

Regulatory Analysis Form

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2002 NOV -7 PM 4:14

REGULATORY REVIEW COMMISSION

(1) Agency

Insurance Department

(2) I.D. Number (Governor's Office Use)

11-146

IRRC Number: 2246

(3) Short Title

Public Adjuster Contracts

(4) PA Code Cite

31 Pa. Code, Chapter 115, §§115.1-115.21

(5) Agency Contacts & Telephone Numbers

Primary Contact: Peter J. Salvatore, Regulatory Coordinator,
1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429
Secondary Contact:

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

Chapter 115 was promulgated in 1980 under the authority of a prior statute. The current authorizing statute, 63 P.S. §§1601-1608, was enacted in 1983. The Department seeks to amend Chapter 115 to be more consistent with the current statute and to more effectively regulate the licensing and conduct of public adjusters and public adjuster solicitors.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

This regulation is being implemented under the general rulemaking authority of Sections 206, 506, 1501 and 1502 of the Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412) and under the specific statutory authority of Sections 1 through 8 of the Act of December 20, 1983, P.L. 260, No. 72 (63 P.S. Sections 1601 through 1608).

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The Insurance Department is amending Chapter 115, §§115.1-115.21 to be consistent with the authorizing statute. Moreover, it is in the public interest to amend redundant and confusing regulatory requirements in order to clarify the regulation.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

There are no public health, safety, environment or general welfare risks associated with this rulemaking.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The public will benefit from the regulation to the extent that it will be consistent with the statute and provide better understanding of the public adjuster contract.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

There will be no adverse effects on any party as a result of the amendment of this regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The regulation applies to all public adjusters and public adjuster solicitors licensed to do business in the Commonwealth.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Comments regarding the amendment of this regulation were solicited from the various trade associations representing the industry. Comments were received from the Insurance Federation of Pennsylvania, Inc., the Pennsylvania Association of Mutual Insurance Companies, the Pennsylvania Association of Public Insurance Adjusters and the Independent Regulatory Review Commission. Comments received were taken into consideration in the development of this final form rulemaking.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The amendment of the regulation will not have any impact on costs associated with insurance companies or public adjusters.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

There are no costs or savings to local governments associated with this rulemaking.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

There are no costs or savings associated to state government associated with this rulemaking.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years. N/A

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

N/A.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.
N/A.

Program	FY -3	FY -2	FY -1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

No costs or adverse effects are anticipated as a result of this regulation.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Amending Chapter 115, §§115.1-115.21 is the most efficient method to achieve consistency with the authorizing statute. No other alternatives were considered.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No other regulatory schemes were considered. The amendment of the regulation is the most efficient method of updating the regulatory requirements.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The rulemaking will not put Pennsylvania at a competitive disadvantage with other states. It merely provides for consistency with the statute.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings or informational meetings are anticipated.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The amendment of the regulation imposes no additional paperwork requirements on the Department, public adjusters or the general public.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The rulemaking will have no effect on special needs of affected parties.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The rulemaking will take effect upon approval of the final form regulation by the Legislative Standing Committees, the Independent Regulatory Review Commission, the Office of the Attorney General, and upon final publication in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

The Department reviews each of its regulations for continued effectiveness on a triennial basis.

<p>CDL-1</p> <p style="text-align: center;">FACE SHEET FOR FILING DOCUMENTS WITH THE LEGISLATIVE REFERENCE BUREAU</p> <p style="text-align: center;">(Pursuant to Commonwealth Documents Law)</p> <p style="text-align: right;"># 2246</p>	<p style="text-align: right;">2002 NOV -7 PM 4:14 LEGISLATIVE REFERENCE BUREAU REVIEW COMMISSION</p> <p style="text-align: center;">DO NOT WRITE IN THIS SPACE</p>	
<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>By _____ (Deputy Attorney General)</p> <p>_____ Date of Approval</p> <p>→ Check if applicable. Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>Insurance Department</p> <p>_____ (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>11-146</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>M. Diane Koken</u> M. Diane Koken Insurance Commissioner</p> <p>TITLE: _____ (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies</p> <p>BY: <u>John V. Turner</u></p> <p><u>11/6/02</u> DATE OF APPROVAL</p> <p>(DEPUTY GENERAL COUNSEL) (CHIEF COUNSEL, INDEPENDENT AGENCY) (STRIKE INAPPLICABLE TITLE)</p> <p>→ Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>

NOTICE OF FINAL FORM RULEMAKING

INSURANCE DEPARTMENT

31 Pa. Code, Chapter 115

§§ 115.1 to 115.21

PUBLIC ADJUSTER CONTRACTS AND LICENSING REQUIREMENTS

PREAMBLE

The Insurance Department (Department) hereby amends 31 Pa. Code, Chapter 115, Public Adjuster Contracts and Licensing Requirements, as set forth in Annex A.

Statutory Authority

The final form regulation is adopted under the authority of Sections 206, 506, 1501 and 1502 of the Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412) and under the specific statutory authority of Sections 1 through 8 of the Act of December 20, 1983, P.L. 260, No. 72 (63 P.S. §§1601 through 1608).

Purpose

Chapter 115 was promulgated in 1980 under the authority of a prior statute. The current authorizing statute, 63 P.S. §§1601-1608, was enacted in 1983. The Department is amending Chapter 115 for consistency with the current statute and to more effectively regulate the licensing and conduct of public adjusters and public adjuster solicitors.

Comments and Response

Notice of proposed rulemaking was published at 32 Pa B. 609 (February 2, 2002) with a 30-day comment period. During the 30-day comment period, comments were received from the Insurance Federation of Pennsylvania, Inc. (IFP), the Pennsylvania Association of Mutual Insurance Companies (PAMIC) and the Pennsylvania Association of Public Insurance Adjusters (PAPIA).

During its regulatory review, the Independent Regulatory Review Commission (IRRC) submitted comments to the Department. The following is a response to those comments.

