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LEGISLATIVE HISTORY CHECKLIST
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(Public Adjusters' Licensing Act)

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LAWS OF: 1993 **CHAPTER:** 66

BILL NO: A1548

SPONSOR(S) Zecker

DATE INTRODUCED: June 8, 1992

COMMITTEE: **ASSEMBLY:** Insurance
SENATE: Commerce

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** November 12, 1992
SENATE: December 7, 1992

DATE OF APPROVAL: March 8, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[THIRD REPRINT]
ASSEMBLY, No. 1548

STATE OF NEW JERSEY

INTRODUCED JUNE 8, 1992

By Assemblyman ZECKER

1 AN ACT providing for the licensure of public adjusters by the
2 Department of Insurance and making an appropriation therefor.

3

4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

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

8 2. As used in this act:

9 "Commissioner" means the Commissioner of Insurance.

10 "Department" means the Department of Insurance.

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

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

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

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

31 4. a. Nothing contained in this act applicable to public
32 adjusters shall apply to any employee, agent, or other
33 representative of any authorized insurer who acts in that
34 capacity in the adjustment of claims, nor to any licensed
35 insurance ¹[broker] producer¹ who is designated by the insurer to
36 act as an adjuster for a client of the ¹[broker] producer¹ without
37 any compensation for those services as adjuster. No insurer's
38 representative and no licensed insurance ¹[broker] producer¹ shall
39 advertise or publicly solicit the adjustment of claims in a manner
40 likely to mislead the public into believing that he is offering his
41 services as a public adjuster.

42 b. Nothing contained in this act shall apply to:

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted November 23, 1992.

² Senate floor amendments adopted November 30, 1992.

³ Assembly floor amendments adopted December 17, 1992.

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

4 (2) any licensed insurance ¹[broker] producer¹ who acts as an
5 adjuster with respect to any loss involving insurance contracts
6 under which he was the broker of record in placing the insurance,
7 whether or not designated in writing to act for the insured; ¹[or]¹

8 (3) any other duly licensed ¹[broker] producer¹ who has been
9 designated to act for the insured in writing before a loss
10 occurs ¹; or

11 (4) an auto body repair facility licensed pursuant to P.L.1983,
12 c.360 (C.39:13-1 et seq.) that acts or aids in adjusting a motor
13 vehicle insurance claim as an incident to the performance of
14 duties for which it is licensed¹.

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

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

36 b. Each individual applicant and proposed sublicensee signing
37 an application shall submit to the commissioner, together with
38 the application: (1) his photograph, in duplicate, in passport size;
39 and (2) fingerprints of his two hands taken on standard fingerprint
40 cards by a State or municipal law enforcement agency. No
41 license shall be issued to any person who has ever been convicted
42 of an indictable offense, or of any crime or offense involving
43 ¹[fraudulent or dishonest practices] fraud or dishonesty¹; nor
44 shall a licensee under this act employ any person who has ever
45 been convicted of an indictable offense or a crime or offense as
46 aforesaid. The provisions of this act shall not prevent the
47 employment of, or the issuance of a license to, any person who,
48 subsequent to his conviction, shall have made an application for a
49 license under and complied with the provisions of P.L.1968, c.282
50 (C.2A:168A-1 et seq.). The commissioner is authorized to
51 exchange fingerprint data with and receive criminal history
52 record information from the Federal Bureau of Investigation and
53 the Division of State Police in the Department of Law and Public
54 Safety for use in making the determinations required by this

1 subsection.

2 c. The commissioner may require an applicant for a license to
3 present evidence ¹[, including] of¹ a State tax identification
4 number ¹[, that the applicant, if an individual, or an individual
5 with a majority interest in the firm, association or corporation
6 which is the applicant, is a resident of the State of New Jersey]¹.

