

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
1511 Pontiac Avenue, Bldg. 69-2
Cranston, Rhode Island 02920

CONCISE EXPLANATORY STATEMENT

Insurance Regulation 43 – Insurance Claim Adjusters

The Department of Business Regulation (“Department”) hereby adopts amendments to Insurance Regulation 43 effective January 1, 2015 and makes this statement in accordance with R.I. Gen. Laws § 42-35-2.3. The Department makes these amendments in order to bring the regulation into compliance with the statutory changes made in the last legislative session and effective January 1, 2015. There are three differences between the text of the proposed rule as published in accordance with R.I. Gen. Laws § 42-35-3 and the rule as adopted. Those differences are:

1. In response to comments, the Department has removed the word “only” from section 4(E) and has added the phrase “but not limited to.”
2. In response to comments the Department removed the proposal to delete the first line of section 11(C). This is done only to provide additional time for investigation and comment by interested parties. Depending upon the information obtained, the Department intends to propose amendments to the regulation in the immediate future to address this issue.
3. References in sections 11(R) and 11(S) have been changed to section 11 from section 10.

The Department received other comment which it declined to address by changes in the regulation. That comment was as follows:

1. A commenter suggested extending emergency adjusting to public adjusters. That suggestion would violate the statute which provides in 27-10-8 “public adjusters are not eligible for licensing under this section.”

Dated – December 10, 2014

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DEPARTMENT OF BUSINESS REGULATION
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1511 Pontiac Avenue Cranston, RI 02920

INSURANCE REGULATION 43

INSURANCE CLAIM ADJUSTERS

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Section 1 Authority

This Regulation is promulgated pursuant to R.I. Gen. Laws §§ 27-10-1 *et seq* and 42-14-17.

Section 2 Purpose and Applicability

This Regulation shall apply to all persons who engage for compensation in investigating, negotiating or settling property & casualty or workers compensation insurance claims. Unlicensed persons may not advertise, hold themselves out as or solicit the adjustment of insurance claims. This includes company adjusters, independent adjusters and public adjusters.

The purpose of this Regulation is to establish standards and procedures for the issuance of insurance claim adjuster licenses and to govern the conduct of insurance claim adjusters.

Section 3 Definitions

As used in this Regulation:

- (A) "Aftermarket Part" means a motor vehicle body replacement part that is not an original equipment manufacturer part
- (B) "Applicant" shall mean a Person filing an application for a Rhode Island insurance claims adjuster license.
- (C) "Catastrophic disaster" according to the Federal Response Plan, means an event that results in large numbers of deaths or injuries; causes extensive damage or destruction of facilities that provide and sustain human needs; produces an overwhelming demand on state and local response resources and mechanisms; causes a severe long-term effect on general economic activity; and severely affects state, local and private sector capabilities to begin and sustain response activities. A catastrophic disaster shall be declared by the President of the United States, the Governor of Rhode Island or the Insurance Commissioner of Rhode Island.
- (D) "Company adjuster" means an insurance adjuster who is an employee of an insurance company.
- (E) "Damaged Motor Vehicle Body Part" means any part of the body of a motor vehicle which is damaged as the result of a collision with another vehicle or object. Such parts shall include fenders, bumpers, windshields, glass and similar components of motor vehicle bodies as distinguished from the chassis, seats, motor, transmission, air conditioning condenser, radiator, and other accessories for propulsion and general running gear of motor vehicles.
- (F) "Department" means the Department of Business Regulation and the Division of Insurance thereof.
- (G) "Emergency Adjuster" means a person who is authorized by the Department to perform adjusting activities in Rhode Island in the event of an emergency, catastrophe or state of disaster declared in Rhode Island pursuant to R.I. Gen. Laws § 27-10-8.
- (H) "Home state" means the District of Columbia and any state or territory of the United States in which the adjuster maintains his or her principal place of residence or principal place of business is located. If neither the state in which the adjuster maintains the principal place of residence nor the state in which the adjuster maintains the principal place of business has a substantially similar law governing adjusters, the adjuster may declare another state in which it becomes licensed and acts as an adjuster to be the 'home state.'

