



Sen. Dan Kotowski

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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 "Director" means the Director of the Division of Insurance
9 of the Department of Financial and Professional Regulation.

10 "Division" means the Division of Insurance of the
11 Department of Financial and Professional Regulation.

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

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

25 "Individual" means a natural person.

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

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

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

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

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

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

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

5 (215 ILCS 5/1515 new)

6 Sec. 1515. License required.

7 (a) A person shall not act or hold himself out as a public
8 adjuster in this State unless the person is licensed as a
9 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.

1 (215 ILCS 5/1525 new)

2 Sec. 1525. Resident license.

3 (a) Before issuing a public adjuster license to an
4 applicant under this Section, the Director shall find that the
5 applicant:

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

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

12 (3) is trustworthy, reliable, competent, and of good
13 reputation, evidence of which may be determined by the
14 Director;

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

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

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

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

25 (2) have successfully passed the public adjuster
26 examination;

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

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

6 (c) The Director may require any documents reasonably
7 necessary to verify the information contained in the
8 application.

9 (215 ILCS 5/1530 new)

10 Sec. 1530. Examination.

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

20 (b) The Director may make arrangements, including
21 contracting with an outside testing service, for administering
22 examinations and collecting the nonrefundable fee. Each
23 individual applying for an examination shall remit a
24 non-refundable fee as prescribed by the Director. An individual
25 who fails to appear for the examination as scheduled or fails

1 to pass the examination shall reapply for an examination and
2 remit all required fees and forms before being rescheduled for
3 another examination. An individual who fails to pass the
4 examination must wait 90 days prior to rescheduling an
5 examination.

6 (215 ILCS 5/1535 new)

7 Sec. 1535. Exemptions from examination.

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

21 (b) A person licensed as a public adjuster in another state
22 based on a public adjuster examination who moves to this State
23 shall submit an application within 90 days of establishing
24 legal residence to become a resident licensee pursuant to
25 Section 1525 of this Article. No prelicensing examination shall

1 be required of that person to obtain a public adjuster license.

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

10 (215 ILCS 5/1540 new)

11 Sec. 1540. Nonresident license reciprocity.

12 (a) Unless denied licensure pursuant to Section 1555 of
13 this Article, a nonresident person shall receive a nonresident
14 public adjuster license if:

15 (1) the person is currently licensed as a resident
16 public adjuster and in good standing in his or her home
17 state;

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

21 (3) the person has submitted or transmitted to the
22 Director the appropriate completed application for
23 licensure; and

24 (4) the person's home state awards non-resident public
25 adjuster licenses to residents of this State on the same

1 basis.

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

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

22 (215 ILCS 5/1545 new)

23 Sec. 1545. License.

24 (a) Unless denied licensure under this Article, persons who
25 have met the requirements of this Article shall be issued a

1 public adjuster license.

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

5 (c) The licensee shall inform the Director by any means
6 acceptable to the Director of a change of address, change of
7 legal name, or change of information submitted on the
8 application within 30 days of the change.

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

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

17 (f) A licensed public adjuster that is unable to comply
18 with license renewal procedures due to military service or a
19 long-term medical disability may request a waiver of the
20 procedures in subsection (e) of this Section. The public
21 adjuster may also request a waiver of any examination
22 requirement, fine, or other sanction imposed for failure to
23 comply with renewal procedures.

24 (g) The license shall contain the licensee's name, city and
25 state of business address, personal identification number, the
26 date of issuance, the expiration date, and any other

1 information the Director deems necessary.

2 (h) In order to assist in the performance of the Director's
3 duties, the Director may contract with non-governmental
4 entities, including the NAIC or any affiliates or subsidiaries
5 that the NAIC oversees, to perform any ministerial functions,
6 including the collection of fees and data, related to licensing
7 that the Director may deem appropriate.

8 (215 ILCS 5/1555 new)

9 Sec. 1555. License denial, non-renewal, or revocation

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

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

16 (2) violating any insurance laws, or violating any
17 regulation, subpoena, or order of the Director or of
18 another state's Director;

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

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

24 (5) intentionally misrepresenting the terms of an
25 actual or proposed insurance contract or application for

1 insurance;

2 (6) having been convicted of a felony;

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

5 (8) using fraudulent, coercive, or dishonest
6 practices; or demonstrating incompetence,
7 untrustworthiness, or financial irresponsibility in the
8 conduct of business in this State or elsewhere;

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

12 (10) forging another's name to an application for
13 insurance or to any document related to an insurance
14 transaction;

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

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

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

23 (14) failing to pay State income tax or comply with any
24 administrative or court order directing payment of State
25 income tax;

26 (15) failing to comply with or having violated any of

1 the standards set forth in Section 1590 of this Law; or

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

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

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

23 (d) In addition to or in lieu of any applicable denial,
24 suspension or revocation of a license, a person may, after
25 hearing, be subject to a civil penalty. In addition to or
26 instead of any applicable denial, suspension, or revocation of

1 a license, a person may, after hearing, be subject to a civil
2 penalty of up to \$10,000 for each cause for denial, suspension,
3 or revocation, however, the civil penalty may total no more
4 than \$100,000.

