



Rep. John A. Fritchey

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09600SB0660ham003

LRB096 06719 RPM 39480 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 "Adjusting a claim for loss or damage covered by an  
6 insurance contract" means negotiating values, damages, or  
7 depreciation or applying the loss circumstances to insurance  
8 policy provisions.

9 "Business entity" means a corporation, association,  
10 partnership, limited liability company, limited liability  
11 partnership, or other legal entity.

12 "Department" means the Department of Insurance.

13 "Director" means the Director of Insurance.

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

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

1 the home state.

2 "Individual" means a natural person.

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

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

6 (i) acts or aids, solely in relation to first party  
7 claims arising under insurance contracts that insure the  
8 real or personal property of the insured, on behalf of an  
9 insured in adjusting a claim for loss or damage covered by  
10 an insurance contract;

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

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

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

1 individuals.

2 "Uniform business entity application" means the current  
3 version of the National Association of Insurance Commissioners  
4 (NAIC) Uniform Business Entity Application for resident and  
5 nonresident business entities.

6 (215 ILCS 5/1515 new)

7 Sec. 1515. License required.

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

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

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

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

3           (2) all officers, shareholders, and persons with  
4           ownership interests in the business entity are licensed  
5           public adjusters responsible for the business entity's  
6           compliance with the insurance laws, rules, and regulations  
7           of this State.

8           (d) Notwithstanding subsections (a) through (c) of this  
9           Section, a license as a public adjuster shall not be required  
10          of the following:

11           (1) an attorney admitted to practice in this State,  
12           when acting in his or her professional capacity as an  
13           attorney;

14           (2) a person who negotiates or settles claims arising  
15           under a life or health insurance policy or an annuity  
16           contract;

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

22           (4) a licensed health care provider, or employee of a  
23           licensed health care provider, who prepares or files a  
24           health claim form on behalf of a patient; or

25           (5) a person who settles subrogation claims between  
26           insurers.

1 (215 ILCS 5/1520 new)

2 Sec. 1520. Application for license.

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

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

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

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

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

1 fingerprint records in order to perform criminal history record  
2 checks.

3 (f) Until such time as the Director can obtain and receive  
4 national criminal history records, the applicant shall obtain a  
5 copy of his or her fingerprints and complete criminal history  
6 record from the FBI Criminal Justice Information Services  
7 Division and the Illinois State Police and provide such  
8 information to the Department of Insurance.

9 (215 ILCS 5/1525 new)

10 Sec. 1525. Resident license.

11 (a) Before issuing a public adjuster license to an  
12 applicant under this Section, the Director shall find that the  
13 applicant:

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

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

20 (3) is trustworthy, reliable, competent, and of good  
21 reputation, evidence of which may be determined by the  
22 Director;

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

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

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

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

8                   (2) have successfully passed the public adjuster  
9                   examination;

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

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

15           (c) The Director may require any documents reasonably  
16           necessary to verify the information contained in the  
17           application.

18           (215 ILCS 5/1530 new)

19           Sec. 1530. Examination.

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



1 Examinations required by this Section shall be developed and  
2 conducted under rules and regulations prescribed by the  
3 Director.

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

15 (215 ILCS 5/1535 new)

16 Sec. 1535. Exemptions from examination.

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

1 standing in that state or the state's producer database records  
2 or records maintained by the NAIC, its affiliates, or  
3 subsidiaries, indicate that the public adjuster is or was  
4 licensed in good standing.

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

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

19 (215 ILCS 5/1540 new)

20 Sec. 1540. Nonresident license reciprocity.

21 (a) Unless denied licensure pursuant to Section 1555 of  
22 this Article, a nonresident person shall receive a nonresident  
23 public adjuster license if:

24 (1) the person is currently licensed as a resident  
25 public adjuster and in good standing in his or her home

1       state;

2           (2) the person has submitted the proper request for  
3       licensure and has provided proof of financial  
4       responsibility as required in Section 1560 of this Article;

5           (3) the person has submitted or transmitted to the  
6       Director the appropriate completed application for  
7       licensure; and

8           (4) the person's home state awards nonresident public  
9       adjuster licenses to residents of this State on the same  
10       basis.