General Comments

The IFP generally supports the Department's specification of the licensing requirements for public adjusters and public adjuster solicitors in Section 115.11 *et seq.* However, the IFP recommends that the regulation be amended to require specific training and testing in estimating, general business practices, home and building construction, renovation, repairs, repair contracting practices and conditions, appraisals of real and personal property, knowledge of the restrictions of the Act and, the contracting practices and prohibited activities specified in the regulation.

The Department, in overseeing the licensure tests that public adjusters and public adjuster solicitors are required to pass, considers the majority of the areas mentioned by the IFP, including: licensing requirements, disciplinary actions, claim settlement law and regulations, loss valuation, claims adjustment procedures, and general principles of all types of property and casualty insurance. According to Experior, the Department's testing provider, for the period of April 1, 2001 to December 31, 2001, a total of 189 examinations for Public Adjuster and Public

Adjuster Solicitor were given to 131 candidates. The first time pass ratio was 47.4 percent, with an overall pass ratio of 42.3 percent. These numbers are considerably lower than the pass ratio for life and health insurance agents' examinations and only slightly higher than the pass ratio for property and casualty insurance agents' examinations. The Department believes that a passing grade on the current examination is sufficient to demonstrate knowledge in the areas mentioned by the IFP.

The IFP also suggested that there should be few, if any, exceptions to the requirements for passing an examination. The IFP questioned the rationale under §115.12 for excusing someone whose license has expired from taking a new test. In addition, the IFP opposed reciprocity under §115.13 unless the same degree of expertise is required under the other state's laws.

After considering the comments of the IFP, the Department has deleted §115.12 from the final form regulation and has appropriately re-numbered the sections after §115.12. The Department has not implemented the IFP's proposed restrictions on licensing nonresident public adjusters. Section 2 of the act (63 P.S. 1602(c)(1)) sets forth the conditions under which the Insurance Commissioner may waive examination for non-resident applicants. None of the exceptions permit the Commissioner to examine whether the same degree of expertise is required of applicants for licensure in the other state or province. Reference to waiver of examination was deleted in clause §115.17(1) (no longer in §116.16) and changed in clause §115.17(2) (now §115.16(1)), relating to general application requirements).

The IFP repeated the suggestion contained in its 1996 submission that the regulations impose a continuing education requirement on public adjusters. The IFP believes that there are continuing developments in repair techniques, building materials and changes in building codes and restrictions, and that a continuing education requirement would help protect the public from unknowledgeable adjusters. In addition, the IFP stated that public adjusters are not subject to the Pennsylvania bad faith statute, 42 Pa.C.S.A. § 8371 that authorizes a court to award interest, punitive damages, court costs and attorney fees against an insurer. Therefore, an insured that uses a public adjuster has no action for bad faith against the public adjuster or the public adjusting firm.

The Department does not believe that any provision in the Public Adjusters Act empowers the Department to require continuing education. This is in contrast to other licensing statutes located in Chapter 63 of Purdon's that do require continuing education. See e.g., 63 P.S. §455.404a (real estate agents); 63 P.S. §479.10 (funeral directors); 63 P.S. §625.507 (chiropractors).

Both IFP and PAMIC, on behalf of their members, suggested that the Department require that contracts between public adjusters and insureds contain a conspicuous fraud warning. The IFP suggested that the fraud warning place an equal burden on public adjusters and insureds and include the insurance fraud notice language required by Pennsylvania's insurance fraud statute, 18 P. S. Sec. 4117(a)(3).

The Department has not implemented this change because it believes that this issue is better addressed to the Attorney General's Office, Insurance Fraud Unit. Further, the Department believes that any fraud committed by public adjusters is sufficiently addressed in the statute, which allows the Department to revoke, suspend, or impose civil penalties on a public adjuster who commits fraudulent practices. See 63 P.S. §1606(a)(12). Nothing in this regulation prohibits insurers from including a fraud warning in any correspondence that they may send to either their insured or a public adjuster.

PAMIC suggested that §115.3 be amended to require that a copy of the public adjuster contract be supplied to the insurer at the inception of the adjustment process. PAMIC believes that bilateral disclosure would put public adjusters and insurers on the same footing because public adjusters routinely request copies of all insurance policies that may be pertinent to the claim being adjusted.

Under 63 P.S. §1605(a), the Department requires that Public Adjusters submit copies of any contract forms for approval by the Department prior to being used with insureds. Once the Department approves a contract form, the Public Adjuster cannot substantially alter the contract form in any way without violating 63 P.S. §1605(a). However, Public Adjusters may change the percentage and amount that they charge insureds on a case-by-case basis. The Department does not believe that requiring that insurers be notified of the terms and conditions of public adjuster contracts would noticeably enhance the consumer protections already mandated by the statute. Therefore, this suggested change was not incorporated into the final form regulation.

PAMIC also questioned use of the term "verbally" in §115.3(a)(1), believing that the term "orally" is more clear and would prevent misunderstandings

The Department was cognizant of the difference in meaning between "verbally" and "orally" in preparing the final form regulation. The Department believes that the term "orally" does not adequately address situations where speech cannot be used for communication, such as signing to a hearing impaired person. The Department believes that the term "verbally," as used here, is stronger and more accurate than the term "orally" suggested by PAMIC, and is leaving the term unchanged in the preparation of the final form regulation.

The IFP recommended that solicitation of clients by public adjusters be addressed in two ways. First, the IFP suggested that Department extend that statutory 24 hour "cooling off period" to 72 hours to ensure that consumers may make a more informed decision on whether or not to retain a public adjuster. Second, the IFP suggested that deceptive solicitations, solicitations under false pretense (like employment offers), and solicitations initiated by unrelated third parties, being compensated by public adjusters, be defined as activities which demonstrate untrustworthiness for continued licensure under 63 P.S. §1606(a)(13).

As to extending the statutorily required "cooling off" period, the Pennsylvania Supreme Court has ruled that the 24-hour period required by statute, 63 P.S. §1605(a), is unconstitutional.

