

AN ACT concerning insurance.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Insurance Code is amended by changing Sections 512.52, 512.53, 512.55, 512.57, 512.58, 512.59, 512.60, 512.61, and 512.64 as follows:

(215 ILCS 5/512.52) (from Ch. 73, par. 1065.59-52)

Sec. 512.52. Definitions. As used in this Article unless the context clearly otherwise requires:

(a) "Adjusting insurance claims" means representing an insured with an insurer for compensation, and while representing that insured either negotiating values, damages, or depreciation, or applying the loss circumstances to insurance policy provisions.

(b) "Public Insurance Adjuster" means a person engaged in the business of adjusting insurance claims who is licensed pursuant to this Article.

(c) "Registered Firm" means a person registered with the Director under Section 512.57.

(d) "Compensation" shall include, but need not be limited to, the following:

1. any assignment of insurance proceeds or a percentage thereof;

2. any agreement to make repairs for the amount of the insurance proceeds payable;

3. assertion of any lien against insurance proceeds payable.

(e) "Person" embraces both natural persons and business entities of whatever type.

(Source: P.A. 84-335; 84-832.)

(215 ILCS 5/512.53) (from Ch. 73, par. 1065.59-53)

Sec. 512.53. License Required. (a) No person may engage in the business of adjusting insurance claims, nor advertise, solicit or hold himself out to be in the business of adjusting insurance claims, solicit or hold himself out to be a Public Insurance Adjuster, nor attempt to obtain a contract for Public Adjusting services, unless licensed or registered in accordance with the provisions of this Article, except that the provisions of this paragraph do not apply to a person admitted to the practice of law in this State, to a licensed agent adjusting loss or damage under a policy within his control or to a marine surveyor or average adjuster.

(b) In addition to any other penalty set forth in this Article, any person violating paragraph (a) of this Section shall be guilty of a Class A misdemeanor, and any person misappropriating or converting any monies collected as a Public Insurance Adjuster, whether licensed or not, shall be guilty of a Class 4 felony.

(c) All contracts entered into by any person violating subsection (a) of this Section are void and invalid.

(Source: P.A. 83-1362.)

(215 ILCS 5/512.55) (from Ch. 73, par. 1065.59-55)

Sec. 512.55. Public Insurance Adjuster license. (a) The Director shall issue a Public Insurance Adjuster license to an applicant who has:

- (1) met the requirements of Section 512.54; and
- (2) paid the fee as set forth in Section 512.63; and
- (3) filed with the Director a bond as prescribed in Section 512.56.

(b) Every Public Insurance Adjuster license shall remain in effect for one year from the date of its issuance.

(c) Each Public Insurance Adjuster license shall contain the name, business address, resident address and personal identification number of the Public Insurance Adjuster, the date of issue, general conditions relative to expiration or termination and any other information the Director considers proper.

(d) The holder of a Public Insurance Adjuster license shall notify the Director, in writing, of a change of either business or residence address within 30 days of such change.

(e) Each Public Insurance Adjuster license shall remain in effect as long as the holder of the license maintains in force and effect the bond required by Section 512.56 and pays the

annual fee required by Section 512.63 by the date due as prescribed by the Director, unless the license is revoked or suspended pursuant to Section 512.61.

The Department may refuse to issue or may suspend the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

(Source: P.A. 84-221; 84-832.)

(215 ILCS 5/512.57) (from Ch. 73, par. 1065.59-57)

Sec. 512.57. Registered Firms. (a) No person shall ~~may~~ engage in the business of adjusting insurance claims ~~employ one or more Public Insurance Adjustors in their professional capacity, other than for the purpose of using their professional services to negotiate or adjust such person's own losses and insurance claims,~~ unless such person is licensed pursuant to this Article and registered with the Director under subsection (b) of this Section.

No Public Insurance Adjuster may form or participate in any association, partnership or other business entity ~~with any other Public Insurance Adjuster~~ for the purpose of engaging in the business of adjusting insurance claims, unless such business entity is registered with the Director under

subsection (b) of this Section.

(b) To become a Registered Firm, a person must submit to the Director an application, on a form specified by the Director, and the fee required by Section 512.63. The Director may require any documents reasonably necessary to verify the information contained in the application.

(c) Each Registered Firm must notify the Director, in writing, of any change in its business or residence address within 30 days of such change.

(d) Each Registered Firm must notify the Director of each Public Insurance Adjuster who is a member, officer, director or employee of the Registered Firm, and report any changes in such status of any such Public Insurance Adjuster to the Director within 30 days thereof.

(e) Each Registered Firm shall appoint one or more Public Insurance Adjusters who is an officer, director or member of the Firm to be responsible for the compliance of the Registered Firm with the laws of this State and the rules and regulations of the Director. The Registered Firm shall be responsible for the actions of its officers, directors, members and employees.

