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By: **Chairman, Economic Matters Committee (By Request - Departmental - Insurance Administration, Maryland)**

Introduced and read first time: February 6, 2003

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Insurance - Public Adjusters - Regulation**

3 FOR the purpose of requiring individuals to obtain a license from the Commissioner  
4 before acting as a public adjuster; requiring certain entities to obtain a license to  
5 act as a public adjuster; establishing certain qualifications for individual  
6 applicants for licensure as a public adjuster; establishing certain qualifications  
7 for entities applying for licensure as a public adjuster; establishing examination  
8 requirements; authorizing the Commissioner to deny, suspend, revoke, or refuse  
9 to renew licensure as a public adjuster under certain circumstances; defining a  
10 certain term; altering a certain definition; making certain technical changes;  
11 providing for the application of this Act; and generally relating to the licensure  
12 of public adjusters.

13 BY repealing and reenacting, without amendments,  
14 Article - Insurance  
15 Section 10-101(b), 10-402, and 10-406  
16 Annotated Code of Maryland  
17 (1997 Volume and 2002 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article - Insurance  
20 Section 10-401, 10-403, 10-404, 10-405, 10-408, 10-408.1, and 10-410  
21 Annotated Code of Maryland  
22 (1997 Volume and 2002 Supplement)

23 BY adding to  
24 Article - Insurance  
25 Section 10-407 and 10-409  
26 Annotated Code of Maryland  
27 (1997 Volume and 2002 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Insurance**

4 10-101.

5 (b) "Business entity" means a corporation, professional association,  
6 partnership, limited liability company, limited liability partnership, or other legal  
7 entity.

8 10-401.

9 (a) In this subtitle the following words have the meanings indicated.

10 (B) "BUSINESS ENTITY" HAS THE MEANING STATED IN § 10-101(B) OF THIS  
11 TITLE.

12 [(b)] (C) "License" means a license issued by the Commissioner to act as a  
13 public adjuster.

14 [(c)] (D) (1) "Public adjuster" means a person that:

15 [(1)] (I) solicits business or represents itself to the public as an adjuster  
16 of FIRST PARTY INSURANCE claims for losses or damages arising [out of policies of  
17 fire insurance or allied lines of insurance] FROM THE PERILS OF FIRE, HAIL,  
18 WINDSTORM, OR WATER;

19 [(2)] (II) receives compensation for INVESTIGATING, APPRAISING,  
20 EVALUATING OR OTHERWISE giving advice or help to an insured in the adjustment of  
21 claims for losses or damages arising [out of policies of fire insurance or allied lines of  
22 insurance] FROM THE PERILS OF FIRE, HAIL, WINDSTORM, OR WATER; or

23 [(3)] (III) for compensation, directly or indirectly, solicits business,  
24 investigates or adjusts losses, or advises an insured about INSURANCE claims for  
25 losses or damages arising [out of policies of fire insurance or allied lines of insurance]  
26 FROM THE PERILS OF FIRE, HAIL, WINDSTORM OR WATER for another person engaged  
27 in the business of adjusting losses or damages [by fire or other contingency covered  
28 by a policy of fire insurance or allied lines of insurance] ARISING FROM THE PERILS  
29 OF FIRE, HAIL, WINDSTORM, OR WATER.

30 (2) "PUBLIC ADJUSTER" DOES NOT MEAN A PERSON THAT  
31 INVESTIGATES, ADJUSTS, OR APPRAISES CLAIMS FOR LOSS OR DAMAGE:

32 (I) COVERED BY A MOTOR VEHICLE INSURANCE POLICY; OR

33 (II) RESULTING FROM A FLOOD.

1 10-402.