See Insurance Adjustment Bureau v. Insurance Com'r for Com. of Pa., 518 Pa. 210, 542 A.2d 1317 (1988). Therefore, the Department believes that the 72-hour period recommended by the IFP would not be lawful. As to the specification of certain types of “deceptive” solicitations as evidence of untrustworthiness, the Department interprets the statute as requiring that Public Adjusters take all actions in a competent and trustworthy manner. See 63 P.S. §1606(a)(13). If specific problems occur, the Department is prepared to review the fitness of the Public Adjuster for continued licensure through the Department’s complaint process or through an investigation by the Department’s Bureau of Enforcement. Therefore, these recommendations were not incorporated into the final form regulation.

The IFP stated that its member companies have encountered public adjusters who restrict inspection of damaged property to their own schedule, resulting in significant delay and exposing insurers to potential bad faith claims for untimely claims handling. The IFP suggested that the final form regulations should prohibit this type of behavior and characterize it as incompetent or untrustworthy. The IFP stated that prompt inspection of property allegedly damaged or injured assures the preservation of evidence and expedites the adjustment of the claim to the insured's benefit.

The Department does not believe that any provision in the Public Adjuster Act empowers public adjusters to restrict insurers’ ability to inspect insured property at the earliest opportunity. However, the insureds, who have engaged a Public Adjuster to help settle their claims, may want that Public Adjuster to be present at any inspection. This is the insureds’ decision. The Department does, however, have the authority to investigate any misconduct by public adjusters in this regard and to take appropriate enforcement action.

Both IFP and PAMIC suggested that the Department clarify the regulations to prohibit the unauthorized practice of law by public adjusters, including citing legal precedent in communications, preventing insurers from speaking directly with insureds, dissuading or attempting to dissuade insureds from speaking directly with their insurers about the settlement or processing of a claim, or taking any other action designed to interfere with insurer/insured communication.

Pennsylvania law already prohibits any person from the unauthorized practice of law and authorizes the imposition of criminal sanctions. See 42 Pa.C.S.A. §2524. The Department believes that the words “any person” in the current statute are broad enough to cover public adjusters. In Dauphin County Bar Ass’n v. Mazzacarro, 465 Pa. 545, 351 A.2d 229 (Pa. 1976), the Pennsylvania Supreme Court held, under a previous version of the Public Adjuster Act, that a public adjuster had committed the unauthorized practice of law. The Department also believes that there is nothing in the regulation or statute that permits a public adjuster to practice law or to prevent or attempt to dissuade insureds from speaking with their insurers directly. Therefore, the changes suggested by PAMIC and IFP were not incorporated into the final form regulation.

PAPIA raised concerns relating to the requirement of a maximum fee of fifty percent in public adjuster contracts. PAPIA felt that the percentage was excessive and not in the best interest of public adjusters or their clients. PAPIA stated that a cap of twenty percent would be fair and equitable.

PAPIA also stated that notice of cancellation in a bottom tear-off section should be sufficient without reiterating the right to cancel language in the body of the contract.

There appears to have been a misperception that the Department limits the fees that public adjusters may recover. The Department does not have this statutory authority when it pertains to Public Adjusters. In the past, many public adjusters have asked for a copy of a sample contract and the Department did provide a sample that used the 50% figure as an example. Over the years, many Public Adjusters have used this sample contract verbatim and therefore an “unofficial” commission capping of 50% has evolved. More recently, the Department has been using the sample form; however, the basis for approval or disapproval of public adjuster contracts is whether the contract complies with the Public Adjusters Act and the regulations. The current regulation specifically states in §115.2(4) (relating to contents of public adjuster contracts, minimum standards) “All public adjuster contracts shall contain the following minimum information...the consideration, expressed as a percentage and as a maximum amount.” The Department has clarified the language in this section to help clarify this section. Also, the Department wants a notice for the insured’s right to cancel to appear in the contract. It does not matter if this is a tear off section on the bottom of the contract, contained in the body of the contract, or at the beginning of a contract. If the contract meets the conditions stipulated in §115.2, relating to contents of public adjuster contracts, minimum standards, and has not added ambiguous language or contradictory language to the contract then the Department would consider the contract to be in compliance with the regulation.

The IFP, PAMIC and IRRC encouraged the Department to strengthen the regulation so as to more completely fulfill its statutory responsibility to regulate this activity. More specifically, IRRC stated that first, commentators had suggested that these regulations should include specific provisions and procedures for revocation or suspension of a license or for imposition of fines. These provisions are contained in section 1606(a) of the Public Adjusters Act (63 P.S. §1606(a)) (act). For increased clarity, the IRRC suggested that the Department consider retaining §115.7 and adding a similar section, which references the provisions of the act dealing with revocation and suspension.

IRRC also stated, that second, the Department has the statutory authority based on sections 1606 and 1608 of the act (63 P.S. §§1606 and 1608) to impose further consumer protections on public adjusters. Therefore, the IRRC believes that the regulation’s consumer protection could be enhanced by adding:

- 1) A deadline for public adjusters to provide notification to the insurer of the public adjuster’s representation to facilitate the processing of claims.
- 2) A set timeframe of three business days for public adjusters to communicate any and all settlement offers from an insurer to an insured in writing within three business days so that the insured is made aware of all of the options.
- 3) A requirement that public adjusters should reply to any written or oral communication from an insurer with respect to a claim within seven business days of receiving it if the communication solicits

a reply to ensure that the claim process continues with limited interruptions.

4) Criteria stating that public adjusters, who do not respond to communications, should be deemed to be demonstrating incompetency or untrustworthiness. This is consistent with section 1606(a)(13) of the act (63 P.S. §1606(a)(13)).

The Department has adopted, in large part, the suggestions of IRRC, PAMIC and IFP in preparing the final form regulation. The Department has decided to retain existing §115.7. The Department has also added references to the Unfair Insurance Practices Act to clarify that sanctions may be imposed if a public adjuster engages in a pattern or practice of unlawful conduct or commits a single flagrant violation of the Unfair Insurance Practices Act. The Department has also added new §115.9, additional consumer protections. Pursuant to this section, the Department is allowing 5 business days for a public adjuster to notify an insurer of the public adjuster's representation to facilitate claims processing. The public adjuster will also be allowed 5 business days to convey any settlement offers to the insured and must reply within 5 business days to any written communication from an insurer that requires a response. A 5-day period is used throughout this section for the sake of consistency. In addition, repeated failure to respond within the specified time period in §115.9(c) could be considered a pattern or practice in determining whether sanctions under §115.7 are appropriate. Also, in the definition section, the Department is un-deleting the term *business day*. As the Department is accepting that business days are more appropriate than calendar days, the Department believes that the term needs to remain in the regulation.

