

Regulatory Analysis Form

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2002 JUN 23 11:47
REGISTRATION

(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, §§115.1-115.9

(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 consistent with the current statute 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 proposed 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).

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(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 seeks to amend Chapter 115, §§115.1-115.9 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.

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(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 received were taken into consideration in the development of this amendment.

(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.

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(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.

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(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, §§115.1-115.9 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.

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(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 undergo a 30-day public comment period and will take effect upon approval of the final form regulation by the legislative standing committees, the Office of the Attorney General, and the Independent Regulatory Review Commission 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.

CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE
BUREAU

(Pursuant to Commonwealth Documents Law)

#2246

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to
form and legality. Attorney General

By *Cristina J. G...*
(Deputy Attorney General)

JAN 17 2002

Date of Approval

→ Check if applicable.
Copy not approved. Objections
attached.

Copy below is hereby certified to be a true and correct
copy of a document issued, prescribed or promulgated
by:

Insurance Department

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 11-146

DATE OF ADOPTION: _____

BY: *M. Diane Koken*
M. Diane Koken

Insurance Commissioner

TITLE: _____
(EXECUTIVE OFFICER, CHAIRMAN OR
SECRETARY)

Copy below is hereby approved as to form and
legality. ~~Executive of Independent Agencies~~

John V. ...

BY: _____

1/8/02

DATE OF APPROVAL

(DEPUTY GENERAL COUNSEL)
~~(CHIEF COUNSEL, INDEPENDENT AGENCY)~~
(STRIKE INAPPLICABLE TITLE)

→ Check if applicable. No Attorney General
approval or objection within 30 days after
submission.

NOTICE OF PROPOSED RULEMAKING

INSURANCE DEPARTMENT

31 Pa. Code, Chapter 115
§§ 115.1 to 115.9

PUBLIC ADJUSTER CONTRACTS AND LICENSING REQUIREMENTS

PREAMBLE

The Insurance Department (“Department”) proposes to amend Title 31 of the Pennsylvania Code, Chapter 115, Sections 115.1 - 115.9, Public Adjuster Contracts and Licensing Requirements, as set forth in Annex A. This regulation is proposed 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).

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 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.

Explanation of Regulatory Changes

Section 115.1 (relating to definitions) is being amended to delete the definition of “business day.” The term has been recommended for deletion from all Department regulations and is being replaced with “calendar day.” In addition, the term “public adjuster” has been recommended for deletion as it is already defined in the statute. The term “execution date” has been added to clarify the date a document is signed. The terms “active officer” and “active partner” have been added to clarify which individuals must be licensed to obtain an agency license.

Section 115.2 (relating to minimum standards for contents of public adjuster contracts), as proposed, would reduce the cancellation notice currently in use, from a two-page document to a more concise, detachable form located at the bottom of the contract. Type size requirements and gender references have been deleted in the interest of uniformity with other Department regulations.

Section 115.3 (relating to the insured’s right to cancel the contract), clarifies the insured’s right to cancel the contract, removes the reference to and required use of the formal name “Notice of Right to Cancel”.

Sections 115.5 (relating to misrepresentation), 115.6 (relating to other remedies) and Section 115.7 (relating to penalties) are being proposed for deletion. The provisions of these sections are clearly and more effectively stated in the Act and their inclusion in the regulation in no way enhances the statute.

Section 115.8 (relating to effective date, revision, filing and approval of existing contracts) is being re-titled to reflect the elimination of references to prior effective dates. In

addition, the appropriate address, within the Insurance Department, where applications and contracts are to be sent for the approval has been indicated.

Section 115.9 (relating to licensing requirements) is being added to the regulations to formalize the Department's policy with respect to the licensing of public adjusters and public adjuster solicitors, consistent with regulations pertaining to other types of licensees. Subsections 115.9(a)-(f) specifically relate to examinations for public adjuster and public adjuster solicitor licenses and include the standards which the Department intends to apply in contracting with an outside vendor for testing services. Subsections 115.9(g)-(l) set forth procedures and requirements relating to applications for new and renewal licenses for individuals, partnerships or corporations.

External Comments

In drafting this updated regulation, the Department requested comments from the Insurance Federation of Pennsylvania, the Pennsylvania Public Adjuster Association and the Pennsylvania Association of Mutual Insurance Companies. The comments received in response to the Department's request were considered and, where appropriate, consolidated in the development of this proposed rulemaking.

Fiscal Impact

The amendment of this proposed regulation is anticipated to have no measurable impact on costs associated with the Department's licensing of public adjusters or its review of public adjuster contracts. The regulation should impose no additional costs on public adjusters or insurers. The regulation should have no impact on costs to political subdivisions or the general public. The general public will benefit to the extent that adoption of the proposed regulation will enhance the clarity of public adjuster contracts, which is one of the goals of the amendment.

Paperwork

The amendment will impose no additional paperwork requirements on the Department, public adjusters, insurers or the general public.

Persons Regulated

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

Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Pennsylvania Insurance Department, 1326 Strawberry Square, Harrisburg, Pennsylvania 17120, within 30 days following the publication of

this notice in the Pennsylvania Bulletin. Questions and comments may also 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 January 23, 2002 to the Independent Regulatory Review Commission and to the Chairpersons of the Senate Banking and Insurance Committee and the House 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.

