

## PART XXV-G. THE LOUISIANA PUBLIC ADJUSTER ACT

## §1210.91. Purpose

This Part governs the qualifications and procedures for the licensing of public adjusters. It specifies the duties of and restrictions on public adjusters, which include limiting their licensure to assisting insureds in first-party claims in a manner which avoids the unauthorized practice of law as defined in R.S. 37:212 and 213.

Acts 2006, No. 806, §1.

§1210.92. Definitions

As used in this Part, unless the context requires otherwise, the following definitions shall be applicable:

(1) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

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

(3) "First-party claim" means a claim made by an insured or a policyholder under an insurance policy or contract that arises out of the occurrence of the contingency or loss covered by the policy or contract.

(4) "Home state" means the District of Columbia or any state or territory of the United States in which the public adjuster's principal place of residence or principal place of business is located. If neither the state in which the public adjuster maintains the principal place of residence nor the state in which the public adjuster maintains the principal place of business has a substantially similar law governing public adjusters, the public adjuster may declare another state in which he becomes licensed and acts as a public adjuster to be the "home state".

(5) "Individual" means a natural person.

(6) "Person" means an individual or a business entity.

(7) "Public adjuster" means any person who, for any compensation, direct or indirect, engages in public adjusting.

(8) "Public adjusting" means either of the following:

(a) Investigating, appraising, or evaluating and reporting to an insured in relation to a first-party claim for which coverage is provided by an insurance contract that insures the property of the insured. Public adjusting does not include acting in any manner in relation to claims for damages to or arising out of the operation of a motor vehicle. Public adjusting does not include any activities which may constitute the unauthorized practice of law. Nothing in this Part shall be considered as permitting the unauthorized practice of law.

(b) Advertising for employment as a public adjuster of insurance claims or soliciting business or representing himself to the public as a public adjuster of first-party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property.

(9) "Uniform individual application" means the current version of the National Association of Insurance Commissioners (NAIC) uniform application for individual insurance license for resident and nonresident individuals.

(10) "Uniform business entity application" means the current version of the NAIC uniform application for business entity license for resident and nonresident business entities.

Acts 2006, No. 806, §1.

§1210.93. License required

A. Beginning June 30, 2007, a person shall not act or hold himself out as a public adjuster in this state unless the person is licensed as a public adjuster in accordance with this Part.

B. A person licensed as a public adjuster shall not misrepresent to a claimant that he is an adjuster representing an insurer in any capacity, including acting as an employee of the insurer or acting as an independent adjuster.

C. Only persons licensed under this Part shall directly or indirectly solicit business, investigate or adjust losses for another person engaged in the business of adjusting losses or damages covered by an insurance policy, for the insured.

D. A business entity acting as a public adjuster is required to obtain a public adjuster license. Application shall be made using the uniform business entity application. Before approving the application, the commissioner of insurance shall find that:

(1) The business entity has paid the fees set forth in R.S. 22:1078.

(2) The business entity has designated a licensed public adjuster responsible for the business entity's compliance with the insurance laws, rules, and regulations of this state.

E. Notwithstanding Subsections A through D of this Section, a license as a public adjuster shall not be required of any of the following:

(1) An attorney at law admitted to practice and in good standing in this state.

(2) A person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster, or licensed attorney, including photographers, estimators, private investigators, engineers, and handwriting experts.

Acts 2006, No. 806, §1.

· §1210.94. Application for license

A. A person applying for a public adjuster license shall make application to the commissioner of insurance on the appropriate uniform application or other application prescribed by the commissioner of insurance.

B. The applicant shall declare under penalty of perjury and under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the applicant's knowledge and belief.

