit, or hold  
6 himself out as a public adjuster or to be in the business of  
7 adjusting insurance claims in this State, nor attempt to obtain  
8 a contract for public adjusting services, unless the person is  
9 licensed as a public adjuster in accordance with this Article.

10 (b) A person licensed as a public adjuster shall not  
11 misrepresent to a claimant that he or she is an adjuster  
12 representing an insurer in any capacity, including acting as an  
13 employee of the insurer or acting as an independent adjuster  
14 unless so appointed by an insurer in writing to act on the  
15 insurer's behalf for that specific claim or purpose. A licensed  
16 public adjuster is prohibited from charging that specific  
17 claimant a fee when appointed by the insurer and the  
18 appointment is accepted by the public adjuster.

19 (c) A business entity acting as a public adjuster is  
20 required to obtain a public adjuster license. Application shall  
21 be made using the Uniform Business Entity Application. Before  
22 approving the application, the Director shall find that:

23 (1) the business entity has paid the required fees to  
24 be registered as a business entity in this State; and

25 (2) all officers, shareholders, and persons with

1 ownership interests in the business entity are licensed  
2 public adjusters responsible for the business entity's  
3 compliance with the insurance laws, rules, and regulations  
4 of this State.

5 (d) Notwithstanding subsections (a) through (c) of this  
6 Section, a license as a public adjuster shall not be required  
7 of the following:

8 (1) an attorney admitted to practice in this State,  
9 when acting in his or her professional capacity as an  
10 attorney;

11 (2) a person who negotiates or settles claims arising  
12 under a life or health insurance policy or an annuity  
13 contract;

14 (3) a person employed only for the purpose of obtaining  
15 facts surrounding a loss or furnishing technical  
16 assistance to a licensed public adjuster, including  
17 photographers, estimators, private investigators,  
18 engineers, and handwriting experts;

19 (4) a licensed health care provider, or employee of a  
20 licensed health care provider, who prepares or files a  
21 health claim form on behalf of a patient; or

22 (5) a person who settles subrogation claims between  
23 insurers.

24 (215 ILCS 5/1520 new)

25 Sec. 1520. Application for license.

1       (a) A person applying for a public adjuster license shall  
2 make application to the Director on the appropriate uniform  
3 application or other application prescribed by the Director.

4       (b) The applicant shall declare under penalty of perjury  
5 and under penalty of refusal, suspension, or revocation of the  
6 license that the statements made in the application are true,  
7 correct, and complete to the best of the applicant's knowledge  
8 and belief.

9       (c) In order to make a determination of license  
10 eligibility, the Director is authorized to require  
11 fingerprints of applicants and submit such fingerprints and the  
12 fee required to perform the criminal history record checks to  
13 the Illinois State Police and the Federal Bureau of  
14 Investigation (FBI) for State and national criminal history  
15 record checks.

16       (d) The Director may adopt rules to establish procedures  
17 necessary to carry out the requirements of subsection (c) of  
18 this Section.

19       (e) The Director is authorized to submit electronic  
20 fingerprint records and necessary identifying information to  
21 the NAIC, its affiliates, or subsidiaries for permanent  
22 retention in a centralized repository. The purpose of such a  
23 centralized repository is to provide Directors with access to  
24 fingerprint records in order to perform criminal history record  
25 checks.

26       (f) Until such time as the Director can obtain and receive

1 national criminal history records, the applicant shall obtain a  
2 copy of his or her fingerprints and complete criminal history  
3 record from the FBI Criminal Justice Information Services  
4 Division and the Illinois State Police and provide such  
5 information to the Department of Insurance.

6 (215 ILCS 5/1525 new)

7 Sec. 1525. Resident license.

8 (a) Before issuing a public adjuster license to an  
9 applicant under this Section, the Director shall find that the  
10 applicant:

11 (1) is eligible to designate this State as his or her  
12 home state or is a nonresident who is not eligible for a  
13 license under Section 1540;

14 (2) has not committed any act that is a ground for  
15 denial, suspension, or revocation of a license as set forth  
16 in Section 1555;

17 (3) is trustworthy, reliable, competent, and of good  
18 reputation, evidence of which may be determined by the  
19 Director;

20 (4) is financially responsible to exercise the license  
21 and has provided proof of financial responsibility as  
22 required in Section 1560 of this Article; and

23 (5) maintains an office in the home state of residence  
24 with public access by reasonable appointment or regular  
25 business hours. This includes a designated office within a

1       home state of residence.

