

AN ACT

*Codification
District of
Columbia
Official Code*

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To provide for the licensure of individuals doing business in the District of Columbia as public insurance adjusters in order to protect the citizens of the District of Columbia against fraud and unfair business practices; and to amend Title 28 of the District of Columbia Official Code to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Public Insurance Adjuster Licensure Act of 2002".

New Chapter
16A,
Title 31

New
§ 31-1631.01

Sec. 2. Definitions.

For the purposes of this act, the term:

- Regulation.
- (1) "Commissioner" means the Commissioner of Insurance and Securities
 - (2) "District" means the District of Columbia.
 - (3) "License" means a license issued by the Commissioner to act as a public insurance adjuster.
 - (4) "Licensee" means any person licensed in the District to do business as a public insurance adjuster.
 - (5) "Public insurance adjuster" shall include any person who, for compensation or any other thing of value:
 - (A) Acts or aids, solely in relation to first party claims arising under insurance contracts that insure the real or personal property of the insured, on behalf of an insured individual in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;
 - (B) Advertises for employment as an adjuster of insurance claims; solicits business or represents himself or herself to the public as an adjuster of first party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or
 - (C) Directly or indirectly solicits business, investigates or adjusts losses, or advises an insured about first party claims for losses or damages arising out of policies of

insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy.

New
§ 31-1631.02

Sec. 3. License requirement.

No person shall, directly or indirectly, act as a public insurance adjuster without first procuring a license from the Commissioner to act as a public insurance adjuster.

New
§ 31-1631.03

Sec. 4. Licensure.

(a) The Commissioner shall issue a license to an applicant for a public insurance adjuster's license who:

- (1) Has paid the applicable fee specified by this act;
- (2) Passes a written examination for which a fee may be charged; and
- (3) Has sufficient experience, training, and instruction concerning the adjusting of first party claims for damages or losses under insurance contracts that insure the real or personal property of the insured, as determined by the Commissioner in accordance with regulations issued pursuant to this act.

(b) The Commissioner may issue a license to any applicant without an examination if:

- (1) The applicant holds a like license in good standing from another state and the public official having supervision of public insurance adjusters in the other state certifies that the applicant has passed a written examination; and
- (2) The other state recognizes public insurance adjusters with District public insurance adjuster licenses for the purpose of licensing the applicant without the requirement of an examination.

(c) A license issued pursuant to this section shall continue in force from the date of issuance until April 30th of the next odd-numbered year, unless suspended, revoked, or otherwise terminated prior thereto. Requests for renewal of the license shall be made to the Commissioner and accompanied by the license fee. Unless a request for renewal, accompanied by the appropriate fee, is received by the termination date, the license shall expire.

New
§ 31-1631.04

Sec. 5. Bond requirement.

(a) At the time of the application for license as a public insurance adjuster, the applicant shall file with the Commissioner a bond executed and issued by a surety insurer authorized to transact business in the District in the amount of \$20,000, which bond shall serve the faithful performance of his or her duties as a public insurance adjuster. A public insurance adjuster license shall automatically terminate when the bond is not in force.

(b) The bond shall have the following characteristics:

- (1) The bond shall be in favor of the District and shall specifically authorize recovery by the Commissioner of the damages sustained if the licensee is convicted of fraud or unfair practices in connection with his or her business as a public insurance adjuster.
- (2) The aggregate liability of the surety for all damages shall not exceed the

amount of the bond.

(3) The bond shall not be terminated unless at least 30 days written notice is given to the licensee and filed with the Commissioner.

New
§ 31-1631.05

Sec. 6. Maintenance of records.

(a) A public insurance adjuster shall maintain a complete record of each transaction as a public insurance adjuster. The records required by this section shall include the:

- (1) Name of the insured;
- (2) Date, location, and amount of the loss;
- (3) Copy of the contract between the public insurance adjuster and insured;
- (4) Name of the insurer, amount, expiration date, and number of each policy carried with respect to the loss;
- (5) Itemized statement of the insured's recoveries; and
- (6) Itemized statement of all compensation received by the public insurance adjuster, from any source whatsoever, in connection with a particular claim.

(b) Records shall be maintained for at least 5 years after the termination of the transaction with an insured and shall be open to examination by the Commissioner at all times.

(c) Records submitted in accordance with this section that contain proprietary information, identified in writing as such by the public insurance adjuster, shall be treated as confidential by the Commissioner.

New
§ 31-1631.06

Sec. 7. License denial, suspension, revocation, and refusal to renew; civil penalties.