C.(1) In order to make a determination of license eligibility, the commissioner of insurance is authorized to require fingerprints of applicants and submit the fingerprints and the fee required to perform the criminal history record checks to the Louisiana Bureau of Criminal Identification and Information and the Federal Bureau of Investigation (FBI) for state and national criminal history record checks. The commissioner of insurance shall require a criminal history record check on each applicant in accordance with this Part. The commissioner of insurance shall require each applicant to submit a full set of fingerprints in order for the commissioner of insurance to obtain and receive National Criminal History Records from the FBI Criminal Justice Information Services Division.

(2) The commissioner of insurance may contract for the collection, transmission, and resubmission of fingerprints required under this Section. If the commissioner of insurance does so, the fee for collecting, transmitting, and retaining fingerprints shall be payable directly to the contractor by the person. The commissioner of insurance may agree to a reasonable fingerprinting fee to be charged by the contractor.

(3) The commissioner of insurance may waive submission of fingerprints by any person that has previously furnished fingerprints and those fingerprints are on file with the Central Repository of the NAIC, its affiliates, or subsidiaries.

(4) The commissioner of insurance is authorized to receive criminal history record information in lieu of the Louisiana Bureau of Criminal Identification and Information that submitted the fingerprints to the FBI.

(5) The commissioner of insurance is authorized to submit electronic fingerprint records and necessary identifying information to the NAIC, its affiliates, or subsidiaries for permanent retention in a centralized repository. The purpose of such a centralized repository is to provide insurance commissioners with access to fingerprint records in order to perform criminal history record checks.

Acts 2006, No. 806, §1.

· §1210.95. Resident license

A. Before issuing a public adjuster license to an applicant under this Section, the commissioner of insurance shall find that the applicant:

(1) Is eligible to designate this state as his home state or is a nonresident who is not eligible for a license under R.S. 22:1210.98.

(2) Has not committed any act that is a ground for denial, suspension, or revocation of a license as set forth in R.S. 22:1210.100.

(3) Is financially responsible to exercise the license and has provided proof of financial responsibility as required in R.S. 22:1210.101.

(4) Has paid the fees set forth in R.S. 22:1078.

(5) When applicable, has the written consent of the commissioner of insurance pursuant to 18 U.S.C. 1033, or any successor statute regulating crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

B. In addition to satisfying the requirements of Subsection A of this Section, an individual shall:

(1) Be at least eighteen years of age.

(2) Have successfully passed the public adjuster examination.

(3) Not have been convicted of a crime involving fraud, coercive, or dishonest practices or demonstrating untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

C. In addition to satisfying the requirements of Subsection A of this Section, a business entity shall:

(1) Designate a licensed individual public adjuster responsible for the business entity's compliance with the insurance laws, rules, and regulations of this state.

(2) Designate only licensed individual public adjusters to exercise the business entity's license.

D. The commissioner of insurance may require any documents reasonably necessary to verify the information contained in the application.

Acts 2006, No. 806, §1.

· §1210.96. Examination

A. An individual applying for a public adjuster license under this Part shall pass a written examination unless exempt pursuant to R.S. 22:1210.97, 1210.98, and 1210.99. The examination shall test the knowledge of the individual concerning the duties and responsibilities of a public adjuster and the insurance laws and regulations of this state. Examinations required by this Section shall be developed and conducted under rules and regulations prescribed by the commissioner of insurance.

B. The commissioner of insurance may make arrangements, including contracting with an outside testing service in accordance with R.S. 39:1551, for administering examinations and collecting the nonrefundable fees set forth in R.S. 22:1078.

C. Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the commissioner of insurance as set forth in R.S. 22:1078.

D. An individual who fails to appear for the examination as scheduled or fails to pass the examination may reapply for an examination and shall remit all required fees and forms before being rescheduled for another examination.

Acts 2006, No. 806, §1.

§1210.97. Exemptions from examination

A. An individual who applies for a public adjuster license in this state who was previously licensed as a public adjuster in another state based on a public adjuster examination shall not be required to complete any prelicensing or examination. This exemption is only available if the person is currently licensed in that state or if the application is received within twelve months of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer database records or records maintained by the NAIC, its affiliates, or subsidiaries, indicate that the public adjuster is or was licensed in good standing.