2       (b) In addition to satisfying the requirements of  
3 subsection (a) of this Section, an individual shall

4           (1) be at least 18 years of age;

5           (2) have successfully passed the public adjuster  
6 examination;

7           (3) designate a licensed individual public adjuster  
8 responsible for the business entity's compliance with the  
9 insurance laws, rules, and regulations of this State; and

10          (4) designate only licensed individual public  
11 adjusters to exercise the business entity's license.

12       (c) The Director may require any documents reasonably  
13 necessary to verify the information contained in the  
14 application.

15       (215 ILCS 5/1530 new)

16       Sec. 1530. Examination.

17       (a) An individual applying for a public adjuster license  
18 under this Article must pass a written examination unless he or  
19 she is exempt pursuant to Section 1535 of this Article. The  
20 examination shall test the knowledge of the individual  
21 concerning the duties and responsibilities of a public adjuster  
22 and the insurance laws and regulations of this State.  
23 Examinations required by this Section shall be developed and  
24 conducted under rules and regulations prescribed by the  
25 Director.



1       (b) The Director may make arrangements, including  
2 contracting with an outside testing service, for administering  
3 examinations and collecting the nonrefundable fee. Each  
4 individual applying for an examination shall remit a  
5 nonrefundable fee as prescribed by the Director. An individual  
6 who fails to appear for the examination as scheduled or fails  
7 to pass the examination shall reapply for an examination and  
8 remit all required fees and forms before being rescheduled for  
9 another examination. An individual who fails to pass the  
10 examination must wait 90 days prior to rescheduling an  
11 examination.

12           (215 ILCS 5/1535 new)

13       Sec. 1535. Exemptions from examination.

14       (a) An individual who applies for a public adjuster license  
15 in this State who was previously licensed as a public adjuster  
16 in another state based on an public adjuster examination shall  
17 not be required to complete any prelicensing education. This  
18 exemption is only available if (i) the person is currently  
19 licensed in that state or if the application is received within  
20 12 months of the cancellation of the applicant's previous  
21 license; and (ii) if the prior state issues a certification  
22 that, at the time of cancellation, the applicant was in good  
23 standing in that state or the state's producer database records  
24 or records maintained by the NAIC, its affiliates, or  
25 subsidiaries, indicate that the public adjuster is or was

1 licensed in good standing.

2 (b) A person licensed as a public adjuster in another state  
3 based on a public adjuster examination who moves to this State  
4 shall submit an application within 90 days of establishing  
5 legal residence to become a resident licensee pursuant to  
6 Section 1525 of this Article. No prelicensing examination shall  
7 be required of that person to obtain a public adjuster license.

8 (c) An individual who applies for a public adjuster license  
9 in this State who was previously licensed as a public adjuster  
10 in this State shall not be required to complete any  
11 prelicensing examination. This exemption is only available if  
12 the application is received within 12 months of the  
13 cancellation of the applicant's previous license in this State  
14 and if, at the time of cancellation, the applicant was in good  
15 standing in this State.

16 (215 ILCS 5/1540 new)

17 Sec. 1540. Nonresident license reciprocity.

18 (a) Unless denied licensure pursuant to Section 1555 of  
19 this Article, a nonresident person shall receive a nonresident  
20 public adjuster license if:

21 (1) the person is currently licensed as a resident  
22 public adjuster and in good standing in his or her home  
23 state;

24 (2) the person has submitted the proper request for  
25 licensure and has provided proof of financial

1       responsibility as required in Section 1560 of this Article;

2           (3) the person has submitted or transmitted to the  
3       Director the appropriate completed application for  
4       licensure; and

5           (4) the person's home state awards nonresident public  
6       adjuster licenses to residents of this State on the same  
7       basis.