- (I) "Independent adjuster" means an insurance adjuster who is hired on a contract basis by an insurance company to represent the insurance company's interest in the settlement of the claim.
- (J) "License" shall mean the insurance adjuster license issued by the Department to a Person engaged in the business of insurance claims adjusting.
- (K) "Licensee" shall mean a Person holding an Insurance Adjuster License.
- (L) "NAIC" shall mean the National Association of Insurance Commissioners.
- (M) "NIPR" means National Insurance Producer Registry.
- (N) "Original Equipment Manufacturer Part" or "OEM part" means a motor vehicle body replacement part manufactured by the manufacturer of the motor vehicle being repaired.
- (O) "Public adjuster" means any person who, for compensation or any other thing of value on behalf of the insured:
 - (1) Acts or aids, solely in relation to first party claims arising under insurance contracts, other than automobile, life, accident & health, 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 covered by an insurance contract;
 - (2) Advertises for employment as an public adjuster of insurance claims or solicits business or represents himself or herself to the public as an public adjuster of first party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or
 - (3) Directly or indirectly solicits business, investigates or adjusts losses, or advises an insured about first party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy, for the insured.
- (P) "Resident" means a person who either resides in Rhode Island or maintains an office in Rhode Island where the business of producing insurance is transacted and designated Rhode Island as the residence for purposes of licensure.
- (Q) "Uniform individual application" means the current version of the NAIC Uniform Individual Application for resident and nonresident individuals.
- (R) "Uniform business entity application" means the current version of the NAIC Uniform Business Entity Application for resident business entities.

Section 4 License Required

- (A) A person shall not act or hold him/her or itself out as an adjuster in this state unless the person is licensed as an adjuster by the State of Rhode Island. Application for an individual person shall be made using the Uniform Individual Application as modified and provided by the Department.
- (B) The Department may issue business entity licenses to residents on a discretionary basis. Application shall be made using the Uniform Business Entity Application as modified and provided by the Department. A business entity license is not required. All persons associated with a business entity performing adjuster services must hold a valid individual license. Before approving the application for a business entity license, the department shall find that:
 - (1) The business entity is a resident of the State of Rhode Island;
 - (2) The business entity has paid the applicable fees; and
 - (3) The business entity has designated a licensed adjuster responsible for the business entity's compliance with the insurance laws, rules and regulations of this state.
- (C) An insurance adjuster doing business under any name other than the adjusters' legal name is required to notify and obtain the consent of the Department prior to using the assumed name.
- (D) Each adjuster license is issued on a biennial basis. An adjuster who obtains a license during the license term shall be issued a license for the time period remaining and will have to renew at the expiration of the License, regardless of the period of time he, she or it has been licensed. The Department does not prorate license fees.
- (E) A license as an adjuster shall not be required of the following:
 - (1) An attorney-at-law admitted to practice in this state, when acting in his or her professional capacity as an attorney;
 - (2) A person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;
 - (3) An insurance producer licensed by the Department, when the insurance producer adjusts, or assists in the adjustment of claims arising only under policies of insurance or fidelity or surety bonds negotiated, solicited, or effected by him or her or by the insurance producer, whether the insurance producer is a person, partnership, or corporation, for which he or she acts;
 - (4) A person employed for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed adjuster, including but not

limited to photographers, estimators, private investigators, engineers, and handwriting experts;

