

# **New Jersey Statutes - Title 17 Corporations and Institutions for Finance and Insurance - 17:22B-1 Short title**

## **17:22B-1. Short title**

1. This act shall be known and may be cited as the "Public Adjusters' Licensing Act."

L.1993,c.66,s.1.

## **17:22B-2. Definitions**

2. As used in this act:

"Commissioner" means the Commissioner of Insurance.

"Department" means the Department of Insurance.

"Public adjuster" or "adjuster" means any individual, firm, association or corporation who, or which, for money, commission or any other thing of value, acts or aids in any manner on behalf of an insured in negotiating for, or effecting, the settlement of claims for loss of damage caused by, or resulting from, any accident, incident, or occurrence covered under a property insurance policy, including, but not limited to, a flood, transit, inland marine or ocean marine policy; or who, or which, advertises for, or solicits employment as an adjuster of those claims. The term "public adjuster" shall also include any individual who, for money, commission or any other thing of value, solicits or adjusts those claims on behalf of any public adjuster.

L.1993,c.66,s.2.

## **17:22B-3. License required for adjuster**

3. a. No individual, firm, association or corporation shall act as an adjuster in this State unless authorized to do so by virtue of a license issued or renewed pursuant to this act.

b. No adjuster shall act on behalf of an insured unless licensed as a public adjuster.

c. The holder of a license under this act may act as an adjuster without any other license.

L.1993,c.66,s.3.

## **17:22B-4. Nonapplicability of act**

4. a. Nothing contained in this act applicable to public adjusters shall apply to any employee, agent, or other representative of any authorized insurer who acts in that capacity in the adjustment of claims, nor to any licensed insurance producer who is designated by the insurer to

act as an adjuster for a client of the producer without any compensation for those services as adjuster. No insurer's representative and no licensed insurance producer shall advertise or publicly solicit the adjustment of claims in a manner likely to mislead the public into believing that he is offering his services as a public adjuster.

b. Nothing contained in this act shall apply to:

(1) any licensed attorney of this State who acts or aids in adjusting insurance claims as an incident to the practice of his profession and who does not advertise himself as a public adjuster;

(2) any licensed insurance producer who acts as an adjuster with respect to any loss involving insurance contracts under which he was the broker of record in placing the insurance, whether or not designated in writing to act for the insured;

(3) any other duly licensed producer who has been designated to act for the insured in writing before a loss occurs; or

(4) an auto body repair facility licensed pursuant to P.L.1983, c.360 (C.39:13-1 et seq.) that acts or aids in adjusting a motor vehicle insurance claim as an incident to the performance of duties for which it is licensed.

L.1993,c.66,s.4.

#### **17:22B-5. Issuance of license**

5. The commissioner may issue a public adjuster's license to any individual, firm, association or corporation, hereinafter designated as the licensee, who, or which, is trustworthy and competent to act as an adjuster in a manner as to safeguard the interests of the people of this State and who, or which, has complied with the prerequisites herein prescribed. A license issued to a corporation may name as sublicensees only the officers and directors of the corporation, and a license issued to a firm or association may name as sublicensees only the individual members of the firm or association. Each sublicensee named in the license issued to a firm, association or corporation shall be qualified to obtain a license as a public adjuster and for each sublicensee a fee shall be paid at the times and at the rate hereinafter specified. Each sublicensee shall be authorized, pursuant to the license, to act as a public adjuster only on behalf of the licensee.

L.1993,c.66,s.5.

#### **17:22B-6. Application requirements**

6. a. Before any license or any renewal thereof shall be issued by the commissioner, there shall be filed in his office a written application therefor. The application shall be in the form prescribed by the commissioner and shall contain information as he may require.

b. Each individual applicant and proposed sublicensee signing an application shall submit to the commissioner, together with the application: (1) his photograph, in duplicate, in passport size;

and (2) fingerprints of his two hands taken on standard fingerprint cards by a State or municipal law enforcement agency. No license shall be issued to any person who has ever been convicted of an indictable offense, or of any crime or offense involving fraud or dishonesty; nor shall a licensee under this act employ any person who has ever been convicted of an indictable offense or a crime or offense as aforesaid. The provisions of this act shall not prevent the employment of, or the issuance of a license to, any person who, subsequent to his conviction, shall have made an application for a license under and complied with the provisions of P.L.1968, c.282 (C.2A: 168A-1 et seq.). The commissioner is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police in the Department of Law and Public Safety for use in making the determinations required by this subsection.

c. The commissioner may require an applicant for a license to present evidence of a State tax identification number.

d. The commissioner may require an applicant for a license to present evidence, in the form he may prescribe, that the applicant has been employed for a period which he deems reasonable, by an insurer, an independent adjuster or a public adjuster, in the performance of duties which in his opinion would provide the applicant with satisfactory preliminary training for the duties and responsibilities which would devolve upon him as a licensee under this act.

L.1993,c.66,s.6.