2 This subtitle does not apply to:

3 (1) an adjuster for or an insurance producer or employee of an insurer or  
4 group of insurers under common control or ownership that, as representative of the  
5 insurer or group, adjusts losses or damages under policies issued by the insurer or  
6 group;

7 (2) an insurance producer that acts as an adjuster without compensation  
8 for an insured for whom the insurance producer is acting as an insurance producer; or

9 (3) an attorney at law who does not:

10 (i) regularly act as a public adjuster; and

11 (ii) represent to the public by sign, advertisement, or otherwise  
12 that the attorney at law acts as a public adjuster.

13 10-403.

14 (A) Except as otherwise provided in this subtitle, a person must obtain a  
15 license before the person acts as a public adjuster in the State.

16 (B) A PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR  
17 AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500 OR  
18 IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH FOR EACH VIOLATION.

19 10-404.

20 (a) To qualify for a license, an applicant must be:

21 (1) an individual who meets the requirements of SUBSECTION (B) OF this  
22 section; OR

23 (2) A BUSINESS ENTITY THAT MEETS THE REQUIREMENTS OF  
24 SUBSECTION (C) OF THIS SECTION.

25 (b) (1) An INDIVIDUAL applicant must be trustworthy and competent to  
26 transact business as a public adjuster so as to safeguard the interests of the public.

27 (2) AN INDIVIDUAL APPLICANT SHALL HAVE BEEN EMPLOYED  
28 REGULARLY BY THE ADMINISTRATION AS AN EMPLOYEE OR BY AN INSURER,  
29 ADJUSTER, INSURANCE PRODUCER OR PUBLIC ADJUSTER FOR A PERIOD TOTALING  
30 AT LEAST 3 YEARS:

31 (I) DURING THE 5 YEARS IMMEDIATELY PRECEDING THE DATE OF  
32 APPLICATION; OR

33 (II) FOR A MEMBER OF THE U.S. ARMED FORCES DURING THE 5  
34 YEARS IMMEDIATELY:

1 1. PRECEDING THE DATE OF ENTRANCE; OR

2 2. AFTER DISCHARGE.

3 [(c) (1) (i)] (3) Except as otherwise provided in this subsection, an  
4 INDIVIDUAL applicant [must] SHALL:

5 (I) pass a written examination given by the Commissioner under  
6 this subtitle in order to determine the competency of the applicant to act as a public  
7 adjuster[.];

8 (ii) [An applicant shall] pay the application fee required by § 2-112  
9 of this article[.]; AND

10 (iii) [After an applicant has been notified] AFTER RECEIVING  
11 NOTIFICATION that the applicant has passed the examination or is otherwise eligible  
12 to be licensed, [the applicant shall] pay the applicable license fee required by § 2-112  
13 of this article.

14 [(2)] (4) The examination requirement of paragraph [(1)] (3) of this  
15 subsection does not apply to an individual who was licensed as a public adjuster in  
16 the State on June 30, 1985.

17 [(d) An applicant must have been a resident of the State continuously for at  
18 least 1 year immediately preceding the date of filing an application for a license.]

19 (5) AN INDIVIDUAL APPLICANT WHO FAILS AN EXAMINATION MAY NOT  
20 TAKE ANOTHER EXAMINATION UNTIL AT LEAST 14 DAYS AFTER THE DATE OF THE  
21 LAST EXAMINATION THAT THE APPLICANT FAILED.

22 (C) A BUSINESS ENTITY APPLICANT MUST:

23 (1) BE TRUSTWORTHY AND COMPETENT TO TRANSACT BUSINESS AS A  
24 PUBLIC ADJUSTER SO AS TO SAFEGUARD THE INTERESTS OF THE PUBLIC;

25 (2) EMPLOY ONE OR MORE INDIVIDUAL LICENSED PUBLIC ADJUSTERS;  
26 AND

27 (3) PAY THE APPLICABLE LICENSE FEE REQUIRED BY § 2-112 OF THIS  
28 ARTICLE.

29 10-405.

30 (a) An applicant for an initial license shall file with the Commissioner an  
31 application on the form that the Commissioner provides.

