

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0526.01 Bart Miller x2173

HOUSE BILL 13-1062

HOUSE SPONSORSHIP

Ginal,

SENATE SPONSORSHIP

Kefalas,

House Committees

Business, Labor, Economic, & Workforce Development

Senate Committees

A BILL FOR AN ACT

101 CONCERNING INCREASED REGULATION OF PUBLIC INSURANCE
102 ADJUSTERS BY THE COMMISSIONER OF INSURANCE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The "Colorado Producer Licensing Model Act" for insurance licensees requires public insurance adjusters, who adjust insurance claims solely on behalf of insureds under property damage insurance policies, to be licensed in this state, but does not otherwise authorize the insurance commissioner (commissioner) to regulate public insurance adjusters,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

including taking disciplinary action in cases of misconduct.

The bill makes the following changes to enhance the regulatory authority of the commissioner with respect to public insurance adjusters:

- ! Includes public adjusters as "insurance producers" so that the "Colorado Producer Licensing Model Act" fully applies to public adjusters;
- ! Extends existing continuing education requirements to public adjusters in order for them to maintain licensure in the same manner as other licensed insurance producers;
- ! Confirms that previously licensed public adjusters continue to be licensed under the changes made by the bill, including the need to comply with financial responsibility requirements;
- ! Requires public adjusters to have financial responsibility as evidenced by a surety bond or letter of credit;
- ! Sets standards for compensation of public adjusters by insureds, including a limit on compensation in cases of catastrophic disasters;
- ! Sets standards for the holding of funds of insureds by public adjusters;
- ! Sets general ethical standards for the conduct of public adjusters; and
- ! Authorizes the commissioner to promulgate rules relating to requirements for written contracts between public adjusters and insureds and the retention of records by public adjusters.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 10-2-103, **amend** (1),
3 (6), (7.9), and (11); and **add** (1.5), and (8.5) as follows:

4 **10-2-103. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (1) ~~"Commissioner" means the commissioner of insurance~~
7 "CATASTROPHIC DISASTER" MEANS AN EVENT, AS DECLARED BY THE
8 PRESIDENT OF THE UNITED STATES OR THE GOVERNOR, OR BOTH, WHICH
9 RESULTS IN LARGE NUMBERS OF DEATHS OR INJURIES; CAUSES EXTENSIVE
10 DAMAGE OR DESTRUCTION OF PROPERTY OR FACILITIES THAT PROVIDE AND

1 SUSTAIN HUMAN NEEDS; PRODUCES AN OVERWHELMING DEMAND ON
2 STATE AND LOCAL RESPONSE RESOURCES AND MECHANISMS; CAUSES A
3 SEVERE LONG-TERM EFFECT ON GENERAL ECONOMIC ACTIVITY; OR
4 SEVERELY AFFECTS STATE, LOCAL, AND PRIVATE SECTOR CAPABILITIES TO
5 BEGIN AND SUSTAIN RESPONSE ACTIVITIES.

6 (1.5) "COMMISSIONER" MEANS THE COMMISSIONER OF INSURANCE.

7 (6) "Insurance producer" or "producer", except as otherwise
8 provided in section 10-2-105, means:

9 (a) A person who solicits, negotiates, effects, procures, delivers,
10 renews, continues, or binds:

11 (I) POLICIES OF INSURANCE FOR RISKS RESIDING, LOCATED, OR TO
12 BE PERFORMED IN THIS STATE;

13 (II) Membership in a prepayment plan as defined in parts 2 and 3
14 of article 16 of this title; or

15 (III) Membership enrollment in a health care plan as defined in
16 part 4 of article 16 of this title; AND

17 (b) A PUBLIC ADJUSTER.

18 (7.9) "Negotiate" means the act of conferring directly with or
19 offering advice directly to a purchaser or prospective purchaser of a
20 particular contract of insurance concerning any of the substantive
21 benefits, terms, or conditions of the contract, if the person engaged in that
22 act either sells insurance or obtains insurance from insurers for purchasers
23 OR ACTS AS A PUBLIC ADJUSTER.

