

**First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO**

**REVISED**

*This Version Includes All Amendments Adopted  
on Second Reading in the Second House*

LLS NO. 13-0526.01 Bart Miller x2173

**HOUSE BILL 13-1062**

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**HOUSE SPONSORSHIP**

**Ginal,**

**SENATE SPONSORSHIP**

**Kefalas,**

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**House Committees**

Business, Labor, Economic, & Workforce Development

**Senate Committees**

Judiciary

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**A BILL FOR AN ACT**

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

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**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.*

SENATE  
Amended 2nd Reading  
March 1, 2013

HOUSE  
3rd Reading Unamended  
February 11, 2013

HOUSE  
Amended 2nd Reading  
February 8, 2013

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.

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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 OR ALLIED LINES OF THE INSURED, ON BEHALF OF AN  
3 INSURED IN NEGOTIATING FOR, OR EFFECTING, THE SETTLEMENT OF A  
4 CLAIM FOR LOSS 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 ALLIED LINES;  
10 OR

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

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

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

24 **10-2-105. Insurance producer - exemptions from definition.**

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

27 (a) AN ATTORNEY-AT-LAW ADMITTED TO PRACTICE IN THIS STATE,

1 WHEN ACTING IN HIS OR HER PROFESSIONAL CAPACITY AS AN ATTORNEY;

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

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

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

12 (e) A PERSON WHO SETTLES SUBROGATION CLAIMS BETWEEN  
13 INSURERS.

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

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

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

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

1           **10-2-417. Public insurance adjusters - license required -**  
2           **financial responsibility - standards of conduct - rules.**

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

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

(c) A BUSINESS ENTITY ACTING AS A PUBLIC ADJUSTER IS REQUIRED

1 TO OBTAIN A PUBLIC ADJUSTER LICENSE. APPLICATION SHALL BE MADE IN  
2 THE FORM REQUIRED BY THE COMMISSIONER. BEFORE APPROVING THE  
3 APPLICATION, THE INSURANCE COMMISSIONER SHALL FIND THAT:

4 (I) THE BUSINESS ENTITY HAS PAID THE FEES SET BY THE  
5 COMMISSIONER; AND

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

9 (2) (a) BEFORE RECEIVING A LICENSE AS A PUBLIC ADJUSTER AND  
10 FOR THE DURATION OF THE LICENSE, THE APPLICANT SHALL SECURE  
11 EVIDENCE OF FINANCIAL RESPONSIBILITY IN A FORMAT PRESCRIBED BY THE  
12 COMMISSIONER THROUGH A SURETY BOND EXECUTED AND ISSUED BY AN  
13 INSURER AUTHORIZED TO ISSUE SURETY BONDS IN THIS STATE, WHICH  
14 BOND:

15 (I) MUST BE IN THE MINIMUM AMOUNT OF TWENTY THOUSAND  
16 DOLLARS;

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

23 (III) MUST NOT BE TERMINATED UNLESS AT LEAST THIRTY DAYS'  
24 PRIOR WRITTEN NOTICE IS FILED WITH THE COMMISSIONER AND GIVEN TO  
25 THE LICENSEE.

26 [REDACTED]

27 (b) THE ISSUER OF THE EVIDENCE OF FINANCIAL RESPONSIBILITY


1 SHALL NOTIFY THE COMMISSIONER UPON TERMINATION OF THE BOND,  
2 UNLESS OTHERWISE DIRECTED BY THE COMMISSIONER.

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

5 (d) THE COMMISSIONER SHALL SUMMARILY SUSPEND THE  
6 AUTHORITY TO ACT AS A PUBLIC ADJUSTER IF THE EVIDENCE OF FINANCIAL  
7 RESPONSIBILITY TERMINATES OR BECOMES IMPAIRED.

