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**VERSIONS OF THIS BILL**

[01/14/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/196_20250114.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING CHAPTER 91 TO TITLE 38 SO AS TO DEFINE TERMS, ESTABLISH LICENSURE REQUIREMENTS, EXEMPTIONS, AND TYPES OF LICENSES, REQUIRE AN EXAMINATION FOR LICENSURE, PROVIDE EXEMPTIONS FOR EXAMINATION, REQUIRE CONTINUING EDUCATION, ESTABLISH A PROCESS FOR RENEWAL, SET STANDARDS OF CONDUCT FOR ADJUSTERS, AND TO PROVIDE FOR THE DENIAL, NONRENEWAL, OR REVOCATION OF A LICENSE AND PENALTIES, AMONG OTHER THINGS; BY ADDING CHAPTER 92 TO TITLE 38 SO AS TO DEFINE TERMS, ESTABLISH LICENSURE REQUIREMENTS AND TYPES OF LICENSES, REQUIRE AN EXAMINATION FOR LICENSURE AND PROVIDE EXEMPTIONS TO EXAMINATION, PROVIDE FOR THE DENIAL, NONRENEWAL, OR REVOCATION OF A LICENSE, REQUIRE A BOND OR LETTER OF CREDIT, REQUIRE CONTINUING EDUCATION, ALLOW FOR FEES, AND SET STANDARDS OF CONDUCT FOR PUBLIC ADJUSTERS, AMONG OTHER THINGS; TO AMEND SECTION 38‑1‑20, RELATING TO DEFINITIONS, SO AS TO PROVIDE A DEFINITION; AND by REPEALing CHAPTERS 47 AND 48 OF TITLE 38.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 38 of the S.C. Code is amended by adding:

CHAPTER 91

Insurance Adjusters

 Section 38‑91‑10. As used in this chapter, unless the context requires otherwise:

 (1) “Adjuster” means an individual, other than a public adjuster, or business entity who undertakes on behalf of insurers or self‑insurers to investigate, evaluate, and negotiate the resolution of the amount of a property, casualty, crop, or workers’ compensation claim or loss on behalf of an insurance policy or insurer or as a third party on behalf of a self‑insurer. Such term includes an independent contractor or an employee of:

 (a) an association;

 (b) a property and casualty producer;

 (c) an independent contractor;

 (d) an insurer; or

 (e) a managing general agent.

 (2) “Business entity” means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

 (3) “Director” means the Director of Insurance or his designee, as defined in Section 38‑1‑20.

 (4) “Home state” means the District of Columbia and any state or territory of the United States in which the adjuster’s 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 designate another state in which he becomes licensed and acts as an adjuster to be the “home state.”

 (5) “Individual” means a natural person.

 (6) “Insurer” means any type of insurer conducting business in this State and authorized in accordance with Section 38‑5‑180.

 (7) “Person” includes an individual or business entity, as defined in Section 38‑1‑20.

 (8) “Self‑insurer” means an individual or business entity that insures itself or risks by setting aside an amount of money to provide for any losses that occur rather than insuring such risks through an insurance company.

 (9) “Uniform individual application” means the current version of the National Association of Insurance Commissioners (NAIC) Uniform Individual Application for resident and nonresident individuals.

 (10) “Uniform business entity application” means the current version of the National Association of Insurance Commissioners (NAIC) Uniform Business Entity Application for resident and nonresident business entities.

 Section 38‑91‑20. (A) No individual may act or hold himself out as an adjuster in this State unless the individual is licensed as an adjuster or qualifies for one of the license exemptions set forth in this chapter. The director must satisfy himself that each applicant for an adjuster license is an individual of good moral character, has sufficient knowledge of the insurance business and his duties as an adjuster, has not violated the insurance laws of this State, and is a fit and proper individual for the position. No license may be issued to a nonresident adjuster who resides in a state refusing to license South Carolina adjusters. Individuals must apply for a license on a uniform individual application or as prescribed by the director.

 (B) No business entity may adjust losses or otherwise act as an adjuster unless the entity and the adjusters it employs are licensed by the director or qualify for one of the license exemptions set forth in this chapter. Business entities must apply for a license on a uniform business entity application or as prescribed by the director.

 (C) A person applying for an adjuster license must make application on the uniform individual application or uniform business entity application and declare under penalty of refusal, denial, suspension, or revocation that the statements made in the application are true, correct, and complete to the best of the applicant’s knowledge and belief.

 (D) The license must contain the adjuster’s name, business address, license number, date of issuance, expiration date, and any other relevant information the director deems necessary. An adjuster may receive qualification for a license in one or more of the following lines of authority: property and casualty; workers’ compensation; crop; or such other lines as prescribed by the director.

 (E) The fee for an individual adjuster license is one hundred dollars and the fee for a business entity adjuster license is fifty dollars. These fees are payable in advance and fully earned when received, not refundable, transferable, nor proratable. All fees collected by the director must be paid into the state general fund in the same manner as other funds collected by him.

 (F) An adjuster license is for a biennial term and remains in effect unless revoked, terminated, suspended, or denied renewal or reinstatement.

 (G) The director may contract with nongovernmental entities, including the National Association of Insurance Commissioners (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 director may deem appropriate.

 Section 38‑91‑30. When an individual or business entity applies for an adjuster license, he must supply the department his legal name, email address, and business mailing address and residential mailing address. The adjuster must notify the department within thirty days of any change in the information required by this section.