32 (b) The application form shall require:

33 (1) the name and address of the applicant;

1 (2) whether any other insurance license or certificate has been issued to  
2 the applicant;

3 (3) the business in which the applicant has been engaged for the [year]  
4 5 YEARS immediately preceding the date of application and, if employed by another,  
5 the name and address of each employer; [and]

6 (4) FOR A BUSINESS ENTITY APPLICANT:

7 (I) THE NAME OF THE INDIVIDUAL LICENSED PUBLIC ADJUSTER  
8 EMPLOYED BY THE BUSINESS ENTITY WHO IS DESIGNATED TO ACT AS THE BUSINESS  
9 ENTITY'S PRINCIPAL CONTACT WITH THE ADMINISTRATION; AND

10 (II) THE NAME AND ADDRESS OF EACH LICENSED PUBLIC  
11 ADJUSTER EMPLOYED BY THE BUSINESS ENTITY, EACH INDIVIDUAL WHO HAS  
12 DIRECT CONTROL OVER ITS FISCAL MANAGEMENT, EACH OWNER, PARTNER,  
13 MEMBER, OR MANAGER OF THE BUSINESS ENTITY, AND EACH DIRECTOR OF A  
14 BUSINESS ENTITY THAT IS A CORPORATION; AND

15 [(4)] (5) any other information that the Commissioner requires of  
16 applicants to enable the Commissioner to determine the trustworthiness and  
17 competence of the applicant to transact business as a public adjuster so as to  
18 safeguard the interests of the public.

19 (c) An application shall be signed under [oath by the applicant] OATH:

20 (1) IN THE CASE OF AN INDIVIDUAL APPLICANT, BY THE APPLICANT; OR

21 (2) IN THE CASE OF AN APPLICANT THAT IS A BUSINESS ENTITY, BY AN  
22 INDIVIDUAL WHO HAS DIRECT CONTROL OVER ITS FISCAL MANAGEMENT, AN  
23 OWNER, PARTNER, MEMBER, OR MANAGER OF THE BUSINESS ENTITY, OR A DIRECTOR  
24 OF A BUSINESS ENTITY THAT IS A CORPORATION.

25 10-406.

26 (a) The Commissioner shall issue a license to each applicant who meets the  
27 requirements of this subtitle.

28 (b) A person that is licensed as a public adjuster under this subtitle may be  
29 known as a "certified public adjuster".

30 10-407.

31 THE COMMISSIONER SHALL ADOPT REGULATIONS THAT SPECIFY:

32 (1) THE SCOPE, TYPE, CONDUCT, AND GRADING OF THE WRITTEN  
33 EXAMINATION;

34 (2) THE FREQUENCY, TIMES, AND LOCATIONS WITHIN THE STATE  
35 WHERE THE WRITTEN EXAMINATION WILL BE HELD; AND

1 (3) THE EXPERIENCE REQUIREMENTS FOR AN INDIVIDUAL APPLICANT  
2 TO BE ELIGIBLE TO TAKE A WRITTEN EXAMINATION.

3 10-408.

4 (a) A [certificate of qualification] LICENSE expires at the end of every other  
5 June 30 unless it is renewed for a 2-year term as provided in this section.

6 (b) At least 1 month before a [certificate of qualification] LICENSE expires,  
7 the Commissioner shall mail to the holder of the [certificate of qualification]  
8 LICENSE, at the last known address of the holder:

9 (1) a renewal application form; and

10 (2) a notice that states:

11 (i) the date by which the Commissioner must receive the renewal  
12 application for the renewal to be issued and mailed before the [certificate of  
13 qualification] LICENSE expires; and

14 (ii) the amount of the renewal fee.

15 (c) Before a [certificate of qualification] LICENSE expires, the holder of the  
16 [certificate of qualification] LICENSE may renew it for an additional 2-year term, if  
17 the holder:

18 (1) otherwise is entitled to a [certificate of qualification] LICENSE;

19 (2) files with the Commissioner a renewal application on the form that  
20 the Commissioner provides; and

21 (3) pays to the Commissioner the renewal fee required by § 2-112 of this  
22 article.