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

15 7. a. The commissioner shall require every individual
16 applicant and each sublicensee to take and pass a written
17 examination to his satisfaction, except in the case of a renewal
18 license, in order to determine the competency of the applicant or
19 sublicensee to act as a public adjuster. ¹The commissioner is
20 authorized to enter into contracts with private vendors that are
21 reasonable and necessary in regard to examinations.¹

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

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

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

32 8. a. Upon payment of the prescribed fee as provided in this
33 act, a person who has been employed as or acted as a public
34 adjuster as his principal business for a period of five years
35 immediately prior to the effective date of this act, ¹and who has
36 demonstrated his trustworthiness and competence to act as an
37 adjuster to the satisfaction of the commissioner,¹ shall be
38 granted a license without examination.

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

43 (1) Describing the experience of the applicant as a public
44 adjuster; and

45 (2) Containing other information as may be required by the
46 commissioner.

47 9. ¹[At the time of application for every adjuster's license and
48 for every biennial renewal thereof, there shall be paid to the
49 commissioner by each individual applicant and by each proposed
50 sublicensee a fee of \$400. The commissioner may refund the fee
51 paid by the applicant or a proposed sublicensee if at any time
52 before the license is issued the application is withdrawn by the
53 applicant or proposed sublicensee; however, if the applicant or a
54 proposed sublicensee is required to pass a written examination

1 before the license applied for can be issued, and the application is
2 withdrawn by the applicant or proposed sublicensee or is denied
3 by the commissioner after the applicant or proposed licensee has
4 taken the examination, but before the license is issued, then the
5 commissioner may refund only so much of the license fee of each
6 individual applicant and of each proposed sublicensee as exceeds
7 \$10] For applications made during the first year of operation of
8 this act, there shall be paid to the commissioner by each
9 individual applicant and by each proposed sublicensee a fee of
10 \$300 for an initial license term of four years. Thereafter, the
11 commissioner may adjust the amount of the license fee to
12 produce revenues sufficient to support the regulatory obligations
13 imposed on the department by this act. The commissioner may
14 also prescribe by rule or regulation the term of all public adjuster
15 licenses. The commissioner shall refund to the applicant or
16 proposed sublicensee the fee paid if the application is denied¹.

17 10. Every adjuster's license issued pursuant to this act ¹[shall
18 be for a term expiring one year after December 31 next following
19 the date of its issuance, and]¹ may be renewed ¹[for the ensuing
20 two-year period]¹ upon the filing of an application in conformity
21 with section 6 of this act. ¹[If an application for a renewal
22 license has been filed with the commissioner before January 1 of
23 the ensuing year, the license sought to be renewed shall continue
24 in effect either until the issuance by the commissioner of the
25 renewal license applied for or until five days after the
26 commissioner has refused to issue the renewal license and has
27 given notice of that refusal to the applicant, and to all proposed
28 sublicensees named in the application. If the refusal is based on
29 any grounds other than failure to pass a written examination and
30 if the applicant or any proposed sublicensee shall, within 30 days
31 after the notice is given, notify the commissioner of his or its
32 request for a hearing on the refusal, the commissioner shall
33 within a reasonable time after receipt of that notice grant the
34 hearing, and may reinstate the license.]¹

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

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

53 (2) Proper application and a fee of \$150 shall be required for
54 license as a sublicensee pursuant to this subsection. A license as

1 a temporary sublicensee pursuant to this subsection may be
2 renewed for an additional 90 day period upon payment of an
3 additional \$150 fee.

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

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

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

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

28 a. enter into any agreement, oral or written, with an insured
29 to negotiate or settle claims for loss or damage occurring in this
30 State between the hours of six p.m. and eight a.m. during the
31 24 hours after the loss has occurred;

32 b. have any right to compensation from any insured for or on
33 account of services rendered to an insured as a public adjuster
34 unless the right to compensation is based upon a written
35 memorandum, signed by the party to be charged and by the
36 adjuster, and specifying or clearly defining the services to be
37 rendered and the amount or extent of the compensation ¹on a
38 form and with such language as the commissioner may prescribe¹;

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

41 d. make any misrepresentation of facts or advise any person on
42 questions of law in connection with the transaction of business as
43 an adjuster; ¹[or] ³or³

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

1 claim of an insured for any settlement moneys received, accepted
 2 or held by the adjuster shall constitute a statutory trust ³[1; or
 3 f. split a fee with a licensed insurance producer¹]³.