 Section 38‑91‑40. (A) The following individuals are exempt from licensure as an adjuster:

 (1) An individual who, for portable electronics insurance, collects claim information from, or furnishes claim information to, insureds or claimants and who conducts data entry, including entering data into an automated claims adjudication system, provided that no more than twenty‑five people are under the supervision of a licensed adjuster or a licensed producer who is otherwise exempt from licensure pursuant to item (5);

 (2) an attorney at law admitted to practice in this State, when acting in his professional capacity as an attorney;

 (3) an employee of an insurer who is not regularly engaged in the adjustment or investigation of insurance claims;

 (4) a person employed only to furnish technical assistance to a licensed adjuster including, but not limited to, an investigator, an attorney, an engineer, an estimator, a handwriting expert, a photographer, and a private detective;

 (5) a producer of an authorized insurer or a licensed employee of a producer who processes an undisputed or uncontested loss for the insurer under a policy issued by the producer;

 (6) a person who performs solely clerical duties and does not negotiate with parties on disputed or contested claims or otherwise perform the duties of an adjuster;

 (7) a person who handles claims arising under life, accident, and health or sickness insurance policies;

 (8) an individual who is employed to investigate suspected fraudulent insurance claims but who does not adjust losses or determine claims payments;

 (9) a person who handles claims arising under service contracts;

 (10) a person handling commercial claims for excess coverages;

 (11) a person who settles only reinsurance or subrogation claims;

 (12) a full‑time salaried employee of a self‑insurer; and

 (13) a person authorized to adjust worker’s compensation or disability claims under the authority of a third‑party administrator (TPA) license pursuant to Chapter 51.

 (B) For purposes of this section, “automated claims adjudication system” means a preprogrammed computer system designed for the collection, data entry, calculation, and final resolution of portable electronics insurance claims that:

 (1) only may be used by a licensed adjuster, licensed producer, or supervised individuals operating pursuant to this section;

 (2) must comply with all claims payment requirements of Title 38; and

 (3) must be certified as compliant with this section by a licensed independent adjuster who is an officer of the entity or an affiliate of the entity that employs an individual operated pursuant to this section.

 (C) This chapter may not be construed to prevent an executive officer of an insurer, an employee of an insurer handling claims, the duly designated attorney, or producer authorized and acting for subscribers to reciprocal insurers with respect to residential property insurance from adjusting food spoilage claims, loss, or damages under any insurance contract of such insurer in which the amount of coverage for the applicable type of loss is contractually limited to five hundred dollars or less. If any such officer, employee, attorney, or producer in connection with the adjustment of any such food spoilage claim, loss, or damage engages in improper claims practices pursuant to the provisions of Chapter 59 or violates any other provision of this title, the director may suspend or revoke the insurer’s certificate of authority.

 Section 38‑91‑50. (A) Unless denied licensure pursuant to Section 38‑91‑120, a nonresident person may receive a nonresident adjuster license with the same lines of authority held in the home state upon complying with the following requirements:

 (1) The person is currently licensed as a resident adjuster, has passed an adjuster examination, has furnished a complete set of fingerprints and undergone a background check, and is in good standing in the home state.

 (a) If the home state does not require an examination, then the individual must meet the examination requirements provided for in Section 38‑91‑60.

 (b) If the home state does not require fingerprints and a background check, then the individual must meet the fingerprint and background check requirements provided for in Section 38‑91‑60.

 (2) The person has submitted the proper fees required by Section 38‑91‑20.

 (3) The person has submitted or transmitted to the director the appropriate completed application for licensure.

 (4) The person’s home state issues nonresident adjuster licenses to residents of this State on the same basis. The director may waive any license requirements imposed under this chapter for an applicant who holds a valid license from another state if the state has license requirements substantially equivalent to the requirement for a license issued under this chapter.

 (B) The director may verify the adjuster’s licensing status through regulatory or other databases.

 (C) As a condition of licensure, the nonresident adjuster licensee must maintain a resident adjuster license in his home state. The nonresident adjuster license issued pursuant to this section must terminate and be surrendered immediately to the director if the home state adjuster license terminates for any reason. If the license terminates for any reason, the adjuster may not transact any adjustment of claims.

 Section 38‑91‑60. (A) Before issuing an adjuster license to an applicant pursuant to this chapter the director must find that the applicant:

 (1) is eligible to designate this State as his home state;

 (2) has not committed any act that is grounds for denial, suspension, or revocation of a license pursuant to this chapter;

 (3) has submitted the proper fees required by Section 38‑91‑20; and

 (4) has submitted or transmitted to the director the appropriate completed application for licensure.

 (B) In addition to satisfying the requirements of subsection (A), an individual must:

 (1) be at least eighteen years of age;

 (2) be a person of good moral character and has not been convicted of a felony or any act within the last ten years that is a ground for denial, suspension, or revocation as provided for in Section 38‑91‑120 or been convicted of a misdemeanor involving dishonesty, breach of trust, or other financial or insurance‑related crime within five years;

 (3) have successfully passed the adjuster examination required by Section 38‑91‑70 unless exempted pursuant to Section 38‑91‑80; and

 (4)(a) furnish a complete set of his fingerprints and the required fees and information in accordance with this subsection to the director. Failure to furnish the complete set of fingerprints and required fees constitutes grounds for denial of an application for licensure. However, the director may waive the fingerprinting requirements if it is impossible for the applicant to provide fingerprints due to a medically‑certified physical injury; and

 (b) undergo a state criminal records check, supported by his fingerprints, by the South Carolina Law Enforcement Division (SLED) and a national criminal records check, supported by his fingerprints, by the Federal Bureau of Investigation (FBI). The results of these criminal records checks must be reported to the department. SLED is authorized to retain the fingerprints for use in identification purposes including, but not limited to, unsolved latent prints. The cost associated with the criminal history records checks must be borne by the applicant. The applicant’s fingerprints must be certified by a law enforcement officer authorized by SLED.