24 (8.5) "PUBLIC ADJUSTER" MEANS ANY PERSON WHO, FOR
25 COMPENSATION OR ANY OTHER THING OF VALUE ON BEHALF OF THE
26 INSURED:

27 (a) ACTS OR AID, SOLELY IN RELATION TO FIRST-PARTY CLAIMS

1 ARISING UNDER INSURANCE CONTRACTS THAT INSURE THE REAL OR
2 PERSONAL PROPERTY OF THE INSURED, ON BEHALF OF AN INSURED IN
3 NEGOTIATING FOR, OR EFFECTING, THE SETTLEMENT OF A CLAIM FOR LOSS
4 OR DAMAGE COVERED BY AN INSURANCE CONTRACT;

5 (b) ADVERTISES FOR EMPLOYMENT AS A PUBLIC ADJUSTER OF
6 INSURANCE CLAIMS OR SOLICITS BUSINESS OR REPRESENTS HIMSELF OR
7 HERSELF TO THE PUBLIC AS A PUBLIC ADJUSTER OF FIRST-PARTY
8 INSURANCE CLAIMS FOR LOSSES OR DAMAGES ARISING OUT OF POLICIES OF
9 INSURANCE THAT INSURE REAL OR PERSONAL PROPERTY; OR

10 (c) DIRECTLY OR INDIRECTLY SOLICITS BUSINESS, INVESTIGATES
11 OR ADJUSTS LOSSES, OR ADVISES AN INSURED ABOUT FIRST-PARTY CLAIMS
12 FOR LOSSES OR DAMAGES ARISING OUT OF POLICIES OF INSURANCE THAT
13 INSURE REAL OR PERSONAL PROPERTY FOR ANOTHER PERSON ENGAGED IN
14 THE BUSINESS OF ADJUSTING LOSSES OR DAMAGES COVERED BY AN
15 INSURANCE POLICY FOR THE INSURED.

16 (11) "Solicit" means attempting to sell insurance, ~~or~~ asking or
17 urging a person to apply for a particular kind of insurance from a
18 particular company, OR ASKING OR URGING A PERSON TO USE THE
19 SERVICES OF, OR SERVICES IN CONNECTION WITH ACTIVITIES AS, A PUBLIC
20 ADJUSTER.

21 **SECTION 2.** In Colorado Revised Statutes, 10-2-105, **add** (2.5)
22 as follows:

23 **10-2-105. Insurance producer - exemptions from definition.**

24 (2.5) WITH RESPECT TO PUBLIC ADJUSTERS, A LICENSE AS A PUBLIC
25 ADJUSTER IS NOT REQUIRED FOR:

26 (a) AN ATTORNEY-AT-LAW ADMITTED TO PRACTICE IN THIS STATE,
27 WHEN ACTING IN HIS OR HER PROFESSIONAL CAPACITY AS AN ATTORNEY;

1 (b) A PERSON WHO NEGOTIATES OR SETTLES CLAIMS ARISING
2 UNDER A LIFE OR HEALTH INSURANCE POLICY OR AN ANNUITY CONTRACT;

3 (c) A PERSON EMPLOYED ONLY FOR THE PURPOSE OF OBTAINING
4 FACTS SURROUNDING A LOSS OR FURNISHING TECHNICAL ASSISTANCE TO
5 A LICENSED PUBLIC ADJUSTER, INCLUDING A PHOTOGRAPHER, ESTIMATOR,
6 PRIVATE INVESTIGATOR, ENGINEER, OR HANDWRITING EXPERT;

7 (d) A LICENSED HEALTH CARE PROVIDER, OR EMPLOYEE OF A
8 LICENSED HEALTH CARE PROVIDER, WHO PREPARES OR FILES A HEALTH
9 CLAIM FORM ON BEHALF OF A PATIENT; OR

10 (e) A PERSON WHO SETTLES SUBROGATION CLAIMS BETWEEN
11 INSURERS.

12 **SECTION 3.** In Colorado Revised Statutes, 10-2-301, **add** (3.5)
13 as follows:

14 **10-2-301. Continuing education requirement.** (3.5) (a) AN
15 INDIVIDUAL WHO HOLDS A PUBLIC ADJUSTER LICENSE AND WHO IS NOT
16 EXEMPT UNDER PARAGRAPH (b) OF THIS SUBSECTION (3.5) SHALL
17 SATISFACTORILY COMPLETE CONTINUING EDUCATION COURSES AS
18 REQUIRED BY THE COMMISSIONER UNDER THIS SECTION.

19 (b) LICENSEES HOLDING NONRESIDENT PUBLIC ADJUSTER LICENSES
20 WHO HAVE MET THE CONTINUING EDUCATION REQUIREMENTS OF THEIR
21 HOME STATE AND WHOSE HOME STATE GIVES CREDIT TO RESIDENTS OF
22 THIS STATE ON THE SAME BASIS MEET THE REQUIREMENTS OF THIS
23 SECTION.