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

12 (4) IN THE EVENT OF A CATASTROPHIC DISASTER, NO PUBLIC  
13 ADJUSTER SHALL CHARGE, AGREE TO, OR ACCEPT AS COMPENSATION OR  
14 REIMBURSEMENT ANY PAYMENT, COMMISSION, FEE, OR OTHER THING OF  
15 VALUE IN EXCESS OF TEN PERCENT OF ANY INSURANCE SETTLEMENT OR  
16 PROCEEDS. NO PUBLIC ADJUSTER SHALL REQUIRE, DEMAND, OR ACCEPT  
17 ANY FEE, RETAINER, COMPENSATION, DEPOSIT, OR OTHER THING OF VALUE  
18 PRIOR TO SETTLEMENT OF A CLAIM.

19   
20 (5) A PUBLIC ADJUSTER WHO RECEIVES, ACCEPTS, OR HOLDS ANY  
21 FUNDS ON BEHALF OF AN INSURED TOWARDS THE SETTLEMENT OF A CLAIM  
22 FOR LOSS OR DAMAGE SHALL DEPOSIT THE FUNDS IN A  
23 NONINTEREST-BEARING ESCROW OR TRUST ACCOUNT IN A FINANCIAL  
24 INSTITUTION THAT IS INSURED BY AN AGENCY OF THE FEDERAL  
25 GOVERNMENT IN THE PUBLIC ADJUSTER'S HOME STATE OR WHERE THE LOSS  
26 OCCURRED.

27 (6) (a) A PUBLIC ADJUSTER IS OBLIGATED, UNDER HIS OR HER



1 LICENSE, TO SERVE WITH OBJECTIVITY AND == LOYALTY THE INTEREST OF  
2 HIS OR HER CLIENT ALONE AND TO RENDER TO THE INSURED SUCH  
3 INFORMATION, COUNSEL, AND SERVICE, WITHIN THE KNOWLEDGE,  
4 UNDERSTANDING, AND OPINION IN GOOD FAITH OF THE LICENSEE, AS WILL  
5 BEST SERVE THE INSURED'S INSURANCE CLAIM NEEDS AND INTERESTS.

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

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

12 (d) A PUBLIC ADJUSTER SHALL NOT HAVE A DIRECT OR INDIRECT  
13 FINANCIAL INTEREST IN ANY ASPECT OF THE CLAIM, OTHER THAN THE  
14 SALARY, FEE, COMMISSION, OR OTHER CONSIDERATION ESTABLISHED IN  
15 THE WRITTEN CONTRACT WITH THE INSURED.

16 (e) A PUBLIC ADJUSTER SHALL NOT ACQUIRE ANY INTEREST IN  
17 SALVAGE OF PROPERTY SUBJECT TO THE CONTRACT WITH THE INSURED  
18 UNLESS THE PUBLIC ADJUSTER OBTAINS WRITTEN PERMISSION FROM THE  
19 INSURED AFTER SETTLEMENT OF THE CLAIM WITH THE INSURER.

20 (f) A PUBLIC ADJUSTER SHALL NOT REFER OR DIRECT THE INSURED  
21 TO GET NEEDED REPAIRS OR SERVICES IN CONNECTION WITH A LOSS FROM  
22 ANY PERSON:

23 (I) WITH WHOM THE PUBLIC ADJUSTER HAS A FINANCIAL INTEREST;  
24 OR

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

27 (g) A PUBLIC ADJUSTER SHALL NOT PARTICIPATE DIRECTLY OR

1       INDIRECTLY IN THE RECONSTRUCTION, REPAIR, OR RESTORATION OF  
2       DAMAGED PROPERTY THAT IS THE SUBJECT OF A CLAIM ADJUSTED BY THE  
3       PUBLIC ADJUSTER.

4               (h) A PUBLIC ADJUSTER SHALL NOT ENGAGE IN ANY OTHER  
5       ACTIVITIES THAT MAY REASONABLY BE CONSTRUED AS PRESENTING A  
6       CONFLICT OF INTEREST, INCLUDING SOLICITING OR ACCEPTING ANY  
7       REMUNERATION FROM, OR HAVING A FINANCIAL INTEREST IN, ANY  
8       SALVAGE FIRM, REPAIR FIRM, OR OTHER FIRM THAT OBTAINS BUSINESS IN  
9       CONNECTION WITH ANY CLAIM THE PUBLIC ADJUSTER HAS A CONTRACT OR  
10      AGREEMENT TO ADJUST.