 (C) In addition to satisfying the requirements of subsection (A), a business entity must:

 (1) designate a licensed individual adjuster responsible for the business entity’s compliance with the insurance laws, rules, and regulations of this State and for adjusting losses on behalf of the entity;

 (2) maintain an office in the home state of residence with public access by reasonable appointment or regular business hours; and

 (3) provide a listing of all executive officers and directors of the applicant and of all executive officers and directors of entities controlling and any individuals controlling, directly or indirectly, ten percent or more of the outstanding voting securities of the applicant. In order to make a determination of eligibility for licensure, the director may require any person listed pursuant to this section to submit addresses, criminal and administrative history, fingerprints, background checks, and biographical statements or affidavits.

 (D) A nonresident who is not eligible for a license pursuant to Section 38‑91‑50 may designate South Carolina as his home state and apply for licensure as a resident adjuster. Such person is required to successfully pass the adjuster examination and comply with the other provisions of this chapter applicable to residents of this State.

 (E) The director may require any documents reasonably necessary to verify the information contained in the application for licensure including, but not limited to, a driver’s license.

 Section 38‑91‑70. (A) An individual applying for an adjuster license under this chapter must pass a written examination unless exempt pursuant to Section 38‑91‑80. The examination must test the knowledge of the individual concerning the duties and responsibilities of an adjuster and the insurance laws and regulations of this State. Examinations required by this section must be developed and conducted under rules and regulations prescribed by the director.

 (B) The director may contract with one or more outside testing services to administer examinations and collect the examination fees. The director may require that the applicant pay the cost of the examination directly to the testing firm.

 (C) An individual who fails to appear for the examination as scheduled or fails to pass the examination may reapply for an examination and must remit all required fees and forms before being rescheduled for another examination.

 Section 38‑91‑80. (A) An individual licensed as a resident adjuster in another state who moves to this State must make application within ninety days of establishing legal residence to become a resident adjuster pursuant to Section 38‑91‑60. No examination may be required of that person to obtain a license for any line of insurance previously held in another state. This exemption is available only if the application is received within ninety days of the cancellation of the applicant’s previous adjuster license and records indicate that the adjuster is or was licensed in good standing.

 (B) An adjuster applicant holding a designation as Chartered Property and Casualty Underwriter (CPCU) is not required to pass a written examination prior to being issued a license.

 (C) A licensed adjuster whose license lapses or expires may, within twelve months from the expiration or lapse date of the license, reinstate the same license without having to retake the examination if the adjuster has:

 (1) applied to reinstate the same license within twelve months from the compliance date;

 (2) met the continuing insurance education requirements; and

 (3) paid a penalty set forth by the director or his designee in full.

 (D) The director may prescribe other exemptions through bulletins, orders, or regulations.

 Section 38‑91‑90. (A) An individual who holds an adjuster license and who is not exempt under subsection (D) must satisfactorily complete a minimum of twenty‑four hours of continuing education courses, including three hours of ethics as approved by the director and reported on a biennial basis in conjunction with the license renewal cycle. Any individual who holds an adjuster license and adjusts workers’ compensation claims must complete at least three hours of education related to the laws and regulations specific to adjusting workers’ compensation claims in South Carolina. These hours must be included in the twenty‑four hours of required continuing education.

 (B) This section does not apply to either of the following:

 (1) an individual renewing an adjuster license for the first time after initial issuance; or

 (2) licensees holding nonresident adjuster licenses who have met the continuing education requirements of their home state and whose home state gives credit to residents of this State in a manner consistent with the provisions of this chapter.

 (C) Only continuing education courses and providers approved by the director may satisfy the continuing education requirement of subsection (A).

 (D) An individual who holds both a resident producer license and a resident adjuster license may not be required to complete continuing education requirements for both licenses. Completion of continuing education requirements for an adjuster license must be satisfied if the individual is required to complete continuing education for the resident producer license. If the resident producer is exempt from the continuing education requirements, the adjuster is also exempt from the continuing education requirements. Nonetheless, any adjuster adjusting workers’ compensation claims must complete at least three hours of education related to the laws and regulations specific to adjusting workers’ compensation claims in South Carolina, as specified in subsection (A).

 (E) The director must develop an approval process for adjuster continuing education similar to that set forth in Section 38‑43‑106(B).

 Section 38‑91‑100. (A) An adjuster license continues on a biennial basis unless revoked, terminated, suspended, or denied renewal or reinstatement provided the fee set forth in Section 38‑91‑20 has been paid and the requirements for license renewal are met by August thirty‑first of each odd‑numbered year.

 (B) Every licensed adjuster must file a biennial application for renewal of his license in accordance with the requirements of this chapter.

 (C) All continuing education requirements pursuant to Section 38‑91‑90 must be completed prior to the applicant submitting a biennial application for renewal.

 (D) A licensed adjuster who allows his license to lapse or expire may, within twelve months from the expiration date of the license, reinstate the same license upon proof of fulfilling all continuing education requirements as applicable, through the date of reinstatement and upon payment of all fees due. If the license has lapsed for more than twelve months, the applicant must fulfill the requirements for issuance of a new license.

 (E) If the license is to be reinstated, a renewal application must be filed and a reinstatement fee equal to the biennial license fee unpaid must be paid in addition to the regular biennial license fee.

 (F) A licensed adjuster who is unable to comply with license renewal procedures due to active military service, long‑term medical disability, or other extenuating circumstances, may request a waiver of any continuing education requirement, fine, or other penalty imposed for failure to comply with renewal procedures.

 Section 38‑91‑110. (A) A licensed adjuster is subject to the provisions of the chapters that prohibit unfair trade and unfair claims practices of this title.

 (B) An adjuster may not permit an unlicensed employee or representative of the adjuster to conduct business for which a license is required under this chapter.

 (C) An adjuster may not have a direct or indirect financial interest in any aspect of the claim, other than the salary, fee, or other consideration established with the insurer.