24 **SECTION 4.** In Colorado Revised Statutes, **amend** 10-2-417 as
25 follows:

26 **10-2-417. Public insurance adjusters - license required -**
27 **financial responsibility - standards of conduct - rules.** ~~No person shall~~

1 ~~act or hold oneself out to be a public insurance adjuster adjusting claims~~
2 ~~for losses or damages arising out of policies of fire and allied lines~~
3 ~~insurance employed by and representing solely the interest of the named~~
4 ~~insured in a policy of fire and allied lines insurance unless licensed~~
5 ~~therefor. The commissioner may accept application of any person to act~~
6 ~~as a public insurance adjuster.~~ (1) (a) A PERSON SHALL NOT ACT OR HOLD
7 HIMSELF OR HERSELF OUT AS A PUBLIC ADJUSTER IN THIS STATE UNLESS
8 THE PERSON IS LICENSED AS A PUBLIC ADJUSTER IN ACCORDANCE WITH
9 THIS ARTICLE. NO PERSON WHO, ON OR BEFORE THE EFFECTIVE DATE OF
10 THIS SECTION, AS AMENDED, HOLDS A LICENSE AS A PUBLIC ADJUSTER
11 PREVIOUSLY ISSUED UNDER THE LAWS OF THIS STATE IS REQUIRED TO
12 SECURE AN ADDITIONAL LICENSE UNDER THIS ARTICLE, BUT IS OTHERWISE
13 SUBJECT TO THIS ARTICLE INCLUDING COMPLYING WITH THE FINANCIAL
14 RESPONSIBILITY REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION. THE
15 PREVIOUSLY ISSUED LICENSE IS, FOR ALL PURPOSES, CONSIDERED A
16 LICENSE ISSUED UNDER THIS ARTICLE.

17 (b) A PERSON LICENSED AS A PUBLIC ADJUSTER SHALL NOT
18 MISREPRESENT TO A CLAIMANT THAT HE OR SHE IS AN ADJUSTER
19 REPRESENTING AN INSURER IN ANY CAPACITY, INCLUDING ACTING AS AN
20 EMPLOYEE OF THE INSURER OR ACTING AS AN INDEPENDENT ADJUSTER,
21 UNLESS SO APPOINTED BY AN INSURER IN WRITING TO ACT ON THE
22 INSURER'S BEHALF FOR THAT SPECIFIC CLAIM OR PURPOSE. A LICENSED
23 PUBLIC ADJUSTER IS PROHIBITED FROM CHARGING THE CLAIMANT A FEE IF
24 THE PUBLIC ADJUSTER ACCEPTS AN APPOINTMENT BY THE INSURER.

25 (c) A BUSINESS ENTITY ACTING AS A PUBLIC ADJUSTER IS REQUIRED
26 TO OBTAIN A PUBLIC ADJUSTER LICENSE. APPLICATION SHALL BE MADE IN
27 THE FORM REQUIRED BY THE COMMISSIONER. BEFORE APPROVING THE

1 APPLICATION, THE INSURANCE COMMISSIONER SHALL FIND THAT:

2 (I) THE BUSINESS ENTITY HAS PAID THE FEES SET BY THE
3 COMMISSIONER; AND

4 (II) THE BUSINESS ENTITY HAS DESIGNATED A LICENSED PUBLIC
5 ADJUSTER RESPONSIBLE FOR THE BUSINESS ENTITY'S COMPLIANCE WITH
6 THE INSURANCE LAWS AND RULES OF THIS STATE.

7 (2) (a) BEFORE RECEIVING A LICENSE AS A PUBLIC ADJUSTER AND
8 FOR THE DURATION OF THE LICENSE, THE APPLICANT SHALL SECURE
9 EVIDENCE OF FINANCIAL RESPONSIBILITY IN A FORMAT PRESCRIBED BY THE
10 COMMISSIONER THROUGH EITHER:

11 (I) A SURETY BOND EXECUTED AND ISSUED BY AN INSURER
12 AUTHORIZED TO ISSUE SURETY BONDS IN THIS STATE, WHICH BOND:

13 (A) MUST BE IN THE MINIMUM AMOUNT OF TWENTY THOUSAND
14 DOLLARS;