8       (b) The Director may verify the public adjuster's licensing  
9       status through the producer database maintained by the NAIC,  
10       its affiliates, or subsidiaries.

11       (c) As a condition to continuation of a public adjuster  
12       license issued under this Section, the licensee shall maintain  
13       a resident public adjuster license in his or her home state.  
14       The nonresident public adjuster license issued under this  
15       Section shall terminate and be surrendered immediately to the  
16       Director if the home state public adjuster license terminates  
17       for any reason, unless the public adjuster has been issued a  
18       license as a resident public adjuster in his or her new home  
19       state. Notification to the state or states where the  
20       nonresident license is issued must be made as soon as possible,  
21       yet no later than 30 days of change in new state resident  
22       license. The licensee shall include his or her new and old  
23       address on the notification. A new state resident license is  
24       required for nonresident licenses to remain valid. The new  
25       state resident license must have reciprocity with the licensing  
26       nonresident state or states for the nonresident license not to

1 terminate.

2 (215 ILCS 5/1545 new)

3 Sec. 1545. License.

4 (a) Unless denied licensure under this Article, persons who  
5 have met the requirements of this Article shall be issued a  
6 public adjuster license.

7 (b) A public adjuster license shall remain in effect unless  
8 revoked, terminated, or suspended as long as the requirements  
9 for license renewal are met by the due date.

10 (c) The licensee shall inform the Director by any means  
11 acceptable to the Director of a change of address, change of  
12 legal name, or change of information submitted on the  
13 application within 30 days of the change.

14 (d) A licensed public adjuster shall be subject to Article  
15 XXVI of this Code.

16 (e) A public adjuster who allows his or her license to  
17 lapse may, within 12 months from the due date of the renewal,  
18 be issued a new public adjuster license without necessity of  
19 passing a written examination. However, a penalty in the amount  
20 of double the unpaid renewal fee shall be required for the  
21 issue of the new public adjuster license.

22 (f) A licensed public adjuster that is unable to comply  
23 with license renewal procedures due to military service or a  
24 long-term medical disability may request a waiver of the  
25 procedures in subsection (e) of this Section. The public

1 adjuster may also request a waiver of any examination  
2 requirement, fine, or other sanction imposed for failure to  
3 comply with renewal procedures.

4 (g) The license shall contain the licensee's name, city and  
5 state of business address, personal identification number, the  
6 date of issuance, the expiration date, and any other  
7 information the Director deems necessary.

8 (h) In order to assist in the performance of the Director's  
9 duties, the Director may contract with non-governmental  
10 entities, including the NAIC or any affiliates or subsidiaries  
11 that the NAIC oversees, to perform any ministerial functions,  
12 including the collection of fees and data, related to licensing  
13 that the Director may deem appropriate.

14 (215 ILCS 5/1555 new)

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

16 (a) The Director may place on probation, suspend, revoke,  
17 deny, or refuse to issue or renew a public adjuster's license  
18 or may levy a civil penalty or any combination of actions, for  
19 any one or more of the following causes:

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

22 (2) violating any insurance laws, or violating any  
23 regulation, subpoena, or order of the Director or of  
24 another state's Director;

25 (3) obtaining or attempting to obtain a license through

1 misrepresentation or fraud;

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

5 (5) intentionally misrepresenting the terms of an  
6 actual or proposed insurance contract or application for  
7 insurance;

8 (6) having been convicted of a felony or misdemeanor  
9 involving dishonesty or fraud, unless the individual  
10 demonstrates to the Director sufficient rehabilitation to  
11 warrant the public trust;

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

14 (8) using fraudulent, coercive, or dishonest  
15 practices; or demonstrating incompetence,  
16 untrustworthiness, or financial irresponsibility in the  
17 conduct of business in this State or elsewhere;

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

21 (10) forging another's name to an application for  
22 insurance or to any document related to an insurance  
23 transaction;

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

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

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

6           (14) failing to pay State income tax or comply with any  
7           administrative or court order directing payment of State  
8           income tax;

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

11          (16) failing to maintain the records required by  
12          Section 1585 of this Law.