 (D) An adjuster may not acquire any interest in salvage of property subject to the contract with the insurer.

 (E) An adjuster may not solicit employment for, recommend, or otherwise solicit engagement, directly or indirectly, for or on behalf of any attorney at law, contractor, or subcontractor, in connection with any loss or damage with respect to which such adjuster is concerned or employed.

 (F) An adjuster may not solicit or accept any compensation, directly or indirectly, from, by, or on behalf of any contractor or subcontractor engaged by or on behalf of any insured by which such adjuster has been, is, or will be employed or compensated, directly or indirectly.

 (G) Adjusters must adhere to the following general requirements:

 (1) An adjuster may not undertake the adjustment of any claim if the adjuster is not competent and knowledgeable as to the terms and conditions of the insurance coverage, or which otherwise exceeds the adjuster’s current expertise.

 (2) An adjuster may not knowingly make any oral or written material misrepresentations or statements which are false and intended to injure any person engaged in the business of insurance.

 (3) No adjuster, while so licensed by the department, may represent or act as a public adjuster.

 (4) No adjuster may materially misrepresent to an insured or other interested party the terms and coverage of an insurance contract with intent and for the purpose of effecting settlement of a claim for loss or damage or benefit under such contract on less favorable terms than those provided in and contemplated by the insurance contract.

 (5) If the insured’s claim is denied and the insured contests the denial, an individual licensed under this chapter must review the denial with the insured.

 Section 38‑91‑120. (A) The director may place on probation, revoke, suspend, or refuse to issue, renew, or reinstate an adjuster’s license or may levy a fine as set forth in Section 38‑2‑10 for any one or more of the following causes:

 (1) providing incorrect, misleading, incomplete, or materially false information in the license or renewal application;

 (2) violating the insurance laws or regulations of the United States, this State, or any other jurisdiction or a subpoena or order of the director or of another state’s insurance commissioner;

 (3) obtaining or attempting to obtain a license through misrepresentation or fraud or improperly using notes or any other reference material to complete an examination for an insurance license, or otherwise cheating or attempting to cheat on an examination for an insurance license of any kind;

 (4) improperly withholding, misappropriating, or converting any money or property received in the course of conducting insurance business;

 (5) conviction of or nolo contendere plea to any felony, participation in a pretrial diversion program pursuant to a felony charge, suspension or deferral of sentence and probation, or conviction of any misdemeanor charge involving public corruption or the adjustment of insurance claims;

 (6) admitting to or committing fraud or unfair trade practices;

 (7) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere;

 (8) having an adjuster license, or its equivalent, denied, suspended, or revoked in another state, province, district, or territory;

 (9) forging another’s name on any document related to an insurance transaction;

 (10) knowingly accepting insurance business from an individual who is not licensed but who is required to be licensed by the director or his designee;

 (11) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

 (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;

 (14) refusing to submit physical evidence of identity or the conviction of a felony, in accordance with Section 38‑91‑160;

 (15) employing or allowing to associate with his business, in any manner, any person engaged in the business of insurance who has been convicted of a felony under the laws of this or any other state, and United States, or any other jurisdiction. As used in this section, “business of insurance” means the writing of insurance or the reinsuring of risks by an insurance producer or insurer, including all acts necessary or incidental to such writing or reinsuring, and the activities of persons who act as, or are, officers, directors, agents, or employees of producers or insurers, or who are other persons authorized to act on behalf of such persons;

 (16) being convicted of a felony involving dishonesty or breach of trust pursuant to 18 U.S.C. Sections 1033 and 1034, without written consent from the director pursuant to 18 U.S.C. Section 1033, or any successor statute regulating crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce; or

 (17) violating any provision of this title.

 (B) If upon investigation the director finds that an individual or business entity has obtained a license by fraud or misrepresentation, he may immediately suspend the license. The director, in an order suspending a license, must specify the period during which the suspension is to be in effect. The period may not exceed two years. An adjuster whose license has been revoked or an applicant who has been refused a license by the director may not reapply for another license until a two‑year period of time has lapsed from the effective date of the revocation or refusal or, if judicial review before the Administrative Law Court of the revocation or refusal is sought, after two years from the date of a final court order or decree affirming the revocation or suspension.

 (C) If, after notice of a hearing before the Administrative Law Court or notice of an opportunity for hearing before the Administrative Law Court, the director finds that one or more grounds exist for the revocation or suspension of, or the refusal to issue or reissue a license, the director, in his discretion, instead of revocation, suspension, or refusal, may impose upon the adjuster or applicant an administrative penalty as provided in Section 38‑2‑10 for each offense or ground.

 (D) The director may allow the adjuster or applicant a reasonable period, not to exceed thirty days, within which to pay to the director the amount of the penalty imposed. If the adjuster or applicant fails to pay the penalty in its entirety to the director within the period allowed, the license or application stands revoked, suspended, or renewal‑refused, as the case may be, upon expiration of the period and without any further proceedings.

 (E) Whenever the director denies an application for a license or for renewal, the director must notify the applicant or adjuster and advise, in writing, the applicant or adjuster of the reason for the denial or nonrenewal of the applicant’s or adjuster’s license. The applicant or adjuster may make written demand upon the administrative law judge within thirty days for a hearing before the administrative law judge to determine the reasonableness of the director’s action. The hearing must be held pursuant to the Administrative Procedures Act.

 (F) The business entity adjuster license may be suspended, revoked, or refused if the director finds that an individual licensee’s violation was known or should have been known by one or more of the partners, officers, directors, or managers of the business entity and the violation was not reported to the director.

 (G) In addition to or in lieu of any applicable denial, suspension, or revocation, an adjuster violating this chapter may, after notice and an opportunity for a hearing, be subject to an administrative penalty pursuant to Section 38‑2‑10.