15 (B) MUST BE IN FAVOR OF THIS STATE AND MUST SPECIFICALLY
16 AUTHORIZE RECOVERY BY THE COMMISSIONER ON BEHALF OF ANY PERSON
17 IN THIS STATE WHO SUSTAINED DAMAGES AS THE RESULT OF THE
18 APPLICANT'S ERRONEOUS ACTS, FAILURE TO ACT, CONVICTION OF FRAUD,
19 OR CONVICTION OF UNFAIR PRACTICES IN HIS OR HER CAPACITY AS A
20 PUBLIC ADJUSTER; AND

21 (C) MUST NOT BE TERMINATED UNLESS AT LEAST THIRTY DAYS'
22 PRIOR WRITTEN NOTICE IS FILED WITH THE COMMISSIONER AND GIVEN TO
23 THE LICENSEE; OR

24 (II) AN IRREVOCABLE LETTER OF CREDIT ISSUED BY A QUALIFIED
25 FINANCIAL INSTITUTION, WHICH LETTER OF CREDIT:

26 (A) MUST BE IN THE MINIMUM AMOUNT OF TWENTY THOUSAND
27 DOLLARS;

1 (B) MUST BE TO AN ACCOUNT OF THE COMMISSIONER AND SUBJECT
2 TO LAWFUL LEVY OF EXECUTION ON BEHALF OF ANY PERSON TO WHOM THE
3 PUBLIC ADJUSTER HAS BEEN FOUND TO BE LEGALLY LIABLE AS THE RESULT
4 OF THE APPLICANT'S ERRONEOUS ACTS, FAILURE TO ACT, FRAUDULENT
5 ACTS, OR UNFAIR PRACTICES IN HIS OR HER CAPACITY AS A PUBLIC
6 ADJUSTER; AND

7 (C) MUST NOT BE TERMINATED UNLESS AT LEAST THIRTY DAYS'
8 PRIOR WRITTEN NOTICE IS FILED WITH THE COMMISSIONER AND GIVEN TO
9 THE LICENSEE.

10 (b) THE ISSUER OF THE EVIDENCE OF FINANCIAL RESPONSIBILITY
11 SHALL NOTIFY THE COMMISSIONER UPON TERMINATION OF THE BOND OR
12 LETTER OF CREDIT, UNLESS OTHERWISE DIRECTED BY THE COMMISSIONER.

13 (c) THE COMMISSIONER MAY ASK FOR THE EVIDENCE OF FINANCIAL
14 RESPONSIBILITY AT ANY TIME THE COMMISSIONER DEEMS RELEVANT.

15 (d) THE AUTHORITY TO ACT AS A PUBLIC ADJUSTER
16 AUTOMATICALLY TERMINATES IF THE EVIDENCE OF FINANCIAL
17 RESPONSIBILITY TERMINATES OR BECOMES IMPAIRED.

18 (3) A PUBLIC ADJUSTER SHALL NOT PAY A COMMISSION, SERVICE
19 FEE, OR OTHER VALUABLE CONSIDERATION TO A PERSON FOR
20 INVESTIGATING OR SETTLING CLAIMS IN THIS STATE IF THAT PERSON IS
21 REQUIRED TO BE LICENSED UNDER THIS ARTICLE AND IS NOT LICENSED.

22 (4) IN THE EVENT OF A CATASTROPHIC DISASTER, NO PUBLIC
23 ADJUSTER SHALL CHARGE, AGREE TO, OR ACCEPT AS COMPENSATION OR
24 REIMBURSEMENT ANY PAYMENT, COMMISSION, FEE, OR OTHER THING OF
25 VALUE IN EXCESS OF TEN PERCENT OF ANY INSURANCE SETTLEMENT OR
26 PROCEEDS. NO PUBLIC ADJUSTER SHALL REQUIRE, DEMAND, OR ACCEPT
27 ANY FEE, RETAINER, COMPENSATION, DEPOSIT, OR OTHER THING OF VALUE

1 PRIOR TO SETTLEMENT OF A CLAIM.

2 (5) A PUBLIC ADJUSTER SHALL NOT SOLICIT OR NEGOTIATE IN AN
3 AREA THAT HAS SUFFERED A CATASTROPHIC DISASTER FOR SEVENTY-TWO
4 HOURS AFTER THE LAST DECLARATION OF THE CATASTROPHIC DISASTER BY
5 THE PRESIDENT OF THE UNITED STATES OR THE GOVERNOR, OR BOTH.

