

## IC 27-1-27

### Chapter 27. Public Adjusters

#### IC 27-1-27-1

##### **"Public adjuster" defined**

Sec. 1. (a) The term "public adjuster" shall include every individual or corporation who, or which, for compensation or reward, renders advice or assistance to the insured in the adjustment of a claim or claims for loss or damages under any policy of insurance covering real or personal property and any person or corporation who, or which, advertises, solicits business, or holds itself out to the public as an adjuster of such claims. However, no public adjuster shall:

- (1) act in any manner in relation to claims for personal injury or automobile property damage; or
- (2) bind the insured in the settlement of claims.

(b) This chapter does not apply to, and the following are not included in the term "public adjuster":

- (1) An attorney at law admitted to practice in the state of Indiana who adjusts insurance losses in the course of the practice of the attorney's profession.
- (2) An officer, regular salaried employee, or other representative of an insurer or of an attorney in fact of any reciprocal insurer of Lloyd's underwriter licensed to do business in Indiana who adjusts losses arising under an employer's or principal's own policies.
- (3) An adjustment bureau or association owned and maintained by insurers to adjust or investigate losses of such insurers, or any regular salaried employee who devotes substantially all the employee's time to the business of such bureau or association.
- (4) Any licensed insurance producer or an authorized insurer or officer or employee of the same who adjusts losses for such insurer, and any insurance producer or representative of a farm mutual insurance company operating under the farm mutual insurance laws of this state on behalf of an insurer.
- (5) Any independent adjuster representing an insurer.

*As added by P.L.257-1983, SEC.1. Amended by P.L.129-2003, SEC.6; P.L.178-2003, SEC.28.*

#### IC 27-1-27-2

##### **Certification requirement**

Sec. 2. (a) No individual or corporation shall act within Indiana as a public adjuster, or receive, directly or indirectly, compensation or reward for services rendered in the adjustment of any claim or claims under the types of insurance policies set forth in section 1(a) of this chapter, unless he, or it, is the holder of a certificate of authority to act as such public adjuster issued by the commissioner of insurance of the state of Indiana pursuant to this chapter.

(b) Any individual or corporation who, or which, shall have received from the commissioner of insurance a public adjuster's

certificate of authority shall be styled and be known as a "Certified Public Adjuster".

*As added by P.L.257-1983, SEC.1.*

### **IC 27-1-27-3**

#### **Certificates of authority; issuance; prerequisites**

Sec. 3. (a) The commissioner of insurance shall issue resident and nonresident public adjusters' certificates of authority to each person who:

(1) has complied with the requirements of this chapter, including the payment of fees, the completion of the examination, and, in the case of a nonresident applicant, the service of process designation;

(2) is at least eighteen (18) years of age; and

(3) has not been convicted of:

(A) an act which would constitute a ground for disciplinary sanction under section 7 of this chapter; or

(B) a felony that has a direct bearing on his ability to practice competently.

A certificate of authority may be issued to a corporation that has one (1) or more officers, directors, or employees who have been issued public adjusters' certificates of authority. However, a corporation may practice public adjusting only through its officers, directors, or employees who have been issued certificates under this chapter.

(b) The commissioner of insurance may issue a resident certificate of authority only to an applicant who is a bona fide resident of Indiana.

(c) The commissioner may issue a nonresident certificate of authority only to a nonresident of Indiana who holds an equivalent resident certificate of authority or a license issued under the laws of any other state, any territorial possession of the United States, or any foreign country.

*As added by P.L.257-1983, SEC.1.*

### **IC 27-1-27-4**

#### **Certificates of authority; application; renewal; surety bond**

Sec. 4. (a) Each applicant for a certificate of authority as a public adjuster shall file with the commissioner of insurance an application therefor on forms furnished by the commissioner of insurance, which application shall set forth:

(1) the name and address of the applicant, and if the applicant be a corporation, the name and address of each of its officers and directors;

(2) whether the person is applying as a resident or nonresident;

(3) whether any license or certificate of authority as insurance producer, broker, public adjuster, or independent adjuster has been issued previously by the commissioner of insurance of the state of Indiana or by the insurance department of any other state, any territorial possession of the United States, or any foreign country to the applicant; and

(4) the business or employment in which the applicant has been engaged for the five (5) years next preceding the date of the application, and the name and address of such business and the name or names and addresses of the applicant's employer or employers.

(b) An application for any certificate of authority must be signed and verified under oath by the applicant.

(c) An annual fee of fifty dollars (\$50) is to be paid to the commissioner of insurance by the applicant for such public adjuster's certificate of authority before the application or annual renewal thereof is granted. However, the commissioner may, by rule adopted under IC 4-22-2, change the amount of the fee to an amount necessary to pay all of the direct and indirect costs of administering this chapter. Fees collected shall be used by the department to administer this chapter.