 (H) The director has the authority to enforce the provisions of and impose any penalty or remedy authorized by this chapter and title against any person who is under investigation for or charged with a violation of this chapter even if the person’s license or registration has been surrendered or has lapsed by operation of law.

 Section 38‑91‑130. Adjusters are declared to be acting as the agents for the insurer or self‑insurer represented by them in the adjustment of any loss.

 Section 38‑91‑140. (A) This chapter may not be construed to prevent an executive officer of an insurer, an employee of an insurer handling claims, the duly designated attorney, or producer authorized and acting for subscribers to reciprocal insurers with respect to residential property insurance from adjusting food spoilage claim loss or damages under any insurance contract of such insurer in which the amount of coverage for the applicable type of loss is contractually limited to five hundred dollars or less.

 (B) Such officer, employee, attorney, or producer is not required to have an adjuster’s license to adjust food spoilage claims referenced in this section. If any such officer, employee, attorney, or producer in connection with the adjustment of any such food spoilage claim, loss, or damage engages in improper claims practices pursuant to the provisions of Chapter 59 or violates any other provision of this title, the director or his designee may suspend or revoke the insurer’s certificate of authority.

 Section 38‑91‑150. (A) An insurer or self‑insurer may not knowingly refer a claim or loss for adjustment to a person purporting to be or acting as an adjuster in this State unless the person holds a license or is otherwise exempt from the licensing requirements under this chapter.

 (B) Before referring a claim or loss for adjustment, an insurer must ascertain from the director whether the person performing the adjustment holds a license under this chapter. Once the insurer has ascertained that the person holds a license, the insurer may refer the claim or loss to the person and may continue to refer claims or losses to the person until the insurer has knowledge or receives information from the director that the person no longer holds a license.

 Section 38‑91‑160. No insurer may pay to any adjuster or adjusters or to any person engaged in the adjustment of losses any fee or compensation in excess of a regular fixed salary or stipend, nor may such insurer contract to pay to any insurance adjuster or any person engaged in the business of adjusting losses, any portion of the amount saved to said insurer through the efforts of said adjuster or person engaged in adjusting losses, in addition to or in lieu of any such salary or stipend.

 Section 38‑91‑170. (A) The adjuster must report to the director any administrative action taken against the adjuster in any jurisdiction or by another governmental agency within thirty days of the final disposition of the matter. This report must include a copy of the order, consent order, or other relevant legal documents.

 (B) Within thirty days of a conviction, the adjuster must report to the director any criminal conviction of the adjuster taken in any jurisdiction for violation of insurance laws or regulations, any felony, or any misdemeanor. The report must include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

 Section 38‑91‑180. It is unlawful for a person to:

 (A) act as adjuster on a contract made other than as authorized by the laws of this State or made by an insurer who is not regularly licensed to do business in this State; or

 (B) adjust or aid in the adjustment, either directly or indirectly, of a claim arising under a contract of insurance not authorized by the laws of this State.

 (C) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than two years, or both.

 Section 38‑91‑190. When the director determines after investigation that there has been a violation of this title by an adjuster, upon ten days’ notice, he may impose the penalties provided in Section 38‑2‑10.

 Section 38‑91‑200. The director may issue bulletins or orders or promulgate regulations as necessary or proper to carry out the purposes of this chapter.

SECTION 2. Title 38 of the S.C. Code is amended by adding:

CHAPTER 92

Public Insurance Adjusters

 Section 38‑92‑10. “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 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 a public adjuster of insurance claims or solicits business or represents himself to the public as a 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.

 Section 38‑92‑20. (A) A person may not act or hold himself out as a public adjuster, solicit, or negotiate a contract for public adjusting services in this State unless the person is licensed as a public adjuster in accordance with this chapter.

 (B) The license must contain the licensee’s name, city and state of business, address, personal identification number, the date of issuance, the expiration date, and any other information the director deems necessary.

 (C) A person licensed as a public adjuster must not misrepresent to a claimant that he 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 licensed public adjuster is prohibited from charging that specific claimant a fee when simultaneously appointed by any insurer.

 (D) A person applying for a public adjuster license must make application to the director. The applicant must declare under penalty of perjury and under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the applicant’s knowledge and belief.

 (E) Notwithstanding subsections (A)‑(D), a license as a public adjuster is not required of the following persons:

 (1) an attorney at law admitted to practice in this State, when acting in his 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; and

 (3) a person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster, including photographers, estimators, private investigators, engineers, and handwriting experts.

 (F) The fee for an individual public adjuster license is one hundred dollars. These fees are payable in advance and fully earned when received, not refundable, transferable, nor proratable. All fees collected by the director must be paid into the state general fund in the same manner as other funds collected by him.

 Section 38‑92‑30. When an individual applies for a public adjuster license, he must supply the department his legal name, email address, business mailing address, and residential mailing address. The public adjuster must notify the department within thirty days of any change in the information required by this section.

 Section 38‑92‑40. (A) A person applying for a public adjuster license shall make application to the director on the appropriate application form.

 (B) The applicant must declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the applicant’s knowledge and belief.

 (C) Before issuing a public adjuster license to an applicant under this section, the director must find that the applicant:

 (1) is eligible to designate this State as his home state;

 (2) has not committed any act that is a ground for denial, suspension, or revocation of a license as set forth in Section 38‑92‑90;

 (3) is trustworthy, reliable, and of good reputation, evidence of which may be determined by the director;

 (4) is financially responsible to exercise the license and has provided proof of financial responsibility as required in Section 38‑92‑100;

 (5) has paid the biennial license fee; and

 (6) maintains an office in the home state of residence with public access by reasonable appointment or regular business hours.