5 (e) The Director shall retain the authority to enforce the
6 provisions of and impose any penalty or remedy authorized by
7 this Article against any person who is under investigation for
8 or charged with a violation of this Article even if the
9 person's license or registration has been surrendered or has
10 lapsed by operation of law.

11 (f) Any individual whose public adjuster's license is
12 revoked or whose application is denied pursuant to this Section
13 shall be ineligible to apply for a public adjuster's license
14 for 5 years. A suspension pursuant to this Section may be for
15 any period of time up to 5 years.

16 (215 ILCS 5/1560 new)

17 Sec. 1560. Bond or letter of credit.

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

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

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

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

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

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

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

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

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

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

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

1 responsibility at any time he or she deems relevant.

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

5 (215 ILCS 5/1565 new)

6 Sec. 1565. Continuing education.

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

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

1 The examination may not be self-evaluated. However, if the
2 self-study material is completed through the use of an approved
3 computerized interactive format whereby the computer validates
4 the successful completion of the self-study material, no
5 additional examination is required. The self-study credit
6 hours contained in a certified course shall be considered
7 classroom hours when at least two-thirds of the hours are given
8 as classroom or seminar instruction.

9 The public adjuster must complete the course in advance of
10 the renewal date to allow the education provider time to report
11 the credit to the Department.

12 (b) This Section shall not apply to:

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

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

19 (c) Only continuing education courses approved by the
20 Director shall be used to satisfy the continuing education
21 requirement of subsection (a) of this Section.

22 (215 ILCS 5/1570 new)

23 Sec. 1570. Public adjuster fees.

24 (a) A public adjuster shall not pay a commission, service
25 fee, or other valuable consideration to a person for

1 investigating or settling claims in this State if that person
2 is required to be licensed under this Article and is not so
3 licensed.

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

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

12 (215 ILCS 5/1575 new)

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

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

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

18 (2) permanent home state business address and phone
19 number;

20 (3) license number;

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

22 (5) the insured's full name, street address, insurance
23 company name, and policy number, if known or upon
24 notification;

25 (6) a description of the loss and its location, if

1 applicable;

2 (7) description of services to be provided to the
3 insured;

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

5 (9) date contract was signed by the public adjuster and
6 date the contract was signed by the insured;

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

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

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

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

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

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

25 (c) If the insurer, not later than 5 business days after
26 the date on which the loss is reported to the insurer, either

1 pays or commits in writing to pay to the insured the policy
2 limit of the insurance policy, the public adjuster shall:

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

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

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

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

1 (e) A public adjuster contract may not contain any contract
2 term that:

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

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

12 (3) precludes a public adjuster or an insured from
13 pursuing civil remedies.

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

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

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

25 (A) "Company adjuster" means the insurance
26 adjusters who are employees of an insurance company.

1 They represent the interest of the insurance company
2 and are paid by the insurance company. They will not
3 charge you a fee.

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

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

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

20 (3) The insured has the right to initiate direct
21 communications with the insured's attorney, the insurer,
22 the insurer's adjuster, and the insurer's attorney, or any
23 other person regarding the settlement of the insured's
24 claim. Once a public adjuster has been retained, the
25 company adjuster or other insurance representative may not
26 communicate directly with the insured without the

1 permission or consent of the public adjuster or the
2 insured's legal counsel.

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

5 (5) The salary, fee, commission, or other
6 consideration is the obligation of the insured, not the
7 insurer, except when rights have been assigned to the
8 public adjuster by the insured.

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

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

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

20 (j) A public adjuster shall not provide services until a
21 written contract with the insured has been executed, on a form
22 filed with and approved by the Director. At the option of the
23 insured, any such contract that is executed within 5 business
24 days after conclusion of the loss producing occurrence shall be
25 voidable for 10 days after execution. The insured may void the
26 contract by notifying the public adjuster in writing by (i)

1 registered or certified mail, return receipt requested, to the
2 address shown on the contract or (ii) personally serving the
3 notice on the public adjuster.

