

CHAPTER 1:
INSURANCE REGULATIONS

What is a Public Adjuster?

A **public adjuster** is defined as an individual, association, corporation, or partnership that is soliciting, advertising business, or representing oneself to the public as an adjuster of claims for property losses. A public adjuster performs this function for a fee.

What Is The Purpose of Licensing?

Licensing ensures high standards of service to the insuring public of the Commonwealth. Insurance departments require each individual seeking a license to move through the licensing process to meet a certain amount of standards. The Insurance Commissioner, who is in charge of regulating insurance in the Commonwealth, heads the insurance department.

What Are The Qualifications For A License?

Individuals interested in qualifying for a public adjuster license must:

- Be at least 18 years old
- Can understand, read, and write in the English language
- Persons holding an active public adjuster license in their resident state may apply for a non-resident public adjuster license in PA under the reciprocity provisions stipulated in the public adjuster law
- Pass the public adjuster exam

What Is The Licensing Application Process?

To obtain a license, an applicant must:

- Pass the Public Adjuster exam, series 16-19
- Within one year from the submission of exam, individual must complete/submit Form IDL-41 to the Insurance Department. Results of examination expire, one year from the exam date
- Submit the proper application and license fees. Individuals and Business Entities (partnerships, corporations) pay a \$200.00 fee. License is renewed every two years on the same month you were born (along with appropriate fees)
- \$20,000 minimum surety bond must be obtained. This bond covers conversion, embezzlement, secretion or otherwise fraudulent disposing of property or money by the public adjuster. A paid bond receipt must be on file so Insurance Department has access to it
- Fingerprints will be submitted by applicants at the License Exam Centers by Prometric. Live-scan printing will be done on-site at exam center
- Applicants must undergo a background check
- A copy of the contract must remain on file for the Public Adjustment Company. The Insurance Department must pre-approve a public adjuster's contract before being utilized in practice
- In the alternative, the public adjuster may use the Insurance Department's approved form
- If there is a change of address, public adjusters must notify the insurance department within 30 days of that date

What Is The License Renewal Process?

Public adjusters are subject to the following license renewal process:

- The insurance department will provide the appropriate forms and notices once the renewal form is mailed to the last known address of the licensee
- Licenses can be renewed upon submission of paper or electronic renewal form and the required fees are paid
- Licenses are renewed, biannually (every two years) on the birth month of the licensee
- All public adjusters in the Commonwealth must complete a minimum of 24 hours of CE (continuing education) prior to receiving their renewed license. By not completing CE, public adjusters will have their license terminated
- Corporations and Partnerships must submit the names of each active officer with the renewal form to the insurance department, in order to be eligible for renewal
- A public adjuster must perform the following:
 - Complete renewal form, submit renewal form and pay required fees prior to expiration date
 - Return corrected renewal forms to the insurance company before the expiration date of the license or within 15 days of the date the forms were mailed by the insurance company
 - If a renewal form is received by the insurance company after the expiration date, it will be denied. The only exception to this is if the renewal forms are returned by the insurance department after the expiration date. In this case, renewal forms must be returned 15 days from the date the insurance company mailed the incomplete forms

Those who fail to comply with the renewal provisions stated above will have their license terminated.

What Are the Contract Requirements?

As a public adjuster, you are required to enter into a contract with an insured. The contract must have the following:

- Must be in writing
- Must be written on a form approved by the Insurance Commissioner or use the Insurance Commissioner's pre-approved form
- Must be kept on file by the public adjuster
- Must be available in cases of inspection, provided without notice by the Insurance Commissioner or an authorized representative

A contract can be rescinded by any of the parties signing the contract. This action must be taken within 3 calendar days after signature.

While it is true that public adjusters may only represent an insured against his/her insurance company, they may not:

- Act in any matter whatsoever in relation to claims from insured for personal injury, automobile damage, and liability claims

- Directly/indirectly enter into contract with the insured for the repair, replacement, restoration or demolition of damaged property. This includes the time prior to the date of verdict or award, or time payment is received from insurance company

The insured can cancel a contract at any time prior to midnight of the third calendar day after the date the contract was executed.

What Are the Minimum Standards of a Public Adjuster Contract?

The following information must be present on a public adjuster contract:

- The title must read: “Public Adjuster Contract”
- The public adjuster’s name, business name, telephone number and address
- The insured’s name and address
- A percentage of any payments to be received on the negotiated claim
- Appropriate space provided for execution date of the contract (month, day, year)
- Signature of the public adjuster and the insured
- The public adjuster’s license number
- First page of the public adjusters’ contract must include a provision setting forth the insured’s right to cancel

What are the Prohibitions of a Contract?