The IRRC and IFP wanted consistency with the Pennsylvania Bulletin. They stated that the version that was printed in the *Pennsylvania Bulletin* was not the same as the version submitted to IRRC and the committees. The IRRC wanted the Department to correct references in the text of §115.11 to "subsections (b) and (c)" and of §115.12 to "subsection (a)".

When the Department submitted the regulation to the IRRC and the committees of the Senate and House, the licensing section was only one section with many subsections. The Legislative Reference Bureau in reformatting the long section into smaller sections created a reference that was non-existent. The Department has made the appropriate corrections.

The IRRC also wanted the Department to clarify the terms "active office" and "active partner". More specifically, the phrase "who holds a current public adjuster license and" appears in the text of both definitions. The act and §§115.17 and 115.21 relating to "general application requirements" and "partnership or corporation application procedures" contain the requirements for licensure of active officers and active partners. Because these individuals are required to obtain a license, the IRRC believed that the phrase noted above should be deleted from both definitions in the final form regulation.

The Department has reviewed the suggestion and agrees that the phrase "who holds a current public adjuster license" is redundant. Accordingly, the Department has eliminated the phrase from definitions of both "active officer" and "active partner." The Department has

further altered the definitions by replacing “a person” with “an individual”. The Department did this to be consistent with language that will be in the Producer Licensing Model Act (currently SB 962). Also, the term “person”, as defined in 40 P.S. § 231, includes “an individual, corporation, partnership...” and the intent of the Department is to only include individuals.

The IRRC wanted clarification in §115.2, relating to contents of public adjuster contracts, minimum standards. More specifically, subsection (a)(4) provides the adjusters contract to include “The consideration expressed as a percentage of any payment to be received on the negotiated claim, *and* as a maximum dollar amount.” (Emphasis added). The IRRC and the PAPIA suggested that the word *and* be replaced by the word *or*.

Also subsection (b)(3) provides that the public adjuster contract may not impose “unreasonable late fees or collection costs on the insured.” The IRRC wanted the Department to provide examples of what the Department considers “unreasonable” with regard to late fees or collection cost.

The Department has modified §115.2(a)(4) by substituting the term *or* for the term *and* in this subsection. In regards to the term *unreasonable* found in §115.2(b)(3), the Department concurs that this term is subjective. Rather than muddying the regulation with examples that remain subjective and may not give clear guidance, the Department has deleted the term *unreasonable*. This allows for greater consumer protection. The Department also believes that when checks for claims are issued in both the insured’s name and the public adjuster’s name, the issue of the proper amount of late fees or collection costs becomes moot. This does not preclude a public adjuster from collecting fees associated with reasonable and necessary emergency out-of-pocket expenses or services which were paid for or incurred by the public adjuster to protect the interests of the insured during the period preceding cancellation as described in 115.2(a)(7), relating to the notice of cancellation.

The IRRC questioned whether “15 calendar days” after receipt of the cancellation notice was a reasonable time period for a public adjuster to fulfill the requirements found in §115.3, relating to additional procedures.

The Department has determined, for consistency, to use business days in lieu of calendar days. Section 115.3 has been modified to now reflect “15 business days”. The term “business days” is now used throughout the regulation.

The IRRC also asked for clarity in §115.11, relating to examination requirement. The IRRC stated that this section requires applicants to “successfully complete an examination, except as provided for in subsections (b) and (c).” Applicants seeking a license shall apply for examination directly to the testing facility. It is not clear where the applicant may obtain “an examination” or how the applicant will contact “the testing facility.” To add clarity to this section, the Department could cross-reference §115.15(5)(now §115.14(5)), which provides the pertinent information.

The Department has no problem with the IRRC’s suggestion and has added “See §115.14, Relating to administration of examination” to the final form regulation.

The IRRC requested that the Department clarify what documents or information the Department was willing to accept in order for a non-resident applicant for a license to “pass the appropriate examination if unable to produce documentation from the confirming regulatory authority...” in §115.13, relating to examination requirements for nonresident applicants.

The Department has replaced the term “documentation” with “a license or letter of certification of licensure” to §115.13(now §115.12). This should clarify the requirements.

The IRRC wanted clarification to §115.15, relating to administration of examination. The IRRC stated that this section requires an eligible delegatee to adhere to certain standards. Paragraph (2) states “Testing *may* be conducted in locations throughout this Commonwealth and other designated locations.” The IRRC had two concerns. First, if the Department requires the eligible delegatee to offer exams throughout the Commonwealth, then the word *may* should be replaced with the word “shall.” Second, what “other designated locations” would not be located in the Commonwealth? The Department should provide examples of “other designated locations” in the final-form regulation, or delete the phrase.

The Department also clarified that in §115.13, relating to qualifications for examination, that only a resident applicant needs to maintain a business or legal address in the Commonwealth. As previously written, this would have excluded a nonresident from applying should the nonresident not be able to meet the requirements in §115.12, relating to examination requirements for nonresident applicants.

The Department has changed the word *may* to shall. The Department has also added to §115.15(2)(now §115.14(2)) the following language, “examples of other designated locations include testing facilities that the administrator of testing may have in other states, or internet testing offered by the administrator.” The Department has also added a new §115.14(6) which states “location of the testing facilities is available on the Department’s Website at www.insurance.state.pa.us or upon request from the Department.” The Department contracts for the administration of testing using the Request For Proposal method. As the administrator may change over a period of time, and from contract to contract, this new language alleviates any concern that applicants could contact the wrong party to obtain information on where testing facilities are located. The Department has also changed the term “delegee” to the more appropriate “delegatee”.

Affected Parties

The rulemaking applies to public adjusters and public adjuster solicitors doing the business of public adjusting in this Commonwealth.

