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INSURANCE CODE - INS

DIVISION 5. INSURANCE ADJUSTERS [14000 - 16032] (*Division 5 added by Stats. 1980, Ch. 1190, Sec. 11.*)

CHAPTER 2. Public Insurance Adjusters Act [15000 - 15062] (*Chapter 2 added by Stats. 1985, Ch. 1202, Sec. 1.*)

ARTICLE 3. Regulation, Licensing, and Registration [15006 - 15032] (*Article 3 added by Stats. 1985, Ch. 1202, Sec. 1.*)

15006. (a) No person shall engage in a business regulated by this chapter, or act or assume to act as, or represent himself or herself to be, a licensee unless he or she is licensed under this chapter. Any person who violates this subdivision shall, in addition to any other penalties provided by law, be liable to the state for a civil penalty in an amount not exceeding ten thousand dollars (\$10,000), or if that violation is willful, in an amount not exceeding twenty-five thousand dollars (\$25,000). The penalty shall be assessed and recovered in a civil action brought by the commissioner in a court of competent jurisdiction in the name of the people of the State of California.

(b) Any contract for services regulated by this chapter that is entered into by an insured with any person who is in violation of subdivision (a) may be voided at the option of the insured, and the insured shall not be liable for the payment of any past services rendered, or future services to be rendered, by that person under that contract or otherwise.

(c) Whenever it appears to the commissioner that any person is engaging in acts or practices in violation of subdivision (a), the commissioner may, without any requirement of notice or hearing, issue and cause to be served upon that person an order requiring that person to cease and desist immediately from engaging further in those acts or practices.

(d) Any person who fails to comply fully with an order of the commissioner issued under subdivision (c) shall be liable to the state for a civil penalty in an amount not exceeding one hundred dollars (\$100) per day for each and every day that the violation or failure to comply continues, but in no event to exceed a maximum amount of five thousand dollars (\$5,000). The commissioner shall collect the amount so payable and may bring an action in a court of competent jurisdiction in the name of the people of the State of California to enforce collection. This penalty is in addition to any other penalties provided by law.

(e) The powers vested in the commissioner by this section are in addition to any and all other powers and remedies vested in the commissioner by law, and nothing herein shall be construed as requiring the commissioner to employ the powers conferred in this section instead of or as a condition precedent to the exercise of any other power or remedy vested in the commissioner.

(Amended by Stats. 2004, Ch. 600, Sec. 1. Effective January 1, 2005.)

15007. A public insurance adjuster within the meaning of this chapter is 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.

(Added by Stats. 1985, Ch. 1202, Sec. 1.)

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

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

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

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

(d) A person who settles subrogation claims between insurers.

(Amended by Stats. 2016, Ch. 833, Sec. 5. (SB 488) Effective January 1, 2017.)

15009. An application for a license under this chapter shall be on a form prescribed by the commissioner and accompanied by the application fee provided by this chapter. Every applicant for a license under this chapter shall comply with the provisions of Section 1703.

(Added by Stats. 1985, Ch. 1202, Sec. 1.)

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

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

(c) An applicant licensed as a public insurance adjuster in another state is exempt from completing a preclicensing education course to apply for a California public insurance adjuster license if, at the time of application, the applicant's out-of-state license is current or was canceled within 90 calendar days.

(Added by Stats. 2016, Ch. 833, Sec. 6. (SB 488) Effective January 1, 2017.)

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

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

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

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

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

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

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

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

(Amended by Stats. 2016, Ch. 833, Sec. 7. (SB 488) Effective January 1, 2017.)

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

(a) Be at least 18 years of age.

(b) Shall not have committed acts or crimes constituting grounds for denial of licensure under Section 1668 or 1669.

(c) Shall have at least two years' experience in the handling of loss claims under insurance contracts as determined by regulations adopted by the commissioner, and be competent to transact business and discharge the responsibilities of a public insurance adjuster in a manner as to safeguard the interests of the public. A person who has been licensed as an apprentice public insurance adjuster, as set forth in Section 15016, for 12 full months, shall be considered to have met the two-year experience requirement.

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

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

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

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

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

(i) Comply with any requirement to file supplementary documents, affidavits, and statements as may be necessary to obtain a full disclosure of the information that will aid the commissioner in determining whether the prerequisites for the license have been met.