B. An individual licensed as a public adjuster in another state based on a public adjuster examination who moves to this state shall make application within ninety days of establishing legal residence to become a resident licensee pursuant to R.S. 22:1210.95. No prelicensing or examination shall be required of that person to obtain a public adjuster license.

C. An individual who applies for a public adjuster license in this state who was previously licensed as a public adjuster in this state shall not be required to complete any prelicensing or examination. This exemption is only available if the application is received within twelve months of the cancellation of the applicant's previous license in this state and if, at the time of cancellation, the applicant was in good standing in this state.

Acts 2006, No. 806, §1.

§1210.98. Nonresident license reciprocity

A. Unless denied licensure pursuant to R.S. 22:1210.100, a nonresident person may receive a nonresident public adjuster license if:

(1) The person is currently licensed as a resident public adjuster, and if an individual has passed a public adjuster examination which the commissioner of insurance has determined is no less stringent than the examination required by this Part, and is in good standing in his home state or, if his home state does not require examinations, he has passed the examination provided for in R.S. 22:1210.96.

(2) The person has submitted the proper request for licensure, has paid the fees required by R.S.22:1078, and has provided proof of financial responsibility as required in R.S. 22:1210.101.

(3) The person has submitted or transmitted to the commissioner of insurance the appropriate completed application for licensure.

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

(5) The person has not been convicted of a crime involving fraudulent, coercive, or dishonest practices; or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

B. The commissioner of insurance may verify the public adjuster's licensing status through the producer database maintained by the NAIC, its affiliates, or subsidiaries.

C.(1) The commissioner of insurance shall not issue a license to any nonresident applicant until such applicant has filed forms approved by the commissioner of insurance which designate the commissioner of insurance as his true and lawful agent, upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of any interested person arising out of the applicant's business in this state. The designation shall constitute an agreement that such service of process has the same legal force and validity as personal service of process upon the person in the state.

(2) The service of process upon any such licensee in any action or proceeding in any court of competent jurisdiction may be made by a party serving the commissioner of insurance with appropriate copies thereof and the payment to him of a fee as may be authorized by R.S. 22:1078.

(3) The commissioner of insurance shall, within ten days of being served, forward a copy of such process by registered or certified mail, return receipt requested, to the licensee at his last known address of record or principal place of business, and the commissioner of insurance shall maintain copies of all such processes so served upon him.

(4) The service of process upon any such licensee in any action or proceeding instituted by the commissioner of insurance under this Part shall be made by the commissioner of insurance by mailing such process by registered or certified mail, return receipt requested, to the licensee at his last known address of record or principal place of business.

D. As a condition to continuation of a public adjuster license issued under this Section, the licensee shall maintain a resident public adjuster license in his home state. The nonresident public adjuster license issued under this Section shall terminate and be surrendered immediately to the commissioner of insurance if the home state public adjuster license terminates for any reason, unless the public adjuster has been issued a license as a resident public adjuster in his new home state. Notification to the state or states where the nonresident license is issued must be made as soon as possible, yet no later than thirty days of change in the new state resident license. Licensee shall include his new and old address. The new state resident license is required for the nonresident license to remain valid. The new state resident license must have reciprocity with this state for the nonresident license not to terminate.

Acts 2006, No. 806, §1.

· §1210.99. License

A.(1) Unless denied licensure under this Part, persons who have met the requirements of this Part may be issued a public adjuster license.

(2) A public adjuster license shall remain in effect unless revoked, terminated, or suspended, or denied renewal or reinstatement, as long as the request for renewal and fee set forth in R.S. 22:1078 is paid and any other requirements for license renewal are met by the due date.

(3) Every licensed public adjuster shall file an application for renewal of his license every two years by notifying the commissioner of insurance, by methods prescribed by the commissioner of insurance, of the licensee's intention to continue his license.