Fiscal Impact

State Government

There will be no increase in cost to the Department due to the adoption of the Chapter 115.

General Public

There will be no fiscal impact to the public.

Political Subdivisions

The rulemaking will not impose additional costs on political subdivisions.

Private Sector

The rulemaking will not impose additional costs on public adjusters doing the business of public adjusting in the Commonwealth.

Paperwork

The adoption of the rulemaking will not impose additional paperwork on the Department or the insurance industry or the public adjusters.

Effectiveness/Sunset Date

This rulemaking becomes effective upon publication in the Pennsylvania Bulletin. No sunset date has been assigned.

Contact person

Any questions regarding this regulation should be directed to Peter J. Salvatore, Regulatory Coordinator, Office of Special Projects, 1326 Strawberry Square, Harrisburg, PA 17120, phone (717) 787-4429. In addition, questions may be e-mailed to psalvatore@state.pa.us or faxed to (717) 772-1969.

Regulatory review

Under section 5(a) of the Regulatory Review Act, (71 P.S. §745.5(a)), the agency submitted a copy of this regulation on November 7, 2002 to the Independent Regulatory Review Commission and to the Chairmen of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to the submitted regulation, the agency has provided the Commission and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

In preparing this final form regulation, the Department considered all comments received from IRRC, the Committees and the public. This final form regulation was (deemed) approved by the House and Senate Committees on _____. In accordance with section 5a(d) of the Regulatory Review Act (71 P.S. §745.5a(d)), IRRC met on _____ and (deemed) approved the regulation in accordance with section 5a(e) of the Regulatory Review Act (71 P.S. §745.5a(e)).

Findings

The Commissioner finds that:

(1) Public notice of intention to adopt this rulemaking as amended by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No240) (45 P.S. §§1201 and 1202) and the regulations thereunder, 1 Pa. Code §§7.1 and 7.2.

(2) The adoption of this rulemaking in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

Order

The Commissioner, acting under the authorizing statutes, orders that:

(1) The regulations of the Department, 31 Pa. Code, are amended by adopting §§115.1-115.21, to read as set forth in Annex A.

(2) The Commissioner shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.

(3) The Commissioner shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(4) The regulation adopted by this order shall take effect upon final publication in the *Pennsylvania Bulletin*.

M. Diane Koken
Insurance Commissioner

TITLE 31. INSURANCE. PART VII. PROPERTY, FIRE AND CASUALTY INSURANCE.
CHAPTER 115. PUBLIC ADJUSTER CONTRACTS AND LICENSING REQUIREMENTS.

Section

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GENERAL

§ 115.1. **Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act--The act of [April 25, 1921 (P. L. 276, No. 136) (40 P. S. §§ 301--308)

(Repealed)] December 20, 1983 (P. L. 260, No. 72) (63 P. S. §§ 1601--1608).

Active officer--A person who holds a current public adjuster license and is AN INDIVIDUAL designated by the corporation as an officer of record for the public adjuster agency license.

Active partner--A person who holds a current public adjuster license and is AN INDIVIDUAL designated by the partnership as a partner of record for the public adjuster agency license.

[Business day--A day other than a Saturday, Sunday or Holiday.]

CommissionER--The Insurance Commissioner of the Commonwealth.

Execution date--The date that a public adjuster contract has been signed by all parties.

Insurance company - An insurance company, association or exchange authorized to transact insurance business in this Commonwealth.

[Public adjuster--A person, partnership, association, corporation or other legal entity licensed as a public adjuster or public adjuster solicitor under the act.]

Resident--A person whose business address or legal residence is located in this Commonwealth.

§ 115.2. Contents of public adjuster contracts, minimum standards.

(a) All public adjuster contracts shall contain, at a minimum, the following [minimum] information:

(1) The title of the contract to read: Public Adjuster Contract.

(2) [Business] The name, business name, address and [phone] telephone number of the public adjuster.

(3) [Name] The name and address of the insured.

(4) The consideration [,] expressed as a percentage of any payments to be received on the negotiated claim, and OR as a maximum dollar amount.

(5) [Date of execution (day, month, year)] A space provided for the execution date (month, day, year) of the contract.

(6) [Signature] A space provided for the signature of the insured and the public adjuster.

(7) [The following Right to Cancel language in bold face type of a minimum size of ten points,] A provision setting forth the insured's right to cancel, which shall be printed in prominent type on the first page of the public adjuster contract in substantially the following form:

[You, the insured may cancel this contract at any time prior to midnight of the third business day after the date of this contract. If you exercise your right to cancel this contract you will remain liable for reasonable and necessary emergency out-of-pocket expenses or services which were paid for or incurred by the public adjuster during the said three-day period to protect the interests of the insured. See the attached notice of right to cancel form for an explanation of this right.

(8) The following completed form, in duplicate captioned "Notice of Right to Cancel" which shall be attached to and made a part of the contract, and shall be easily detachable, shall contain in ten-point bold face type the following information in substantially the following form:

Notice of Right to Cancel _____

(Enter Date of Contract)

You may cancel this contract, without penalty or obligation, within three business days from the above date. If you exercise your right to cancel this contract you will remain liable for reasonable and necessary emergency out-of-pocket expenses or services which were paid for or incurred by the public adjuster during the said three-day period to protect the interests of the insured.

If you cancel, anything of value given by you under the contract will be returned within ten business days following the receipt by the Public Adjuster of your cancellation notice, and any security interest arising out of the contract will be cancelled.

To cancel this contract, mail or deliver a signed and dated copy of this notice or any other written notice, or telegram indicating cancellation and date thereof to (name of public adjuster) at (business address of public adjuster) not later than midnight of (date)).

I hereby cancel this contract.

(Date)

(Insured's signature)]

Notice of Right to Cancel

You, the insured, may cancel this contract at any time prior to midnight of the fourth calendar BUSINESS day after the execution date of this contract. If you exercise your right to cancel this contract, you will be liable for reasonable and necessary emergency out-of-pocket expenses or services which were paid for or incurred by the public adjuster to protect the interests of the insured during the period preceding cancellation.