(Amended by Stats. 2016, Ch. 833, Sec. 8. (SB 488) Effective January 1, 2017.)

15012. The license issued by the commissioner shall include, but not be limited to, adjusting claims for fire and allied coverages, burglary, flood, and all property claims both real and personal, and loss of income.

(Added by Stats. 1985, Ch. 1202, Sec. 1.)

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

- (a) The examination shall be prescribed by the commissioner and shall be of sufficient scope to reasonably test the applicant's knowledge, among other things, of basic insurance theory, essential elements of contracts, technical competence in the handling of the various lines for which the applicant is being tested, claims ethics and knowledge of the Unfair Practices Act, and the duties and responsibilities of public insurance adjusters under the law.
- (b) The examination shall be given to applicants under the supervision of the department or the department's examination contractor and shall be in written form.
- (c) The commissioner shall, within a reasonable period of time, not to exceed 30 days, transmit the results of the examination and action taken on the application to the applicant.
- (d) In the event an applicant who is otherwise qualified fails the examination, the commissioner may administer a reexamination.
- (e) The examination shall be given at those times and places within the state as the commissioner deems reasonably necessary to serve the convenience of the department and applicants.

(Amended by Stats. 2016, Ch. 833, Sec. 9. (SB 488) Effective January 1, 2017.)

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

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

- (1) The applicant shall submit, with an application for an initial apprentice public insurance adjuster license, an attestation or certification from a licensed public insurance adjuster assuming responsibility for all actions of that applicant.
- (2) The apprentice public insurance adjuster is authorized to adjust claims only in California.
- (3) The applicant is required to qualify under subdivisions (a) and (b) of Section 15011.
- (4) The applicant is required to pay a license fee of one hundred dollars (\$100).
- (5) The applicant is required to comply with any requirement to file supplementary documents, affidavits, and statements as may be necessary to obtain a full disclosure of the information that will aid the commissioner in determining whether the prerequisites for the license have been met.
- (6) The apprentice public insurance adjuster shall not be required to take and successfully complete the prescribed public insurance adjuster examination.
- (7) The licensee shall at all times be an employee of a public insurance adjuster and be subject to training, direction, and control by a licensed public insurance adjuster.
- (8) The apprentice public insurance adjuster license is for a period not to exceed 12 months, and the license shall not be renewed.
- (9) The licensee is restricted to participation in factual investigation, tentative closing, and solicitation of losses subject to the review and final determination of a licensed public insurance adjuster.
- (10) The licensee shall be subject to suspension, revocation, or conditions in accordance with Section 1668.
- (11) The applicant shall submit two photographs, not older than six months, of the applicant, of a type prescribed by the commissioner, and one classifiable set of his or her fingerprints, to be sent to a live scan fingerprint provider as directed by the department, if fingerprints are not submitted in person with a live scan fingerprinting service provider certified by the Department of Justice.
- (12) The apprentice public insurance adjuster shall complete the 20-hour preclicensing education course of study as defined in Section 15009.1 during the license period.

(Repealed and added by Stats. 2016, Ch. 833, Sec. 12. (SB 488) Effective January 1, 2017.)

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

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

- (1) The person is currently licensed in good standing as a public insurance adjuster in his or her home state.
- (2) The person has paid the fees required by Section 15060.
- (3) The person has provided proof of financial responsibility as required by Section 15033.
- (4) The individual has submitted to the commissioner the completed application for licensure.
- (5) The person's home state awards nonresident public insurance adjuster licenses to residents of California on the same basis.

(Amended by Stats. 2016, Ch. 833, Sec. 13. (SB 488) Effective January 1, 2017.)

15018. After a hearing, the commissioner may deny a license unless the applicant makes a showing satisfactory to the commissioner that the applicant has not:

- (a) Committed any acts or crimes constituting grounds for denial of license under Section 1668.
- (b) Been refused a license under this chapter or had a license revoked.
- (c) While unlicensed, committed, aided or abetted the commission of any acts for which a license is required in this chapter.
- (d) Been convicted of any crime or wrongdoings in connection with this license.

(Added by Stats. 1985, Ch. 1202, Sec. 1.)