 (D) The applicant must undergo a state criminal records check, supported by his fingerprints, by the South Carolina Law Enforcement Division (SLED) and a national criminal records check, supported by his fingerprints, by the Federal Bureau of Investigation (FBI). The results of these criminal records checks must be reported to the department. SLED is authorized to retain the fingerprints for use in identification purposes including, but not limited to, unsolved latent prints. The cost associated with the criminal history records checks must be borne by the applicant. The applicant’s fingerprints must be certified by a law enforcement officer authorized by SLED.

 (E) In addition to satisfying the requirements of subsections (A), (B), and (C), an individual must:

 (1) be at least eighteen years of age;

 (2) be a person of good moral character and has not been convicted of a felony or any act within the last ten years that is a ground for denial, suspension, or revocation as provided for in Section 38‑92‑90 or been convicted of a misdemeanor involving dishonesty, breach of trust, or other financial‑ or insurance‑related crime within five years;

 (3) have successfully passed the public adjuster examination; and

 (4) furnish a complete set of his fingerprints and the required fees and information in accordance with this subsection to the director. Failure to furnish the complete set of fingerprints and required fees constitutes grounds for denial of an application for licensure. However, the director may waive the fingerprinting requirements if it is impossible for the applicant to provide fingerprints due to a medically‑certified physical injury; and

 (F) The director may require any documents reasonably necessary to verify the information contained in the application for licensure including, but not limited to, a driver’s license.

 Section 38‑92‑50. (A) An individual applying for a public adjuster license under this chapter must pass a written examination unless exempt pursuant to Section 38‑92‑60. The examination must test the knowledge of the individual concerning the duties and responsibilities of a public adjuster and the insurance laws and regulations of this State. Examinations required by this section must be developed and conducted under rules and regulations prescribed by the director.

 (B) The director may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee.

 (C) Each individual applying for an examination must remit a nonrefundable fee as prescribed by the director. An individual who fails to appear for the examination as scheduled or fails to pass the examination may reapply for an examination and must remit all required fees and forms before being rescheduled for another examination.

 Section 38‑92‑60. (A) An individual licensed as a resident public adjuster in another state who moves to this State must make application within ninety days of establishing legal residence to become a resident public adjuster pursuant to Section 38‑92‑40. No examination may be required of that person to obtain a public adjuster license if that state requires an examination. This exemption is available only if the person is currently licensed in the other state, or if the application is received within ninety days of the cancellation of the applicant’s previous public adjuster license and records indicate that the public adjuster is or was licensed in good standing.

 (B) A licensed public adjuster whose license lapses or expires may, within twelve months from the expiration or lapse date of the license, reinstate the same license without having to retake the examination if the public adjuster has:

 (1) applied to reinstate the same license within twelve months from the compliance date;

 (2) met the continuing insurance education requirements;

 (3) paid a penalty set forth by the director or his designee in full; and

 (4) maintained or provided an active bond or continuation certificate on file with the Department of Insurance as required by Section 38‑92‑100.

 (C) The director may prescribe other exemptions through bulletins, orders, or regulations.

 Section 38‑92‑70. (A) Unless denied licensure pursuant to Section 38‑92‑90, a nonresident person must receive a nonresident public adjuster license if:

 (1) the person is currently licensed as a resident public adjuster and in good standing in his home state;

 (2) the person has submitted the proper request for licensure, has paid the required fees, and has provided proof of financial responsibility as required in Section 38‑92‑100;

 (3) the person has submitted or transmitted to the director the appropriate completed application for licensure;

 (4) the person’s home state awards nonresident public adjuster licenses to residents of this State on the same basis; and

 (5) the person has provided a bond or letter of credit with the South Carolina Department of Insurance as required by Section 38‑92‑100.

 (B) The director may verify the public adjuster’s licensing status including any disciplinary actions, inquiries, or investigations, through the producer database maintained by the NAIC, its affiliates, or subsidiaries.

 (C) As a condition of licensure, the nonresident public adjuster licensee must maintain a resident public adjuster license in his home state. The nonresident public adjuster license issued pursuant to this section must terminate and be surrendered immediately to the director if the home state public adjuster license terminates for any reason. If the license terminates for any reason, the public adjuster may not transact any adjustment of claims.

 Section 38‑92‑80. (A) Unless denied licensure under this act, persons who have met the requirements of this act must be issued a public adjuster license.

 (B) A public adjuster license continues on a biennial basis unless revoked, terminated, surrendered, suspended, or denied renewal or reinstatement provided the fee set forth in Section 38‑92‑20 has been paid and the requirements for renewal are met by October thirty‑first of each even‑numbered year.

 (C) All continuing education requirements pursuant to Section 38‑92‑110 must be completed prior to the applicant submitting a biennial application for renewal.

 (D)(1) A licensed public adjuster who allows his license to lapse or expire may, within twelve months from the expiration date of the license, reinstate the same license upon proof of fulfilling all continuing education requirements as applicable, through the date of reinstatement and upon payment of all fees due. If the license has lapsed for more than twelve months, the applicant must fulfill the requirements for issuance of a new license.

 (2) If the license is to be reinstated, a renewal application must be filed and a reinstatement fee equal to the biennial license fee unpaid must be paid in addition to the regular biennial license fee.

 (E) A licensed public adjuster who is unable to comply with license renewal procedures due to active military service, a long‑term medical disability, or some other extenuating circumstance, may request a waiver of any penalty imposed for failure to comply with renewal procedures.