If you cancel this contract, anything of value given by you under the contract will be returned to you within 15 calendar BUSINESS days following the receipt by the public adjuster of your cancellation notice, and any security interest arising out of the contract will be cancelled.

To cancel this contract, mail, fax or deliver in person a signed and dated copy of this notice or any other written notice, indicating your intent to cancel and the date thereof to (name of public adjuster) at (business address of public adjuster) not later than midnight of (date).

I hereby cancel this contract.

(Date)

(Insured's signature)

(b) 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 percentage of each check issued by an insurance company.

(2) Requires the insured to authorize an insurance company to issue a check only in the name of the public adjuster.

(3) Imposes ~~unreasonable~~ late fees or collection costs on the insured.

§ 115.3. Additional procedures.

(a) Each insured shall be [orally]:

(1) Verbally informed by the public adjuster at the time [he signs] of signing the contract of [his] the right to cancel.

(2) Furnished with a copy of the executed public adjuster contract.

(b) Before furnishing [copies of the "Notice of Right to Cancel" to the insured, both copies] the approved notice to the insured setting forth the insured's right to cancel the contract, the notice shall be completed by entering the name of the public adjuster; the address of the public adjuster's place of business; the execution date of the contract; and the date, not earlier than the [third business] fourth calendar BUSINESS day following the execution date of the contract, by which the insured may give notice of cancellation.

(c) The cancellation period provided for in this chapter may not begin [to run] until the insured has been informed of [his] the insured's right to cancel and has been provided with [copies of the "Notice of Right to Cancel"] the approved notice setting forth the insured's right to cancel.

(d) Within [10 business] 15 calendar BUSINESS days after the receipt of the cancellation notice, the public adjuster shall:

(1) Refund payments made under the contract.

(2) Cancel and return negotiable instruments executed by the insured in connection with the contract.

(3) Take action necessary or appropriate to promptly terminate [promptly] any security interest created [in] under the contract.

(e) [No] A contract [shall] may not be negotiated, transferred, sold or assigned by the public adjuster to a finance company or other third party prior to midnight of the fifth [business] ~~calendar~~ BUSINESS day following the execution date of the contract [was signed].

(f) If an insured exercises [his] the insured's right to cancel the contract, [he] the insured shall [remain] be liable for reasonable and necessary emergency out-of-pocket expenses or services which were paid for or incurred by the public adjuster during the [3-day] period preceding cancellation [to protect the interests of the insured].

§ 115.4. Inducing cancellation of contract prohibited.

No insurance company, its employees, officers or agents or a public adjuster or an employee, officer or agent thereof, may induce or attempt to induce an insured to cancel an existing contract with a public adjuster.

§ 115.5. [Misrepresentation] (Reserved).

[A misrepresentation of the right to cancel shall be deemed prima facie evidence of lack of competence and trustworthiness to transact business as a public adjuster and public adjuster solicitor.]

§ 115.6. [Other remedies] (Reserved).

[The provisions of this chapter may not impair other rights or remedies of insureds with respect to public adjuster contracts.]

§ 115.7. ~~{Penalties} (Reserved).~~

{A violation of the provisions of this chapter will be subject to penalties set forth in:

- (1) ~~section~~ SECTION 6 of the act (40 P. S. § 306 1606).}, RELATING TO REVOCATION, ETC., OF LICENSE
- (2) SECTION 7 OF THE ACT (40 P.S. § 1607), RELATING TO VIOLATIONS
- (3) SECTION 8 OF THE ACT (40 P.S. §1608), RELATING TO ADMINISTRATION AND ENFORCEMENT
- (4) THE UNFAIR INSURANCE PRACTICES ACT (40 P.S. §§1171.1-1171.15) IF THE PUBLIC ADJUSTER:

(I) DEMONSTRATES A PATTERN OR PRACTICE OF VIOLATING THIS CHAPTER.

(II) COMMITS A SINGLE VIOLATION OF THIS CHAPTER, THAT IS SO FLAGRANT IN NATURE AS TO WARRANT SANCTIONS.

§ 115.8. [Effective date and revision, filing and approval of existing contracts] Filing and approval of contracts.

[This chapter shall take effect August 15, 1980. Between May 17, 1980 and August 14, 1980 existing contracts shall be submitted to Mary Ellen Shope, Chief; Division of Agents and Brokers; Insurance Department; 14th Floor, Strawberry Square; Harrisburg, Pennsylvania 17120 for filing, revision and approval in accordance with this chapter.]

Applications for licensure and contract forms shall be submitted to the Pennsylvania Insurance Department, Bureau of Producer Services, for filing and approval by the Commissioner.

§ 115.9. ADDITIONAL CONSUMER PROTECTIONS.

A PUBLIC ADJUSTER SHALL:

(A) NOTIFY THE INSURER, WITHIN 5 BUSINESS DAYS OF THE EXECUTION DATE OF THE CONTRACT, OF THE PUBLIC ADJUSTER'S REPRESENTATION TO FACILITATE THE PROCESSING OF CLAIMS.

(B) COMMUNICATE IN WRITING, TO THE INSURED, WITHIN 5 BUSINESS DAYS, ALL SETTLEMENT OFFERS FROM AN INSURER SO THAT THE INSURED IS MADE AWARE OF ALL THE OPTIONS.

(C) REPLY TO WRITTEN COMMUNICATIONS FROM AN INSURER, WITH RESPECT TO A CLAIM, IN WRITING WITHIN 5 BUSINESS DAYS, ONLY IF THE COMMUNICATION FROM THE INSURER REQUIRES A RESPONSE.

LICENSING REQUIREMENTS

§ 115.11. Examination requirement.

Applicants for public adjuster and public adjuster solicitor licenses shall be required to successfully complete an examination, except as provided for in subsections (b) § 115.12, RELATING TO EXAMINATION REQUIREMENTS FOR NONRESIDENT APPLICANTS. Applicants seeking a license shall apply for examination directly to the testing facility. SEE § 115.14, RELATING TO ADMINISTRATION OF EXAMINATION.

§ 115.12. Waiver of examination for resident applicants.