- (5) An individual who is employed to investigate suspected fraudulent insurance claims but who does not adjust losses or determine claims payments;
 - (6) A person who solely performs executive, administrative, managerial, or clerical duties, or any combination thereof, and who does not investigate, negotiate, or settle claims with policyholders, claimants, or their legal representative;
 - (7) A licensed health care provider or its employee who provides managed care services as long as the services do not include the determination of compensability;
 - (8) A managed care organization or any of its employees or an employee of any organization providing managed care services so long as the services do not include the determination of compensability;
 - (9) A person who settles only reinsurance or subrogation claims;
 - (10) A person who investigates, negotiates, or settles life, accident and health, annuity, or disability insurance claims;
 - (11) An individual employee, under a self-insured arrangement, who adjusts claims on behalf of their employer;
 - (12) A person authorized to adjust workers' compensation or disability claims under the authority of a third-party administrator (TPA) license pursuant to chapter 20.7 of title 27; and
 - (13) A person who adjusts claims for portable electronic insurance offered pursuant to chapter 2.7 of title 27.
- (F) A licensed adjuster that is unable to comply with license renewal procedures due to military service or some other extenuating circumstance(e.g., a long-term medical disability) may request a waiver of those procedures. The adjuster may also request a waiver of any examination requirement, fine, or other sanction imposed for failure to comply with renewal procedures.

Section 5 Licensing Procedures

- (A) The Department may contract with non-governmental entities, including the NAIC or any affiliates or subsidiaries that the NAIC oversees, to perform any

ministerial functions, including the collection of fees and data, related to licensing that the Department may deem appropriate.

- (B) Applications for adjuster licenses must be made electronically through NIPR. If this requirement would cause a hardship for any individual (s)he should contact the insurance division and request permission to apply by hard copy application. Permission shall be granted to such persons unless a compelling reason requires otherwise.
- (C) Company and independent adjusters shall specify the lines of authority requested at the time of the application;
- (D) At the time of application the applicant shall pay all fees. Failure to pay fees shall be grounds for revocation of the license.

Section 6 Emergency Licenses

- (A) Emergency company and independent adjuster licenses may be issued if the requirements of R.I. Gen. Laws § 27-10-8 and this regulation are met. Public adjusters are not eligible for emergency licensing.
- (B) Pursuant to R.I. Gen. Laws § 27-10-8, the Department may permit an experienced adjuster to act as a company or independent adjuster in this state on homeowners' losses if the adjuster is either a licensed adjuster in another state which requires a license or regularly adjusts in another state where such licensing is not required and works for an insurance company authorized to do business in Rhode Island.
- (C) Those persons issued an emergency license may only engage in adjustment work during the period determined by the Department.
- (D) In order to obtain an emergency adjuster license the individual shall complete an application for an emergency adjuster license in NIPR within five (5) days of deployment to adjust claims arising from the declared catastrophe. No fee will be assessed by the State, however, the applicant will be required to pay any fees imposed by NIPR for services provided.
- (E) Emergency licenses shall remain in force for a period specified by the Department not to exceed ninety (90) days, unless extended by the Department.
- (F) Any person licensed as an emergency adjuster must comply with all laws of this state and both (s)he and the insurer for whom the claim is adjusted are responsible in the same manner as they would be if the adjuster was a fully licensed adjuster.

Section 7 Examination

- (A) An individual applying for an adjuster license shall pass a written examination unless exempt pursuant to Sections 5 and 7 of this Regulation. The examination shall test the knowledge of the individual concerning the duties and responsibilities of an adjuster and the insurance laws and regulations of this state.

- (B) The Department may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee for said examinations.
- (C) An individual who fails to appear for the examination as scheduled or fails to pass the examination, shall register for another examination and is required to pay the fees and complete the necessary forms before being rescheduled for another examination.

Section 8 Exemptions from Examination

- (A) A person who applies for an adjuster license in this state who holds an active license as a resident adjuster in another state shall not be required to complete any examination. An adjuster that is exempted from examination is required to be knowledgeable of Rhode Island law applicable to adjusters and is required to comply with all such statutes and regulations. This exemption is only available if the person is currently licensed if the resident or designated home state certifies that, the applicant is in good standing in that state or the state's database records or those records maintained by the NAIC, its affiliates or subsidiaries, indicate that the adjuster is licensed in good standing.
- (B) A person that currently holds a nonresident adjuster license and moves to this state shall make application within ninety (90) days of establishing legal residence to become a resident adjuster. No examination shall be required of that person to obtain an adjusters license, but the adjuster shall be required to certify knowledge of Rhode Island law applicable to adjusters.
- (C) An adjuster who allows his, her or its license to expire may, within twelve (12) months from the due date of the renewal, reinstate this license without the necessity of passing a written examination. A reinstatement fee is required along with the unpaid renewal fee which shall be paid at the time of reinstatement. This exemption is only available if the application is received within twelve (12) months of the due date and the Applicant was in good standing in the state of residence or the state's database records or those records maintained by the NAIC at the time of renewal. The Applicant is required to file a reinstatement application, and pay all applicable fees.

