

AMENDED IN ASSEMBLY MAY 17, 2016

AMENDED IN SENATE JANUARY 4, 2016

**SENATE BILL**

**No. 488**

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**Introduced by Senator Block**

February 26, 2015

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An act to amend Sections 1722, 1751.5, 15001, 15008, 15010, 15011, 15013, 15017, 15020, 15027, 15027.1, 15028, 15031, 15036, 15053, 15056, 15060, and 15062 of, to add Section 15009.1 to, to repeal Section 15015 of, and to repeal and add ~~Sections 15007 and~~ *Section* 15016 of, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 488, as amended, Block. Public insurance adjusters.

Existing law, the Public Insurance Adjusters Act, sets forth various requirements with respect to operation as a public insurance adjuster in this state, including, but not limited to, that the person be licensed and licensing qualifications and application requirements for public insurance adjusters, nonresident public insurance adjusters, and interim public insurance adjusters. ~~The act defines the term “public insurance adjuster” to mean a person who, for compensation, acts on behalf of, or aids in any manner, an insured in negotiating for or effecting the settlement of a claim or claims for loss or damage under any policy of insurance covering real or personal property or any person who advertises, solicits business, or holds himself or herself out to the public as an adjuster of those claims and any person who, for compensation, investigates, settles, adjusts, advises, or assists an insured with reference to claims for those losses on behalf of any public insurance adjuster. Any person who knowingly falsifies the fingerprints or photographs submitted as part of the application process is guilty of a felony, and~~

any person who violates any other provision governing public insurance adjusters is guilty of a misdemeanor punishable by a fine not to exceed \$500 or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

This bill would revise and recast the above provisions by, among other things, ~~redefining a “public insurance adjuster” to include any person who, for compensation or any other thing of value on behalf of an insured, acts or aids, solely in relation to first party claims arising under insurance contracts that insure the real or personal property of the insured, on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage coverage by an insurance contract, or advertises for employment as a public adjuster of insurance claims or solicits business or represents himself or herself to the public as a public adjuster of first party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property.~~ The bill would ~~expand~~ *expanding* the categories of persons exempt from the act to include, among others, a person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract and a person who settles subrogation claims between insurers. The bill would make certain categories of persons who are exempt from the existing act, subject to the act, thereby requiring those persons to seek licensure in order to practice as a licensee under the act. The bill would place additional eligibility requirements on applicants for a nonresident license. The bill would also repeal the provisions relating to an interim license, and would instead create an apprentice public insurance adjuster license to facilitate the training necessary to ensure reasonable competency in the responsibilities and duties of a public insurance adjuster, and would set forth the various terms and conditions of the license. The bill would make an apprentice public insurance adjuster subject to a felony conviction if he or she knowingly falsifies the fingerprints or photographs submitted as part of his or her application for a license. Because the bill would create new crimes, it would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1722 of the Insurance Code is amended  
2 to read:

3 1722. If a natural person while licensed pursuant to the  
4 provisions of this chapter or Chapter 6 (commencing with Section  
5 1760), *Chapter 7* (commencing with Section 1800), or *Chapter 8*  
6 (commencing with Section 1831) of this part, Part 5 (commencing  
7 with Section 12140) of Division 2, or Chapter 2 (commencing  
8 with Section 15000) of Division 5 enters the military service of  
9 the United States and is in that service at a time prescribed for the  
10 filing of a renewal application, the filing of that application is  
11 waived, and the license held by that licensee at the time of his or  
12 her entry into military service shall remain in force during the  
13 period of that military service and until the end of the license year  
14 in which he or she is released from that service but not for less  
15 than six months after that release. During that period the person  
16 may secure a license of the type held by him or her on his or her  
17 entry into military service upon the filing of an application and  
18 paying the fee therefor without the necessity of taking an  
19 examination or paying a penalty.

20 SEC. 2. Section 1751.5 of the Insurance Code is amended to  
21 read:

22 1751.5. The fees required by this chapter and by Chapter 6  
23 (commencing with Section 1760), Chapter 7 (commencing with  
24 Section 1800), and Chapter 8 (commencing with Section 1831) of  
25 ~~this part~~ *part*, and by Chapter 2 (commencing with Section 15000)  
26 of Division 5 are filing fees, no portion of which shall be refunded  
27 whether or not the application is acted upon or the examination is  
28 taken.

29 SEC. 3. Section 15001 of the Insurance Code is amended to  
30 read:

31 15001. As used in this ~~chapter~~ *chapter*, the following terms  
32 have the following meanings:

33 (a) "Apprentice public insurance adjuster" means a person who  
34 is qualified in all respects as a public adjuster, except as to  
35 experience, education, or training.

36 (b) "Business entity" means a corporation, association,  
37 partnership, limited liability company, limited liability partnership,  
38 or other legal entity.