B. The licensee shall inform the commissioner of insurance by any means acceptable to the commissioner of insurance of a change of address, change of legal name, or change of information submitted on the application within thirty days of the change. Failure to file a change within the required time shall result in the imposition of a fifty dollar penalty per violation, or as may be authorized by R.S. 22:1078. Any person against whom a penalty has been levied shall be given due notice of such action. Upon receipt of this notice, the licensee may apply for and shall be entitled to a hearing.

C. A public adjuster shall be subject to R.S. 22:1211 et seq. relative to unfair trade practices and R.S. 22:1241 et seq. relative to insurance fraud.

D. A public adjuster who allows his license to lapse may, within twelve months from the expiration date of the renewal, reinstate the license upon the commissioner of insurance's approval of the request for reinstatement. However, a penalty in the amount of double the unpaid renewal fee shall be required for the reinstatement of the public adjuster license. The public adjuster reinstatement shall be effective the date the commissioner of insurance approves the request for reinstatement and the late payment penalty is paid.

E. A licensed public adjuster that is unable to comply with license renewal procedures due to military service, a long-term medical disability, or some other extenuating circumstance may request a waiver of those procedures. The public adjuster may also request a waiver of any examination requirement, fine, or other sanction imposed for failure to comply with renewal procedures.

F. The license shall contain the licensee's name, city, and state of business address, personal identification number, the date of issuance, the expiration date, and any other information the commissioner of insurance deems necessary.

G. In order to assist in the performance of the commissioner of insurance's duties, the commissioner of insurance may contract with nongovernmental entities, including the NAIC or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees and data, related to licensing that the commissioner of insurance may deem appropriate.

Acts 2006, No. 806, §1.

§1210.100. License denial, nonrenewal, or revocation

A. The commissioner of insurance may place on probation, suspend, revoke, or refuse to issue, renew, or reinstate a public adjuster's license and may levy a fine not to exceed five hundred dollars for each violation occurring, up to ten thousand dollars aggregate for all violations in a calendar year, unless a fine is established by separate statute in this Title authorizing a greater penalty, or any combination of actions, for any one or more of the following causes:

(1) Providing incorrect, misleading, incomplete, or materially untrue information in the license application.

(2) Violating any insurance laws, or violating any regulation, subpoena, or order of the commissioner of insurance or of another state's insurance commissioner.

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud.

(4) Improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business.

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

(6) Having been convicted of a felony.

(7) Having admitted or been found to have committed any insurance unfair trade practice or insurance fraud.

(8) Having an insurance license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.

(9) Forging another's name to an application for insurance or to any document related to an insurance transaction.

(10) Cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license.

(11) Knowingly accepting insurance business from an individual who is not licensed but who is required to be licensed by the commissioner of insurance.

(12) Failing to comply with an administrative or court order imposing a child support obligation.

(13) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax.

(14) Violating R.S. 22:1210.106(H).

B. The commissioner of insurance shall place on probation, suspend, revoke, or refuse to issue, renew, or reinstate a public adjuster's license and shall levy a fine not to exceed five hundred dollars for each violation occurring, up to ten thousand dollars aggregate for all violations in a calendar year, unless a fine is established by separate statute in this Title authorizing a greater penalty, or any combination of actions, for the following:

(1) Having been convicted of a serious crime involving fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

(2) Engaging in the unauthorized practice of law as defined in R.S. 37:212 and 213.

C. In the event that the action by the commissioner of insurance is to deny an application for or not renew a license, the commissioner of insurance shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the nonrenewal or denial of the applicant's or licensee's license. The applicant or licensee may make written demand upon the commissioner of insurance within thirty days for a hearing to determine the reasonableness of the commissioner of insurance's action.

D. The license of a business entity may be suspended, revoked, or refused if the commissioner of insurance finds, after hearing, that an individual licensee's violation was known or should have been

known by one or more of the partners, officers, or managers acting on behalf of the business entity and the violation was neither reported to the commissioner of insurance nor corrective action taken.