13          (b) If the action by the Director is to nonrenew, suspend,  
14          or revoke a license or to deny an application for a license,  
15          the Director shall notify the applicant or licensee and advise,  
16          in writing, the applicant or licensee of the reason for the  
17          suspension, revocation, denial, or nonrenewal of the  
18          applicant's or licensee's license. The applicant or licensee  
19          may make written demand upon the Director within 30 days after  
20          the date of mailing for a hearing before the Director to  
21          determine the reasonableness of the Director's action. The  
22          hearing must be held within not fewer than 20 days nor more  
23          than 30 days after the mailing of the notice of hearing and  
24          shall be held pursuant to 50 Ill. Adm. Code 2402.

25          (c) The license of a business entity may be suspended,  
26          revoked, or refused if the Director finds, after hearing, that

1 an individual licensee's violation was known or should have  
2 been known by one or more of the partners, officers, or  
3 managers acting on behalf of the business entity and the  
4 violation was neither reported to the Director, nor corrective  
5 action taken.

6 (d) In addition to or in lieu of any applicable denial,  
7 suspension or revocation of a license, a person may, after  
8 hearing, be subject to a civil penalty. In addition to or  
9 instead of any applicable denial, suspension, or revocation of  
10 a license, a person may, after hearing, be subject to a civil  
11 penalty of up to \$10,000 for each cause for denial, suspension,  
12 or revocation, however, the civil penalty may total no more  
13 than \$100,000.

14 (e) The Director shall retain the authority to enforce the  
15 provisions of and impose any penalty or remedy authorized by  
16 this Article against any person who is under investigation for  
17 or charged with a violation of this Article even if the  
18 person's license or registration has been surrendered or has  
19 lapsed by operation of law.

20 (f) Any individual whose public adjuster's license is  
21 revoked or whose application is denied pursuant to this Section  
22 shall be ineligible to apply for a public adjuster's license  
23 for 5 years. A suspension pursuant to this Section may be for  
24 any period of time up to 5 years.



1       Sec. 1560. Bond or letter of credit.

2       (a) Prior to the issuance of a license as a public adjuster  
3 and for the duration of the license, the applicant shall secure  
4 evidence of financial responsibility in a format prescribed by  
5 the Director through a surety bond or irrevocable letter of  
6 credit, subject to all of the following requirements:

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

9                   (A) shall be in the minimum amount of \$20,000;

10                   (B) shall be in favor of this State and shall  
11 specifically authorize recovery by the Director on  
12 behalf of any person in this State who sustained  
13 damages as the result of erroneous acts, failure to  
14 act, conviction of fraud, or conviction of unfair  
15 practices in his or her capacity as a public adjuster;  
16 and

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

20       (2) An irrevocable letter of credit issued by a  
21 qualified financial institution, which letter of credit

22                   (A) shall be in the minimum amount of \$20,000;

23                   (B) shall be to an account to the Director and  
24 subject to lawful levy of execution on behalf of any  
25 person to whom the public adjuster has been found to be  
26 legally liable as the result of erroneous acts, failure

1           to act, fraudulent acts, or unfair practices in his or  
2           her capacity as a public adjuster; and

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

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

9           (c) The Director may ask for the evidence of financial  
10          responsibility at any time he or she deems relevant.

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

14           (215 ILCS 5/1563 new)

15           Sec. 1563. Fees.

16           (a) The fees required by this Article are as follows:

17           (1) Public adjuster license annual fee, \$100;

18           (2) Registration of firms, \$100;

19           (3) Application fee for processing each request to take  
20           the written examination for a public adjuster license, \$20.

21           (215 ILCS 5/1565 new)

22           Sec. 1565. Continuing education.

23           (a) An individual who holds a public adjuster license and  
24           who is not exempt under subsection (b) of this Section shall

1 satisfactorily complete a minimum of 24 hours of continuing  
2 education courses, including 3 hours of classroom ethics  
3 instruction, reported on a biennial basis in conjunction with  
4 the license renewal cycle.