1 (c) “Catastrophic disaster” means an event that results in large  
2 numbers of deaths and injuries; causes extensive damage or  
3 destruction of facilities that provide and sustain human needs;  
4 produces an overwhelming demand on state and local response  
5 resources and mechanisms; causes a severe long-term effect on  
6 general economic activity; and severely affects state, local, and  
7 private sector capabilities to begin and sustain response activities.  
8 A catastrophic disaster shall be declared by the President of the  
9 United States or the Governor of the state or district in which the  
10 disaster occurred.

11 (d) “Commissioner” means the Insurance Commissioner.

12 (e) “Department” means the Department of Insurance.

13 (f) “Fingerprints” means an impression of the lines on the finger  
14 taken for the purposes of identification.

15 (g) “Home state” means the District of Columbia and any state  
16 or territory of the United States in which the public insurance  
17 adjuster’s principal place of residence or principal place of business  
18 is located. If neither the state in which the public insurance adjuster  
19 maintains the principal place of residence nor the state in which  
20 the public insurance adjuster maintains the principal place of  
21 business has a substantially similar law governing public insurance  
22 adjusters, the public insurance adjuster may declare another state  
23 in which it becomes licensed and acts as a public insurance adjuster  
24 to be the “home state.”

25 (h) “Licensee” means a person licensed under this chapter.

26 (i) “Person” includes any individual, firm, company, association,  
27 organization, partnership, limited liability company, and  
28 corporation.

29 ~~SEC. 4. Section 15007 of the Insurance Code is repealed.~~

30 ~~SEC. 5. Section 15007 is added to the Insurance Code, to read:~~

31 ~~15007. (a) “Public insurance adjuster,” for purposes of this~~  
32 ~~chapter, means any person who, for compensation or any other~~  
33 ~~thing of value on behalf of an insured, does any of the following:~~

34 ~~(1) Acts or aids, solely in relation to first party claims arising~~  
35 ~~under insurance contracts that insure the real or personal property~~  
36 ~~of the insured, on behalf of an insured in negotiating for, or~~  
37 ~~effecting the settlement of, a claim for loss or damage coverage~~  
38 ~~by an insurance contract.~~

39 ~~(2) Advertises for employment as a public adjuster of insurance~~  
40 ~~claims or solicits business or represents himself or herself to the~~

1 public as a public insurance adjuster of first party insurance claims  
2 for losses or damages arising out of policies of insurance that insure  
3 real or personal property.

4 ~~(3) Directly or indirectly solicits business, investigates, or adjusts~~  
5 ~~losses, or advises an insured about first party claims for losses or~~  
6 ~~damages arising out of policies of insurance that insure real or~~  
7 ~~personal property for another person engaged in the business of~~  
8 ~~adjusting losses or damages covered by an insurance policy, for~~  
9 ~~the insured.~~

10 ~~(b) Paragraph (1) of subdivision (a) does not prohibit a public~~  
11 ~~insurance adjuster from handling third-party claims if liability is~~  
12 ~~not in dispute.~~

13 ~~SEC. 6.~~

14 *SEC. 4.* Section 15008 of the Insurance Code is amended to  
15 read:

16 15008. This chapter does not apply to any of the following:

17 (a) An attorney at law admitted to practice in this state, when  
18 performing his or her duties as an attorney at law.

19 (b) Photographers, estimators, appraisers, engineers, and  
20 arbitrators, who are employed exclusively by a public insurance  
21 adjuster for the purpose of furnishing technical assistance to a  
22 licensed public insurance adjuster.

23 (c) A person who negotiates or settles claims arising under a  
24 life or health insurance policy or an annuity contract.

25 (d) A licensed health care provider, or employee of a licensed  
26 health care provider, who prepares or files a health claim form on  
27 behalf of a patient.

28 (e) A person who settles subrogation claims between insurers.

29 ~~SEC. 7.~~

30 *SEC. 5.* Section 15009.1 is added to the Insurance Code, to  
31 read:

32 15009.1. (a) The applicant shall complete a 20-hour  
33 prelicensing course of study for the lines of authority for a public  
34 insurance adjuster license.

35 (b) An applicant who resides in another state that does not  
36 license public insurance adjusters is eligible to designate California  
37 as his or her home state. He or she is required to complete the  
38 prelicensing education, pass the public insurance adjuster  
39 examination, and meet the license application requirements before  
40 a license can be issued.

1 (c) An applicant licensed as a public insurance adjuster in  
2 another state is exempt from completing a prelicensing education  
3 course to apply for a California public insurance adjuster license  
4 if, at the time of application, the applicant's out-of-state license is  
5 current or was canceled within 90 calendar days. The applicant is  
6 required to be a licensee in good standing in his or her home state.

7 ~~SEC. 8.~~

8 *SEC. 6.* Section 15010 of the Insurance Code is amended to  
9 read:

10 15010. An application shall be verified and shall include all  
11 of the following:

12 (a) The full name and business address of the applicant.