E. In addition to or in lieu of any applicable denial, suspension, or revocation of a license, a person may, after hearing, be subject to a fine as provided herein.

F. The commissioner of insurance shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this Part and this Title against any person who is under investigation for or charged with a violation of this Part or this Title even if the person's license or registration has been surrendered or has lapsed by operation of law.

Acts 2006, No. 806, §1.

§1210.101. Evidence of financial responsibility

A. Prior to issuance of a license as a public adjuster and for the duration of the license, the applicant shall secure evidence of financial responsibility in a format prescribed by the commissioner of insurance through a security bond or irrevocable letter of credit:

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

(a) Shall be in the minimum amount of fifty thousand dollars.

(b) Shall be in favor of this state and shall specifically authorize recovery by the commissioner of insurance on behalf of any person in this state who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices in his capacity as a public adjuster; and

(c) Shall not be terminated unless at least thirty days' prior written notice will have been filed with the commissioner of insurance and given to the licensee.

(2) An irrevocable letter of credit issued by a qualified financial institution authorized to do and doing business in this state, which letter of credit:

(a) Shall be in the minimum of fifty thousand dollars;

(b) Shall be to an account to the commissioner of insurance and subject to lawful levy of execution on behalf of any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, failure to act, fraudulent acts, or unfair practices in his capacity as a public adjuster.

(c) Shall not be terminated unless at least thirty days' prior written notice will have been filed with the commissioner of insurance and given to the licensee.

B. The issuer of the evidence of financial responsibility shall notify the commissioner of insurance upon termination of the bond or letter of credit, unless otherwise directed by the commissioner of insurance.

C. The commissioner of insurance may ask for the evidence of financial responsibility at any time he deems relevant.

D. The authority to act as a public adjuster shall automatically terminate if the evidence of financial responsibility terminates or becomes impaired.

Acts 2006, No. 806, §1.

· §1210.102. Continuing education

A. An individual who holds a public adjuster license and who is not exempt under Subsection B of this Section shall satisfactorily complete a minimum of twenty-four hours of continuing education courses, including ethics, reported on a biennial basis in conjunction with the license renewal cycle.

B. This Section shall not apply to:

(1) Licensees not licensed for one full year prior to the end of the applicable continuing education biennium.

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

C. Only continuing education courses approved by the commissioner of insurance shall be used to satisfy the continuing education requirement of Subsection A of this Section.

Acts 2006, No. 806, §1.

· §1210.103. Public adjuster fees

A. A public adjuster may charge the insured a reasonable fee. A public adjuster shall not solicit for or enter into any contract or arrangement between an insured and a public adjuster which provides for payment of a fee to the public adjuster which is contingent upon, or calculated as a percentage of, the amount of any claim or claims paid to or on behalf of an insured by the insurer and any such contract shall be against public policy and is null and void.

B. A public adjuster shall not pay a commission, service fee, or other valuable consideration to another for public adjusting in this state if that person is required to be licensed under this Part and is not so licensed.

C. A person shall not accept a commission, service fee, or other valuable consideration for public adjusting in this state if that person is required to be licensed under this Part and is not so licensed.

Acts 2006, No. 806, §1.

· §1210.104. Contract between public adjuster and insured

A. Public adjusters shall ensure that all contracts for their services are in writing and contain the following terms:

(1) Legible full name of the adjuster signing the contract, as specified in Department of Insurance records.

(2) Permanent home state business address and phone number.

(3) Department of Insurance license number.

(4) Title of "Public Adjuster Contract".

(5) The insured's full name, street address, insurance company name, and policy number, if known or upon notification.

(6) A description of the loss and its location, if applicable.

(7) Description of services to be provided to the insured.

(8) Signatures of the public adjuster and the insured.

(9) Date contract was signed by the public adjuster and date that the contract was signed by the insured.

(10) Attestation language stating that the public adjuster has satisfied the financial responsibility requirements of state law.