5 The Director may not approve a course of study unless the  
6 course provides for classroom, seminar, or self-study  
7 instruction methods. A course given in a combination  
8 instruction method of classroom or seminar and self-study shall  
9 be deemed to be a self-study course unless the classroom or  
10 seminar certified hours meets or exceeds two-thirds of the  
11 total hours certified for the course. The self-study material  
12 used in the combination course must be directly related to and  
13 complement the classroom portion of the course in order to be  
14 considered for credit. An instruction method other than  
15 classroom or seminar shall be considered as self-study  
16 methodology. Self-study credit hours require the successful  
17 completion of an examination covering the self-study material.  
18 The examination may not be self-evaluated. However, if the  
19 self-study material is completed through the use of an approved  
20 computerized interactive format whereby the computer validates  
21 the successful completion of the self-study material, no  
22 additional examination is required. The self-study credit  
23 hours contained in a certified course shall be considered  
24 classroom hours when at least two-thirds of the hours are given  
25 as classroom or seminar instruction.

26 The public adjuster must complete the course in advance of

1 the renewal date to allow the education provider time to report  
2 the credit to the Department.

3 (b) This Section shall not apply to:

4 (1) licensees not licensed for one full year prior to  
5 the end of the applicable continuing education biennium; or

6 (2) licensees holding nonresident public adjuster  
7 licenses who have met the continuing education  
8 requirements of their home state and whose home state gives  
9 credit to residents of this State on the same basis.

10 (c) Only continuing education courses approved by the  
11 Director shall be used to satisfy the continuing education  
12 requirement of subsection (a) of this Section.

13 (215 ILCS 5/1570 new)

14 Sec. 1570. Public adjuster fees.

15 (a) A public adjuster shall not pay a commission, service  
16 fee, or other valuable consideration to a person for  
17 investigating or settling claims in this State if that person  
18 is required to be licensed under this Article and is not so  
19 licensed.

20 (b) A person shall not accept a commission, service fee, or  
21 other valuable consideration for investigating or settling  
22 claims in this State if that person is required to be licensed  
23 under this Article and is not so licensed.

24 (c) A public adjuster may pay or assign commission, service  
25 fees, or other valuable consideration to persons who do not

1 investigate or settle claims in this State, unless the payment  
2 would violate State law.

3 (215 ILCS 5/1575 new)

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

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

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

9 (2) permanent home state business address and phone  
10 number;

11 (3) license number;

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

13 (5) the insured's full name, street address, insurance  
14 company name, and policy number, if known or upon  
15 notification;

16 (6) a description of the loss and its location, if  
17 applicable;

18 (7) description of services to be provided to the  
19 insured;

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

21 (9) date and time the contract was signed by the public  
22 adjuster and date and time the contract was signed by the  
23 insured;

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

1           (11) full salary, fee, commission, compensation, or  
2           other considerations the public adjuster is to receive for  
3           services.

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

6           (1) If the compensation is based on a share of the  
7           insurance settlement, the exact percentage shall be  
8           specified.

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

14           (3) Compensation provisions in a public adjusting  
15           contract shall not be redacted in any copy of the contract  
16           provided to the Director.

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

21           (1) not receive a commission consisting of a percentage  
22           of the total amount paid by an insurer to resolve a claim;

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

25           (3) be entitled only to reasonable compensation from  
26           the insured for services provided by the public adjuster on

1 behalf of the insured, based on the time spent on a claim  
2 and expenses incurred by the public adjuster, until the  
3 claim is paid or the insured receives a written commitment  
4 to pay from the insurer.