Section 9 Conduct – All Adjusters

All adjusters must comply with the following:

- (A) Any licensee shall immediately notify the Department by any means acceptable to the Department if any action is taken by another state against his or her adjuster license in that state.

- (B) The licensee shall inform the Department by any means acceptable to the Department of a change of address, change of legal name, or change of information submitted on the application within thirty (30) days of the change.
- (C) A person shall not accept a commission, service fee or other valuable consideration for investigating or settling insurance claims in this state if that person is required to be licensed under R.I. Gen. Laws §§ 27-10-1 *et seq.* and is not so licensed.
- (D) Records shall be maintained for at least five (5) years after the termination of the transaction and shall be open to examination by the Department at all times.
- (E) Every adjuster, upon receipt of any written inquiry (including electronic communications) from the Department, shall within 21 calendar days of receipt of such inquiry, furnish the Department with a response to the inquiry in duplicate.
- (F) No adjuster may represent or act as a public adjuster, company adjuster, or independent adjuster on the same claim.

Section 10 Conduct – Company and Independent Adjusters

In addition to the requirements of Section 9 above, all Company and Independent Adjusters must also comply with the following:

- (A) An adjuster shall promptly inform an insured or claimant of his or her free choice in the selection of an auto body repair shop. Once the insured or claimant has advised the insurer that an auto body repair shop has been selected, the adjuster may not recommend that a different auto body repair shop be selected to repair the automobile.
- (B) No adjuster shall request or advise any motor vehicle owner or operator to operate his or her vehicle on any public thoroughfare for the purpose of obtaining a written estimate of damage at a drive-in claims center, unless it ascertained that the vehicle meets safety requirements as determined by the department of transportation. A vehicle is unsafe for driving under this section if the vehicle has (1) damage to its unitized body construction (2) damage to its hood catch which would probably result in an unexpected opening (3) damage to the front suspension (4) metal in contact with any tire (5) any door which can't be easily opened or which opens unexpectedly (6) inoperable tail lights (7) broken glass affixed to the vehicle or a cracked windshield or (8) any other condition deemed to be unsafe by the department of transportation pursuant to rules and regulations.
- (C) Whenever an appraisal is written on behalf of an insurer, an adjuster shall assure that the appraisal contains the name of the insurance company ordering it, the insurance file number, the number of the appraiser's license, the proper identification number of the vehicle being inspected, a

clear indication of all damage unrelated to the incident or accident that occasioned the appraisal of the vehicle, or old damage, and notice in boldface type, reading as follows:

PURSUANT TO RHODE ISLAND LAW, THE CONSUMER HAS THE RIGHT TO CHOOSE THE REPAIR FACILITY TO COMPLETE REPAIRS TO A MOTOR VEHICLE; AND AN INSURANCE COMPANY MAY NOT INTERFERE WITH THE CONSUMER'S CHOICE OF REPAIRER.