A contract may not contain any term that:

- Allows a public adjusters’ 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 off the first check issued by the insurance company
- Requires the insured to authorize the insurance company to issue a check only in the name of the public adjuster
- Imposes collection costs or late fees on the insured

Are There Any Additional Requirements/Procedures?

Yes! As a public adjuster, you are required to verbally inform the insured that they have the right to cancel at the time of signing. If they don’t wish to cancel, it is the public adjuster’s job to provide a copy of the executed contract. However, if the insured wants to cancel, the cancellation period begins as soon as they are informed of their right to cancel. The public adjuster must perform these following procedures, within 15 days after receiving the receipt of cancellation notice:

- Refund any payments made under the contract
- Cancel and return any negotiable instruments executed by the insured in connection with the public adjuster contract
- Take the necessary action to terminate any security interest created under the contract

A contract may not be negotiated, transferred, assigned, or sold by the public adjuster to a finance company or any other third party prior to midnight of the 5th business day after the execution of the contract.

If an insured exercises his/her right to cancel the contract, he/she is liable for reasonably and necessary emergency out-of-pocket expenses which were incurred or paid for by the public adjuster during the time preceding cancellation of the contract.

Also, the public adjuster is required within two business days to notify the insurer of a claim.

What If There is a Change in Name or Address?

The public adjuster must inform the Insurance Department of a change in address, within 30 days from the date of the move. The address change can be reported via E-mail.

Is There a Disciplinary Procedure?

The insurance department may assess penalties including:

Administrative Hearing – May be conducted to determine if the violation of applicable law has occurred. The insurance department can issue a written order resolving the issue presented and state what action is necessary, following the administrative hearing.

Administrative Penalties – If it has been determined that a violation has occurred, the insurance department may issue an order requiring the person or business entity to stop engaging in the violation. The department may also suspend, or in worst case scenario, revoke, the license.

Cease and Desist Orders – May be issued by insurance department requiring person or business entity to stop the activity being questioned.

Injunction – The alleged violator may fail to comply with the previous orders. In this case, an injunction is filed with the Commonwealth Court of Pennsylvania in the county in which the violation is being questioned.

SUSPENSION OR REVOCATION of LICENSE

If the following acts are committed, there may be a call for the suspension or revocation of your license:

- Material misrepresentation of the terms provided in the insurance policy
- Attempting to engage in, or actually engaging in fraudulent transactions with respect to a claim or loss
- Misrepresentation of services offered or the commission/fees to be charged
- Conviction by any court of or a plea of no contest to a felony under the laws of the Commonwealth of Pennsylvania, or any other state or foreign country
- Misappropriation, conversion to his/her own use of improper withholding of money held on behalf of another party involved with the contract
- To directly or indirectly receive any compensation, commission or anything of value or profit from any entity engaged in the salvage, repair, replacement, restoration, renovation, or demolition business of damaged property, unless it is agreed upon in the contract

- Removal of a public adjuster's records or office accounts from this Commonwealth
- Closure of a licensee's office for a period that exceeds 30 days, unless Insurance Commissioner grants permission
- Making a false statement in the license application process
- Violation of any rules or regulations regarding this act
- Involvement in fraudulent practices
- Demonstration of lack of trustworthiness to perform as a public adjuster
- The Insurance Department must be notified, in writing, within ten days of a conviction for a felony or misdemeanor

EXPLANATION of UNFAIR INSURANCE PRACTICES ACT

This act regulates trade practiced in the insurance business by defining practices that constitute unfair methods of competition or deceptive acts of business practices. Examples of unfair trade practices include:

- Publishing false sales presentations or illustrations
- Misrepresenting policy benefits, dividend or condition projections.
- Name, title, or class misrepresentation on insurance policy
- Circulation of malicious or false information regarding competitor
- Misleading advertising
- Making derogatory or untrue statements of the financial condition of any individual
- Agreeing to a boycott, coercion, monopoly or intimidation
- Filing false statements of the financial condition of an individual
- Rebating and inducements

WHAT ARE CIVIL PENALTIES?

Public adjusters may be charged with civil penalties under the following:

1. Violation of Public Adjuster Act

The Insurance Commissioner may impose a civil penalty of not less than \$500 and no more than \$1,000 for each violation made under the act.

2. Violation of the Unfair Insurance Practices Act

If a public adjuster demonstrates the practice of a violation made under the Unfair Insurance Practices Act, the following additional penalties may apply:

- \$5,000 maximum for each violation, not to exceed an aggregate of a \$50,000 penalty in a six-month period for any act that an individual should have understood to be a violation
- \$1,000 maximum for each violation, not to exceed an aggregate of a \$10,000 penalty for any act that an individual did not know, or reasonably known was a violation
- \$10,000 maximum penalty for each violation of a cease and desist order

Judicial Review – An individual who is not happy over the determination of an order issued by the Insurance Commissioner may turn to the Pennsylvania Commonwealth Court to appeal the decision. The decision must be appealed within 30 days after the issuance of the order.

LAWS AND REGULATIONS FOR CLAIM SETTLEMENTS

The following standards apply to individuals, insurance policies and insurance contracts excluding policies of worker's compensation, insurance and fidelity, surety and guaranty bonds.

File Documentation – Claims filed by the insurer are subject to examination performed by the insurance commissioner. All files should contain detailed notes and work papers pertaining to the claim in order to reconstruct pertinent events and dates.

Misrepresentation of Policy Provisions – Insurers may not:

- Fail to fully disclose to first party claimants, coverages, pertinent benefits or other provisions of an insurance policy or contract under which the claim is presented
- Fail to fully disclose benefits, coverages, or other provisions of an insurance policy or contract to first-party claimants
- Deny a claim for failure to exhibit the property without proof of demand and refusal by a claimant to do so.
- Make statements requiring a claimant to give written notice of loss or proof of loss within a specified time frame and which seeks to relieve the company of its obligations if a time limit is not complied with unless the failure to comply with the time frame prejudices the right of the insurer. (The only exception is if the time frame is specified in the policy)
- Request a first-party claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment.
- Issue checks or drafts in partial settlement of a loss or claim under a specific coverage which checks or drafts contain language which expressly or impliedly releases the insurer or its insured from its total liability.

Failure to acknowledge important communication – Every insurer must:

- Acknowledge the receipt of the notice within 10 days of receiving notification of a claim, unless payment is made within that time period
- Furnish the Insurance Department with an adequate response to inquiry within 15 working days of receiving receipt of the inquiry from Insurance Department
- Provide necessary claim forms, instructions and reasonable assistance within 10 working days from when notification was made. This is so first-party claimants can comply with the policy conditions and requirements of the insurer
- Reply within 10 working days to the claimant on pertinent communications

Standards for Prompt Investigations of Claims – Insurers are to complete an investigation of a claim, within 30 days after notification of the claim, unless it cannot be reasonably completed within that time frame. If an investigation cannot be completed within that time frame, the insurer must provide a written explanation for the delay within the first 30 days and then every 45 days thereafter until the claim is resolved.

Standards for Prompt, Fair and Equitable Settlements Applicable to Insurers – The acceptance or denial of a claim must comply with the following information:

- First-party claimant shall be advised of the acceptance or denial of the claim by the insurer, 15 working days after receipt by the insurer of a properly-executed proof of loss. A claim may be denied by the insurer on the grounds of a specific policy provision, conditions, or exclusions that must be cited in a denial letter. The denial letter must be sent to the insured. The claim file of the insurer should contain a copy of the denial
- Insurers cannot fail to settle first-party claims on the basis that others assume responsibility for payment
- If the insurer needs more time determining whether claimant should be accepted or denied, he/she must notify the first-party claimant within 15 working days after receipt of the proofs of loss giving the reasons for more time requested. If the investigation remains incomplete, the insurer has 30 days (from the date of the initial notification) and every 45 days thereafter, to send the claimant a letter explaining the reasons why additional time is needed for the investigation. Insurers must state when a decision on the claim can be expected
- If the insurance regulatory authority based on specific information available for review, suspects that the first-party claimant has fraudulently caused or contributed to the loss by arson or other illegal activities, the insurer is relieved from these requirements. The claimant shall be advised of the acceptance or denial of the claim by the insurer within a reasonable time for a complete investigation into the claim
- Insurers cannot continue negotiations for a claim settlement if the claimant is neither an attorney nor represented by an attorney until the claimant's rights that may be affected by time limitations, with a written notice that the time limit may be expiring and may affect the claimant's rights. The first-party claimant shall be given the notice no less than 30 days before the expiration date
- Insurers may not make statements indicating that the rights of the third-party claimant may be diminished if a release is not completed within a given time period, unless the statements are made for the purpose of notifying the third-party claimant of the provisions of a statute of limitations

THE ADJUSTER'S ROLE

What is the primary purpose of insurance? After a loss has occurred, insurance covers the insured during settlement. A claim is set in motion in the insured's policy under the conditions section title "Duties after Loss" or "Duties in the Event of a Loss or Damage." The insured is required to notify his or her insurer of loss, protect property from further damage, separate damaged from undamaged property and to assign a value to the damaged property. The insurer provides assistance to the insured by assigning an adjuster to assist the insured in the claims adjustment process. Adjusters can be categorized as:

- Company Staff Adjusters- employees of the insurance company who are paid a salary by the insurer
- Independent Adjusters- independent contractors hired by the insurer. Independent adjustment firms generally charge the insurer an hourly rate on top of expenses paid to adjust a claim

Company Staff and Independent Adjusters both investigate losses and assist the insurer in determining the amount of a claim. They both represent the insurer.

Public Adjusters generally perform the same functions as company staff adjusters and independent adjusters, except instead of representing the insurer, they represent the insured. When insureds believe that their claim is too complicated to settle on their own, or if a company staff adjuster or independent adjuster won't fully insure them for their loss, they hire a public adjuster. A public adjuster is paid on a contingent fee based upon a fixed percentage of the settlement amount of the claim. The fee of the public adjuster is based on his or her services which can include: preparing estimates, meeting with the company or independent adjuster, negotiating final settlement, as well as acting in the best interests of the insured.

Public adjusters shall be restricted to advising and assisting with respect to the adjustment of only first-party property claims. Occurrences may take place which motivates the insurer to invoke policy conditions that may require the insured to retain the services of a lawyer. An example of a condition may be when insurer requests an Examination Under Oath (EUO) of the insured.

INSURANCE: FEDERAL REGULATIONS

The Pennsylvania Insurance Department provides supervision to insurance regulations. However, certain federal regulations apply to the business of insurance. 18 USC 1033 and 1034 addresses fraud and false statements. This specific provision found in the United States Code addresses individuals and organizations that engage in fraudulent conduct (ex. making false statements, misappropriating money, willful overvaluation of property, etc.) that affect interstate commerce. Individuals and organizations can be subject to a fine or even imprisonment of up to 10 years in these particular instances. If fraudulent conduct jeopardizes the safety and soundness of an insurer, imprisonment can be as much as 15 years. In addition to these actions, the Attorney General may bring a civil action up against an individual who engages in this conduct. The individual may be subject to no more than a \$50,000 civil penalty for each violation, or the amount of compensation the individual received/offered for the prohibited conduct, depending on which is greater. An individual who is convicted of such felonies may not engage in the business of insurance, unless he or she has consent of the Pennsylvania Insurance Department.

TIMETABLES OF INSURANCE COMPANY, COMPANY STAFF ADJUSTER, AND INDEPENDENT ADJUSTER

Acknowledge claim's receipt (unless payment has been made)	10 working days
Provide forms for claims and assistance	10 working days
Respond to inquiry from insurance department	15 working days
After notification, complete a claim investigation	30 working days
Accept/deny claim after proof or loss has been performed	15 working days

TIMETABLE OF A PUBLIC ADJUSTER

Cancellation of a contract	3 calendar days
Notification sent to insurer of contract	2 business days
Return payments to insured after contract has been cancelled	15 business days

INSURANCE REGULATION:

PRACTICE EXAM #1

1. To apply for a public adjuster license, an individual must secure a bond for a minimum of:
 - A. \$12,000
 - B. \$14,000
 - C. \$20,000
 - D. \$40,000
2. How many days does a public adjuster have to notify the insurance department of an address change?
 - A. 30 Days
 - B. 20 Days
 - C. 18 Days
 - D. 14 Days
3. Choose the letter that represents a NON-requirement to qualify for a public adjuster license:
 - A. Pass the appropriate examination
 - B. Secure a \$20,000 bond
 - C. Be able to read and write the English language
 - D. Complete a pre-licensing education course
4. Which of the following activities would NOT be a valid violation to warrant a suspension, fine, or revocation of a public adjuster license?
 - A. Failure to stop at red lights
 - B. Conversions of money held on behalf of another person
 - C. Closing a licensee's office for a period in excess of 30 days
 - D. Misrepresenting the terms of an insurance contract
5. How often does a public adjuster license renew?
 - A. Every 4 years
 - B. Every 5 years
 - C. Every 2 years
 - D. Annually
6. Public adjuster license applicants must be at least:
 - A. 21 years old
 - B. 23 years old
 - C. 18 years old
 - D. 25 years old
7. What is the maximum fine per violation under the Public Adjusters Act?
 - A. \$5,000
 - B. \$1,000
 - C. \$50,000
 - D. \$10,000

8. A copy of the contract to be used in PA must be submitted by a public adjuster to:
 - A. Pennsylvania Insurance Department
 - B. Pennsylvania Department of State
 - C. Pennsylvania Commonwealth Court
 - D. Pennsylvania Notary Public
9. Who does a public adjuster represent?
 - A. An attorney
 - B. A person who had a slip and fall accident
 - C. The insured
 - D. The insurance company
10. Company staff adjusters and independent adjusters represent:
 - A. Attorneys
 - B. Third-party claimants
 - C. The insureds
 - D. The insurers
11. Which of the following is NOT true regarding public adjusters contracts? (CHOOSE ONE)
 - A. The contract must be available for inspection by the insurance department
 - B. The contract may be in a written or oral format
 - C. The contract may be kept on file by the public adjuster
 - D. The contract must be approved by the insurance commissioner
12. The insured may cancel a public adjuster contract at any time prior to the:
 - A. 14th business day after the execution date of the contract
 - B. 3rd calendar day after the execution date of the contract
 - C. 2nd business day after the execution date of the contract
 - D. 10th business day after the execution date of the contract
13. According to the Public Adjusters Act, any day other than Saturday, Sunday, or a holiday is considered:
 - A. A holiday
 - B. A calendar day
 - C. A business day
 - D. A day you can adjust losses
14. Which one of the following does NOT characterize the process of claimants filed with the insurance department against a public adjuster:
 - A. It is usually investigated by a local District Attorney
 - B. It may be appealed to Commonwealth Court
 - C. It is usually investigated by the insurance department's local office
 - D. It may involve a formal hearing in Harrisburg
15. Under the Public Adjusters Act, the insured may NOT be solicited until after the:
 - A. Fire department determines the cause and origin
 - B. Fire department in charge determines that the fire is extinguished
 - C. Fire department arrives at the scene of the fire
 - D. Fire is reported to the fire department

16. In the event of the cancellation of a public adjuster contract, anything of value given by the insured must be returned by the public adjuster within:
- A. 30 business days after receipt of cancellation
 - B. 15 business days after receipt of cancellation
 - C. 10 business days after receipt of cancellation
 - D. 5 business days after receipt of cancellation
17. A public adjuster may not do which of the following:
- A. Vary the percentage charged based upon size of the loss
 - B. Charge late fees on the insured
 - C. Charge a maximum dollar amount of the settlement
 - D. Charge a percentage of the settlement
18. A public adjuster must notify the insurer of the completion of a contract within how many business days?
- A. 30
 - B. 15
 - C. 10
 - D. 2
19. When must an insurance company adjuster acknowledge receipt of a claim?
- A. Within 10 working days, unless, payment is made within that time period
 - B. Within 10 working days in all instances
 - C. Within 5 working days in all instances
 - D. Immediately
20. What does the Unfair Insurance Practices Act do?
- A. Advises the public on fair insurance practices
 - B. Regulates trade practices by defining practices that constitute unfair methods of competition and/or deceptive practices
 - C. Regulates the activities of producers in the excess and surplus lines field
 - D. Advises insurers and public adjusters of fair and acceptable trade practices
21. Which ONE of the following would NOT be considered an Unfair Claims Practice:
- A. Refusing to pay covered claims
 - B. Dealing with the insured or claimant in good faith
 - C. Failure to deny or affirm coverage
 - D. Failure to acknowledge written or oral communications
22. What is the primary purpose of licensing?
- A. To provide a source of revenue for the insurance department
 - B. To permit insurers to pay commissions
 - C. To ensure high standards to the insuring public of Pennsylvania
 - D. To provide a source of income to producers
23. Who regulates the business of insurance in Pennsylvania?
- A. The Attorney General
 - B. The Insurance Commissioner
 - C. The Insurance Superintendent
 - D. The Governor

24. Which of the following can legally receive a fee from a public adjuster?

- A. A fireman
- B. Another public adjuster
- C. A contractor
- D. An independent adjuster

CHAPTER 1 ANSWER KEY

1. c
2. a
3. c
4. a
5. c
6. c
7. b
8. a
9. c
10. d
11. b
12. b
13. c
14. a
15. b
16. b
17. b
18. d
19. a
20. b
21. b
22. c
23. b
24. b