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

19 (e) A public adjuster contract may not contain any contract  
20 term that:

21 (1) allows the public adjuster's percentage fee to be  
22 collected when money is due from an insurance company, but  
23 not paid, or that allows a public adjuster to collect the  
24 entire fee from the first check issued by an insurance  
25 company, rather than as percentage of each check issued by  
26 an insurance company;

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

4           (3) precludes a public adjuster or an insured from  
5           pursuing civil remedies;

6           (4) includes any hold harmless agreement that provides  
7           indemnification to the public adjuster by the insured for  
8           liability resulting from the public adjuster's negligence;  
9           or

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

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

14           (1) Prior to the signing of the contract, the public  
15           adjuster shall provide the insured with a separate signed  
16           and dated disclosure document regarding the claim process  
17           that states:

18           "Property insurance policies obligate the insured to  
19           present a claim to his or her insurance company for  
20           consideration. There are 3 types of adjusters that could be  
21           involved in that process. The definitions of the 3 types  
22           are as follows:

23           (A) "Company adjuster" means the insurance  
24           adjusters who are employees of an insurance company.  
25           They represent the interest of the insurance company  
26           and are paid by the insurance company. They will not



1           charge you a fee.

2           (B) "Independent adjuster" means the insurance  
3           adjusters who are hired on a contract basis by an  
4           insurance company to represent the insurance company's  
5           interest in the settlement of the claim. They are paid  
6           by your insurance company. They will not charge you a  
7           fee.

8           (C) "Public adjuster" means the insurance  
9           adjusters who do not work for any insurance company.  
10          They work for the insured to assist in the preparation,  
11          presentation and settlement of the claim. The insured  
12          hires them by signing a contract agreeing to pay them a  
13          fee or commission based on a percentage of the  
14          settlement, or other method of compensation.".

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

18          (3) The public adjuster is not a representative or  
19          employee of the insurer.

20          (4) The salary, fee, commission, or other  
21          consideration is the obligation of the insured, not the  
22          insurer, except when rights have been assigned to the  
23          public adjuster by the insured.

24          (g) The contracts shall be executed in duplicate to provide  
25          an original contract to the public adjuster, and an original  
26          contract to the insured. The public adjuster's original

1 contract shall be available at all times for inspection without  
2 notice by the Director.

3 (h) The public adjuster shall provide the insurer with an  
4 exact copy of the contract by the insured, authorizing the  
5 public adjuster to represent the insured's interest.

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

9 (j) A public adjuster shall not provide services until a  
10 written contract with the insured has been executed, on a form  
11 filed with and approved by the Director. At the option of the  
12 insured, any such contract shall be voidable for 5 business  
13 days after execution. The insured may void the contract by  
14 notifying the public adjuster in writing by (i) registered or  
15 certified mail, return receipt requested, to the address shown  
16 on the contract or (ii) personally serving the notice on the  
17 public adjuster.

18 (k) If the insured exercises the right to rescind the  
19 contract, anything of value given by the insured under the  
20 contract will be returned to the insured within 15 business  
21 days following the receipt by the public adjuster of the  
22 cancellation notice.

23 (215 ILCS 5/1580 new)

24 Sec. 1580. Escrow or trust accounts. A public adjuster who  
25 receives, accepts, or holds any funds on behalf of an insured

1 towards the settlement of a claim for loss or damage shall  
2 deposit the funds in a non-interest bearing escrow or trust  
3 account in a financial institution that is insured by an agency  
4 of the federal government in the public adjuster's home state  
5 or where the loss occurred.

6 (215 ILCS 5/1585 new)

7 Sec. 1585. Record retention.

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

11 (1) name of the insured;

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

13 (3) a copy of the contract between the public adjuster  
14 and insured and a copy of the separate disclosure document;

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

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

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

21 (7) a register of all monies received, deposited,  
22 disbursed, or withdrawn in connection with a transaction  
23 with an insured, including fees transfers and  
24 disbursements from a trust account and all transactions  
25 concerning all interest bearing accounts;

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

2           (9) name of the attorney representing the insured, if  
3           applicable, and the name of the claims representatives of  
4           the insurance company; and

5           (10) evidence of financial responsibility in a format  
6           prescribed by the Director.

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

10          (c) Records submitted to the Director in accordance with  
11          this Section that contain information identified in writing as  
12          proprietary by the public adjuster shall be treated as  
13          confidential by the Director and shall not be subject to the  
14          Freedom of Information Act.