- (D) An adjuster adjusting a claim for motor vehicle physical damage shall notify the claimant in writing if he or she intends to specify the use of aftermarket parts. To comply with this provision written notice may be provided on the original appraisal of the damaged vehicle.
- (E) For any automobile which is less than thirty (30) months beyond the date of manufacturer, the adjuster must provide, or assure that the insurer has provided, written notice to the vehicle owner that: (i) he or she may require the insurer to pay for and the auto body shop to install "original equipment manufacturer parts" or "OEM parts" in the repair of a motor vehicle body replacement; or (ii) he or she may require the insurer to pay for and the auto body shop to install "non-original equipment manufacturer parts" (non-"OEM parts") in the repair of a motor vehicle body replacement. To comply with this provision, written notice may be provided on the appraisal written on behalf of the insurer.
- (F) An adjuster shall not require the use of aftermarket parts when negotiating repairs of vehicles which are less than thirty (30) months beyond the date of manufacture, unless written consent from the vehicle owner to install aftermarket parts has been obtained.
- (G) Whenever aftermarket parts are used for repairs to physically damaged motor vehicles, the following standards shall apply:
 - (1) The aftermarket parts shall be at least equal in kind and quality to the OEM parts in terms of fit, quality and performance;
 - (2) To the extent practical, an insurance company shall not require the use of multiple aftermarket parts distributors to provide parts for a single repair;
 - (3) Insurers specifying the use of aftermarket parts shall make allowances for the reasonable cost of any modifications to the aftermarket parts which may become necessary when making the repair, and for the cost of fitting, removing, and/or handling aftermarket parts which do not result in the vehicle being repaired to its condition prior to the loss;

- (4) If the aftermarket part specified by the insurer does not result in the vehicle being repaired to its condition prior to the loss, the insurer shall then specify the use of an OEM part;
 - (5) The automobile body shop shall promptly notify the appraiser if the aftermarket part specified by the insurer does not result in the vehicle being repaired to its condition prior to the loss and permit the appraiser to reinspect the vehicle and make appropriate supplemental authorizations, if necessary;
 - (6) The automobile body shop shall provide documentation of aftermarket parts, which do not meet the requirements of this section, as reasonably requested by the insurer. The insurer shall be permitted to exercise any available rights of recovery against the aftermarket parts distributor.
- (H) An adjuster shall not require that any insured or claimant use a particular rental car agency. In accordance with R.I. Gen. Laws § 27-9.1-4(17) adjusters are not precluded from providing the name(s) of Rhode Island licensed rental car agencies with which arrangements have been made with respect to rental services.
- (I) An adjuster shall not refuse to honor a ‘direction to pay’ executed by an insured or claimant to pay directly his or her motor vehicle replacement benefit, provided the rental agency is licensed in Rhode Island. In accordance with R.I. Gen. Laws § 27-9.1-4(18) the adjuster may question or challenge the amount charged in accordance with its policy.
- (J) (a) If the claimant or insured has elected to have a vehicle repaired at an auto body shop of the claimant or insureds choice, the adjuster may not:
- (1) Modify any published manual (i.e. motors, mitchells, or any automated appraisal system) relating to auto body repair unless there is prior agreement between the insurer and the owner of the vehicle to do so. The owner of the vehicle may delegate the ability to agree to modifications to an auto body repairer in writing.
 - (2) Refuse to include in the adjustment of the claim documented charges as identified through industry recognized software programs or systems for paint and refinishing materials in auto body repair claims;
 - (3) Fail to use a manual or system in its entirety in the adjustment of the claim;
 - (4) Limit or discount the reasonable repair costs based upon the charges that would have been incurred had the vehicle been repaired by the insurer's chosen shop(s).

- (b) Subsection J(a) does not apply to direct repair programs where an insurer and body shop have entered into a contract.
- (K) Where applicable, adjusters shall comply with the requirements of R.I. Gen. Laws § 31-46-1.1 regarding the classification of salvage vehicles.
- (L) Where applicable, adjusters shall comply with the provisions of the Child Support Interception Act pursuant to R.I. Gen. Laws § 27-57-1 *et seq.*
- (M) A licensed adjuster is subject to all applicable statutes including but not limited to R.I. Gen. Laws §§ 27-9.1-1 *et seq.* and 27-29-1 *et seq.* and the regulations promulgated thereunder.
- (N) A company or independent insurance adjuster's duties include determining the amount of money that an insurance company will pay for a motor vehicle damage claim. While a company or independent adjuster may rely upon the written appraisal in the settlement of the claim, an insurance adjuster cannot require an appraiser to either include or exclude damage on an appraisal provided however; the company or independent adjuster may provide the appraiser with information relating to damage unrelated to the incident or accident that occasioned the appraisal of the vehicle, or old damage, if the information to be provided by the company or independent adjuster is required to be included by the appraiser in the appraisal pursuant to R.I. Gen. Laws § 27-10.1-6.