6 (6) A PUBLIC ADJUSTER WHO RECEIVES, ACCEPTS, OR HOLDS ANY
7 FUNDS ON BEHALF OF AN INSURED TOWARDS THE SETTLEMENT OF A CLAIM
8 FOR LOSS OR DAMAGE SHALL DEPOSIT THE FUNDS IN A
9 NONINTEREST-BEARING ESCROW OR TRUST ACCOUNT IN A FINANCIAL
10 INSTITUTION THAT IS INSURED BY AN AGENCY OF THE FEDERAL
11 GOVERNMENT IN THE PUBLIC ADJUSTER'S HOME STATE OR WHERE THE LOSS
12 OCCURRED.

13 (7) (a) A PUBLIC ADJUSTER IS OBLIGATED, UNDER HIS OR HER
14 LICENSE, TO SERVE WITH OBJECTIVITY AND COMPLETE LOYALTY THE
15 INTEREST OF HIS OR HER CLIENT ALONE AND TO RENDER TO THE INSURED
16 SUCH INFORMATION, COUNSEL, AND SERVICE, WITHIN THE KNOWLEDGE,
17 UNDERSTANDING, AND OPINION IN GOOD FAITH OF THE LICENSEE, AS WILL
18 BEST SERVE THE INSURED'S INSURANCE CLAIM NEEDS AND INTERESTS.

19 (b) A PUBLIC ADJUSTER SHALL NOT SOLICIT, OR ATTEMPT TO
20 SOLICIT, AN INSURED DURING THE PROGRESS OF A LOSS-PRODUCING
21 OCCURRENCE, AS DEFINED IN THE INSURED'S INSURANCE CONTRACT.

22 (c) A PUBLIC ADJUSTER SHALL NOT PERMIT AN UNLICENSED
23 EMPLOYEE OR REPRESENTATIVE OF THE PUBLIC ADJUSTER TO CONDUCT
24 BUSINESS FOR WHICH A LICENSE IS REQUIRED UNDER THIS ARTICLE.

25 (d) A PUBLIC ADJUSTER SHALL NOT HAVE A DIRECT OR INDIRECT
26 FINANCIAL INTEREST IN ANY ASPECT OF THE CLAIM, OTHER THAN THE
27 SALARY, FEE, COMMISSION, OR OTHER CONSIDERATION ESTABLISHED IN

1 THE WRITTEN CONTRACT WITH THE INSURED, UNLESS FULL WRITTEN
2 DISCLOSURE HAS BEEN MADE TO THE INSURED.

3 (e) A PUBLIC ADJUSTER SHALL NOT ACQUIRE ANY INTEREST IN
4 SALVAGE OF PROPERTY SUBJECT TO THE CONTRACT WITH THE INSURED
5 UNLESS THE PUBLIC ADJUSTER OBTAINS WRITTEN PERMISSION FROM THE
6 INSURED AFTER SETTLEMENT OF THE CLAIM WITH THE INSURER.

7 (f) A PUBLIC ADJUSTER SHALL NOT, WITHOUT FIRST MAKING FULL
8 DISCLOSURE TO THE INSURED, REFER OR DIRECT THE INSURED TO GET
9 NEEDED REPAIRS OR SERVICES IN CONNECTION WITH A LOSS FROM ANY
10 PERSON:

11 (I) WITH WHOM THE PUBLIC ADJUSTER HAS A FINANCIAL INTEREST;
12 OR

13 (II) FROM WHOM THE PUBLIC ADJUSTER MAY RECEIVE DIRECT OR
14 INDIRECT COMPENSATION FOR THE REFERRAL.

15 (g) A PUBLIC ADJUSTER SHALL DISCLOSE IN WRITING TO AN
16 INSURED IF HE OR SHE HAS ANY INTEREST IN, OR WILL BE COMPENSATED
17 BY, ANY CONSTRUCTION FIRM, SALVAGE FIRM, BUILDING APPRAISAL FIRM,
18 MOTOR VEHICLE REPAIR SHOP, OR OTHER FIRM THAT PERFORMS ANY WORK
19 IN CONJUNCTION WITH DAMAGES CAUSED BY THE INSURED LOSS. AS USED
20 IN THIS PARAGRAPH (g), "FIRM" INCLUDES ANY CORPORATION,
21 PARTNERSHIP, ASSOCIATION, JOINT-STOCK COMPANY, OR INDIVIDUAL.