A resident applicant who has voluntarily terminated or allowed to lapse a public adjuster or public adjuster solicitor license within 2 years of reapplying for licensure shall be exempt from taking the written examination provided for in subsection (a) § 115.11,

RELATING TO EXAMINATION REQUIREMENTS, if the applicant reapplies for the same type of license for which the applicant was previously licensed.

§ 115.12. Examination requirements for nonresident applicants.

A nonresident applicant for a license shall:

(1) Submit, along with the application, a letter or other official document from the regulatory authority of the jurisdiction where the applicant holds a license, confirming the applicant's licensure in good standing for the same type of license for which application is being made with the Department, whether qualification is under a written examination or whether licensure preceded the requirement of a written examination.

(2) Be subject to reciprocal agreements between the Department and the regulatory authority of the confirming jurisdiction.

(3) Be required to pass the appropriate examination if unable to produce documentation A LICENSE OR LETTER OF CERTIFICATION OF LICENSURE from the confirming regulatory authority which is satisfactory to the Department.

§ 115.13. Qualifications for examination.

An individual, or officer of a corporation, partner in a partnership or member of an association, who is 18 years or age or older, who can read and write in the English language and, FOR A RESIDENT APPLICANT, who maintains a bona fide business office or legal residence in this Commonwealth, may take a public adjuster/public adjuster solicitor examination upon payment of the applicable fee and submission of an application form.

§ 115.14. Administration of examination.

The Commissioner may delegate to a person or corporation, by contract, the authority for administering and scoring examinations. An eligible delegee DELEGATEE shall guarantee to adhere to the following standards:

(1) Examinations shall be offered at regular intervals at least 12 times each year.

(2) Testing may SHALL be conducted in locations throughout this Commonwealth and other designated locations. EXAMPLES OF OTHER DESIGNATED LOCATIONS INCLUDE TESTING FACILITIES THAT THE ADMINISTRATOR OF TESTING MAY HAVE IN OTHER STATES, OR INTERNET TESTING OFFERED BY THE ADMINISTRATOR.

(3) Test security shall be strictly maintained, and a set of security rules shall be developed by the testing facility, which shall be approved by the Commissioner.

(4) Bias or favoritism towards an applicant will not be permitted by the testing facility.

(5) The testing facility shall develop a comprehensive brochure describing, at a minimum, applicable fees, the nature of examination questions and providing sample questions. The brochure shall be distributed to an applicant at the time of registration for examination or, upon request, at any other reasonable time.

(6) LOCATION OF THE TESTING FACILITIES IS AVAILABLE ON THE DEPARTMENT'S WEBSITE AT WWW.INURANCE.STATE.PA.US OR UPON REQUEST FROM THE DEPARTMENT.

§ 115.15. Scope of examination.

Examinations shall be designed by the testing facility to test the adequacy of an applicant's knowledge of general principles of insurance, insurance laws of the Commonwealth and the business of adjusting losses.

§ 115.16. General application requirements.

Applicants for a license shall follow the procedures:

~~(1) An individual shall be required to take a written examination unless the requirement is waived under §15.13 (relating to examination requirements).~~

~~(2)~~(1) An active officer of a corporation, active partner in a partnership or member of an association shall be required to take a written examination unless the requirement is waived under ~~§115.13~~ §115.12 or unless the active officer, active partner or member is a currently licensed public adjuster.

~~(3)~~(2) Persons who have passed the examination may apply to the Department for a license. The applicant shall attach a certification from the testing facility attesting that the applicant passed the examination. The certification from the testing facility is not required if the testing facility reports test scores directly to the Department.

~~(4)~~(3) Test scores and results shall remain valid for 1 year from the date of the examination. Applications received with test results in excess of 1 year shall be denied.

§ 115.17. Completion of application and renewal application forms.

Public adjusters and public adjuster solicitors shall complete application and renewal forms fully and accurately, and shall submit the required fees. Those applications and renewal forms submitted to the Department which are not complete and accurate or

accompanied by required fees, will be returned for correction together with written notice of the reason for the return of the applications or renewal forms.

§ 115.18. Application procedures for individual persons.

(a) An individual shall complete the application for an initial license. Accompanying the application shall be:

(1) The appropriate application fee.

(2) A bond as required by statute.

(3) A receipt from the surety stating that the premium has been paid in full on the bond.

(4) A copy of the contract to be used in this Commonwealth.

(b) An applicant for a public adjuster solicitor license shall also obtain and present with the application a letter of intent from a licensed public adjuster to employ the applicant as a public adjuster solicitor.

(c) Applications shall be subscribed and sworn to before a notary public.

(d) Applications executed more than 3 months prior to the date of filing with the Department will not be accepted.

(e) Making a false statement in an application may constitute a ground for license denial or revocation.

(f) Initial licenses will be valid as of the date issued by the Department until the expiration date stated on the license, unless earlier revoked by the Commissioner.

(g) Before a license is granted, the applicant shall first answer and submit, in writing and under oath, interrogatories on forms prepared by the Department.

(h) When the Commissioner is satisfied that the applicant is worthy of a license, and that the applicant has passed the examination or qualified for a waiver, and has paid any appropriate fees, the Commissioner will issue a license stating that the licensee has been authorized by the Department to transact business as a public adjuster or public adjuster solicitor within this Commonwealth.

§ 115.19. Denial of application.

The applicant may be denied a license for any of the following reasons. The applicant:

(1) Has provided incorrect, misleading or incomplete answers to interrogatories on forms incidental to applying for a license.

(2) Has been denied a license or has had an existing license revoked, suspended or not renewed by the Department or a regulatory authority in another state, territory or possession of the United States, or in the District of Columbia, or the Canadian provinces.

(3) Does not possess the professional competence and trustworthiness required to engage in the business of being a public adjuster or public adjuster solicitor.

(4) Has pleaded guilty, entered a plea of nolo contendere or has been found guilty of a felony in a court of competent jurisdiction, or has pleaded guilty, entered a plea of nolo contendere, or been found guilty of criminal conduct which relates to the applicant's suitability to engage in the business of being a public adjuster or public adjuster solicitor.