15018.5. The commissioner may, without hearing, deny an application if the applicant has committed any act or been convicted of a crime constituting grounds for denial of license under Section 1669.

(Added by Stats. 2005, Ch. 448, Sec. 13. Effective January 1, 2006.)

15019. Whenever a hearing is held under this chapter to determine whether an applicant for a license should be granted or to determine the qualifications of a licensee, the proceeding shall be conducted in accordance with Chapter 5 (commencing with Section 11501) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein.

(Added by Stats. 1985, Ch. 1202, Sec. 1.)

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

(Amended by Stats. 2016, Ch. 833, Sec. 14. (SB 488) Effective January 1, 2017.)

15021. The license shall at all times be posted in a conspicuous place in the principal place of business of the licensee.

(Added by Stats. 1985, Ch. 1202, Sec. 1.)

15022. Upon the issuance of a license, a pocket card of that size, design, and content as may be determined by the commissioner shall be issued without charge to each licensee.

(Added by Stats. 1985, Ch. 1202, Sec. 1.)

15023. A license issued under this chapter is not assignable.

(Added by Stats. 1985, Ch. 1202, Sec. 1.)

15024. Each licensee shall file with the commissioner the complete address of his or her principal place of business including the name and number of the street, or if the street where the business is located is not numbered, the number of the post office box. The commissioner may require the filing of other information for the purposes of identifying that principal place of business.

(Added by Stats. 1985, Ch. 1202, Sec. 1.)

15025. A licensee shall within 30 days of the change notify the department of any change of his or her address. The principal place of business may be at home or at a business address but it shall be the place at which the licensee maintains a permanent office.

(Added by Stats. 1985, Ch. 1202, Sec. 1.)

15026. A licensee shall not advertise or conduct business from any location other than that shown on the records of the commissioner as his or her principal place of business unless he or she has received a branch office certificate for that location after compliance with the provisions of this chapter and those additional requirements necessary for the protection of the public as the commissioner may by regulation prescribe. A licensee shall notify the commissioner in writing within 10 days of closing or changing the location of a branch office.

(Added by Stats. 1985, Ch. 1202, Sec. 1.)

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

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

(1) Title of "Public Adjuster Contract."

(2) The name, business name, license number, telephone number, and address of the licensee.

(3) The name and address of the insured.

(4) A description of the loss and its location, if applicable.

(5) The name of the insurer and the policy number, if known.

(6) The full salary, fee, commission, or other consideration the licensee is to receive for services under the contract.

(7) A public adjuster's fee, commission, or other valuable consideration shall not cause the insured to receive less than any amount paid to the insured by the insurer prior to the date of the written contract between the insured and the public adjuster.

(8) A description of the services to be provided to the insured.

(9) Signatures of the licensee and the insured.

(10) The date the contract was signed by the licensee and the date the contract was signed by the insured.

(11) The following statement: "As a public adjuster, I am required by the California Insurance Code to post a surety bond in the sum of \$20,000 to cover certain kinds of claims made by you, the insured. If you have any questions concerning the surety bond, you may contact the California Department of Insurance Licensing Hotline at 1-800-967-9331 or www.insurance.ca.gov."

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

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

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

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

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

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

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

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

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

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

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

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

(1) A provision allowing the client to cancel the contract by written notice sent or delivered by certified mail, return receipt requested, or other form of mailing that provides proof of mailing, to the licensee by midnight of the third business day after the day on which the client signs a contract that complies with this section and is provided a copy of that signed contract. Each copy of the contract shall contain a completed form, captioned "Notice of Cancellation," that shall be placed at the end of the contract and be separated from the remainder of the contract by a printed line. Nothing shall be printed on the reverse side of the notice form. The notice form shall be completed by the licensee, and shall contain in type of at least 10-point the following statement written in the same language, e.g., Spanish, as used in the contract:

Notice of Cancellation

(Date of Contract)

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

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

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

(name of public adjuster)	
at	
(address of public adjuster's place of business)	

not later than midnight of	
	(Date)
I hereby cancel this contract	
	(Date)
(Client's signature)	

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

(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.

(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."

(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.