Section 11 Conduct - Public Adjusters

In addition to the requirements of Section 9 above, all Public Adjusters must also comply with the following:

- (A) A person acting as a public adjuster shall not misrepresent to a claimant that he or she is an adjuster representing an insurer in any capacity, including acting as an employee of the insurer or acting as an independent adjuster unless so appointed by an insurer in writing to act on the insurer's behalf for that specific claim or purpose. A public adjuster is prohibited from charging that specific claimant a fee when appointed by the insurer and the appointment is accepted by the adjuster.
- (B) No public adjuster shall split any commission, service fee or other valuable consideration for performing adjusting services to any person unless that person is required to be licensed under R.I. Gen. Laws § 27-10-1 *et seq.*
- (C) In the event of a catastrophic disaster, there shall be limits on catastrophic fees. No public adjuster shall charge, agree to or accept as compensation or reimbursement any payment, commission, fee, or other thing of value equal to more than ten percent (10%) of any insurance settlement or proceeds. No public adjuster shall require, demand or accept any fee, retainer, compensation, deposit, or other thing of value, prior to settlement of a claim.

- (D) Public adjusters shall ensure that all contracts for their services are in writing and contain the following terms:
- (1) Legible full name of the adjuster signing the contract, as specified in Department records;
 - (2) Permanent home state business address and phone number;
 - (3) Department license number;
 - (4) Title of "Public Adjuster Contract";
 - (5) The insured's full name, street address, insurance company name and policy number, if known or upon notification;
 - (6) A description of the loss and its location, if applicable;
 - (7) Description of services to be provided to the insured;
 - (8) Signatures of the public adjuster and the insured;
 - (9) Date contract was signed by the public adjuster and date the contract was signed by the insured;
 - (10) Full salary, fee, commission, compensation or other considerations the public adjuster is to receive for services.
 - (11) The contract may specify that the public adjuster shall be named as a co-payee on an insurer's payment of a claim.
 - (a) If the compensation is based on a share of the insurance settlement, the exact percentage shall be specified.
 - (b) Initial expenses to be reimbursed to the public adjuster from the proceeds of the claim payment shall be specified by type, with dollar estimates set forth in the contract and with any additional expenses first approved by the insured.
 - (c) Compensation provisions in a public adjusting contract shall not be redacted in any copy of a contract provided to the Department upon request. Such a redaction shall constitute an omission of material fact.
- (E) If the insurer, not later than seventy-two (72) hours after the date on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured a policy coverage limit(s), the public adjuster shall, with respect to that coverage:

- (1) Not receive a commission consisting of a percentage of the total amount paid by an insurer to resolve a claim;
 - (2) Inform the insured that loss recovery amount might not be increased by insurer; and
 - (3) Be entitled only to reasonable compensation from the insured for services provided by the public adjuster on behalf of the insured, based on the time spent on a claim and expenses incurred by the public adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurer.
- (F) A public adjuster shall provide the insured a written disclosure concerning any direct or indirect financial interest that the public adjuster has with any other party who is involved in any aspect of the claim, other than the salary, fee, commission or other consideration established in the written contract with the insured, including but not limited to any ownership of, other than as a minority stockholder, or any compensation expected to be received from, any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop, or any other firm which provides estimates for work, or that performs any work, in conjunction with damages caused by the insured loss on which the public adjuster is engaged. The word “firm” shall include any corporation, partnership, association, joint-stock company or person.
- (G) A public adjuster contract may not contain any contract term that:
- (1) Allows the public adjuster’s percentage 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 collection costs or late fees; or
 - (4) Precludes any party from pursuing civil remedies.
- (H) Prior to the signing of the contract the public adjuster shall provide the insured with a separate disclosure document regarding the claim process that states:
- (1) Property insurance policies obligate the insured to present a claim to his or her insurance company for consideration. There are three (3) types of adjusters that could be involved in that process. The definitions of the three types are as follows:

