

PROJECT HISTORY – 2005

PUBLIC ADJUSTER LICENSING MODEL ACT (#228)

1. Description of the Project, Issues Addressed, etc.

The Public Adjuster Licensing Model Act provides the basic regulatory framework for the qualifications and procedures for the licensing of Public Adjusters. The model statute specifies the duties of and restrictions on public adjusters, which include limiting their licensure to assisting insureds in first party claims.

2. Name of Group Responsible for Drafting the Model and States Participating

The Producer Licensing Working Group of the Market Regulation and Consumer Affairs (D) Committee was responsible for drafting the model act. Gene Reed (DE), Laurie Wolf (ND) and Jack Chaskey (NY) co-chaired the working group. The following states were members of the working group: Alaska, Arizona, Arkansas, California, Colorado, Connecticut, District of Columbia, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

To help facilitate the drafting process, the Producer Licensing Working Group appointed the Uniform Adjuster Licensing Model Act Subgroup. Gene Reed (DE) and Treva Wright-Donnell (KY) co-chaired this subgroup. The subgroup was comprised of the following states: Alaska, District of Columbia, Illinois, Indiana, Louisiana, Michigan, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, and Utah.

3. Project Authorized by What Charge and Date First Given to the Group

The charge for the Producer Licensing (D) Working Group reads as follows: “Appoint a working group to develop and implement uniform standards, interpretations and treatment of producer licensees and licensing terminology; coordinate and consult with the National Insurance Producer Registry Board of Directors to develop and implement uniform producer licensing initiatives, with a primary emphasis on encouraging the use of electronic technology; develop a Uniform Adjuster Licensing Model Act; and monitor and respond to developments related to licensing reciprocity.” The group first received the charge for the Public Adjuster Model Act in March 2003.

4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated

The drafting process was open to comments and participation by all interested parties. Representatives from the insurance producer industry participated fully in the process and discussion sessions. All revised drafts of the model were circulated for public comment. Comments were received on each draft of the model and considered by the subgroup in open conference calls and meetings. The subgroup received and reviewed numerous comments from interested parties. The process resulted in a total of 19 revised drafts.

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited)

Copies of every draft were posted on the NAIC website or distributed by e-mail along with the solicitation for public comment. The Producer Licensing (D) Working Group adopted this model on May 22, 2005.

6. A Discussion of the Significant Issues (items of some controversy raised during the due process and the group’s response)

Industry representatives expressed concerns about the proposed cap on fees. In response, several surveys were distributed to the states to determine existing state caps on fees. Many states do not impose a fee limit; however, the states do have a fee limit preferred to have a fee limit established in the model. As a compromise, section 14 of the model act specifies “a public adjuster may charge the insured a reasonable fee as determined by state law.” Additionally, the model act specifies that section 14 is optional.

The initial drafts of the model act included a section on Duties of Insurer, which included the insurer's duty to verify the licenses status of a public adjuster. Industry representatives indicated this requirement puts an undue burden upon the insurer. This section also included a mandate that the insurer issue all checks to the insured and public adjuster. It was later recognized that legitimate situations could arise in which the insurer issues a check to a party other than the insured and public adjuster outside of these two parties. In response, the subgroup agreed to remove this section from the model.

Finally, there was a proposed Apprentice Public Adjuster License section. A survey was conducted to determine what states had an apprentice program in place for adjusters. Based on state responses, the subgroup agreed to list this section as optional.

7. Any Other Important Information (e.g., amending an accreditation standard).

Pam Young from AIA brought up an issue after the model was adopted, relative language in section 15 of the PA Model Act. The language restricted the Insurers ability to contact the Insured, after a contract was executed between the Insured and the Public Adjuster. AIA proposed striking the language, the subcommittee chairs agreed that this restriction was not the groups intent. This change was vetted to Regulators, National Association of Public Insurance Adjusters (NAPIA), and American Association of Public Insurance Adjusters (AAPIA) who also agreed to striking the language.

Section 15. Contract Between Public Adjuster and Insured (**Page 14 of PA Model Act #19**)

F. (1) (c) (3) The insured has the right to initiate direct communications with the insured's attorney, the insurer, the insurer's adjuster, and the insurer's attorney, or any other person regarding the settlement of the insured's claim.

This model will assist industry in complying with the licensing requirements for public adjusters. The development of the model was based upon the NAIC's Producer Licensing Model Act.