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

14       (c) As a condition to continuation of a public adjuster  
15       license issued under this Section, the licensee shall maintain  
16       a resident public adjuster license in his or her home state.  
17       The nonresident public adjuster license issued under this  
18       Section shall terminate and be surrendered immediately to the  
19       Director if the home state public adjuster license terminates  
20       for any reason, unless the public adjuster has been issued a  
21       license as a resident public adjuster in his or her new home  
22       state. Notification to the state or states where the  
23       nonresident license is issued must be made as soon as possible,  
24       yet no later than 30 days of change in new state resident  
25       license. The licensee shall include his or her new and old  
26       address on the notification. A new state resident license is

1 required for nonresident licenses to remain valid. The new  
2 state resident license must have reciprocity with the licensing  
3 nonresident state or states for the nonresident license not to  
4 terminate.

5 (215 ILCS 5/1545 new)

6 Sec. 1545. License.

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

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

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

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

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

25 (f) A licensed public adjuster that is unable to comply

1 with license renewal procedures due to military service or a  
2 long-term medical disability may request a waiver of the  
3 procedures in subsection (e) of this Section. The public  
4 adjuster may also request a waiver of any examination  
5 requirement, fine, or other sanction imposed for failure to  
6 comply with renewal procedures.

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

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

17 (215 ILCS 5/1555 new)

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

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

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

25 (2) violating any insurance laws, or violating any

1       regulation, subpoena, or order of the Director or of  
2       another state's Director;

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

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

8       (5) intentionally misrepresenting the terms of an  
9       actual or proposed insurance contract or application for  
10       insurance;

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

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

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

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

24       (10) forging another's name to an application for  
25       insurance or to any document related to an insurance  
26       transaction;

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

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

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

9           (14) failing to pay State income tax or comply with any  
10           administrative or court order directing payment of State  
11           income tax;

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

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

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

1 shall be held pursuant to 50 Ill. Adm. Code 2402.

2 (c) The license of a business entity may be suspended,  
3 revoked, or refused if the Director finds, after hearing, that  
4 an individual licensee's violation was known or should have  
5 been known by one or more of the partners, officers, or  
6 managers acting on behalf of the business entity and the  
7 violation was neither reported to the Director, nor corrective  
8 action taken.

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

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

23 (f) Any individual whose public adjuster's license is  
24 revoked or whose application is denied pursuant to this Section  
25 shall be ineligible to apply for a public adjuster's license  
26 for 5 years. A suspension pursuant to this Section may be for



1 any period of time up to 5 years.

2 (215 ILCS 5/1560 new)

3 Sec. 1560. Bond or letter of credit.

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

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

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

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

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

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

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

25 (B) shall be to an account to the Director and

1           subject to lawful levy of execution on behalf of any  
2           person to whom the public adjuster has been found to be  
3           legally liable as the result of erroneous acts, failure  
4           to act, fraudulent acts, or unfair practices in his or  
5           her capacity as a public adjuster; and

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

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

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

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

17           (215 ILCS 5/1563 new)

18           Sec. 1563. Fees.

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

20           (1) Public adjuster license fee of \$250, payable once  
21           every 2 years.

22           (2) Business entity license fee of \$250, payable once  
23           every 2 years.

24           (3) Application fee of \$50 for processing each request  
25           to take the written examination for a public adjuster

1       license.

2           (215 ILCS 5/1565 new)

3       Sec. 1565. Continuing education.

4       (a) An individual who holds a public adjuster license and  
5 who is not exempt under subsection (b) of this Section shall  
6 satisfactorily complete a minimum of 24 hours of continuing  
7 education courses, including 3 hours of classroom ethics  
8 instruction, reported on a biennial basis in conjunction with  
9 the license renewal cycle.

10       The Director may not approve a course of study unless the  
11 course provides for classroom, seminar, or self-study  
12 instruction methods. A course given in a combination  
13 instruction method of classroom or seminar and self-study shall  
14 be deemed to be a self-study course unless the classroom or  
15 seminar certified hours meets or exceeds two-thirds of the  
16 total hours certified for the course. The self-study material  
17 used in the combination course must be directly related to and  
18 complement the classroom portion of the course in order to be  
19 considered for credit. An instruction method other than  
20 classroom or seminar shall be considered as self-study  
21 methodology. Self-study credit hours require the successful  
22 completion of an examination covering the self-study material.  
23 The examination may not be self-evaluated. However, if the  
24 self-study material is completed through the use of an approved  
25 computerized interactive format whereby the computer validates

1 the successful completion of the self-study material, no  
2 additional examination is required. The self-study credit  
3 hours contained in a certified course shall be considered  
4 classroom hours when at least two-thirds of the hours are given  
5 as classroom or seminar instruction.

6 The public adjuster must complete the course in advance of  
7 the renewal date to allow the education provider time to report  
8 the credit to the Department.

9 (b) This Section shall not apply to:

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

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

16 (c) Only continuing education courses approved by the  
17 Director shall be used to satisfy the continuing education  
18 requirement of subsection (a) of this Section.

19 (215 ILCS 5/1570 new)

20 Sec. 1570. Public adjuster fees.

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

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

5       (c) A public adjuster may pay or assign commission, service  
6 fees, or other valuable consideration to persons who do not  
7 investigate or settle claims in this State, unless the payment  
8 would violate State law.

9       (215 ILCS 5/1575 new)

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

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

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

15       (2) permanent home state business address and phone  
16 number;

17       (3) license number;

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

19       (5) the insured's full name, street address, insurance  
20 company name, and policy number, if known or upon  
21 notification;

22       (6) a description of the loss and its location, if  
23 applicable;

24       (7) description of services to be provided to the  
25 insured;

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

2           (9) date and time the contract was signed by the public  
3 adjuster and date and time the contract was signed by the  
4 insured;

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

7           (11) full salary, fee, commission, compensation, or  
8 other considerations the public adjuster is to receive for  
9 services.

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

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

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

20           (3) Compensation provisions in a public adjusting  
21 contract shall not be redacted in any copy of the contract  
22 provided to the Director.

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

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

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

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

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

25           (e) A public adjuster contract may not contain any contract  
26           term that:

1           (1) allows the public adjuster's percentage fee to be  
2           collected when money is due from an insurance company, but  
3           not paid, or that allows a public adjuster to collect the  
4           entire fee from the first check issued by an insurance  
5           company, rather than as percentage of each check issued by  
6           an insurance company;

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

10           (3) precludes a public adjuster or an insured from  
11           pursuing civil remedies;

12           (4) includes any hold harmless agreement that provides  
13           indemnification to the public adjuster by the insured for  
14           liability resulting from the public adjuster's negligence;  
15           or

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

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

20           (1) Prior to the signing of the contract, the public  
21           adjuster shall provide the insured with a separate signed  
22           and dated disclosure document regarding the claim process  
23           that states:

24           "Property insurance policies obligate the insured to  
25           present a claim to his or her insurance company for  
26           consideration. There are 3 types of adjusters that could be



1 involved in that process. The definitions of the 3 types  
2 are as follows:

3 (A) "Company adjuster" means the insurance  
4 adjusters who are employees of an insurance company.  
5 They represent the interest of the insurance company  
6 and are paid by the insurance company. They will not  
7 charge you a fee.

8 (B) "Independent adjuster" means the insurance  
9 adjusters who are hired on a contract basis by an  
10 insurance company to represent the insurance company's  
11 interest in the settlement of the claim. They are paid  
12 by your insurance company. They will not charge you a  
13 fee.

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

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

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

26 (4) The salary, fee, commission, or other

1       consideration is the obligation of the insured, not the  
2       insurer, except when rights have been assigned to the  
3       public adjuster by the insured.

4       (g) The contracts shall be executed in duplicate to provide  
5       an original contract to the public adjuster, and an original  
6       contract to the insured. The public adjuster's original  
7       contract shall be available at all times for inspection without  
8       notice by the Director.

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

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

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

24       (k) If the insured exercises the right to rescind the  
25       contract, anything of value given by the insured under the  
26       contract will be returned to the insured within 15 business

1 days following the receipt by the public adjuster of the  
2 cancellation notice.

3 (215 ILCS 5/1580 new)

4 Sec. 1580. Escrow or trust accounts. A public adjuster who  
5 receives, accepts, or holds any funds on behalf of an insured  
6 towards the settlement of a claim for loss or damage shall  
7 deposit the funds in a non-interest bearing escrow or trust  
8 account in a financial institution that is insured by an agency  
9 of the federal government in the public adjuster's home state  
10 or where the loss occurred.

11 (215 ILCS 5/1585 new)

12 Sec. 1585. Record retention.

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

16 (1) name of the insured;

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

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

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

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

23 (6) itemized statement of all compensation received by  
24 the public adjuster, from any source whatsoever, in

1 connection with the loss;

2 (7) a register of all monies received, deposited,  
3 disbursed, or withdrawn in connection with a transaction  
4 with an insured, including fees transfers and  
5 disbursements from a trust account and all transactions  
6 concerning all interest bearing accounts;

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

8 (9) name of the attorney representing the insured, if  
9 applicable, and the name of the claims representatives of  
10 the insurance company; and

11 (10) evidence of financial responsibility in a format  
12 prescribed by the Director.