15           (215 ILCS 5/1590 new)

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

17          (a) A public adjuster is obligated, under his or her  
18          license, to serve with objectivity and complete loyalty for the  
19          interests of his client alone, and to render to the insured  
20          such information, counsel, and service, as within the  
21          knowledge, understanding, and opinion in good faith of the  
22          licensee, as will best serve the insured's insurance claim  
23          needs and interest.

24          (b) A public adjuster may not propose or attempt to propose  
25          to any person that the public adjuster represent that person

1 while a loss-producing occurrence is continuing, nor while the  
2 fire department or its representatives are engaged at the  
3 damaged premises, nor between the hours of 7:00 p.m. and 8:00  
4 a.m.

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

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

14 (e) A public adjuster shall not acquire any interest in the  
15 salvage of property subject to the contract with the insured  
16 unless the public adjuster obtains written permission from the  
17 insured after settlement of the claim with the insurer as set  
18 forth in subsection (g) of Section 1575 of this Article.

19 (f) The public adjuster shall abstain from referring or  
20 directing the insured to get needed repairs or services in  
21 connection with a loss from any person, unless disclosed to the  
22 insured:

23 (1) with whom the public adjuster has a financial  
24 interest; or

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

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

9       (h) Any compensation or anything of value in connection  
10 with an insured's specific loss that will be received by a  
11 public adjuster shall be disclosed by the public adjuster to  
12 the insured in writing including the source and amount of any  
13 such compensation.

14       (i) In all cases where the loss giving rise to the claim  
15 for which the public adjuster was retained arise from damage to  
16 a personal residence, the insurance proceeds shall be delivered  
17 to the named insured or his or her designee. Where proceeds  
18 paid by an insurance company are paid jointly to the insured  
19 and the public adjuster, the insured shall release such portion  
20 of the proceeds that are due the public adjuster within 30  
21 calendar days after the insured's receipt of the insurance  
22 company's check, money order, draft, or release of funds. If  
23 the proceeds are not so released to the public adjuster within  
24 30 calendar days, the insured shall provide the public adjuster  
25 with a written explanation of the reason for the delay.

26       (j) Public adjusters shall adhere to the following general

1 ethical requirements:

2 (1) a public adjuster shall not undertake the  
3 adjustment of any claim if the public adjuster is not  
4 competent and knowledgeable as to the terms and conditions  
5 of the insurance coverage, or which otherwise exceeds the  
6 public adjuster's current expertise;

7 (2) a public adjuster shall not knowingly make any oral  
8 or written material misrepresentations or statements which  
9 are false or maliciously critical and intended to injure  
10 any person engaged in the business of insurance to any  
11 insured client or potential insured client;

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

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

18 (5) a public adjuster shall not enter into a contract  
19 or accept a power of attorney that vests in the public  
20 adjuster the effective authority to choose the persons who  
21 shall perform repair work;

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

25 (7) a public adjuster shall not advance money or any  
26 valuable consideration, except emergency services to an

1       insured pending adjustment of a claim.

2       (k) A public adjuster may not agree to any loss settlement  
3 without the insured's knowledge and consent and shall, upon the  
4 insured's request, provide the insured with a document setting  
5 forth the scope, amount, and value of the damages prior to  
6 request by the insured for authority to settle the loss.

7       (l) A public adjuster shall not provide legal advice or  
8 representation to the insured or engage in the unauthorized  
9 practice of law.

10       (m) A public adjuster shall not represent that he or she is  
11 a representative of an insurance company, a fire department, or  
12 the State of Illinois, that he or she is a fire investigator,  
13 that his or her services are required for the insured to submit  
14 a claim to the insured's insurance company, or that he or she  
15 may provide legal advice or representation to the insured. A  
16 public adjuster may represent that he or she has been licensed  
17 by the State of Illinois.

18       (215 ILCS 5/1595 new)

19       Sec. 1595. Reporting of actions.

20       (a) The public adjuster shall report to the Director any  
21 administrative action taken against the public adjuster in  
22 another jurisdiction or by another governmental agency in this  
23 State within 30 days of the final disposition of the matter.  
24 This report shall include a copy of the order, consent to  
25 order, or other relevant legal documents.