 Section 38‑92‑90. (A) The director may place on probation, suspend, revoke, or refuse to issue, or renew a public adjuster’s license or may levy a fine or penalty in accordance with Chapter 2, Title 38 or any combination of actions, for any one or more of the following causes:

 (1) providing incorrect, misleading, incomplete, or materially untrue information in the license application;

 (2) violating any insurance laws, or violating any regulation, subpoena, or order of the director or of another state’s insurance director or regulatory official;

 (3) obtaining or attempting to obtain a license through misrepresentation or fraud in this or any other state;

 (4) improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business;

 (5) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

 (6) having been convicted of a felony or a misdemeanor involving a crime of dishonesty;

 (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 the conduct of business 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 an application for insurance or to any document related to an insurance transaction;

 (11) knowingly accepting insurance business from an individual who is not licensed but who is required to be licensed by the director;

 (12) failing to comply with an administrative or court order imposing a child support obligation; or

 (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 director is to deny an application for or not renew a license, the director must notify the applicant or public adjuster and advise, in writing, the applicant or public adjuster of the reason for the nonrenewal or denial of the applicant’s or licensee’s license. The applicant or licensee may appeal the decision of the director pursuant to the South Carolina Administrative Procedures Act.

 (C) 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 civil fine pursuant to Section 38‑2‑10, et seq.

 (D) The director has the authority to enforce the provisions of and impose any penalty or remedy authorized by this chapter and Title 38 against any person who is under investigation for or charged with a violation of this chapter or Title 38 even if the person’s license or registration has been surrendered or has lapsed by operation of law.

 Section 38‑92‑100. Prior to issuance of a license as a public adjuster and for the duration of the license, the applicant must secure evidence of financial responsibility in a format prescribed by the director through a security bond or irrevocable letter of credit:

 (A) a surety bond executed and issued by an insurer authorized to issue surety bonds in this State, which bond:

 (1) must be in the minimum amount of twenty thousand dollars;

 (2) must be in favor of this State and must specifically authorize recovery by the director on behalf of any person in this State who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices in his capacity as a public adjuster; and

 (3) may not be terminated unless at least thirty days’ prior written notice will have been filed with the director and given to the licensee.

 (B) An irrevocable letter of credit issued by a qualified financial institution, which letter of credit:

 (1) must be in the minimum amount of twenty thousand dollars;

 (2) must be to an account submitted to the director and subject to lawful levy of execution on behalf of any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, failure to act, fraudulent acts, or unfair practices in his capacity as a public adjuster; and

 (3) must not be terminated unless at least thirty days’ prior written notice will have been filed with the director and given to the licensee.

 (C) The issuer of the evidence of financial responsibility must notify the director upon termination of the bond or letter of credit, unless otherwise directed by the director.

 (D) The director may ask for the evidence of financial responsibility at any time he deems relevant.

 (E) The authority to act as a public adjuster must automatically terminate if the evidence of financial responsibility terminates or becomes impaired.

 Section 38‑92‑110. (A) An individual, who holds a public adjuster license and who is not exempt under subsection (B), must satisfactorily complete a minimum of twenty‑four hours of continuing education courses, including three hours of ethics, reported on a biennial basis in conjunction with the license renewal cycle.

 (B) This section does not apply to:

 (1) licensees not licensed for one full year prior to the end of the applicable continuing education biennium; or

 (2) licensees holding nonresident public adjuster licenses who have met the continuing education requirements of their home state and whose home state gives credit to residents of this State on the same basis.

 (C) Only continuing education courses approved by the director must be used to satisfy the continuing education requirement of subsection (A).

 Section 38‑92‑120. (A) A public adjuster may charge the insured a reasonable fee as determined by this section.

 (B) A public adjuster may not pay any commission, service fee, or other valuable consideration to another 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 may not accept any 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 Section 38‑43‑200.

 (E) No public adjuster may charge, agree to, or accept as compensation or reimbursement any payment, commission, fee, or other thing of value equal to more than ten percent of any insurance settlement or proceeds. No public adjuster may require, demand, or accept any fee, retainer, compensation, deposit, or other thing of value, prior to settlement of a claim.

 Section 38‑92‑130. (A) Public adjusters must ensure that all contracts for their services are in writing and contain the following terms:

 (1) legible full name of the public adjuster signing the contract, as specified in Department of Insurance records;

 (2) permanent home state business address and phone number;

 (3) Department of Insurance license number;

 (4) title of “Public Adjuster Contract”;

 (5) the insured’s full name, street address, insurance company name, and policy number;

 (6) a detailed description of the loss, its occurrence date, and its location;

 (7) a description of all services the public adjuster will provide 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) attestation language stating that the public adjuster is fully bonded pursuant to state law;

 (11) a complete description of the full salary, fee, commission, compensation, or other considerations the public adjuster is to receive for service; and

 (12) conspicuous language in bold type stating that the salary, fee, commission, compensation, or other consideration must be paid to the public adjuster from any sums the public adjuster assists the insured in recovering and not paid by the insurer.

 (B) The contract may specify that the public adjuster must be named as a copayee on an insurer’s payment of a claim to the insured if the compensation is based on a share of the insurance settlement, the exact percentage must be specified, not to exceed ten percent. Initial expenses to be reimbursed to the public adjuster from the proceeds of the claim payment must be specified by type, with dollar estimates set forth in the contract, and with any additional expenses first approved by the insured. Compensation provisions in a public adjusting contract may not be redacted in any copy of the contract provided to the director.

 (C) If the insurer, not later than five business days after the date on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured the full policy limit of the insurance policy, the public adjuster must:

 (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, and in no case may such compensation exceed ten percent of the claim settlement amount.

 (D) A public adjuster must also 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 that 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” includes any corporation, partnership, association, joint‑stock company, any other legal entity, or person.

 (E) 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 a 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; or

 (3) imposes any collection costs or late fees.

 (F) Prior to the signing of the contract the public adjuster must 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 insurance company for consideration. There are three 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 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 the insurance company. They will not charge 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 claim settlement, or other method of compensation.

 (2) The insured is not required to hire a public adjuster to help the insured meet his obligations under the policy, but has the right to do so.

 (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.

 (4) The public adjuster is not a representative or employee of the insurer.