13 (b) The name under which the applicant intends to do business.

14 (c) A statement as to the general nature of the business in which  
15 the applicant intends to engage.

16 (d) If the applicant is a person other than an individual, the full  
17 name and resident address of each of its partners, officers, and  
18 directors.

19 (e) Two photographs, not older than six months, of the applicant,  
20 of a type prescribed by the commissioner, and one classifiable set  
21 of his or her fingerprints, to be sent to a live scan fingerprint  
22 provider as directed by the department, if fingerprints are not  
23 submitted in person with a live scan fingerprinting service provider  
24 certified by the Department of Justice.

25 (f) A verified statement of his or her experience qualifications.

26 (g) Other information, evidence, statements, or documents as  
27 may be required by the commissioner.

28 ~~SEC. 9.~~

29 *SEC. 7.* Section 15011 of the Insurance Code is amended to  
30 read:

31 15011. Before an application for a license is granted, the  
32 applicant shall meet all of the following requirements:

33 (a) Be at least 18 years of age.

34 (b) Be of good character and shall not have committed acts or  
35 crimes constituting grounds for denial of licensure under Section  
36 1668 or 1669.

37 (c) Shall have at least two—years *years*' experience in the  
38 handling of loss claims under insurance contracts as determined  
39 by regulations adopted by the commissioner, and be competent to  
40 transact business and discharge the responsibilities of a public

1 insurance adjuster in a manner as to safeguard the interests of the  
2 public. A person who has been licensed as an apprentice public  
3 insurance adjuster, as set forth in Section 15016, for 12 full months,  
4 shall be considered to have met the two-year experience  
5 requirement.

6 (d) Maintain an office in the State of California with public  
7 access during regular business hours.

8 (e) Pass an exam given by the commissioner in regard to  
9 property loss adjusting.

10 (f) Post a surety bond executed by a surety company authorized  
11 to do business in this state in the sum of twenty thousand dollars  
12 (\$20,000).

13 (g) For an organization applicant, designate a licensed individual  
14 public insurance adjuster to be responsible for the organization's  
15 compliance with the insurance laws, rules, and regulations of this  
16 state.

17 (h) For an organization applicant, authorize only licensed  
18 individual public insurance adjusters to exercise authority under  
19 the organization's license.

20 (i) Comply with any other qualifications as required by the  
21 commissioner.

22 ~~SEC. 10.~~

23 *SEC. 8.* Section 15013 of the Insurance Code is amended to  
24 read:

25 15013. Each applicant for a license as a public insurance  
26 adjuster shall, prior to issuance of the license, personally take and  
27 pass, to the satisfaction of the commissioner, an examination given  
28 by the department as follows:

29 (a) The examination shall be prescribed by the commissioner  
30 and shall be of sufficient scope to reasonably test the applicant's  
31 knowledge, among other things, of basic insurance theory, essential  
32 elements of contracts, technical competence in the handling of the  
33 various lines for which the applicant is being tested, claims ethics  
34 and knowledge of the Unfair Practices Act, and the duties and  
35 responsibilities of public insurance adjusters under the law.

36 (b) The examination shall be given to applicants under the  
37 supervision of the department or the department's examination  
38 contractor and shall be in written form.

1 (c) The commissioner shall, within a reasonable period of time,  
2 not to exceed 30 days, transmit the results of the examination and  
3 action taken on the application to the applicant.

4 (d) In the event an applicant who is otherwise qualified fails the  
5 examination, the commissioner may administer a reexamination.

6 (e) The examination shall be given at those times and places  
7 within the state as the commissioner deems reasonably necessary  
8 to serve the convenience of the department and applicants.

9 ~~SEC. 11.~~

10 *SEC. 9.* Section 15015 of the Insurance Code is repealed.

11 ~~SEC. 12.~~

12 *SEC. 10.* Section 15016 of the Insurance Code is repealed.

13 ~~SEC. 13.~~

14 *SEC. 11.* Section 15016 is added to the Insurance Code, to  
15 read:

16 15016. (a) The apprentice public insurance adjuster license is  
17 a license to facilitate the training necessary to ensure reasonable  
18 competency to fulfill the responsibilities of a public insurance  
19 adjuster as defined in Section 15007.

20 (b) The apprentice public insurance adjuster license is subject  
21 to the following terms and conditions:

22 (1) The applicant shall submit, with an application for an initial  
23 apprentice public insurance adjuster license, an attestation or  
24 certification from a licensed public insurance adjuster assuming  
25 responsibility for all actions of that applicant.

26 (2) The apprentice public insurance adjuster is authorized to  
27 adjust claims only in California.

28 (3) The applicant is required to qualify under the applicable  
29 provisions of Section 15011.

30 (4) The applicant is required to pay a license fee of one hundred  
31 dollars (\$100).