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

16 (c) Records submitted to the Director in accordance with  
17 this Section that contain information identified in writing as  
18 proprietary by the public adjuster shall be treated as  
19 confidential by the Director and shall not be subject to the  
20 Freedom of Information Act.

21 (215 ILCS 5/1590 new)

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

23 (a) A public adjuster is obligated, under his or her  
24 license, to serve with objectivity and complete loyalty for the  
25 interests of his client alone, and to render to the insured

1 such information, counsel, and service, as within the  
2 knowledge, understanding, and opinion in good faith of the  
3 licensee, as will best serve the insured's insurance claim  
4 needs and interest.

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

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

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

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

25 (f) The public adjuster shall abstain from referring or  
26 directing the insured to get needed repairs or services in

1 connection with a loss from any person, unless disclosed to the  
2 insured:

3 (1) with whom the public adjuster has a financial  
4 interest; or

5 (2) from whom the public adjuster may receive direct or  
6 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 to  
22 a personal residence, the insurance proceeds shall be delivered  
23 to the named insured or his or her designee. Where proceeds  
24 paid by an insurance company are paid jointly to the insured  
25 and the public adjuster, the insured shall release such portion  
26 of the proceeds that are due the public adjuster within 30

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

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

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

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

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

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

24 (5) a public adjuster shall not enter into a contract  
25 or accept a power of attorney that vests in the public  
26 adjuster the effective authority to choose the persons who

1       shall perform repair work;

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

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

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

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

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

24           (215 ILCS 5/1595 new)

25           Sec. 1595. Reporting of actions.



1       (a) The public adjuster shall report to the Director any  
2 administrative action taken against the public adjuster in  
3 another jurisdiction or by another governmental agency in this  
4 State within 30 days of the final disposition of the matter.  
5 This report shall include a copy of the order, consent to  
6 order, or other relevant legal documents.

7       (b) Within 30 days of the initial pretrial hearing date,  
8 the public adjuster shall report to the Director any criminal  
9 prosecution of the public adjuster taken in any jurisdiction.  
10 The report shall include a copy of the initial complaint filed,  
11 the order resulting from the hearing, and any other relevant  
12 legal documents.

13       (215 ILCS 5/1600 new)

14       Sec. 1600. Examinations.

15       (a) The Director shall have the power to examine any  
16 applicant or any person licensed or registered pursuant to this  
17 Article.

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

25       (c) Examiners may be designated by the Director. Such

1 examiners shall make their reports to the Director pursuant to  
2 this Section. Any report alleging substantive violations shall  
3 be in writing and shall be based upon the facts ascertained  
4 from the books, records, documents, papers, and other evidence  
5 obtained by the examiners or ascertained from the testimony of  
6 the officers, directors, members, or other individuals  
7 examined under oath or ascertained by notarized affidavits  
8 received by the examiners. The reports shall be verified by the  
9 examiners.

10 (215 ILCS 5/1605 new)

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

1 further practice. A copy of the verified complaint shall be  
2 served upon the defendant and the proceedings shall thereafter  
3 be conducted as in other civil cases. If it is established that  
4 the defendant has been or is engaged in such unlawful practice,  
5 then the court may enter an order or judgment perpetually  
6 enjoining the defendant from such further practice. In all  
7 proceedings hereunder, the court, in its discretion, may  
8 apportion the costs among the parties interested in the action,  
9 including the costs of filing the complaint, service of  
10 process, witness fees and expenses, court reporter charges, and  
11 reasonable attorney fees. In case of violation of any  
12 injunctive order entered under the provisions of this Section,  
13 the court may try and punish the offender for contempt of  
14 court. Such injunction proceedings shall be in addition to, and  
15 not in lieu of, all penalties and other remedies.

16 (215 ILCS 5/1610 new)

17 Sec. 1610. Additional penalties. In addition to any other  
18 penalty set forth in this Article, any person violating Section  
19 1605 of this Code shall be guilty of a Class A misdemeanor and  
20 any person misappropriating or converting any monies collected  
21 as a public adjuster, whether licensed or not, shall be guilty  
22 of a Class 4 felony.

23 (215 ILCS 5/1615 new)

24 Sec. 1615. Rules. The Director shall promulgate reasonable

1 rules as are necessary or proper to carry out the purposes of  
2 this Article.

3 (215 ILCS 5/500-75 rep.)

4 Section 910. The Illinois Insurance Code is amended by  
5 repealing Section 500-75.

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