 (5) The salary, fee, commission, or other consideration is the obligation of the insured, not the insurer.

 (G) The contracts must 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 must be available at all times for inspection without notice by the director.

 (H) The public adjuster must provide the insurer a notification of representation letter, which has been signed by the insured, authorizing the public adjuster to represent the insured’s interest including the date of representation, and upon request, a copy of the contract between the public adjuster and the insured. The insurer shall verify the public adjuster holds a valid license with the Department of Insurance.

 (I) The insured has the right to rescind the contract within five business days after the date the contract was signed. The rescission must be in writing and mailed, emailed, or delivered to the public adjuster at the address in the contract within the five‑business‑day period.

 (J) 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 business days following the receipt by the public adjuster of the cancellation notice.

 (K) Subject to its terms relating to assignability, a property insurance policy, whether heretofore or hereafter issued, under the terms of which the policy and its rights and benefits are assignable, may provide that the rights and benefits under the insurance may only be assigned to a person who has the legal authority to represent the named insured or to a subsequent owner of the property to whom title is transferred, and may explicitly prohibit assignment of rights and benefits to any other person, including a property repair contractor, For purposes of this subsection, having “legal authority to represent the named insured” includes the person named by the named insured as having the named insured’s power of attorney, the person who is the named insured’s licensed public adjuster, or any other comparable person. Property repair contractors operating in this State may not subvert the public adjuster licensing requirements of this chapter through the acquisition of a power of attorney from the named insured.

 Section 38‑92‑140. A person or entity commits a fraudulent insurance act if he:

 (A) represents or advertises themselves to be a public adjuster who had not met the requirements of licensure in this chapter; or

 (B) conducts business for which a license is required under this chapter without a license.

 Section 38‑92‑150. 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, must deposit the funds in a noninterest‑bearing escrow or trust account in a financial institution that is insured by an agency of the federal government and such account must be maintained in this State.

 Section 38‑92‑160. (A) A public adjuster must maintain a complete record of each transaction as a public adjuster in this State. The records required by this section must include the following:

 (1) name of the insured;

 (2) date, location, and amount of the loss;

 (3) copy of the signed 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;

 (9) name of any attorney representing the insured, if applicable, and the name of the claims representatives of the insurance company; and

 (10) evidence of financial responsibility in a format prescribed by the director.

 (B) Records must be maintained for at least five years after the termination of the transaction with an insured and must be open to examination by the director at all times.

 (C) Records submitted to the director in accordance with this section that contain information identified in writing as proprietary by the public adjuster must be treated as confidential by the director and must not be subject to subpoena.

 Section 38‑92‑170. (A) A licensed public adjuster is subject to Chapter 57 of this title.

 (B) A public adjuster is obligated, under his license, to serve with objectivity and complete loyalty 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.

 (C) A public adjuster may not solicit, or attempt to solicit, an insured during the progress of a loss‑producing occurrence, as defined in the insured’s insurance contract.

 (D) A public adjuster shall not advertise or infer damage unless an inspection of the property has been completed.

 (E) A public adjuster shall not offer to pay an insured’s deductible, or claim the insured’s deductible will be waived, as an inducement to using the services of a public adjuster.

 (F) A public adjuster may not permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under this chapter.

 (G) A public adjuster may 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.

 (H) A public adjuster may 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 Section 38‑92‑130.

 (I) The public adjuster must abstain from referring or directing the insured to get needed repairs or services in connection with a loss from any person, contractor, or firm:

 (1) with whom the public adjuster has a financial interest; or

 (2) from whom the public adjuster may receive any direct or indirect compensation or benefit whatsoever for the referral.

 (J) Any compensation or anything of value in connection with an insured’s specific loss that will be received by a public adjuster must be disclosed by the public adjuster to the insured in writing including the source and amount of any such compensation or value.

 (K) Public adjusters must adhere to the following general ethical requirements:

 (1) A public adjuster may not undertake the adjustment of any claim if the public adjuster is not competent and knowledgeable as to the terms and conditions of the insurance coverage, or which otherwise exceeds the public adjuster’s current expertise.

 (2) A public adjuster may not knowingly make any oral or written material misrepresentations or statements which are misleading, incomplete, false, or maliciously critical and intended to injure any person engaged in the business of insurance to any insured client or potential insured client.

 (3) No public adjuster, while so licensed by the department, may represent or act as a company adjuster, or independent adjuster on the same claim.

 (4) The contract may not be construed to prevent an insured from pursuing any civil remedy after the five‑business‑day recission or cancellation period.

 (5) A public adjuster must ensure that all contracts for the public adjuster’s services are in writing and set forth all terms and conditions of the engagement.

 (L) A public adjuster may not agree to any loss settlement without the insured’s knowledge and written consent.

 Section 38‑92‑180. (A) The public adjuster must report to the director any administrative action taken against the public adjuster in another jurisdiction or by another governmental agency in this State within thirty days of the final disposition of the matter. This report must include a copy of any order, consent to order, or other relevant legal documents.

 (B) Within thirty days of the conviction, the public adjuster must report to the director any criminal conviction of the public adjuster in any jurisdiction. The report must include a copy of the initial complaint filed, any order resulting from the hearing, and any other relevant legal documents.

 Section 38‑92‑190. The director may promulgate regulations as are necessary or proper to carry out the purposes of this chapter.

SECTION 3. Section 38‑1‑20(3) of the S.C. Code is amended to read:

 (3) “Adjuster” means an individual who determines the extent of insured losses and assists in settling or attempts to settle claimsis defined in Section 38‑91‑10.

SECTION 4. Chapter 47, Title 38 of the S.C. Code is repealed.

SECTION 5. Chapter 48, Title 38 of the S.C. Code is repealed.

SECTION 6. This act takes effect upon approval by the Governor.

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