23 (d) An application for renewal of a [certificate of qualification] LICENSE shall  
24 be considered made in a timely manner if it is postmarked on or before June 30 of the  
25 year of renewal.

26 (e) (1) The Commissioner shall renew the [certificate of qualification]  
27 LICENSE of each holder who meets the requirements of this section.

28 (2) If the holder of a [certificate of qualification] LICENSE files an  
29 application for renewal before the [certificate of qualification] LICENSE expires, the  
30 certificate of qualification shall remain in effect until:

31 (i) the Commissioner issues a renewal [certificate of qualification]  
32 LICENSE; or

33 (ii) 5 days after the Commissioner refuses in writing to renew the  
34 [certificate of qualification] LICENSE and serves notice of the refusal on the holder.

1 10-408.1.

2 (a) [On or before September 30 of the renewal year] FOR UP TO 1 YEAR AFTER  
3 THE EXPIRATION DATE, a person whose public adjuster's [certificate of qualification]  
4 LICENSE has expired may reinstate the expired [certificate of qualification] LICENSE  
5 by:

6 (1) filing with the Commissioner the appropriate reinstatement  
7 application; and

8 (2) paying to the Commissioner the applicable reinstatement fee  
9 required under subsection (b) of this section.

10 (b) (1) The fee for a reinstatement under this section shall be:

11 (i) the amount charged for a full renewal period for the type of  
12 [certificate of qualification] LICENSE held by the person seeking the reinstatement;  
13 and

14 (ii) [1. \$25 for reinstatement during the period from July 1  
15 through July 31;

16 2. \$50 for reinstatement during the period from August 1  
17 through August 31; and

18 3. \$75 for reinstatement during the period from September 1  
19 through September 30] A REINSTATEMENT FEE OF \$100.

20 (2) The Commissioner may limit the reinstatement fee to the amount of  
21 the renewal fee in cases where the reinstatement applicant did not make timely  
22 renewal because of MILITARY SERVICE, temporary incapacity, hospitalization, or  
23 other hardship.

24 (c) A person whose public adjuster's [certificate of qualification] LICENSE has  
25 expired is prohibited from acting as a public adjuster until the effective date of  
26 reinstatement of the [certificate of qualification] LICENSE.

27 (d) [A person who does not comply with subsection (a) of this section on or  
28 before September 30 of the year of expiration shall apply for a public adjuster's  
29 certificate of qualification under § 10-405 of this subtitle and meet any other  
30 requirements specified by the Commissioner in regulation.]

31 (1) IF A PERSON APPLIES FOR REINSTATEMENT OF AN EXPIRED  
32 LICENSE WITHIN 60 DAYS AFTER THE LICENSE EXPIRED, THE COMMISSIONER SHALL  
33 REINSTATE THE LICENSE RETROACTIVELY, WITH THE REINSTATEMENT EFFECTIVE  
34 ON THE DATE THAT THE PERSON'S LICENSE EXPIRED.

35 (2) IF A PERSON APPLIES FOR REINSTATEMENT OF AN EXPIRED  
36 LICENSE MORE THAN 60 DAYS AFTER THE LICENSE EXPIRED, THE COMMISSIONER

1 SHALL REINSTATE THE PERSON'S LICENSE PROSPECTIVELY, WITH THE  
2 REINSTATEMENT EFFECTIVE ON THE DATE THAT THE LICENSE IS REINSTATED.

3 (E) A PERSON WHO DOES NOT COMPLY WITH SUBSECTION (A) OF THIS  
4 SECTION ON OR BEFORE 1 YEAR AFTER THE EXPIRATION DATE SHALL APPLY FOR A  
5 LICENSE UNDER § 10-405 OF THIS SUBTITLE AND MEET THE REQUIREMENTS  
6 SPECIFIED BY THE COMMISSIONER IN REGULATION.

7 [(e)] (F) The Commissioner may adopt regulations to carry out this section.