- (a) “Company adjuster” means the insurance adjusters who are employees of an insurance company. They represent the interest of the insurance company and are paid by the insurance company. They will not charge you a fee.
 - (b) “Independent adjuster” means the insurance adjusters who are hired on a contract basis by an insurance company to represent the insurance company’s interest in the settlement of the claim. They are paid by your insurance company. They will not charge you a fee.
 - (c) “Public adjuster” means the insurance adjusters who do not work for any insurance company. They work for the insured to assist in the preparation, presentation and settlement of the claim. The insured hires them by signing a contract agreeing to pay them a fee or commission based on a percentage of the settlement, or other method of compensation.
- (2) The insured is not required to hire a public adjuster to help the insured meet his or her obligations under the policy, but has the right to do so.
 - (3) The public adjuster is not a representative or employee of the insurer.
 - (4) The salary, fee, commission or other consideration is the obligation of the insured, not the insurer.
- (I) The contract shall be executed in duplicate to provide an original contract to the public adjuster, and an original contract to the insured. The public adjuster's original contract shall be available at all times for inspection without notice by the Department.
 - (J) The public adjuster shall provide the insurer a notification letter, which has been signed by the insured, authorizing the public adjuster to represent the insured’s interest.
 - (K) The insured has the right to rescind the contract within three (3) business days after the date the contract was signed. The rescission shall be in writing and mailed or delivered to the public adjuster at the address in the contract within the three (3) business day period.
 - (L) If the insured exercises the right to rescind the contract, anything of value given by the insured under the contract will be returned to the insured within fifteen (15) business days following the receipt by the public adjuster of the cancellation notice.

- (M) A public adjuster who receives, accepts or holds any funds on behalf of an insured, towards the settlement of a claim for loss or damage, shall deposit the funds in a non-interest bearing escrow or trust account in a financial institution that is insured by an agency of the federal government in the public adjuster's home state or where the loss occurred.
- (N) A public adjuster shall maintain a complete record of each transaction as a public adjuster. The records required by this section shall include the following:
- (1) Name of the insured;
 - (2) Date, location and amount of the loss;
 - (3) Copy of the contract between the public adjuster and insured;
 - (4) Name of the insurer, amount, expiration date and number of each policy carried with respect to the loss;
 - (5) Itemized statement of the insured's recoveries;
 - (6) Itemized statement of all compensation received by the public adjuster, from any source whatsoever, in connection with the loss;
 - (7) A register of all monies received, deposited, disbursed, or withdrawn in connection with a transaction with an insured, including fees transfers and disbursements from a trust account and all transactions concerning all interest bearing accounts;
 - (8) Name of public adjuster who executed the contract; and
 - (9) Name of the attorney representing the insured, if applicable, and the name of the claims representatives of the insurance company.
- (O) A public adjuster is obligated, under his or her license, to serve with objectivity and complete loyalty to the interest of his client alone; and to render to the insured such information, counsel and service, as within the knowledge, understanding and opinion in good faith of the licensee, as will best serve the insured's insurance claim needs and interest.
- (P) A public adjuster shall not solicit, or attempt to solicit, an insured during the progress of a loss-producing occurrence, as defined in the insured's insurance contract.
- (Q) A public adjuster shall not permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required.