1       (b) Within 30 days of the initial pretrial hearing date,  
2 the public adjuster shall report to the Director any criminal  
3 prosecution of the public adjuster taken in any jurisdiction.  
4 The report shall include a copy of the initial complaint filed,  
5 the order resulting from the hearing, and any other relevant  
6 legal documents.

7           (215 ILCS 5/1600 new)

8       Sec. 1600. Examinations.

9       (a) The Director shall have the power to examine any  
10 applicant or any person licensed or registered pursuant to this  
11 Article.

12       (b) Every person being examined and its officers,  
13 directors, and members must provide to the Director convenient  
14 and free access, at all reasonable hours, to all books,  
15 records, documents, and other papers relating to its public  
16 adjusting affairs. The officers, directors, members, and  
17 employees must facilitate and aid in such examinations so far  
18 as it is in their power to do so.

19       (c) Examiners may be designated by the Director. Such  
20 examiners shall make their reports to the Director pursuant to  
21 this Section. Any report alleging substantive violations shall  
22 be in writing and shall be based upon the facts ascertained  
23 from the books, records, documents, papers, and other evidence  
24 obtained by the examiners or ascertained from the testimony of  
25 the officers, directors, members, or other individuals

1 examined under oath or ascertained by notarized affidavits  
2 received by the examiners. The reports shall be verified by the  
3 examiners.

4 (215 ILCS 5/1605 new)

5 Sec. 1605. Injunctive relief. Any person who acts as or  
6 holds himself out to be a public adjuster without holding a  
7 valid and current license to do so is hereby declared to be  
8 inimical to the public welfare and to constitute a public  
9 nuisance. The Director may report such practice to the Attorney  
10 General of the State of Illinois whose duty it is to apply  
11 forthwith by complaint on relation of the Director in the name  
12 of the people of the State of Illinois, as plaintiff, for  
13 injunctive relief in the circuit court of the county where such  
14 practice occurred to enjoin the person from engaging in such  
15 practice; and upon the filing of a verified petition in such  
16 court, the court, if satisfied by affidavit or otherwise that  
17 the person has been engaged in such practice without a valid  
18 and current license to do so, may enter a temporary restraining  
19 order without notice or bond enjoining the defendant from such  
20 further practice. A copy of the verified complaint shall be  
21 served upon the defendant and the proceedings shall thereafter  
22 be conducted as in other civil cases. If it is established that  
23 the defendant has been or is engaged in such unlawful practice,  
24 then the court may enter an order or judgment perpetually  
25 enjoining the defendant from such further practice. In all

1 proceedings hereunder, the court, in its discretion, may  
2 apportion the costs among the parties interested in the action,  
3 including the costs of filing the complaint, service of  
4 process, witness fees and expenses, court reporter charges, and  
5 reasonable attorney fees. In case of violation of any  
6 injunctive order entered under the provisions of this Section,  
7 the court may try and punish the offender for contempt of  
8 court. Such injunction proceedings shall be in addition to, and  
9 not in lieu of, all penalties and other remedies.

10 (215 ILCS 5/1610 new)

11 Sec. 1610. Additional penalties. In addition to any other  
12 penalty set forth in this Article, any person violating Section  
13 1605 of this Code shall be guilty of a Class A misdemeanor and  
14 any person misappropriating or converting any monies collected  
15 as a public adjuster, whether licensed or not, shall be guilty  
16 of a Class 4 felony.

17 (215 ILCS 5/1615 new)

18 Sec. 1615. Rules. The Director shall promulgate reasonable  
19 rules as are necessary or proper to carry out the purposes of  
20 this Article.

21 (215 ILCS 5/500-75 rep.)

22 Section 910. The Illinois Insurance Code is amended by  
23 repealing Section 500-75.

1           Section 997. Severability. The provisions of this Act are  
2   severable under Section 1.31 of the Statute on Statutes."