8 10-409.

9 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE COMMISSIONER  
10 SHALL WAIVE THE LICENSE REQUIREMENTS FOR AN APPLICANT WHO IS NOT A  
11 RESIDENT OF THE STATE IF:

12 (1) THE APPLICANT HAS A VALID PUBLIC ADJUSTER LICENSE FROM THE  
13 HOME STATE OF THE APPLICANT; AND

14 (2) THE HOME STATE OF THE APPLICANT AWARDS NONRESIDENT  
15 PUBLIC ADJUSTER LICENSES TO RESIDENTS OF THE STATE ON THE SAME BASIS.

16 (B) UNLESS DENIED A LICENSE PURSUANT TO § 10-410 OF THIS SUBTITLE, A  
17 PERSON THAT IS NOT A RESIDENT OF THE STATE MAY OBTAIN A NONRESIDENT  
18 LICENSE TO ACT AS A PUBLIC ADJUSTER IF:

19 (1) THE PERSON CURRENTLY IS LICENSED AS A RESIDENT PUBLIC  
20 ADJUSTER AND IN GOOD STANDING IN THE PERSON'S HOME STATE;

21 (2) THE PERSON FILES AN APPLICATION ON THE FORM THAT THE  
22 COMMISSIONER PROVIDES;

23 (3) THE PERSON HAS PAID THE APPLICABLE FEE PURSUANT TO § 2-112  
24 OF THIS ARTICLE; AND

25 (4) THE PERSON'S HOME STATE AWARDS NONRESIDENT PUBLIC  
26 ADJUSTER LICENSES TO RESIDENTS OF THIS STATE ON THE SAME BASIS.

27 (C) A PERSON WHO IS NOT A RESIDENT OF THIS STATE AND WHOSE HOME  
28 STATE DOES NOT ISSUE A PUBLIC ADJUSTER LICENSE MUST MEET THE LICENSE  
29 REQUIREMENTS OF §§ 10-404 AND 10-405 OF THIS SUBTITLE.

30 10-410.

31 (A) The Commissioner may deny a license to an applicant or suspend, revoke,  
32 or refuse to renew OR REINSTATE a license AFTER NOTICE AND OPPORTUNITY FOR  
33 HEARING UNDER §§ 2-210 THROUGH 2-214 OF THIS ARTICLE if the applicant or  
34 licensee:

35 (1) has violated this article;