(f) Each Registered Firm which, for any of the causes listed in Section 512.61, terminates its relationship with a Public Insurance Adjuster who is an officer, director, employee or member of the Registered Firm shall notify the Director, in writing, within 30 days of such termination of the specific reasons for such termination. The Registered Firm shall provide

the Director with information, documents, records or statements pertaining to the termination. Any materials provided may be used by the Director in any action taken pursuant to Section 512.62. There shall be no liability on the part of, nor any cause of action against, the Director or the Registered Firm, or any authorized representative of either, for any statement made or materials provided pursuant to this paragraph.

(g) The Director shall terminate any registration which does not comply with the requirements of this Article.

(h) A registered firm may only be comprised of licensed Public Insurance Adjusters. All shareholders, officers, and directors of registered firms must be licensed pursuant to this Act. Any Public Insurance Adjuster who has a license that has been revoked, suspended, or not renewed, whether voluntarily or not, must withdraw from a registered firm within 30 days and give written notice of his or her resignation to the licensed firm within 30 days.

(Source: P.A. 84-832.)

(215 ILCS 5/512.58) (from Ch. 73, par. 1065.59-58)

Sec. 512.58. Rate Schedules and Contract Forms. (a) A Public Insurance Adjuster shall not provide services until a written contract with the insured has been executed, on a form filed with and approved by the Director. At the option of the insured, any such contract which is executed within 5 business

days after conclusion of the loss-producing occurrence shall be voidable for 10 days after execution. The insured may void the contract by notifying the Public Insurance Adjuster in writing by (i) registered or certified mail, return receipt requested, to the address shown on the contract; or (ii) personally serving the notice on the Public Insurance Adjuster.

(b) The written contract required by paragraph (a) shall constitute the entire agreement between the Public Insurance Adjuster and the insured. A copy of the contract shall be given to the insured when the contract is executed. Such contract forms may not include any hold harmless agreement which provides indemnification to the Public Insurance Adjuster by the insured for liability resulting from the Public Insurance Adjuster's negligence, nor any power-of-attorney by which the Public Insurance Adjuster can act in the place and instead of the insured.

(Source: P.A. 83-1362.)

(215 ILCS 5/512.59) (from Ch. 73, par. 1065.59-59)

Sec. 512.59. Performance standards applicable to all Public Insurance Adjusters.

(a) A Public Insurance Adjuster shall ~~may~~ not represent that he is a representative of an insurance company, a fire department, or the State of Illinois, or that he is a fire investigator, or that his services are required for the insured to submit a claim to the insured's insurance company, or that

he may provide legal advice or representation to the insured. A Public Insurance Adjuster may represent that he has been licensed by the State of Illinois.

(b) A Public Insurance Adjuster shall ~~may~~ not agree to any loss settlement without the insured's knowledge and consent and shall provide the insured with a document setting forth the scope, amount, and value of the damages prior to requesting the insured for authority to settling any loss.

(c) If the Public Insurance Adjuster refers the insured to a contractor, the Public Insurance Adjuster warrants that all work will be performed in a workmanlike manner and conform to all statutes, ordinances and codes. Should the work not be completed in a workmanlike manner, the Public Insurance Adjuster shall be responsible for any and all costs and expense required to complete or repair the work in a workmanlike manner.

(d) In all cases where the loss giving rise to the claim for which the Public Insurance Adjuster was retained arise from damage to a personal residence, the insurance proceeds shall be delivered in person to the named insured or his or her designee. Where proceeds paid by an insurance company are paid jointly to the insured and the Public Insurance Adjuster, the insured ~~Public Insurance Adjuster~~ shall release such portion of the proceeds which are due the Public Insurance Adjuster ~~insured~~ within 30 calendar days after the insured's ~~Public Insurance Adjuster's~~ receipt of the insurance company's check,

money order, draft, or release of funds. If the proceeds are not so released to the insured within 30 calendar days, the insured Public Insurance Adjuster shall provide the Public Insurance Adjuster ~~insured and the Illinois Department of Insurance~~ with a written explanation of the reason for the delay.

(e) A Public Insurance Adjuster may not propose or attempt to propose to any person that the Public Insurance Adjuster represent that person while a loss-producing occurrence is continuing nor while the fire department or its representatives are engaged at the damaged premises nor between the hours of 7:00 p.m. and 8:00 a.m..

(f) A Public Insurance Adjuster shall ~~may~~ not advance money or any valuable consideration, ~~except emergency services or the commencement of repairs,~~ to an insured pending adjustment of a claim.

(g) A Public Insurance Adjuster shall ~~may~~ not provide legal advice or representation to the insured, or engage in the unauthorized practice of law.

(Source: P.A. 84-335.)

(215 ILCS 5/512.60) (from Ch. 73, par. 1065.59-60)

Sec. 512.60. Maintenance of records. (a) All Public Insurance Adjusters shall maintain a complete record of each of their transactions as a Public Insurance Adjuster. The records required by this Section shall include:

- (1) name of the insured;
- (2) date, location and amount of loss;
- (3) copy of the contract between the Public Insurance 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) name of the Public Insurance Adjuster who executed the contract; ~~and~~
- (7) name of the attorney representing the insured, if applicable, and the name of the representative of the insurance company; ~~and~~
- (8) copy of the statement provided to the insured explaining the amount and value of the damages to the insured premises, the amount of insurance proceeds recovered from the insured, and the amount and values of all expenses incurred to adjust the claim and the amount and value of the Public Insurance Adjuster's fees and charges.