(11) Full salary, fee, compensation, or other considerations the public adjuster is to receive for services.

(12) If applicable, an acknowledgment that a mortgage holder exists on any property adjusted by the public adjuster and that such mortgage holder is or may be an additional insured on the claim.

B. Compensation provisions in a public adjusting contract shall not be redacted in any copy of the contract provided to the commissioner of insurance. Such a redaction shall constitute an omission of material fact.

C. If the insurer, not later than seventy-two hours after the date on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insurance policy, the public adjuster shall:

(1) Inform the insured that the loss recovery amount cannot be increased by the insurer.

(2) Be entitled only to reasonable compensation from the insured for services provided by the public adjuster on behalf of the insured, based on the time spent on a claim and expenses incurred by the public adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurer.

D. A public adjuster contract may not contain any contract term that:

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

(2)(a) When any payment on a claim is made and the insured is represented by a public adjuster, the insurer's check or checks may be made payable to the insured and the public adjuster when all of the following occurs:

(i) The amount of the check does not exceed the public adjuster's fee,

(ii) The amount of the fee is indicated in a written compensation agreement signed by the insured.

(iii) The balance of the proceeds, not included in the check made payable to the insured and the public adjuster, is made payable to the insured or to the insured and other lienholder or holders as is required by law.

(b) Should a dispute arise between a public adjuster and the insured with which he contracts, the

public adjuster is prohibited from acting in any manner which would interfere with or cause the insured not to receive the undisputed portion of the insurance proceeds. Should the insured's check, which contains that amount not associated with the public adjuster's fee, be mailed to or received by the public adjuster, the public adjuster shall promptly present the check to the insured.

(3) Imposes collection costs or late fees.

(4) Precludes the insured from pursuing civil or judicial remedies.

E. Prior to the signing of the contract, the public adjuster shall provide the insured with a separate disclosure document regarding the claim process that states:

(1) Property insurance policies obligate the insured to present a claim to his insurance company for consideration. There are three types of adjusters that could be involved in that process. The definitions of the three types are as follows:

(a) "Company adjusters" means the insurance adjusters who are employees of an insurance company. They represent the interest of the insurance company and are paid by the insurance company. The company adjuster shall not charge the insured a fee.

(b) "Independent adjusters" means the insurance adjusters who are hired on a contract basis by an insurance company to represent the insurance company's interest. They are paid by your insurance company. The independent adjuster shall not charge the insured a fee.

(c) "Public adjusters" means the insurance adjusters who do not work for any insurance company. They work for the insured to assist in the investigation, appraisal, evaluation, and reporting of the claim. The insured hires them by signing a contract agreeing to pay them a fee.

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

(3) The insured always has the right to initiate direct communications with the insured's attorney, the insurer, the insurer's adjuster, and the insurer's attorney, or any other person regarding the settlement of the insured's claim. Once a public adjuster has been retained, the public adjuster shall not restrict communications between the insurer and its insured.

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

(5) The salary, fee, or other consideration to be paid to the public adjuster is the obligation of the insured, not the insurer.

F. The contracts shall be executed in duplicate to provide an original contract to the public adjuster and an original contract to the insured. The public adjuster's original contract shall be available at all times for inspection without notice by the commissioner of insurance.

G. The public adjuster shall provide the insurer a notification letter, which has been signed by the insured, indicating that the insured and the public adjuster have a contract pursuant to this Part. Delivery of this letter shall not prohibit or impede the right of the insured to communicate directly with the insurer.

H. The insured has the right to rescind the contract within three business days after the date the contract was signed. The rescission shall be in writing and mailed or delivered to the public adjuster at the address in the contract within the three business day period.

I. If the insured exercises the right to rescind the contract, any thing of value given by the insured under the contract will be returned to the insured within fifteen business days following the receipt by the public adjuster of the cancellation notice.