32 (5) The applicant is required to comply with any other  
33 qualifications required by the commissioner.

34 (6) The apprentice public insurance adjuster shall not be required  
35 to take and successfully complete the prescribed public insurance  
36 adjuster examination.

37 (7) The licensee shall at all times be an employee of a public  
38 insurance adjuster and be subject to training, direction, and control  
39 by a licensed public insurance adjuster.

1 (8) The apprentice public insurance adjuster license is for a  
2 period not to exceed 12 months, and the license shall not be  
3 renewed.

4 (9) The licensee is restricted to participation in factual  
5 investigation, tentative closing, and solicitation of losses subject  
6 to the review and final determination of a licensed public insurance  
7 adjuster.

8 ~~(10) Compensation of an apprentice public insurance adjuster~~  
9 ~~shall only be on a salaried or hourly basis.~~

10 ~~(11)~~

11 (10) The licensee shall be subject to suspension, revocation, or  
12 conditions in accordance with Section 1668.

13 ~~(12)~~

14 (11) The applicant shall submit two photographs, not older than  
15 six months, of the applicant, of a type prescribed by the  
16 commissioner, and one classifiable set of his or her fingerprints,  
17 to be sent to a live scan fingerprint provider as directed by the  
18 department, if fingerprints are not submitted in person with a live  
19 scan fingerprinting service provider certified by the Department  
20 of Justice.

21 ~~SEC. 14.~~

22 *SEC. 12.* Section 15017 of the Insurance Code is amended to  
23 read:

24 15017. (a) A nonresident license shall be issued by the  
25 commissioner to qualified persons who meet the requirements set  
26 forth in Section 15011, and who have appointed the commissioner  
27 as an agent for service of process in this state.

28 (b) Unless denied licensure pursuant to Sections 15018, 15018.5,  
29 and 15019, a nonresident person shall receive a nonresident public  
30 insurance adjuster license if all of the following apply:

31 (1) The person is currently licensed in good standing as a public  
32 insurance adjuster in his or her home state.

33 (2) The person has paid the fees required by Section 15060.

34 (3) The person has provided proof of financial responsibility as  
35 required by Section 15033.

36 (4) The individual has submitted to the commissioner the  
37 completed application for licensure.

38 (5) The person's home state awards nonresident public insurance  
39 adjuster licenses to residents of California on the same basis.

1 ~~SEC. 15.~~

2 *SEC. 13.* Section 15020 of the Insurance Code is amended to  
3 read:

4 15020. The form and content of the license shall be determined  
5 by the commissioner.

6 ~~SEC. 16.~~

7 *SEC. 14.* Section 15027 of the Insurance Code is amended to  
8 read:

9 15027. (a) A licensee shall not, directly or indirectly, act within  
10 this state as a public insurance adjuster without having first entered  
11 into a contract, in writing, on a form approved by the insurance  
12 commissioner and executed in duplicate by the public adjuster and  
13 the insured or a duly authorized representative. One original  
14 contract shall be kept on file by the licensee, available at all times  
15 for inspection, without notice, by the commissioner or his or her  
16 duly authorized representative, and one original contract shall be  
17 given to the insured.

18 (b) The written contract between the licensee and the insured  
19 shall contain each of the following:

- 20 (1) Title of “Public Adjuster Contract.”
- 21 (2) The name, business name, license number, telephone  
22 number, and address of the licensee.
- 23 (3) The name and address of the insured.
- 24 (4) A description of the loss and its location, if applicable.
- 25 (5) The name of the insurer and the policy number, if known.
- 26 (6) The full salary, fee, commission, or other consideration the  
27 licensee is to receive for services under the contract.
- 28 (7) A public adjuster’s fee, commission, or other valuable  
29 consideration shall not cause the insured to receive less than any  
30 amount paid to the insured by the insurer prior to the date of the  
31 written contract between the insured and the public adjuster.
- 32 (8) A description of the services to be provided to the insured.
- 33 (9) Signatures of the licensee and the insured.
- 34 (10) The date the contract was signed by the licensee and the  
35 date the contract was signed by the insured.
- 36 (11) The following statement: “As a public adjuster, I am  
37 required by the California Insurance Code to post a surety bond  
38 in the sum of \$20,000 to cover certain kinds of claims made by  
39 you, the insured. If you have any questions concerning the surety

1 bond, you may contact the California Department of Insurance  
2 Licensing Hotline at 1-800-967-9331 or [www.insurance.ca.gov](http://www.insurance.ca.gov).”

3 (12) A statement of the compensation to the licensee, including  
4 the percentage and base to which the percentage applies.

5 (13) A statement that the insured has the right to cancel the  
6 contract within three business days of signing it and being provided  
7 the signed contract.

8 (c) A contract covered by this section shall not contain a contract  
9 term that does any of the following:

10 (1) Allows the licensee’s fee to be collected when money is due  
11 from an insurer, but not paid, or allows a licensee to collect the  
12 entire fee from the first payment issued by an insurer, rather than  
13 as a percentage of each payment issued by an insurer.

14 (2) Requires the insured to authorize an insurer to issue a  
15 payment only in the name of the licensee.

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

17 (d) A licensee shall not solicit or attempt to solicit a client for  
18 employment during a loss-producing occurrence. A loss-producing  
19 occurrence continues to exist when any of the following conditions  
20 exist at the property that is subject to solicitation:

21 (1) Any of the circumstances that caused the loss are present at  
22 the property where the solicitation would otherwise take place.

23 (2) Emergency responders are present at the property where the  
24 solicitation would otherwise take place.

25 (3) An evacuation order is still in effect at the property where  
26 the solicitation would otherwise take place.

27 (e) A licensee or any other person or entity offering, for a fee,  
28 service regulated by this chapter shall not solicit a policyholder  
29 for employment or initiate any contact with a policyholder between  
30 the hours of 6 p.m. and 8 a.m., unless requested by the  
31 policyholder.

32 (f) A licensee shall not use any form of contract other than that  
33 approved by the commissioner and that contains each of the  
34 following:

35 (1) A provision allowing the client to cancel the contract by  
36 written notice sent or delivered by certified mail, return receipt  
37 requested, or other form of mailing that provides proof of mailing,  
38 to the licensee by midnight of the third business day after the day  
39 on which the client signs a contract that complies with this section  
40 and is provided a copy of that signed contract. Each copy of the

1 contract shall contain a completed form, captioned “Notice of  
 2 Cancellation,” that shall be placed at the end of the contract and  
 3 be separated from the remainder of the contract by a printed line.  
 4 Nothing shall be printed on the reverse side of the notice form.  
 5 The notice form shall be completed by the licensee, and shall  
 6 contain in type of at least 10-point the following statement written  
 7 in the same language, e.g., Spanish, as used in the contract:

8  
 9 Notice of Cancellation

10  
 11 \_\_\_\_\_  
 12 (Date of Contract)

13  
 14 You may cancel this contract within three business days from  
 15 the above date that you signed the contract and you were provided  
 16 with a copy of that signed contract, except that, as it pertains to a  
 17 disaster as defined in Section 15001, your right to cancel is five  
 18 calendar days without any penalty or obligation to pay your public  
 19 adjuster, other than for reimbursement of moneys paid by your  
 20 public adjuster for out-of-pocket emergency expenses for you or  
 21 on your behalf. If your public adjuster seeks reimbursement from  
 22 you for out-of-pocket emergency expenses, your public adjuster  
 23 shall provide you with an itemized statement of those emergency  
 24 expenses advanced to you or on your behalf if the cancellation is  
 25 made within the first three business days after the contract was  
 26 signed by you and you were provided a copy of the signed contract.  
 27 Nothing in this contract permits your public adjuster to recover  
 28 any costs, except for out-of-pocket emergency expenses advanced  
 29 to you.

30 If you cancel, any money or other consideration paid by you will  
 31 be returned within five business days following the receipt of your  
 32 cancellation notice, and any security interest arising out of the  
 33 transaction will be canceled.

34 To cancel this contract, mail or deliver by certified mail, return  
 35 receipt requested, or other form of mailing that provides proof of  
 36 mailing, a signed and dated copy of this cancellation notice, or  
 37 any other written notice, or send a telegram to:

38  
 39 \_\_\_\_\_  
 40 (name of public adjuster)

1 at

2 \_\_\_\_\_  
3 (address of public adjuster’s place of business)

4

5

6 not later than midnight of \_\_\_\_\_

7 (Date)

8 I hereby cancel this contract \_\_\_\_\_

9 (Date)

10

11 \_\_\_\_\_  
12 (Client’s signature)

13

(2) The statement “WE REPRESENT THE INSURED ONLY” prominently displayed in at least 10-point type.

15

(3) A provision disclosing the percentage of the insured’s claim, or other fee, that the licensee will charge for his or her services. The licensee shall obtain the initials of the insured next to this provision.

19

(4) A conspicuous statement in at least 10-point type in immediate proximity to the space reserved for the client’s signature, as follows: “You may cancel this contract at any time before midnight of the third business day after the date of this contract. See the notice of cancellation form at the end of this contract for an explanation of this right.”

25

(g) A licensee shall not knowingly make any false report to his or her employer or divulge to any other person, except as he or she may be required by law to do so, any information acquired by him or her except at the direction of the employer or a client for whom the information is obtained.

30

(h) A licensee shall not use a badge in connection with the official activities of the licensee’s business.

32

(i) A licensee shall not permit an employee or agent in his or her own name to advertise, engage clients, furnish reports, or present bills to clients, or in any manner whatever to conduct business for which a license is required under this chapter.

36

(j) Pursuant to subdivisions (a) and (c) of Section 15006, the commissioner shall have the authority to enforce the provisions of this chapter and prosecute violations thereunder committed by unlicensed persons or entities that hold themselves out or act as public insurance adjusters.

40

1 (k) For purposes of this section, “business day” shall have the  
2 same meaning given to that term in subdivision (e) of Section  
3 1689.5 of the Civil Code, as in effect on the operative date of this  
4 statute.

5 (l) The contract and the notice of cancellation set forth in  
6 paragraph (1) of subdivision (f) shall be written in the same  
7 language, e.g., Spanish, as principally used in the negotiation of  
8 the contract.

9 (m) Within five business days after a contract has been canceled,  
10 the licensee shall tender to the client any payments made by the  
11 client and any note or other evidence of indebtedness, including  
12 an itemized statement of all amounts tendered to the client.

13 (n) The licensee is not entitled to compensation for services  
14 performed prior to cancellation, other than for reimbursement of  
15 moneys paid by the licensee for out-of-pocket emergency expenses  
16 for the client or on behalf of the client. If the licensee seeks  
17 reimbursement from the client for out-of-pocket emergency  
18 expenses, and if the cancellation is made within the first three  
19 business days after the contract was initiated, the licensee shall  
20 provide the client with an itemized statement of those emergency  
21 expenses advanced to the client or on behalf of the client by the  
22 licensee. Nothing in this subdivision shall permit the licensee to  
23 recover any costs, except for out-of-pocket emergency expenses  
24 advanced to the client. Any security interest shall be canceled upon  
25 cancellation of the contract.

26 (o) Notice of cancellation given by the client need not take the  
27 particular form specified in paragraph (1) of subdivision (f). Notice  
28 of cancellation, however expressed, is effective if it indicates the  
29 intention of the client not to be bound by the contract.

30 (p) Cancellation occurs when the client gives written notice of  
31 cancellation by certified mail, return receipt requested, or other  
32 form of mailing that provides proof of mailing, to the licensee at  
33 the address specified in the contract.

34 (q) Notice of cancellation, if given by mail, is effective when  
35 sent by certified mail, return receipt requested, or other form of  
36 mailing that provides proof of mailing, properly addressed with  
37 postage prepaid.

38 (r) Until the licensee has complied with this section, the client  
39 may cancel the contract.

1 (s) The contracts shall be executed in duplicate. The licensee  
2 shall retain one original contract, and shall provide the insured  
3 with an original contract.

4 (t) The licensee shall provide the client with an original contract  
5 and notice of cancellation at the time the client signs the contract.

6 (u) Any confession of judgment or waiver of the provisions of  
7 this chapter shall be deemed contrary to public policy and shall be  
8 void and unenforceable.

9 (v) Prior to the signing of the contract, the licensee shall provide  
10 the insured with a separate printed disclosure document in the  
11 following form that bears the name and license number of the  
12 licensee:

13  
14 “DISCLOSURE  
15

16 There are three types of insurance adjusters that could be  
17 involved in the processing of your insurance claim. The definitions  
18 of the three types are as follows:

19 (1) Public adjusters means the insurance adjusters who do not  
20 work for your insurance company. They work for you, the insured,  
21 to assist in the preparation, presentation, and settlement of your  
22 claim. You hire them by signing a contract and agreeing to pay  
23 them a fee or commission based on a percentage of the settlement,  
24 or other method of compensation. Public adjusters are required to  
25 be licensed, bonded, and tested by the State of California to  
26 represent your interest only.

27 (2) Company adjusters means the insurance adjusters who are  
28 employees of your insurance company. They represent your  
29 insurance company and are paid by your insurance company. They  
30 will not charge you a fee and are not individually licensed or tested  
31 by the State of California.

32 (3) Independent adjusters means the insurance adjusters who  
33 are hired on a contract basis by your insurance company to  
34 represent the company in the settlement of the claim. They are  
35 paid by your insurance company. They will not charge you a fee.

36 You have the right, but are not required, to use the services of  
37 a public adjuster in the preparation and handling of your insurance  
38 claim.

39 Public adjusters cannot solicit your business while the loss is  
40 underway, or between the hours of 6 p.m. and 8 a.m.

1 Your “Public Adjuster Contract,” with a public adjuster  
2 representing you, should clearly indicate the amount of the fee you  
3 will be paying to your public adjuster. Your contract, with this fee  
4 percentage, should be acknowledged by your initials on the “Public  
5 Adjuster Contract.” The salary, fee, commission, or other  
6 consideration is to be paid by you (the insured), not the insurance  
7 company (insurer).

8 You have the right to cancel the contract with your public  
9 adjuster, without any penalty or obligation, within three business  
10 days from the date the contract is signed. If the contract was  
11 established from a catastrophic disaster as defined in subdivision  
12 (c) of Section 15001, the insured has the right to cancel within five  
13 calendar days.