- (R) A public adjuster shall not have a direct or indirect financial interest in any aspect of the claim, other than the salary, fee, commission or other consideration established in the written contract with the insured, unless full written disclosure has been made to the insured as set forth in Sections 11(F) and/or (U) of this Regulation.
- (S) A public adjuster shall not acquire any interest in salvage of property subject to the contract with the insured unless the public adjuster obtains written permission from the insured after settlement of the claim with the insurer as set forth in Sections 11(F) and/or (U) of this Regulation.
- (T) The public adjuster shall abstain from referring or directing the insured to obtain needed repairs or services in connection with a loss from any person, unless disclosed to the insured:
 - (1) With whom the public adjuster has a financial interest; or
 - (2) From whom the public adjuster may receive direct or indirect compensation for the referral.
- (U) The public adjuster shall disclose to an insured if he or she has any interest or will be compensated by any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop or any other firm that performs any work in conjunction with damages caused by the insured loss. The word "firm" shall include any corporation, partnership, association, joint-stock company or individual.
- (V) Any compensation or anything of value in connection with an insured's specific loss that will be received by a public adjuster shall be disclosed by the public adjuster to the insured in writing including the source and amount of any such compensation.
- (W) A public adjuster shall not enter into a contract or accept a power of attorney that vests in the public adjuster the effective authority to choose the persons who shall perform repair work.
- (X) A public adjuster shall ensure that all contracts for the public adjuster's services are in writing and set forth all terms and conditions of the engagement.
- (Y) A public adjuster may not agree to any loss settlement without the insured's knowledge and consent.
- (Z) The contract entered into by a public adjuster shall not be construed to prevent an insured from pursuing any civil remedy after the three-business day revocation or cancellation period.

Section 12 License Denial, Non-Renewal or Revocation

- (A) The Department may place on probation, suspend, revoke or refuse to issue or renew an adjuster's license or may levy a civil penalty in accordance with R.I. Gen. Laws § 42-14-16 for any one or more of the following causes:
- (1) Failing to respond to any written inquiry (including electronic communications) from the Department within 21 calendar days of receipt of such inquiry.
 - (2) Providing incorrect, misleading, incomplete, or materially untrue information in the license application.
 - (3) Violating any insurance laws, or violating any regulation, subpoena, or order of the Department or of another state's insurance commissioner.
 - (4) Obtaining or attempting to obtain a license through misrepresentation or fraud.
 - (5) Improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business.
 - (6) Having been convicted of a felony.
 - (7) Having admitted or been found to have committed any insurance unfair trade practice or insurance fraud.
 - (8) Using fraudulent, coercive or dishonest practices; or demonstrating incompetence, untrustworthiness or financial irresponsibility in this state or elsewhere.
 - (9) Having an insurance license, or its equivalent, denied, suspended, or revoked in any other state, province, district or territory.
 - (10) Forging another's name to any document.
 - (11) Cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license.
 - (12) Failing to comply with an administrative or court order imposing a child support obligation.
 - (13) Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.
- (B) In the event that the action by the Department is to deny an application for or not renew a license, the Department shall notify the Applicant or licensee, in writing, of the reason for the non-renewal or denial of the license. The Applicant or licensee may make written demand upon the Department within ten days for a hearing before the Department to determine the reasonableness of the

Department's action. The hearing shall be held pursuant to R.I. Gen. Laws §§ 42-35.

- (C) The license of a business entity may be suspended, revoked or refused if the Department finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and the violation was neither reported to the Department nor corrective action taken.
- (D) In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a fine and/or any other appropriate remedies according to R.I. Gen. Laws § 42-14-16.
- (D) The Department shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by R.I. Gen. Laws §§ 27-10-1 *et seq.*, 42-14-16 and/or this Regulation against any person who is under investigation for or charged with a violation even if the person's license or registration has been surrendered or has lapsed by operation of law.

Section 13 Reporting of Actions

- (A) The adjuster shall report to the Department any administrative action taken against the adjuster in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents.
- (B) Within thirty (30) days of the initial pretrial hearing date, the adjuster shall report to the Department any criminal prosecution of the adjuster taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

Section 14 Severability

If any provision of this Regulation or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this Regulation which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Regulation are severable.

Section 15 Effective Date

This Regulation shall be effective as indicated below.

EFFECTIVE DATE:	February 19, 1988
REFILED:	December 19, 2001
AMENDED:	March 27, 2006
AMENDED:	June 3, 2008
AMENDED:	January 1, 2015