(d) Every public adjuster's certificate of authority shall expire on December 31 of the calendar year in which the same shall have been issued, but if an application for the renewal of such certificate shall have been filed with the commissioner of insurance before January 1 of any year, the certificate of authority sought to be renewed shall continue in full force and effect until the issuance by the commissioner of insurance of the new certificate applied for or until five (5) days after the commissioner of insurance shall have refused to issue such new certificate and shall have served notice of such refusal on the applicant therefor. Service of such notice shall be made by registered mail directed to the applicant at the place of business specified in the application.

(e) The applicant shall file with the commissioner of insurance a surety bond in a sum equal to ten thousand dollars (\$10,000) payable to the state of Indiana and conditioned on the principal's faithful performance and discharge of the principal's duties under this title and under any rule of the department of insurance. The bond must be renewed annually.

*As added by P.L.257-1983, SEC.1. Amended by P.L.178-2003, SEC.29.*

#### **IC 27-1-27-5**

##### **Nonresident applicants; service of process designation**

Sec. 5. (a) The commissioner may not issue a certificate of authority to a nonresident applicant until that nonresident files with the commissioner, in a form prescribed by the commissioner, a designation of an individual resident of Indiana, a corporate resident of Indiana, or an authorized Indiana insurer as the nonresident applicant's legal representative upon whom may be served all lawful process in any action, suit, or proceeding:

- (1) instituted by or on behalf of an interested person; and
- (2) arising out of the nonresident applicant's public adjuster's insurance business.

(b) The designation required by subsection (a) constitutes an agreement that service of process upon the nonresident applicant's

legal representative is of the same legal force and validity as personal service of process upon an Indiana resident.

(c) Service upon a nonresident may be made by serving the nonresident applicant's legal representative with an appropriate number of copies of the process.

(d) The nonresident applicant's legal representative shall forward a copy of the process by registered mail to the nonresident at his last known address of record or principal place of business, keeping a record of such process and service.

(e) Service of process is sufficient as long as notice of the service and a copy of the process are sent not more than ten (10) days after the nonresident applicant's legal representative received the service of process on behalf of the nonresident.

(f) Service of process upon a nonresident in any action instituted by the commissioner under this chapter shall be made by the commissioner by mailing the process to the nonresident applicant's legal representative or the nonresident by registered mail at his last known address of record or principal place of business.

*As added by P.L.257-1983, SEC.1. Amended by P.L.31-1988, SEC.15; P.L.130-1994, SEC.33; P.L.116-1994, SEC.43; P.L.268-1999, SEC.14.*

#### **IC 27-1-27-6**

##### **Examination requirement; exception**

Sec. 6. (a) The commissioner of insurance shall, in order to determine the competency of an applicant for a certificate of authority to act as a public adjuster, require such applicant to submit to a written examination, except such applicants who shall be entitled to such certificate without the examination as provided in this chapter. Such examinations shall be held in such place in the state of Indiana and at such time as the commissioner of insurance may designate. The examination as described in this section shall include such questions which, at the discretion of the commissioner, will properly test the applicant's knowledge and competency to engage in the adjustment of claims of an insured to include, but not be limited to the following areas:

- (1) The Indiana insurance law, IC 27.
- (2) Inventory and appraisal procedures.
- (3) Building construction.
- (4) Standard fire policy.
- (5) Insurance contracts related to claims on real or personal property.
- (6) Insurance coverage questions regarding business interruption, improvements and betterments, replacement cost coverage, concurrent and noncurrent apportionment, coinsurance, and contribution.

(b) The commissioner of insurance may issue a public adjuster's certificate of authority without examination to any individual or corporation who, or which, has transacted the business of adjusting, as a public adjuster, losses covered by policies of insurance within

Indiana as his or its principal occupation or business for a period of at least one (1) year immediately preceding the date of application for such certificate of authority, and who, or which, the commissioner determines to be competent to act as a public adjuster. Examination shall not be required for an applicant for renewal of a certificate of authority in effect at the date the application for renewal thereof is filed.

*As added by P.L.257-1983, SEC.1.*

#### **IC 27-1-27-7**

##### **Disciplinary sanctions and proceedings**

Sec. 7. (a) As used in this section, "practitioner" means an individual or corporation who or which holds a certificate of authority under this chapter.