(a) The Commissioner may deny a license to an applicant or suspend, revoke, or refuse to renew a license if the applicant or licensee:

- (1) Violates the provisions of this act or any standard of conduct prescribed by the Commissioner in regulations;
- (2) Makes a material misstatement in the application for the license;
- (3) Engages in fraudulent or dishonest practices; or
- (4) Demonstrates incompetency or untrustworthiness to act as a public insurance adjuster.

(b) Upon a finding by the Commissioner of a violation of subsection (a)(1) or (3) of this section, the Commissioner may impose a civil penalty not to exceed \$1,000 for each violation.

(c) This act shall not be applied or interpreted to bar a borrower from bringing an action pursuant to any District or federal law for damages, injunctive relief, or any other relief.

New
§ 31-1631.07

Sec. 8. Contracts and solicitation of contracts.

(a) No licensee shall, directly or indirectly, act within the District as a public insurance adjuster without having first entered into a contract, in writing, on a form approved by the Commissioner and executed in duplicate by the public insurance adjuster and the insured or a duly authorized representative. One copy of the contract shall be kept on file by the licensee and

available at all times for inspection without notice by the Commissioner.

(b)(1) An insured who contracts for the services of a public insurance adjuster shall have the right to cancel the contract until midnight on the 3rd business day after the day on which he or she signs the contract. Contracts that do not substantially conform to the requirements contained in this section shall be void. Cancellation of the contract shall be effective when mailed if the following conditions are met:

(A) The cancellation shall be in writing, but need not take a particular form, and shall be sufficient if it indicates the intent of the person not to go forward with the representation.

(B) The right to cancel shall be contained in the approved contract prescribed by this act.

(2) The right of recession contained in this subsection shall be in addition to, and not in limitation of, any other rights of the insured.

(3) In a commercial loss, if a contract is cancelled in accordance with this subsection, the public insurance adjuster shall be entitled to reasonable compensation for actual services rendered and costs incurred between the time the contract was entered into and the time it was cancelled.

(c) A licensee shall not solicit, or attempt to solicit, a client for employment during the progress of a loss-producing occurrence, as defined in the client's insurance contract.

(d) A licensee shall not permit an unlicensed employee or agent in his or her own name to advertise, engage clients, furnish reports, or present bills to clients, or in any manner whatsoever to conduct business for which a license is required under this act.

(e) A licensee shall not charge the client a fee that exceeds 10% of the total insurance recovery of the client.

Sec. 9. Adjustments to comply with insurance contract and law.

New
§ 31-1631.08

A public insurance adjuster shall adjust or investigate every claim, damage, or loss made or occurring under an insurance contract for which the public insurance adjuster has been employed in accordance with the terms and conditions of his or her contract with the insured and the applicable laws and regulations of the District.

Sec. 10. Regulations.

New
§ 31-1631.09

The Commissioner shall promulgate rules and regulations as are necessary to carry out this act.

Sec. 11. Title 28 of the District of Columbia Official Code is amended as follows:

Amend
§ 28-3811

(a) Section 28-3811 is amended by adding a new subsection (j) to read as follows:

“(j) Subsections (b), (c), (d), (e), and (f) of this section shall not apply to a home solicitation sale between a buyer and a public insurance adjuster, as defined in section 2(5) of the Public Insurance Adjuster Licensure Act of 2002, passed on 2nd reading on December 3, 2002

ENROLLED ORIGINAL

(Enrolled version of Bill 14-476). Section 8 of the Public Insurance Adjuster Licensure Act of 2002, passed on 2nd reading on December 3, 2002 (Enrolled version of Bill 14-476) shall apply to all such sales.”.

Amend
§ 28-3904

(b) Section 28-3904 is amended by adding a new subsection (e-1) to read as follows:

“(e-1) violate any provision of the Public Insurance Adjuster Act of 2002, passed on 2nd reading on December 3, 2002 (Enrolled version of Bill 14-476)”.

Sec. 12. Scope.

This act shall not apply to:

New
§ 31-1631.10
Note
§ 28-3811
Note
§ 28-3904

(1) An adjuster for or an agent or employee of an insurer or group of insurers under common control or ownership that, as a representative of the insurer or group, adjusts losses or damages under policies issued by the insurer or group;

(2) A broker that acts as an adjuster without compensation for an insured for whom the broker is acting as a broker;

(3) An attorney at law who does not:

(A) Regularly act as a public insurance adjuster; or

(B) Represent to the public by sign, advertisement, or other written or oral communication indicating that the attorney at law acts as a public insurance adjuster; or

(4) A licensed health care provider, or employee of a licensed health care provider, who prepares or files a health insurance claim form on behalf of a patient, a licensed insurance agent, or salaried employee of an insurance company.

Sec. 13. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3).

Sec. 14. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia