



October 29, 2024

National Association of Insurance Commissioners  
444 North Capitol Street NW, Suite 700  
Washington, D.C. 20001  
via email: [tmullen@naic.org](mailto:tmullen@naic.org)

Dear Chairman Deiter, and Members of the NAIC Producer Licensing (D) Task Force:

**RE: Comments on the Public Adjusting Model Act**

Thank you for allowing us this opportunity to address the Producer Licensing Task Force with a few remaining issues with the Public Adjuster Model Act. We appreciate the work on this Act thus far by Commissioner Navarro and the members of the Public Adjuster Model Act Task Force.

The remaining issues that were the subject of the last set of comments sent by the AAPIA and many other members of the industry (the letters from late August 2024) are a request to keep optional the limitation on public adjusting fees, a request to re-word a broad restriction on advertising, and a request to add a grace period of 30 days to obtain a resident license when moving a public adjuster's home state from one state to another, among other issues.

**Fees:** AAPIA has attached a draft with suggested language on the fee issue, consistent with our previous suggestions, and those of the other industry associations. We have also attached a state map of the country which illustrates which states have fee caps on non-catastrophic losses, and the amounts of such caps, as a convenient point of reference for the committee. You will see from the map that the vast majority—about 70% of states—do not have a cap on fees on non-catastrophic losses, and of those that do, the amount of such cap varies from state to state.

As seen by the variations in the map, a uniform approach may not suit all markets, and the flexibility of an “optional” provision would provide guidance, while allowing all states to maintain their current laws.

**Advertising**

The current wording in the draft regarding advertising requires amendment to avoid creating unintended restrictions on communication with consumers. The existing provision, "*A public adjuster shall not advertise or infer damage unless an inspection of the property has been completed,*" poses significant challenges. We propose replacing this language with the following:



AMERICAN ASSOCIATION  
of PUBLIC INSURANCE ADJUSTERS

*"(8) It is an unfair and deceptive insurance trade practice for a public adjuster or any other person to circulate or disseminate any advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance which is untrue, deceptive, or misleading. The following statements, made in any public adjuster's advertisement or solicitation, are considered deceptive or misleading: A statement or representation that invites an insured policyholder to submit a claim when the policyholder does not have damage to insured property."*

The suggested language more accurately targets deceptive practices while allowing legitimate communications with consumers.

**Licensing:** Inconsistencies in licensing rules across states present a substantial challenge for public adjusters who need to move their primary residence from one state to another. Our goal is to align these regulations with those for producer licensing to streamline the process and reduce the administrative burden on both public adjusters and insurance regulators. We would like to add a grace period of 30 days when moving from one reciprocal state to another in which to transfer the resident license to the new state.

We and the other industry representatives who are submitting comments and/or speaking at the upcoming meeting are equally committed to ensuring that the final legislation is both fair and effective. We believe that addressing these issues is essential to protecting consumers and supporting the vital work of public adjusters.