(b) A practitioner shall conduct the practice of public adjusting in accordance with the standards established by the commissioner of insurance under section 8 of this chapter and is subject to the exercise of the disciplinary sanctions under subsection (e), if after a hearing, the commissioner finds:

- (1) the practitioner has employed or knowingly cooperated in fraud or material deception in order to obtain a certificate to practice public adjusting, or has engaged in fraud or material deception in the course of professional services or activities, or has advertised services in a false or misleading manner;
- (2) the practitioner has been convicted of a crime which has direct bearing on the practitioner's ability to continue to practice competently;
- (3) a practitioner has knowingly violated any rule adopted by the commissioner under section 8 of this chapter;
- (4) a practitioner has continued to practice although he has become unfit to practice public adjusting due to:
  - (A) professional incompetence;
  - (B) failure to keep abreast of current professional theory or practice;
  - (C) physical or mental disability; or
  - (D) addiction or severe dependency upon alcohol or other drugs which endangers the public by impairing a practitioner's ability to practice safely;
- (5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to clients;  
or
- (6) a practitioner has allowed his name or a certificate issued to him under this chapter to be used in connection with any individual who renders public adjusting services beyond the scope of his training, experience, or competence.

(c) The commissioner of insurance may order a practitioner to submit to a reasonable physical or mental examination if his physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

(d) Failure to comply with an order under subsection (c) shall

render a practitioner liable to the summary revocation procedures under subsection (f).

(e) The commissioner of insurance may impose any of the following sanctions, singly or in combination, when he finds that a practitioner is guilty of any offense under subsection (b):

- (1) Permanently revoke a practitioner's certificate.
- (2) Suspend a practitioner's certificate.
- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.
- (5) Place a practitioner on probation status and require the practitioner to:
  - (A) report regularly to the commissioner upon the matters which are the basis of probation;
  - (B) limit practice to those areas prescribed by the commissioner; or
  - (C) continue or renew professional education under a practitioner approved by the commissioner until a satisfactory degree of skill has been attained in those areas which are the basis of the probation.

The commissioner may withdraw a probation order if he finds that the deficiency which required disciplinary action has been remedied.

(f) The commissioner of insurance may summarily suspend a practitioner's certificate for a period of ninety (90) days in advance of a final adjudication or during the appeals process if the commissioner finds that a practitioner represents a clear and immediate danger to the public health and safety if he is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the commissioner, and each renewal may be for a period of ninety (90) days or less.

(g) The commissioner of insurance may reinstate a certificate which has been suspended under this chapter if, after a hearing, the commissioner is satisfied that the applicant is able to practice public adjusting with reasonable skill and safety to clients. As a condition of reinstatement, the commissioner may impose disciplinary or corrective measures authorized under this chapter.

(h) The commissioner of insurance shall seek to achieve consistency in the application of the sanctions authorized in this section, and significant departures from prior decisions involving similar conduct shall be explained in the commissioner's findings or orders.

(i) The commissioner of insurance may initiate proceedings under this section on his own motion or on the verified written complaint of any interested person. All such proceedings shall be conducted in accordance with IC 4-21.5.

*As added by P.L.257-1983, SEC.1. Amended by P.L.7-1987, SEC.142.*

#### **IC 27-1-27-8**

#### **Professional standards; adoption**

Sec. 8. The commissioner of insurance shall, in the manner prescribed by IC 4-22-2, adopt standards for the competent practice of public adjusting appropriate to establish and maintain a high standard of integrity and dignity in the profession of public adjusting. *As added by P.L.257-1983, SEC.1.*

#### **IC 27-1-27-9**

##### **Practice of law prohibited**

Sec. 9. A public adjuster may not:

- (1) engage in the practice of law;
- (2) deal directly with any claimant represented by an attorney at law without the consent of the attorney;
- (3) advise a claimant to refrain from seeking legal advice or retaining counsel; or
- (4) in the case where legal counsel is desired by claimants, advise the retention of specific attorneys or law firms.

*As added by P.L.257-1983, SEC.1.*

#### **IC 27-1-27-10**

##### **Validity of resident certificates of authority**

Sec. 10. A resident certificate of authority issued to a person claiming residency is void if that person:

- (1) holds a resident certificate of authority issued by another state;
- (2) makes application for a resident certificate of authority from another state; or
- (3) ceases to be a resident of Indiana.

*As added by P.L.257-1983, SEC.1.*

#### **IC 27-1-27-11**

##### **Violations**

Sec. 11. (a) A person who adjusts an insurance loss without having obtained the required certificate of authority or who adjusts an insurance loss after his certificate of authority has been cancelled, suspended, or revoked by the commissioner of insurance commits a Class B infraction.

(b) A person who makes any false statement pertaining to any matter or thing required by this chapter to be made commits a Class B infraction.

(c) A contract or agreement for compensation or services made between any insured and a public adjuster for any loss suffered by the insured which occurred in Indiana is void unless the public adjuster, at the time of the making of the contract or agreement, has a certificate of authority issued by the commissioner of insurance under this chapter.

(d) This section does not limit the authority of the commissioner of insurance to suspend, revoke, place on probation, or refuse to issue a certificate of authority.

*As added by P.L.257-1983, SEC.1.*