**17:22B-7. Written examination**

7. a. The commissioner shall require every individual applicant and each sublicensee to take and pass a written examination to his satisfaction, except in the case of a renewal license, in order to determine the competency of the applicant or sublicensee to act as a public adjuster. The commissioner is authorized to enter into contracts with private vendors that are reasonable and necessary in regard to examinations.

b. The commissioner may, in his discretion and on terms he may prescribe, dispense with the examination in the case of any individual applicant or proposed sublicensee who:

(1) holds a license as a public adjuster issued by another state in which the licensing provisions of public adjusters are substantially similar to the provisions of this act and which similarly recognizes and accepts public adjusters licensed in New Jersey; or

(2) previously has operated a public adjusting business in this State.

L.1993,c.66,s.7

**17:22B-8. License granted without examination, prior experience**

8. a. Upon payment of the prescribed fee as provided in this act, a person who has been employed as or acted as a public adjuster as his principal business for a period of five years

immediately prior to the effective date of this act, and who has demonstrated his trustworthiness and competence to act as an adjuster to the satisfaction of the commissioner, shall be granted a license without examination.

b. Application for a license without examination pursuant to this section shall be made to the commissioner within 12 months of the effective date of this act and shall be accompanied by a sworn statement:

- (1) Describing the experience of the applicant as a public adjuster; and
- (2) Containing other information as may be required by the commissioner.

L.1993,c.66,s.8.

**17:22B-9. License fees**

9. For applications made during the first year of operation of this act, there shall be paid to the commissioner by each individual applicant and by each proposed sublicensee a fee of \$300 for an initial license term of four years. Thereafter, the commissioner may adjust the amount of the license fee to produce revenues sufficient to support the regulatory obligations imposed on the department by this act. The commissioner may also prescribe by rule or regulation the term of all public adjuster licenses. The commissioner shall refund to the applicant or proposed sublicensee the fee paid if the application is denied.

L.1993,c.66,s.9.

**17:22B-10. License renewal**

10. Every adjuster's license issued pursuant to this act may be renewed upon the filing of an application in conformity with section 6 of this act.

L.1993,c.66,s.10.

**17:22B-11. Issuance of supplemental, temporary licenses**

11. a. Any firm, association, or corporation licensed as an adjuster under this act may at any time apply to the commissioner for the issuance of a supplemental license authorizing additional officers or directors of the corporation or additional members of the firm or association, as the case may be, to act as sublicensees and, if the requirements of this act are fully complied with as to each of the proposed sublicensees, the commissioner may thereupon issue to the licensee a supplemental license naming the additional persons as sublicensees.

b. (1) A license as a temporary sublicensee may be issued in the discretion of the commissioner for a 90-day period on the occasion of a catastrophic loss occurrence. An applicant for a license as a temporary sublicensee shall be sponsored by and work directly under the supervision of a licensed public adjuster. The temporary sublicensee shall be an agent of the sponsoring public adjuster, who shall bear full responsibility that the temporary sublicensee shall comply with this act and any rules or regulations promulgated hereunder.

(2) Proper application and a fee of \$150 shall be required for license as a sublicensee pursuant to this subsection. A license as a temporary sublicensee pursuant to this subsection may be renewed for an additional 90-day period upon payment of an additional \$150 fee.

(3) Information regarding adequate competency of the temporary sublicensee as a public adjuster shall be required by the commissioner.

(4) For the purposes of this subsection, "catastrophic loss occurrence" means an occurrence designated by the President of the United States or the Federal Emergency Management Agency, or the Governor of New Jersey or the State Office of Emergency Management in the Division of State Police in the Department of Law and Public Safety, or any other authorized federal, State or local agency, as an emergency or a disaster and includes, but is not limited to, a flood, hurricane, storm or earthquake.

L.1993,c.66,s.11.

**17:22B-12. Bond required for licensure**

12. No adjuster's license or renewal license shall be issued to an applicant unless there shall be on file with the commissioner a bond, executed by the applicant and by approved sureties, in the penal sum of \$10,000 applicable to the licensee and each of the sublicensees named in the license. The bond shall be approved as to form by the Attorney General and as to sufficiency of security by the commissioner. The bond shall be made to the State of New Jersey for the use and benefit of any person injured by a willful, malicious or wrongful act by an adjuster in connection with the transaction of his or its business as an adjuster.

L.1993,c.66,s.12.

**17:22B-13. Prohibited practices**

13. No individual, firm, association or corporation licensed under this act shall:

a. enter into any agreement, oral or written, with an insured to negotiate or settle claims for loss or damage occurring in this State between the hours of six p.m. and eight a.m. during the 24 hours after the loss has occurred;

b. have any right to compensation from any insured for or on account of services rendered to an insured as a public adjuster unless the right to compensation is based upon a written memorandum, signed by the party to be charged and by the adjuster, and specifying or clearly defining the services to be rendered and the amount or extent of the compensation on a form and with such language as the commissioner may prescribe;

c. induce cancellation of a duly executed written memorandum between an insured and a public adjuster;

d. make any misrepresentation of facts or advise any person on questions of law in connection with the transaction of business as an adjuster; or

e. receive, accept or hold any moneys towards the settlement of a claim for loss or damage on behalf of an insured unless the public adjuster deposits the moneys in an interest bearing escrow account in a banking institution or savings and loan association in this State insured by an agency of the federal government. Any funds held in escrow together with interest accumulated thereon shall be the property of the insured until disbursement thereof pursuant to a written memorandum, signed by the insured and by the adjuster, specifying or clearly defining the services rendered and the amount of any compensation to be paid therefrom. In the event of the insolvency or bankruptcy of a public adjuster, the claim of an insured for any settlement moneys received, accepted or held by the adjuster shall constitute a statutory trust.