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

- (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.
- (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.
- (k) For purposes of this section, "business day" shall have the same meaning given to that term in subdivision (e) of Section 1689.5 of the Civil Code, as in effect on the operative date of this statute.
- (l) The contract and the notice of cancellation set forth in paragraph (1) of subdivision (f) shall be written in the same language, e.g., Spanish, as principally used in the negotiation of the contract.
- (m) Within five business days after a contract has been canceled, the licensee shall tender to the client any payments made by the client and any note or other evidence of indebtedness, including an itemized statement of all amounts tendered to the client.
- (n) The licensee is not entitled to compensation for services performed prior to cancellation, other than for reimbursement of moneys paid by the licensee for out-of-pocket emergency expenses for the client or on behalf of the client. If the licensee seeks reimbursement from the client for out-of-pocket emergency expenses, and if the cancellation is made within the first three business days after the contract was initiated, the licensee shall provide the client with an itemized statement of those emergency expenses advanced to the client or on behalf of the client by the licensee. Nothing in this subdivision shall permit the licensee to recover any costs, except for out-of-pocket emergency expenses advanced to the client. Any security interest shall be canceled upon cancellation of the contract.
- (o) Notice of cancellation given by the client need not take the particular form specified in paragraph (1) of subdivision (f). Notice of cancellation, however expressed, is effective if it indicates the intention of the client not to be bound by the contract.
- (p) Cancellation occurs when the client gives written notice of cancellation by certified mail, return receipt requested, or other form of mailing that provides proof of mailing, to the licensee at the address specified in the contract.
- (q) Notice of cancellation, if given by mail, is effective when sent by certified mail, return receipt requested, or other form of mailing that provides proof of mailing, properly addressed with postage prepaid.
- (r) Until the licensee has complied with this section, the client may cancel the contract.
- (s) The contracts shall be executed in duplicate. The licensee shall retain one original contract, and shall provide the insured with an original contract.
- (t) The licensee shall provide the client with an original contract and notice of cancellation at the time the client signs the contract.
- (u) Any confession of judgment or waiver of the provisions of this chapter shall be deemed contrary to public policy and shall be void and unenforceable.
- (v) Prior to the signing of the contract, the licensee shall provide the insured with a separate printed disclosure document in the following form that bears the name and license number of the licensee:

"DISCLOSURE

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

- (1) Public adjusters means the insurance adjusters who do not work for your insurance company. They work for you, the insured, to assist in the preparation, presentation, and settlement of your claim. You hire them by signing a contract and agreeing to pay them a fee or commission based on a percentage of the settlement, or other method of compensation. Public adjusters are required to be licensed, bonded, and tested by the State of California to represent your interest only.
- (2) Company adjusters means the insurance adjusters who are employees of your insurance company. They represent your insurance company and are paid by your insurance company. They will not charge you a fee and are not individually licensed or tested by the State of California.
- (3) Independent adjusters means the insurance adjusters who are hired on a contract basis by your insurance company to represent the company in the settlement of the claim. They are paid by your insurance company. They will not charge you a fee.

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

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

Your "Public Adjuster Contract," with a public adjuster representing you, should clearly indicate the amount of the fee you will be paying to your public adjuster. Your contract, with this fee percentage, should be acknowledged by your initials on the "Public

Adjuster Contract." The salary, fee, commission, or other consideration is to be paid by you (the insured), not the insurance company (insurer).

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

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

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

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

If you have any concerns or questions, the officers at the California Department of Insurance Consumer Hotline are there to help you. Please contact them at 1-800-927-HELP (4357) or www.insurance.ca.gov."

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

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

(y) Notwithstanding any other provision of this section, if a property loss is included in an area that is subject to a catastrophic disaster, as defined in Section 15001, the insured shall have the right to cancel a contract with a public adjuster within five calendar days of signing it and being provided a copy of the signed contract.

(Amended by Stats. 2016, Ch. 833, Sec. 15. (SB 488) Effective January 1, 2017.)

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

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

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

(Amended by Stats. 2016, Ch. 833, Sec. 16. (SB 488) Effective January 1, 2017.)