(b) Records shall be maintained for at least three years after the termination of the transaction with an insured and shall be open to examination by the Director at any time.

(c) A Public Insurance Adjuster shall not divulge information regarding any insured without written consent from the insured, except that the Public Insurance Adjuster may divulge such information to an insurance company or its representative which insures the insured, to the Department of

Insurance, or upon a court order or an Internal Revenue Service subpoena.

(d) Where a Public Insurance Adjuster is engaged or employed by a Registered Firm, the records required by this Section may be maintained by such Registered Firm on behalf of the Public Insurance Adjuster.

(Source: P.A. 84-335.)

(215 ILCS 5/512.61) (from Ch. 73, par. 1065.59-61)

Sec. 512.61. License suspension, revocation or denial. (a) Any license issued under this Article may, ~~after notice to the licensee and hearing as provided by Section 402,~~ be suspended or revoked, and any application for a license may be denied, if the Director finds that the holder of or applicant for a license has:

(1) willfully violated any provision of this Code or any rule or regulation promulgated by the Director; or

(2) intentionally made a material misstatement in an application for a license as a Public Insurance Adjuster; or

(3) obtained or attempted to obtain a license as a Public Insurance Adjuster through misrepresentation or fraud; or

(4) misappropriated, converted to his own use or improperly withheld money due others; or

(5) intentionally misrepresented the terms of any insurance policy; or

(6) used fraudulent, coercive or dishonest practices, or

demonstrated incompetence, untrustworthiness or financial irresponsibility in the transaction of business as a Public Insurance Adjuster; or

(7) been convicted of any ~~a~~ felony or misdemeanor involving dishonesty or fraud, unless the individual demonstrates to the Director sufficient rehabilitation to warrant the public trust; or

(8) knowingly transacted the business of a Public Insurance Adjuster in conjunction with an individual who was not licensed at the time; or

(9) failed to appear without reasonable cause or excuse in response to a subpoena lawfully issued by the Director; or

(10) a license as a Public Insurance Adjuster suspended or revoked or an application denied in any other state, district, territory or province on a ground similar to one of the grounds stated in this Section; or

(11) failed to comply with or violated any of the standards set forth in Section 512.59; or

(12) failed to maintain the records required by Section 512.60; or

(13) engaged in the unauthorized practice of law.

(b) Revocation, suspension, or the denial ~~Denial~~ of an application pursuant to this Section shall be by written notice served upon the applicant by certified or registered mail sent to the address specified in the application. The applicant may request a hearing in writing within 30 days from the date of

mailing as provided in Section 402. The hearing shall be held pursuant to Section 2402 of Title 50 of the Code.

(c) Upon notification of the issuance of an order suspending or revoking a Public Insurance Adjuster's license, the licensee or other person having possession or custody of such license shall promptly deliver it to the Director in person or by mail. The Director shall publish the name of each Public Insurance Adjuster whose license is suspended or revoked, after such suspension or revocation becomes final, in a manner designed to notify interested insurance companies and other persons.

(d) Any individual whose Public Insurance Adjuster's license is revoked or whose application is denied pursuant to this Section shall be ineligible to apply for a Public Insurance Adjuster's license for 5 ~~2~~ years. A suspension pursuant to this Section may be for any period of time up to 5 ~~2~~ years.

(Source: P.A. 84-335; 84-832.)

(215 ILCS 5/512.64) (from Ch. 73, par. 1065.59-64)

Sec. 512.64. Injunctive Relief. Any person who acts as or holds himself out to be either engaged in the business of adjusting insurance claims or a Public Insurance Adjuster without holding a valid and current Public Insurance Adjuster's license ~~to do so~~ is hereby declared to be inimical to the public welfare and to constitute a public nuisance. The

Director may report such practice to the Attorney General of the State of Illinois, whose duty it is to apply forthwith by complaint on relation of the Director in the name of the people of the State of Illinois, as plaintiff, for injunctive relief in the circuit court of the county where such practice occurred to enjoin such person from engaging in such practice; and, upon the filing of a verified petition in such court, the court, if satisfied by affidavit or otherwise that such person has been engaged in such practice without a valid and current license to do so, may enter a temporary restraining order without notice or bond, enjoining the defendant from such further practice. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases. If it is established that the defendant has been or is engaged in such unlawful practice, the court may enter an order or judgment perpetually enjoining the defendant from further such practice. In all proceedings hereunder the court, in its discretion, may apportion the costs among the parties interested in the action, including cost of filing the complaint, service of process, witness fees and expenses, court reporter charges and reasonable attorney fees. In case of violation of any injunctive order entered under the provisions of this Section, the court may try and punish the offender for contempt of court. Such injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies.

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(Source: P.A. 84-548.)