L.1993,c.66,s.13.

**17:22B-14. Refusal to issue or renew license, revocation; conditions**

14. a. The commissioner may refuse to issue or renew a license, or suspend or revoke any adjuster's license if, after notice and opportunity for a hearing pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner determines that the licensee, or any sublicensee named in the license:

(1) Has violated any provision of the insurance law, including any rules promulgated by the commissioner, or has violated any law in the course of his, or its, dealings as an adjuster;

(2) Has withheld material information or made a material misstatement in the application for the license;

(3) Has committed a fraudulent or dishonest act;

(4) Has demonstrated his, or its, incompetency, lack of integrity, bad faith, dishonesty, financial irresponsibility or untrustworthiness to act as an adjuster; or

(5) Has aided, abetted or assisted another person in violating any insurance law of this State.

b. Any person aggrieved may file with the commissioner a verified complaint setting forth facts showing sufficient grounds for the suspension or revocation of any adjuster's license. Upon the filing of the complaint, the commissioner shall determine whether the license shall be suspended or revoked.

L.1993,c.66,s.14

**17:22B-15. One-year waiting period after revocation**

15. No individual, firm, association or corporation whose license has been so revoked, and no firm or association of which the individual is a member, and no corporation of which the

individual is an officer or director, shall be entitled to any license or renewal license, or to be named as sublicensee in any license or renewal license under this act, for a period of one year after the revocation, or if the revocation is judicially reviewed, for one year after the final determination of the judicial proceeding affirming the action of the commissioner in revoking the license. If any license held by a firm, association or corporation is so revoked, no member of the firm or association and no officer or director of the corporation shall be entitled to a license or to be named as sublicensee in a license for the same period of time unless the commissioner finds that the member or officer or director, as the case may be, was not personally at fault in the matter on account of which the license was revoked.

L.1993,c.66,s.15.

**17:22B-16. Notice to applicant of rejection, suspension or revocation**

16. If an application for a license under this act is rejected, or if any license is suspended or revoked by the commissioner, he shall forthwith give notice to the applicant, or to the licensee or sublicensee, as the case may be.

L.1993,c.66,s.16.

**17:22B-17. Violations; civil penalties**

17. Any person violating any provision of this act shall, in addition to any other sanctions provided by law, be liable to a civil penalty of not more than \$2,500 for the first offense and not more than \$5,000 for the second and each subsequent offense. For the purposes of this section, each transaction or statutory violation shall constitute a separate offense. In lieu of an administrative proceeding or in an action in the Superior Court, the commissioner may bring an action for the collection or enforcement of civil penalties for the violation of any provision of this act or any regulation promulgated pursuant hereto. The action may be brought in a summary manner, pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq. Process in the action may be by summons or warrant and in the event that the defendant in the action fails to answer the action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant's arrest in order to bring the person before the court to satisfy the civil penalties imposed. In any action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice. Any action alleging the unlicensed practice of public adjuster shall be brought pursuant to this section in the Superior Court. In any action brought pursuant to this act, the commissioner or the court may order the payment of costs for the use of the State.

L.1993,c.66,s.17.

**17:22B-18. Additional fees**

18. a. The commissioner shall set reasonable, necessary and appropriate fees, other than licensure fees under section 9 of this act, to effectuate the purposes of this act.

b. Applicants may be charged a fee for any licensing examination conducted pursuant to this act in an amount designated or approved by the commissioner.

c. All fees payable to the commissioner pursuant to this section are nonrefundable.

d. The commissioner may provide for the waiving of any fees for disabled war veterans of the United States military service.

L.1993,c.66,s.18.

**17:22B-19. Licenses remain property of State**

19. a. All licenses shall at all times be the property of the State of New Jersey and upon any suspension, revocation, refusal to renew, expiration or other termination shall no longer be in force and effect. Upon any suspension, revocation or other termination of a license, the licensee or other person having possession or custody of the license shall immediately deliver it to the commissioner by personal delivery or by registered or certified mail.

b. If a license is lost, stolen or destroyed, the commissioner may accept in lieu of the return of the license the affidavit of the licensee or other person or persons responsible for the license, stating the facts of that loss, theft or destruction.

L.1993,c.66,s.19.

**17:22B-20. Rules, regulations**

20. The commissioner may promulgate any rules and regulations as may be necessary to effectuate the purposes of this act pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.).

L.1993,c.66,s.20.