11              (i) PUBLIC ADJUSTERS SHALL ADHERE TO THE FOLLOWING  
12      GENERAL ETHICAL REQUIREMENTS:

13              (I) A PUBLIC ADJUSTER SHALL NOT UNDERTAKE THE ADJUSTMENT  
14      OF A CLAIM IF THE PUBLIC ADJUSTER IS NOT COMPETENT AND  
15      KNOWLEDGEABLE AS TO THE TERMS AND CONDITIONS OF THE INSURANCE  
16      COVERAGE OR IF THE ADJUSTMENT OF THE CLAIM OTHERWISE EXCEEDS  
17      THE PUBLIC ADJUSTER'S EXPERTISE;

18              (II) A PUBLIC ADJUSTER SHALL NOT KNOWINGLY MAKE ANY ORAL  
19      OR WRITTEN MATERIAL MISREPRESENTATIONS OR STATEMENTS WHICH ARE  
20      FALSE \_\_\_\_\_ AND INTENDED TO INJURE ANY PERSON ENGAGED IN THE  
21      BUSINESS OF INSURANCE TO ANY INSURED CLIENT OR POTENTIAL INSURED  
22      CLIENT;

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

26              (IV) (A) THE INSURED MAY RESCIND ANY CONTRACT OR OTHER  
27      FORM OF AGREEMENT FOR REPRESENTATION IN A PROPERTY OR CASUALTY

1 LOSS OR CLAIM IF THE INSURED EXERCISES THIS RIGHT OF RESCISSION IN  
2 WRITING ADDRESSED TO THE INSURER AND THE PUBLIC ADJUSTER AND  
3 PUTS THE WRITTEN RESCISSION, POSTAGE PREPAID, IN THE UNITED STATES  
4 MAIL WITHIN SEVENTY-TWO HOURS AFTER SIGNING A SETTLEMENT  
5 REPRESENTATION AGREEMENT. ALL PUBLIC ADJUSTERS TAKING A  
6 REPRESENTATIVE AGREEMENT TO RESOLVE A PROPERTY OR CASUALTY  
7 LOSS OR CLAIM ON BEHALF OF AN INSURED SHALL GIVE TO THE INSURED  
8 WRITTEN NOTICE OF, AND DIRECTION AS TO, THE ABILITY TO EXERCISE THE  
9 INSURED'S RIGHT OF RESCISSION.

10 (B) A PUBLIC ADJUSTER SHALL NOT ENTER INTO A CONTRACT THAT  
11 PREVENTS AN INSURED FROM PURSUING ANY CIVIL REMEDY AFTER THE  
12 REQUIRED RESCISSION PERIOD UNDER SUB-SUBPARAGRAPH (A) OF THIS  
13 SUBPARAGRAPH (IV);

14 (V) A PUBLIC ADJUSTER SHALL NOT ENTER INTO A CONTRACT OR  
15 ACCEPT A POWER OF ATTORNEY THAT VESTS IN THE PUBLIC ADJUSTER THE  
16 EFFECTIVE AUTHORITY TO CHOOSE THE PERSONS WHO PERFORM REPAIR  
17 WORK; AND

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

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

23 (7) The commissioner may promulgate ~~such~~ rules as are necessary  
24 to carry out ~~the provisions of this section, including: establishing~~  
25 ~~nonrefundable fees and testing requirements for all applicants for~~  
26 ~~licensure.~~

27 (a) REQUIREMENTS AND STANDARDS FOR WRITTEN CONTRACTS

1 BETWEEN PUBLIC ADJUSTERS AND INSURED; AND

2 (b) THE REQUIRED RETENTION OF RECORDS BY PUBLIC ADJUSTERS.

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

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

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