14 If you cancel the contract with your public adjuster, any money  
15 or other consideration paid by you will be returned within five  
16 business days following the receipt of your cancellation notice,  
17 and any security interest arising out of the transaction will be  
18 canceled.

19 To cancel the contract with your public adjuster, mail or deliver  
20 by certified mail, return receipt requested, or other form of mailing  
21 that provides proof of mailing, a signed and dated copy of the  
22 cancellation notice, or any other written notice, or send a telegram  
23 to the public adjuster at the address in the contract.

24 You have the right to, and may, communicate with your  
25 insurance company at any time if you feel the need during the  
26 claims process.

27 If you have any concerns or questions, the officers at the  
28 California Department of Insurance Consumer Hotline are there  
29 to help you. Please contact them at 1-800-927-HELP (4357) or  
30 [www.insurance.ca.gov](http://www.insurance.ca.gov).”

31  
32 (w) No later than three business days after the cancellation has  
33 expired, the public adjuster shall notify the insurer, its adjuster, or  
34 its attorney, that he or she has entered into a written contract with  
35 the insured.

36 (x) If the licensee misrepresents or conceals a material fact from  
37 the insured prior to execution of the contract, the insured is entitled  
38 to rescind the contract without time limit.

39 (y) Notwithstanding any other provision of this section, if a  
40 property loss is included in an area that is subject to a catastrophic

1 disaster, as defined in Section 15001, the insured shall have the  
2 right to cancel a contract with a public adjuster within five calendar  
3 days of signing it and being provided a copy of the signed contract.

4 ~~SEC. 17.~~

5 *SEC. 15.* Section 15027.1 of the Insurance Code is amended  
6 to read:

7 15027.1. (a) In addition to the restrictions in subdivision (e)  
8 of Section 15027, a licensee shall not solicit a contract of  
9 engagement for residential properties under this chapter that are  
10 included in an area subject to a catastrophic disaster until seven  
11 calendar days have elapsed from the conclusion of a loss-producing  
12 occurrence as defined in subdivision (d) of Section 15027.

13 (b) Subdivision (a) shall not apply if the licensee is contacted  
14 directly by the insured or the insured's representative.

15 (c) Nothing in subdivision (a) shall prohibit a licensee from  
16 providing a policyholder, without making personal contact with  
17 the policyholder, with accurate written materials explaining  
18 services provided by public insurance adjusters.

19 ~~SEC. 18.~~

20 *SEC. 16.* Section 15028 of the Insurance Code is amended to  
21 read:

22 15028. No person licensed as a public insurance adjuster shall  
23 do any of the following:

24 (a) Use any misrepresentation to solicit a contract or agreement  
25 to adjust a claim.

26 (b) Solicit or accept remuneration from, or have a financial  
27 interest in, any salvage, repair or other firm which obtains business  
28 in connection with any claim he or she has a contract or agreement  
29 to adjust.

30 (c) Advance moneys to any potential client or insured in order  
31 to obtain business.

32 (d) Offer to pay a fee, commission, or other valuable  
33 consideration, exceeding one hundred dollars (\$100), to a person  
34 for referring a loss unless he or she employs that person to so act  
35 for him or her and that person is licensed to act as an adjuster under  
36 the provisions of this chapter.

37 (e) Permit an employee or agent, in his or her own name, to  
38 advertise, engage clients, furnish reports, present bills to clients,  
39 or in any manner conduct business for which a license is required  
40 pursuant to this chapter.

1     ~~SEC. 19.~~

2     *SEC. 17.* Section 15031 of the Insurance Code is amended to  
3 read:

4     15031. (a) A licensee shall not conduct a business under a  
5 fictitious or other business name unless and until he or she has  
6 obtained the written authorization of the commissioner to do so.

7     (b) The commissioner shall not authorize the use of a fictitious  
8 or other business name that is so similar to that of a public officer  
9 or agency or that is used by another licensee that the public may  
10 be confused or misled thereby.

11     (c) The authorization shall require, as a condition precedent to  
12 the use of a fictitious name, that the licensee comply with Section  
13 1724.5.

14     (d) A licensee desiring to conduct his or her business under  
15 more than one fictitious name shall obtain the authorization of the  
16 commissioner in a manner prescribed in this section for the use of  
17 additional fictitious names.

18     (e) The licensee shall pay a fee of ten dollars (\$10) for each  
19 authorization to use an additional fictitious name and for each  
20 change in the use of a fictitious business name. If the original  
21 license is issued in a nonfictitious name and authorization is  
22 requested to have the license reissued in a fictitious business name,  
23 the licensee shall pay a fee of ten dollars (\$10) for that  
24 authorization.