(i) Examples of criminal violations which the Department may consider related to the applicant's suitability to engage in the business of being a public

adjuster or public adjuster solicitor including unlawful practices as set forth in sections 6(a)(1)--(3), (5)--(7) and (12) of the act (63 P. S. § 1606(a)(1)--(3), (5)--(7) and (12)), embezzlement, obtaining money under false pretenses, conspiracy to defraud, bribery or corrupt influence, perjury or false swearing, unlicensed activity or a criminal offense involving moral turpitude or harm to another.

(ii) Examples of violations or incidents which the Department will not consider related to the applicant's suitability to engage in the business of being a public adjuster or public adjuster solicitor are all summary offenses, records of arrests if there is no conviction or a crime based on the arrest, convictions which have been annulled or expunged or convictions for which the applicant has received a pardon from the Governor.

(5) Fails to comply with the insurance-related provisions in sections 320 and 603(a) of the Violent Crime Control and Law Enforcement Act of 1994 (18 U.S.C.A. §§ 1033 and 1034), if applicable.

(6) Has unpaid and overdue amounts, including, fees and civil penalties, owing to the Department.

§ 115.20. Partnership or corporation application procedures.

Procedures for partnerships or corporations are as follows:

(1) Partnerships or corporations shall apply for licensure using the appropriate licensing application form. The form shall be signed in the name of the partnership or corporation by each active partner or active officer, and be accompanied by the appropriate licensing application form for each active partner or active officer who is not currently licensed. Accompanying the licensing application shall be:

- (i) The appropriate application fee.
- (ii) A bond as required by statute.
- (iii) A receipt from the surety stating the premium has been paid in full on the bond.
- (iv) A copy of the contract to be used in this Commonwealth.
- (v) A copy of the articles of incorporation as filed with the Department of State, Corporation Bureau.
- (vi) A copy of the public adjuster license of each active partner or active officer, if applicable.
- (2) Employees of partnerships and corporations who apply for a license shall apply in their individual capacity.
- (3) The worthiness of a partnership or corporation is determined by the worthiness of the active partner or the active officer.
- (4) The application shall be subscribed and sworn to before a notary public.
- (5) Applications executed more than 3 months prior to the date of filing with the Department will not be accepted.
- (6) Making a false statement in an application may constitute a ground for license denial or revocation.
- (7) Initial licenses will be valid as of the date issued by the Department until the expiration date stated on the license, unless earlier revoked by the Commissioner.
- (8) Before a license is granted, the applicant shall first answer and submit, in writing and under oath, interrogatories on forms prepared by the Department. When the Commissioner is satisfied that the applicant is worthy of a license and has paid

any appropriate fees, the Commissioner will issue a license stating that the licensee has been authorized by the Department to transact business as a public adjuster or public adjuster solicitor within this Commonwealth.

§ 115.21. Renewal of license.

License renewal procedures are as follows:

(1) Mailing of a license renewal form to the last known address of the licensee will satisfy the Department's obligation to provide the appropriate forms and notices.

(2) A license can be renewed only upon submission, ELECTRONIC OR OTHERWISE, of a completed renewal form, payment of the required fees and AN ATTESTATION OR a receipt from a surety stating the premium on the bond, as required, has been paid in full.

(3) Licenses shall be renewed annually on the anniversary of the effective date of the initial license.

(4) Corporations shall provide to the Department the names of each active officer with the renewal form to be eligible for license renewal. Partnerships shall provide to the Department the names of each active partner with the renewal form to be eligible for license renewal.

(5) Failure to complete and submit the renewal form and required fee by the expiration date shall be deemed voluntary termination by the public adjuster or public adjuster solicitor. Failure to correct and resubmit application renewal forms returned by the Department under this section, prior to the expiration date of the license, or within 15 days of the date the forms were mailed by the Department, whichever is greater, will be deemed voluntary termination by the public adjuster or public adjuster

solicitor. Renewal forms received by the Department after expiration will be denied;
except that renewal forms returned by the Department under this section and
resubmitted as instructed by the Department after expiration but within 15 days of the
date the incomplete forms were mailed by the Department to the applicant will be
accepted.



**COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT**

SPECIAL PROJECTS OFFICE
1326 Strawberry Square
Harrisburg, PA 17120

Phone: (717) 787-4429
Fax: (717) 772-1969
E-mail: psalvatore@state.pa.us

November 7, 2002

Mr. Robert Nyce
Executive Director
Independent Regulatory Review Comm.
333 Market Street
Harrisburg, PA 17101

Re: Insurance Department Final Form Regulation No. 11-146, Public Adjuster Contracts
and Licensing Requirements

Dear Mr. Nyce:

Pursuant to Section 5a(c) of the Regulatory Review Act, enclosed for your review and approval is final form regulation 31 Pa. Code, Chapter 115, Public Adjuster Contracts and Licensing Requirements.

Chapter 115 was promulgated in 1980 under the authority of a prior statute. The current authorizing statute, 63 P.S. §§1601-1608, was enacted in 1983. The Department seeks to amend Chapter 115 for consistency with the current statute and to more effectively regulate the licensing and conduct of public adjusters and public adjuster solicitors.

If you have any questions regarding this matter, please contact me at (717) 787-4429.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Peter J. Salvatore".

Peter J. Salvatore
Regulatory Coordinator

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 011-146
 SUBJECT: Public Adjuster Contracts and Licensing Requirements
 AGENCY: DEPARTMENT OF INSURANCE

TYPE OF REGULATION

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

RECEIVED - 7 PM 11/13
 DEPARTMENT OF INSURANCE

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
<u>11-2-02</u>	<u>B. [Signature]</u>	HOUSE COMMITTEE ON INSURANCE
<u>11-7-02</u>	<u>W.E. [Signature]</u>	
<u>11/7/02</u>	<u>Dennis Patton</u>	SENATE COMMITTEE ON BANKING & INSURANCE
<u>11/7/02</u>	<u>P. McDermott</u>	
<u>11/7/02</u>	<u>Anna Pagan</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL
_____	_____	LEGISLATIVE REFERENCE BUREAU

November 6, 2002