4 (k) If the insured exercises the right to rescind the
5 contract, anything of value given by the insured under the
6 contract will be returned to the insured within 15 business
7 days following the receipt by the public adjuster of the
8 cancellation notice.

9 (215 ILCS 5/1580 new)

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

17 (215 ILCS 5/1585 new)

18 Sec. 1585. Record retention.

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

22 (1) name of the insured;

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

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

1 and insured and a copy of the separate disclosure document;

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

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

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

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

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

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

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

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

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

1 (215 ILCS 5/1590 new)

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

3 (a) A public adjuster is obligated, under his or her
4 license, to serve with objectivity and complete loyalty for the
5 interests of his client alone, and to render to the insured
6 such information, counsel, and service, as within the
7 knowledge, understanding, and opinion in good faith of the
8 licensee, as will best serve the insured's insurance claim
9 needs and interest.

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

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

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

25 (e) A public adjuster shall not acquire any interest in the

1 salvage of property subject to the contract with the insured
2 unless the public adjuster obtains written permission from the
3 insured after settlement of the claim with the insurer as set
4 forth in subsection (g) of Section 1575 of this Article.

5 (f) The public adjuster shall abstain from referring or
6 directing the insured to get needed repairs or services in
7 connection with a loss from any person, unless disclosed to the
8 insured:

9 (1) with whom the public adjuster has a financial
10 interest; or

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

13 (g) The public adjuster shall disclose to an insured if he
14 or she has any interest or will be compensated by any
15 construction firm, salvage firm, building appraisal firm,
16 motor vehicle repair shop, or any other firm that performs any
17 work in conjunction with damages caused by the insured loss.
18 The word "firm" shall include any corporation, partnership,
19 association, joint-stock company or individual as set forth in
20 Section 1575 of this Article.

21 (h) Any compensation or anything of value in connection
22 with an insured's specific loss that will be received by a
23 public adjuster shall be disclosed by the public adjuster to
24 the insured in writing including the source and amount of any
25 such compensation.

26 (i) In all cases where the loss giving rise to the claim

1 for which the public adjuster was retained arise from damage to
2 a personal residence, the insurance proceeds shall be delivered
3 in person to the named insured or his or her designee. Where
4 proceeds paid by an insurance company are paid jointly to the
5 insured and the public adjuster, the insured shall release such
6 portion of the proceeds that are due the public adjuster within
7 30 calendar days after the insured's receipt of the insurance
8 company's check, money order, draft, or release of funds. If
9 the proceeds are not so released to the insured within 30
10 calendar days, the insured shall provide the public adjuster
11 with a written explanation of the reason for the delay.

12 (j) Public adjusters shall adhere to the following general
13 ethical requirements:

14 (1) a public adjuster shall not undertake the
15 adjustment of any claim if the public adjuster is not
16 competent and knowledgeable as to the terms and conditions
17 of the insurance coverage, or which otherwise exceeds the
18 public adjuster's current expertise;

19 (2) a public adjuster shall not knowingly make any oral
20 or written material misrepresentations or statements which
21 are false or maliciously critical and intended to injure
22 any person engaged in the business of insurance to any
23 insured client or potential insured client;

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

1 (4) the contract shall not be construed to prevent an
2 insured from pursuing any civil remedy after the 3-business
3 day revocation or cancellation period;

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

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

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

14 (k) A public adjuster may not agree to any loss settlement
15 without the insured's knowledge and consent.

16 (215 ILCS 5/1595 new)

17 Sec. 1595. Reporting of actions.

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

24 (b) Within 30 days of the initial pretrial hearing date,
25 the public adjuster shall report to the Director any criminal

1 prosecution of the public adjuster taken in any jurisdiction.
2 The report shall include a copy of the initial complaint filed,
3 the order resulting from the hearing, and any other relevant
4 legal documents.

5 (215 ILCS 5/1600 new)

6 Sec. 1600. Examinations.

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

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

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

1 examiners.

2 (215 ILCS 5/1605 new)

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

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

8 (215 ILCS 5/1610 new)

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

15 (215 ILCS 5/1615 new)

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

19 (215 ILCS 5/Art. XXXI.75 rep.)

20 Section 910. The Illinois Insurance Code is amended by
21 repealing Article XXXI.75.

22 Section 997. Severability. The provisions of this Act are

1 severable under Section 1.31 of the Statute on Statutes."