15027.5. Any person acting as a public adjuster who has executed a contract as described in Section 15027 is the agent of the insured. While acting under the authority of such a contract, a public adjuster may not receive any fees or other consideration, monetary or otherwise, from either the insured or any other source, in excess of the amount or percentage provided in the contract. Any compensation received by the public adjuster from any party or any other source connected to the claim adjustment, including any contractor, insurer, or vendor, shall be disclosed by the public adjuster to the insured. The insured may rescind the contract if the adjuster fails to make the required disclosure or if the public adjuster's receipt of any compensation from a third party conflicts with the interests of the insured.

(Added by Stats. 2005, Ch. 448, Sec. 16. Effective January 1, 2006.)

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

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

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

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

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

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

(Amended by Stats. 2016, Ch. 833, Sec. 17. (SB 488) Effective January 1, 2017.)

15028.5. (a) A public insurance adjuster shall maintain a complete record of each of his or her transactions as a public insurance adjuster. The records shall include all of the following:

- (1) The name of the insured.
- (2) The date, location, and amount of the loss.
- (3) A copy of the contract between the public insurance adjuster and the insured.
- (4) The name of the insurer and the amount, expiration date, and number of each policy carried with respect to the loss.
- (5) An itemized statement of the recoveries by the insured from the sources known to the public insurance adjuster.
- (6) The total compensation received for the adjustment.
- (7) An itemized statement of disbursements made by the public insurance adjuster from recoveries received on behalf of the insured.

(b) Records shall be maintained for at least five years after the termination of the transaction with the insured, and shall be open to examination by the commissioner.

(Added by Stats. 1985, Ch. 1202, Sec. 1.)

15028.6. All funds received as claim proceeds by any person acting as a public insurance adjuster are received and held by that person in his or her fiduciary capacity. Any person who diverts or appropriates any fiduciary funds for his or her own use is guilty of theft and punishable for theft as provided by law. Every applicant for a license to act as a public insurance adjuster shall, as part of the application, endorse an authorization for disclosure to the commissioner of all financial records of any fiduciary funds as defined in this section, pursuant to Section 7473 of the Government Code. The authorization shall continue in force and effect for so long as the licensee continues to be licensed by the department.

(Added by Stats. 1985, Ch. 1202, Sec. 1.)

15028.7. (a) 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 adjuster's home state or the state where the loss occurred.

(b) All funds held in an escrow or trust account shall be the property of the insured and shall be held pursuant to a written contract signed by the insured and the public adjuster.

(c) A public adjuster who receives any fiduciary funds shall, within 15 business days of receipt, deposit the funds in the escrow account and provide a written statement to the insured showing the amount of funds received and deposited in escrow.

(d) A public adjuster who, after reasonable diligence, is unable to obtain the endorsements of all payees designated on any bank draft representing fiduciary funds, or who receives a written statement from the insured indicating that he or she does not wish to establish an escrow or trust account, shall be exempt from the requirements of subdivisions (a) to (c), inclusive.

(e) The endorsement by a payee designated on any bank draft representing fiduciary funds shall not be construed as a waiver of any potential right of the payee to dispute the public adjuster's entitlement to those funds or any portion thereof.

(Added by Stats. 2005, Ch. 448, Sec. 17. Effective January 1, 2006.)

15029. No person shall concurrently hold a license under the provisions of this chapter and the provisions of Chapter 1 (commencing with Section 14000).

(Added by Stats. 1985, Ch. 1202, Sec. 1.)

15030. Each licensee shall maintain a record containing that information relative to his or her employees as may be prescribed by the commissioner.

(Added by Stats. 1985, Ch. 1202, Sec. 1.)

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

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

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

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

(e) The licensee shall pay a fee of twenty-five dollars (\$25) for each authorization to use an additional fictitious name and for each change in the use of a fictitious business name. If the original license is issued in a nonfictitious name and authorization is requested to have the license reissued in a fictitious business name, the licensee shall pay a fee of twenty-five dollars (\$25) for that authorization.

(Amended by Stats. 2016, Ch. 833, Sec. 18. (SB 488) Effective January 1, 2017.)

15032. Every advertisement by a licensee soliciting or advertising business shall contain his or her name, address, or license number as they appear in the records of the commissioner. The commissioner may adopt regulations defining the term "advertisement" as used in this section.

(Added by Stats. 1985, Ch. 1202, Sec. 1.)