25     ~~SEC. 20.~~

26     *SEC. 18.* Section 15036 of the Insurance Code is amended to  
27 read:

28     15036. In lieu of the surety bond required by this chapter there  
29 may be deposited with the State of California the sum of twenty  
30 thousand dollars (\$20,000) in cash, or evidence of deposit of the  
31 sum of twenty thousand dollars (\$20,000) in banks authorized to  
32 do business in this state and insured by the Federal Deposit  
33 Insurance Corporation, or investment certificates or share accounts  
34 in the amount of twenty thousand dollars (\$20,000) issued by a  
35 savings association doing business in this state and insured by the  
36 Federal Deposit Insurance Corporation, or evidence of a certificate  
37 of funds or share account of the sum of twenty thousand dollars  
38 (\$20,000) in a credit union as defined in Section 14002 of the  
39 Financial Code whose share deposits are guaranteed by the

1 National Credit Union Administration or guaranteed by any other  
2 agency approved by the Department of Business Oversight.

3 ~~SEC. 21.~~

4 *SEC. 19.* Section 15053 of the Insurance Code is amended to  
5 read:

6 15053. A person who knowingly falsifies the fingerprints or  
7 photographs submitted under subdivision (f) of Section 15010 or  
8 paragraph (12) of subdivision (b) of Section 15016 is guilty of a  
9 felony. A person who violates any of the other provisions of this  
10 chapter is guilty of a misdemeanor punishable by a fine not to  
11 exceed five hundred dollars (\$500) or by imprisonment in a county  
12 jail not to exceed one year, or by both that fine and imprisonment.

13 ~~SEC. 22.~~

14 *SEC. 20.* Section 15056 of the Insurance Code is amended to  
15 read:

16 15056. (a) Except as otherwise provided in this article, an  
17 expired license or branch office certificate may be renewed at any  
18 time within one year after its expiration on the filing of an  
19 application for renewal on a form prescribed by the commissioner,  
20 and the payment of a renewal fee in effect on the actual renewal  
21 date. If the license or certificate is renewed after its expiration, the  
22 licensee, as a condition precedent to renewal, shall also pay the  
23 delinquency fee prescribed by this chapter. Renewal under this  
24 section shall be effective on the date on which the application is  
25 filed, on the date on which the renewal fee is paid, or on the date  
26 on which the delinquency fee, if any, is paid, whichever occurs  
27 last. If so renewed, the license or certificate shall continue in effect  
28 through the date provided in Section 15054 that next occurs after  
29 the effective date of the renewal, when it shall expire if it is not  
30 again renewed.

31 (b) Renewal of a license or certificate does not prohibit the  
32 bringing of disciplinary proceedings for an act committed before  
33 the effective date of the renewal.

34 ~~SEC. 23.~~

35 *SEC. 21.* Section 15060 of the Insurance Code is amended to  
36 read:

37 15060. The amount of fees prescribed by this chapter, unless  
38 otherwise fixed, is that fixed in the following schedule:

39 (a) The application fee for the qualifying examination for an  
40 original license is twenty-five dollars (\$25).

1 (b) The application fee for an original branch office certificate  
2 is fifteen dollars (\$15).

3 (c) The fee for an original license application in the amount  
4 equal to the renewal fee in effect on the last regular renewal date  
5 before the date on which the license is issued, except that, if the  
6 license will expire less than one year after its issuance, then the  
7 fee is an amount equal to 50 percent of the renewal fee in effect  
8 on the last regular renewal date before the date on which the license  
9 is issued.

10 (d) The renewal fee shall be fixed by the commissioner as  
11 follows:

12 (1) For a license as a public insurance adjuster, not more than  
13 one hundred dollars (\$100).

14 (2) For a branch office certificate, not more than twenty dollars  
15 (\$20).

16 (e) The application and license fee for applications prescribed  
17 by the commissioner, in addition to those in this chapter, and the  
18 application and license fee for a change in the type of business  
19 organization of the licensee, shall be in the amount prescribed by  
20 rule and regulation of the commissioner.

21 (f) The delinquency fee shall be 50 percent of the renewal fee  
22 in effect on the date of expiration.

23 (g) The fee for reexamination of an applicant is ten dollars (\$10).

24 ~~SEC. 24.~~

25 *SEC. 22.* Section 15062 of the Insurance Code is amended to  
26 read:

27 15062. Application or license fees shall not be refunded  
28 pursuant to Section 1751.5.

29 ~~SEC. 25.~~

30 *SEC. 23.* No reimbursement is required by this act pursuant to  
31 Section 6 of Article XIII B of the California Constitution because  
32 the only costs that may be incurred by a local agency or school  
33 district will be incurred because this act creates a new crime or  
34 infraction, eliminates a crime or infraction, or changes the penalty  
35 for a crime or infraction, within the meaning of Section 17556 of  
36 the Government Code, or changes the definition of a crime within  
37 the meaning of Section 6 of Article XIII B of the California  
38 Constitution.

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