22 (h) ANY COMPENSATION OR OTHER THING OF VALUE IN
23 CONNECTION WITH AN INSURED'S SPECIFIC LOSS THAT WILL BE RECEIVED
24 BY A PUBLIC ADJUSTER MUST BE DISCLOSED BY THE PUBLIC ADJUSTER TO
25 THE INSURED IN WRITING, INCLUDING THE SOURCE AND AMOUNT OF ANY
26 SUCH COMPENSATION.

27 (i) PUBLIC ADJUSTERS SHALL ADHERE TO THE FOLLOWING

1 GENERAL ETHICAL REQUIREMENTS:

2 (I) A PUBLIC ADJUSTER SHALL NOT UNDERTAKE THE ADJUSTMENT
3 OF A CLAIM IF THE PUBLIC ADJUSTER IS NOT COMPETENT AND
4 KNOWLEDGEABLE AS TO THE TERMS AND CONDITIONS OF THE INSURANCE
5 COVERAGE OR IF THE ADJUSTMENT OF THE CLAIM OTHERWISE EXCEEDS
6 THE PUBLIC ADJUSTER'S CURRENT EXPERTISE;

7 (II) A PUBLIC ADJUSTER SHALL NOT KNOWINGLY MAKE ANY ORAL
8 OR WRITTEN MATERIAL MISREPRESENTATIONS OR STATEMENTS WHICH ARE
9 FALSE OR MALICIOUSLY CRITICAL AND INTENDED TO INJURE ANY PERSON
10 ENGAGED IN THE BUSINESS OF INSURANCE TO ANY INSURED CLIENT OR
11 POTENTIAL INSURED CLIENT;

12 (III) A PUBLIC ADJUSTER, WHILE LICENSED IN THIS STATE, SHALL
13 NOT REPRESENT OR ACT AS A COMPANY ADJUSTER OR INDEPENDENT
14 ADJUSTER ON THE SAME CLAIM;

15 (IV) A PUBLIC ADJUSTER SHALL NOT ENTER INTO A CONTRACT
16 THAT PREVENTS AN INSURED FROM PURSUING ANY CIVIL REMEDY AFTER
17 ANY REQUIRED REVOCATION OR CANCELLATION PERIOD ESTABLISHED BY
18 THE COMMISSIONER;

19 (V) A PUBLIC ADJUSTER SHALL NOT ENTER INTO A CONTRACT OR
20 ACCEPT A POWER OF ATTORNEY THAT VESTS IN THE PUBLIC ADJUSTER THE
21 EFFECTIVE AUTHORITY TO CHOOSE THE PERSONS WHO PERFORM REPAIR
22 WORK; AND

23 (VI) A PUBLIC ADJUSTER SHALL ENSURE THAT ALL CONTRACTS FOR
24 THE PUBLIC ADJUSTER'S SERVICES ARE IN WRITING AND SET FORTH ALL
25 TERMS AND CONDITIONS OF THE ENGAGEMENT.

26 (j) A PUBLIC ADJUSTER SHALL NOT AGREE TO ANY LOSS
27 SETTLEMENT WITHOUT THE INSURED'S KNOWLEDGE AND CONSENT.

1 (8) The commissioner may promulgate ~~such~~ rules as ~~are~~ necessary
2 to carry out ~~the provisions of~~ this section, including:

3 (a) Establishing nonrefundable fees and testing requirements for
4 all applicants for licensure;

5 (b) REQUIREMENTS AND STANDARDS FOR WRITTEN CONTRACTS
6 BETWEEN PUBLIC ADJUSTERS AND INSURED; AND

7 (c) THE REQUIRED RETENTION OF RECORDS BY PUBLIC ADJUSTERS.

8 **SECTION 5. Act subject to petition - effective date -**

9 **applicability.** (1) This act takes effect January 1, 2014; except that, if a
10 referendum petition is filed pursuant to section 1 (3) of article V of the
11 state constitution against this act or an item, section, or part of this act
12 within the ninety-day period after final adjournment of the general
13 assembly, then the act, item, section, or part will not take effect unless
14 approved by the people at the general election to be held in November
15 2014 and, in such case, will take effect on the date of the official
16 declaration of the vote thereon by the governor.

17 (2) This act applies to the regulation of public insurance adjusters
18 on or after the applicable effective date of this act.