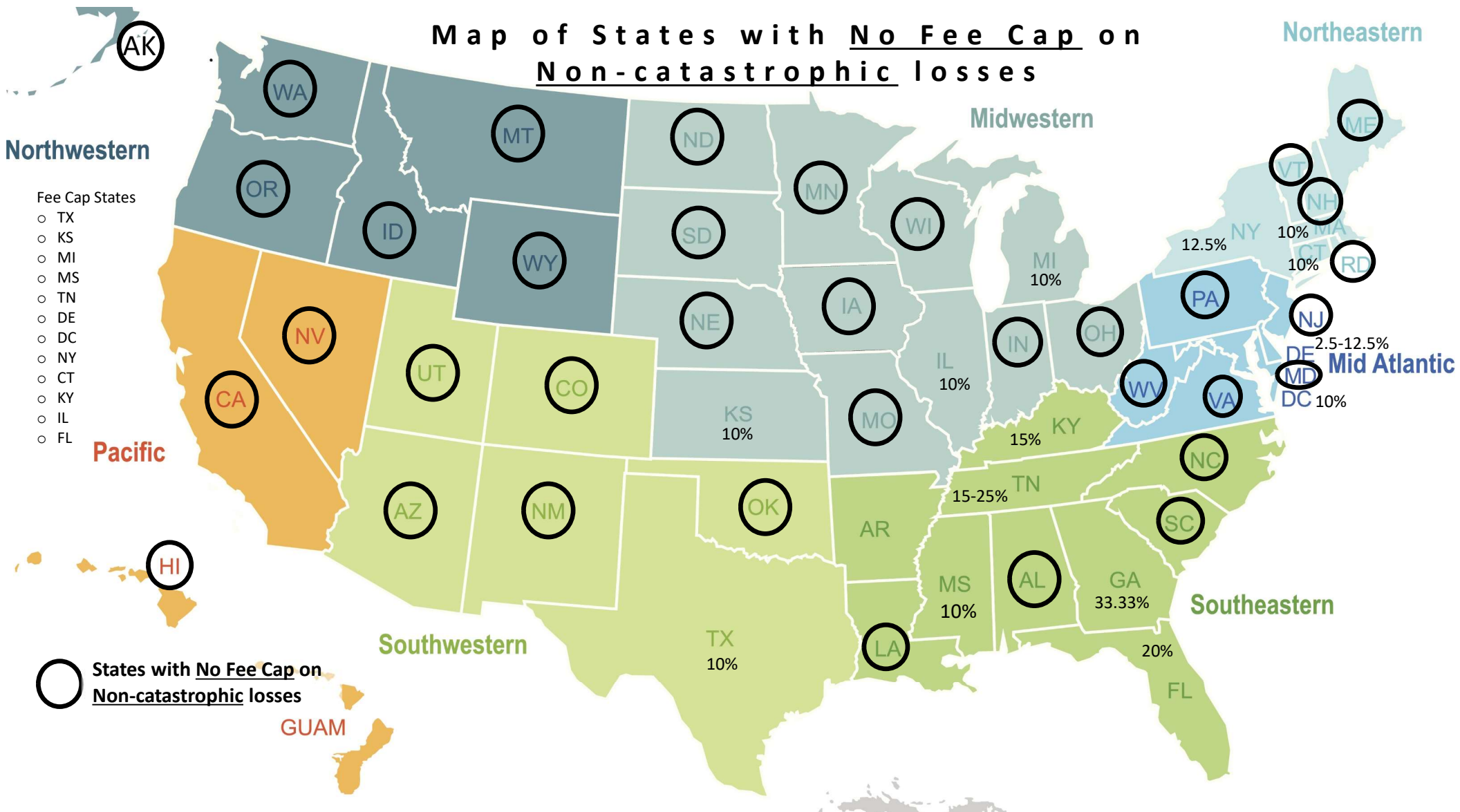
Again, we appreciate the opportunity to provide our comments and look forward to continued collaboration in refining the Public Adjusting Model Act.

Thank you for your consideration.  
Respectfully,

*Holly K Soffer*

Holly K. Soffer, Esq., counsel AAPIA

# Map of States with No Fee Cap on Non-catastrophic losses



# Proposed Amendment to Model Act Draft Dated 6/18/2024

## PUBLIC ADJUSTER LICENSING MODEL ACT

### Table of Contents

Section 14. Public Adjuster Fees

### Section 14. Public Adjuster Fees

- A. [Optional] A public adjuster may charge the insured a reasonable fee as determined by state law [insert appropriate reference to state law or regulation].

**Drafting Note:** This model designates Section 14A as optional. A majority of the states do not require a cap on fees of public adjusters, and those that do have varying fee amounts.

- B. A public adjuster shall not pay a commission, service fee or other valuable consideration to a person for investigating or settling claims in this state if that person is required to be licensed under this Act and is not so licensed.
- C. A person shall not accept a commission, service fee or other valuable consideration for investigating or settling claims in this state if that person is required to be licensed under this Act and is not so licensed.
- D. A public adjuster may pay or assign commission, service fees or other valuable consideration to persons who do not investigate or settle claims in this state, unless the payment would violate [insert appropriate reference to state law, i.e. citation to anti-rebating statute or sharing commission statute, if applicable].
- E. [Optional] 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.

**Drafting Note:** This model designates Section 14E, as optional. It is recommended that the states that establish catastrophic fees utilize the recommended language in this model.