J. The contract shall not be construed to prevent an insured from pursuing any civil or judicial remedy.

Acts 2006, No. 806, §1.

## • §1210.105. Record retention

A. A public adjuster shall maintain a complete record of each transaction as a public adjuster.

The records required by this Section shall include the following:

- (1) Name of the insured.
- (2) Date, location, and amount of the loss.
- (3) Copy of the contract between the public 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.
- (6) Itemized statement of all compensation received by the public adjuster, from any source whatsoever, in connection with the loss.
- (7) A register of all monies received, deposited, disbursed, or withdrawn in connection with a transaction with an insured.
- (8) Name of the public adjuster who executed the contract.
- (9) Name of the attorney representing the insured, if applicable, and the name of the claims representative of the insurance company.
- (10) Evidence of financial responsibility in a format prescribed by the commissioner of insurance.

B. Records shall be maintained for at least five years after the termination of the transaction with an insured and shall be open to examination by the commissioner of insurance at all times.

Acts 2006, No. 806, §1.

• §1210.106. Standards of conduct of public adjuster

A. A public adjuster is obligated, under his license, to serve with objectivity and complete loyalty to the interest of his insured alone and to render to the insured such information and service, as within the knowledge, understanding, and good faith of the licensee, as will best serve the insured's insurance claim needs and interest.

B. A public adjuster shall not solicit, or attempt to solicit, an insured during the progress of a loss-producing occurrence, as defined in the insured's insurance contract.

C. A public adjuster shall not permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under this Part.

D. A public adjuster shall not have a direct or indirect financial interest in any aspect of the claim, other than the compensation established in the written contract with the insured.

E. A public adjuster shall not acquire any interest in salvage of property subject to the contract with the insured.

F. A public adjuster shall not solicit employment for or otherwise solicit engagement, directly or indirectly, for or on behalf of any attorney at law, contractor or subcontractor, in connection with any loss or damage with respect to which such adjuster is concerned or employed. Nothing herein shall be interpreted to prevent a public adjuster from recommending a particular attorney, contractor or subcontractor; however, the public adjuster is prohibited from collecting any fee, compensation, or thing of value for such referral.

G. A public adjuster shall not solicit or accept any compensation, direct or indirect, from, by, or on behalf of any contractor or subcontractor engaged by or on behalf of any insured by which such adjuster has been, is, or will be employed or compensated, directly or indirectly.

H. Public adjusters shall also adhere to the following general requirements:

(1) No public adjuster, while so licensed by the department, may represent or act as a company adjuster or independent adjuster in Louisiana.

(2) A public adjuster shall not enter into a contract or accept a power of attorney that vests in the public adjuster the authority to choose the persons who shall perform repair work.

(3) A public adjuster shall ensure that all contracts for the public adjuster's services are in writing and set forth all terms and conditions of the engagement.

(4) A public adjuster shall not file or record on behalf of an insured client any complaint to or with any court of record or agency of the state.

(5) A public adjuster shall not provide services with any claim except a first-party claim on behalf of an insured against such insured's insurer.

(6) A public adjuster shall not provide services to the insured in connection with any claim for personal injury.

(7) A public adjuster shall not render legal advice to the insured, including but not limited to legal advice regarding the policy provisions or coverage issues.

(8) A public adjuster shall not engage in the unauthorized practice of law as defined in R.S. 37:212 and 213.

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

Acts 2006, No. 806, §1.

- §1210.107. Reporting of actions

A. The public adjuster shall report to the commissioner of insurance any administrative action taken against the public adjuster in any jurisdiction or by another governmental agency within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent order, or other relevant legal documents.

B. Within thirty days of a conviction, the public adjuster shall report to the commissioner of insurance any criminal prosecution of the public adjuster taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

Acts 2006, No. 806, §1.

• §1210.108. Regulations

The commissioner of insurance may adopt reasonable rules and regulations as are necessary or proper to carry out the purposes of this Part.

Acts 2006, No. 806, §1.