- 1 (2) has made a material misstatement in the application for the license;
- 2 (3) has engaged in fraudulent or dishonest practices; [or]
- 3 (4) has demonstrated incompetency or untrustworthiness to act as a  
4 public adjuster[.];
- 5 (5) HAS MISAPPROPRIATED, CONVERTED, OR UNLAWFULLY WITHHELD  
6 MONEY THAT BELONGS TO AN INSURER, INSURANCE PRODUCER, INSURED, OR  
7 OTHER PERSON;
- 8 (6) HAS WILLFULLY AND MATERIALLY MISREPRESENTED THE  
9 PROVISIONS OF A POLICY;
- 10 (7) HAS BEEN CONVICTED OF A FELONY, A CRIME OF MORAL  
11 TURPITUDE, OR ANY CRIMINAL OFFENSE INVOLVING DISHONESTY OR BREACH OF  
12 TRUST;
- 13 (8) HAS WILLFULLY FAILED TO COMPLY WITH OR HAS WILLFULLY  
14 VIOLATED A PROPER ORDER OR REGULATION OF THE COMMISSIONER;
- 15 (9) HAS FAILED OR REFUSED TO PAY ON DEMAND MONEY THAT  
16 BELONGS TO AN INSURER, INSURANCE PRODUCER, INSURED, OR OTHER PERSON  
17 ENTITLED TO THE MONEY;
- 18 (10) IS NOT CARRYING ON OR DOES NOT INTEND TO CARRY ON BUSINESS  
19 IN GOOD FAITH WHILE REPRESENTING TO THE PUBLIC THAT THE PERSON IS A  
20 PUBLIC ADJUSTER;
- 21 (11) HAS BEEN DENIED A LICENSE OR HAS HAD A LICENSE SUSPENDED  
22 OR REVOKED IN ANOTHER STATE; OR
- 23 (12) HAS KNOWINGLY EMPLOYED OR KNOWINGLY CONTINUED TO  
24 EMPLOY AN INDIVIDUAL ACTING IN A FIDUCIARY CAPACITY WHO HAS BEEN  
25 CONVICTED WITHIN THE PRECEDING 10 YEARS OF A FELONY OR CRIME OF MORAL  
26 TURPITUDE.
- 27 (B) (1) THE COMMISSIONER MAY DENY A LICENSE TO A BUSINESS ENTITY  
28 APPLICANT OR SUSPEND, REVOKE, OR REFUSE TO RENEW OR REINSTATE THE  
29 LICENSE OF A BUSINESS ENTITY AFTER NOTICE AND OPPORTUNITY FOR HEARING  
30 UNDER §§ 2-210 THROUGH 2-214 OF THIS ARTICLE, IF AN INDIVIDUAL LISTED IN  
31 PARAGRAPH (2) OF THIS SUBSECTION:
- 32 (I) VIOLATES ANY PROVISION OF THIS ARTICLE;
- 33 (II) IS CONVICTED OF A FELONY, A CRIME OF MORAL TURPITUDE,  
34 OR ANY CRIMINAL OFFENSE INVOLVING DISHONESTY OR BREACH OF TRUST; OR
- 35 (III) HAS ANY PROFESSIONAL LICENSE SUSPENDED OR REVOKED  
36 FOR A FRAUDULENT OR DISHONEST PRACTICE.

1 (2) THE SANCTIONS PROVIDED FOR UNDER THIS SUBSECTION MAY BE  
2 IMPOSED ON A BUSINESS ENTITY IF THE VIOLATION WAS COMMITTED BY AN  
3 INDIVIDUAL WHO:

4 (I) IS A PUBLIC ADJUSTER EMPLOYED BY THE BUSINESS ENTITY;

5 (II) 1. IN THE CASE OF A LIMITED LIABILITY COMPANY, IS AN  
6 OFFICER, DIRECTOR, MEMBER, OR MANAGER;

7 2. IN THE CASE OF A PARTNERSHIP, IS A PARTNER; AND

8 3. IN THE CASE OF A CORPORATION, IS A DIRECTOR,  
9 OFFICER, OR CONTROLLING OWNER; OR

10 (III) HAS DIRECT CONTROL OVER THE FISCAL MANAGEMENT OF  
11 THE BUSINESS ENTITY.

12 (C) INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING THE LICENSE  
13 OF A PUBLIC ADJUSTER, THE COMMISSIONER MAY IMPOSE ON THE LICENSEE A  
14 PENALTY OF NOT LESS THAN \$100 BUT NOT EXCEEDING \$500 FOR EACH VIOLATION  
15 OF THIS ARTICLE.

16 (D) INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING THE  
17 LICENSE, THE COMMISSIONER MAY REQUIRE THAT RESTITUTION BE MADE TO ANY  
18 CITIZEN WHO HAS SUFFERED FINANCIAL INJURY BECAUSE OF THE VIOLATION OF  
19 THIS ARTICLE.

20 (E) IF THE LICENSE IS SUSPENDED UNDER THIS SECTION, THE  
21 COMMISSIONER MAY REQUIRE THE INDIVIDUAL TO PASS AN EXAMINATION AND  
22 FILE A NEW APPLICATION BEFORE THE SUSPENSION IS LIFTED.

23 SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of this  
24 Act shall apply to a person that is a business entity on January 1, 2004.

25 SECTION 3. AND BE IT FURTHER ENACTED, That, except as provided in  
26 Section 2 of this Act, this Act shall take effect July 1, 2003.