If the Commission has any objections to any portion of the proposed amendments, it will notify the agency within 30 days after the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act (71 P.S. §§ 745.1-745.14) specifies detailed procedures for the agency, the Governor and the General Assembly to review these objections before final publication of the regulations.

M. Diane Koken
Insurance Commissioner

CONTINUATION SHEET FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Document Law)

ANNEX A

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

Section

- 115.1. Definitions.
- 115.2. Contents of public adjuster contracts, minimum standards.
- 115.3. Additional procedures.
- 115.4. Inducing cancellation of contract prohibited.
- 115.5. [Misrepresentation.] Reserved.
- 115.6. [Other remedies.] Reserved.
- 115.7. [Penalties.] Reserved.
- 115.8. [Effective date and revision, filing and approval of existing contracts.] Filing and Approval of Contracts
- 115.9 Licensing Requirements

§ 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 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 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.]

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

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

(4) The consideration[,] expressed as a percentage of any payments to be received on the negotiated claim, and 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) A space provided for the signature [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:

Notice of Right to Cancel

You, the insured, may cancel this contract at any time prior to midnight of the fourth calendar 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 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)

[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)]

(b) No public adjuster contract shall 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:

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

(2) Be 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 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] shall 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 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 contract shall 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 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.

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.] Reserved.

§ 115.6. [Other remedies.

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

§ 115.7. [Penalties.

A violation of the provisions of this chapter will be subject to penalties set forth in section 6 of the act (40 P. S. § 306.)] Reserved.

§ 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. Licensing Requirements.

(a) Examination requirement. Applicants for public adjuster and public adjuster solicitor licenses shall be required to successfully complete an examination, except as provided for in §§ 115.9(b) and 115.9(c). Applicants seeking a license shall apply for examination directly to the testing facility.

(b) 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 two years of re-applying for licensure shall be exempt from taking the written examination provided for in section 115.9(a), if the applicant reapplies for the same type of license for which the applicant was previously licensed.

(c) 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 such applicant's licensure in good standing for the same type of license for which application is being made with the Department, whether qualification is pursuant to 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 from the confirming regulatory authority which is satisfactory to the Department.

(d) Qualifications for examination. An individual, or officer of a corporation, partner in a partnership or member of an association, who has attained the age of 18 years, who can read and write in the English language and 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.

(e) Administration of examination. The Commissioner may delegate to a person or corporation, by contract, the authority for administering and scoring examinations. An eligible delegee must guarantee to adhere to the following standards:

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

(2) Testing may be conducted in locations throughout this Commonwealth and other designated locations.

(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. Such brochure shall be distributed to an applicant at the time of registration for examination or, upon request, at any other reasonable time.

(f) *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, Pennsylvania insurance laws and the business of adjusting losses.

(g) *General application requirements.* Applicants for a license shall follow the procedures as follows:

(1) An individual shall be required to take a written examination unless the requirement is waived under §§115.9(b) and 115.9(c) (relating to waiver of examination for resident applicants, and examination requirements for nonresident applicants).

(2) 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 §§115.9(b) and 115.9(c) (relating to waiver of examination for resident applicants, and examination requirements for nonresident applicants) or unless the active officer, active partner or member is a currently licensed public adjuster.

(3) 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 will not be required if the testing facility reports test scores directly to the Department.

(4) Test scores and results shall remain valid for 1 year from the date of the examination.

Applications received with test results in excess of one year shall be denied.

(h) 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.

(i) Application procedures for individual persons.

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

(i) The appropriate application fee.

(ii) Such bond as required by statute.

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

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

(2) An applicant for a public adjuster solicitor license must 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.

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

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

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

(6) 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.

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

(8) 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 shall 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.

(i) 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), 6(a)(2), 6(a)(3), 6(a)(5), 6(a)(6), 6(a)(7) and 6(a)(12) of the act (63 P.S. §§ 1606(a)(1), (2), (3), (5), (6), (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.

(k) 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) Such 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 shall 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.

(l) *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 of a completed renewal form, payment of the required fees and 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 in order to be eligible for license renewal. Partnerships shall provide to the Department the names of each active partner with the renewal form in order 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 pursuant to section 115.9, 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 section 115.9 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**

OFFICE OF SPECIAL PROJECTS
1326 Strawberry Square
Harrisburg, PA 17120

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E-mail: psalvato@ins.state.pa.us

January 23, 2002

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

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

Dear Mr. Nyce:

Pursuant to Section 5(a) of the Regulatory Review Act, enclosed for your information and review is proposed 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 that reads "Peter J. Salvatore".

Peter J. Salvatore
Regulatory Coordinator

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

I.D. NUMBER: 11-146
SUBJECT: Public Adjuster Contracts & Licensing Requirements
AGENCY: DEPARTMENT OF INSURANCE

TYPE OF REGULATION

- X Proposed Regulation
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

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
1/23/02	<i>Shirley Carhart</i>	HOUSE COMMITTEE ON INSURANCE
1/23/02	<i>M. E. Vetchel</i>	
1/30/02	<i>D. Mitchell</i>	SENATE COMMITTEE ON BANKING & INSURANCE
1/23/02	<i>P. McDannell</i>	
1/23/02	<i>E. Pagan</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
1/23/02	<i>Mayra Garcia</i>	LEGISLATIVE REFERENCE BUREAU

January 22, 2002