4 ³[14. Prior to entering into any contract for services as an
 5 adjuster pursuant to this act, an adjuster shall disclose ², both
 6 orally and in writing,² to all potential clients ²[, both orally and
 7 in writing,] who are seeking the services of the adjuster for the
 8 adjustment of claims involving owner-occupied single family
 9 homes² that the insured may unilaterally withdraw from the
 10 contract for the public adjuster's services ²for the adjustment of
 11 any claim concerning an owner-occupied single family home² by
 12 furnishing to the adjuster a notice of intention to rescind the
 13 contract by certified mail, return receipt requested, post-marked
 14 not later than midnight of the third business day following the
 15 day on which the contract for the adjuster's services was
 16 executed.¹]³

17 ¹[14.] ³[15.1] 14.³ a. The commissioner may ¹refuse to issue
 18 or renew a license, or¹ suspend or revoke any adjuster's license
 19 if, after ¹notice and opportunity for¹ a hearing ¹[on 30 days'
 20 notice to the licensee and all sublicensees named in the license]
 21 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
 22 (C.52:14B-1 et seq.)¹, the commissioner determines that the
 23 licensee, or any sublicensee named in the license:

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

27 (2) Has ¹withheld material information or¹ made a material
 28 misstatement in the application for the license;

29 (3) Has ¹[been guilty of] committed a¹ fraudulent or dishonest
 30 ¹[practices] act¹; or

31 (4) Has demonstrated his, or its, incompetency ¹, lack of
 32 integrity, bad faith, dishonesty, financial irresponsibility¹ or
 33 untrustworthiness to act as an adjuster ¹; or

34 (5) Has aided, abetted or assisted another person in violating
 35 any insurance law of this State¹.

36 b. Any ¹[licensed adjuster or any]¹ person aggrieved may file
 37 with the commissioner a verified complaint setting forth facts
 38 showing sufficient grounds for the suspension or revocation of any
 39 adjuster's license. Upon the filing of the complaint, the
 40 commissioner shall ¹[, after notice and hearing as hereinbefore
 41 provided,]¹ determine whether the license shall be suspended or
 42 revoked. ¹[The notice under this section shall be in the form of a
 43 written order to show cause.]¹

44 ¹[16.] ³[16.1] 15.³ No individual, firm, association or
 45 corporation whose license has been so revoked, and no firm or
 46 association of which the individual is a member, and no
 47 corporation of which the individual is an officer or director, shall
 48 be entitled to any license or renewal license, or to be named as
 49 sublicensee in any license or renewal license under this act, for a
 50 period of one year after the revocation, or if the revocation is
 51 judicially reviewed, for one year after the final determination of
 52 the judicial proceeding affirming the action of the commissioner
 53 in revoking the license. If any license held by a firm, association
 54 or corporation is so revoked, no member of the firm or

1 association and no officer or director of the corporation shall be
2 entitled to a license or to be named as sublicensee in a license for
3 the same period of time unless the commissioner finds that the
4 member or officer or director, as the case may be, was not
5 personally at fault in the matter on account of which the license
6 was revoked.

7 ¹[16.] ³[17.1] 16.³ If an application for a license under this act
8 is rejected, or if any license is suspended or revoked by the
9 commissioner, he shall forthwith give notice to the applicant, or
10 to the licensee or sublicensee, as the case may be.

11 ¹[17.] ³[18.1] 17.³ Any person violating any provision of this
12 act shall, in addition to any other sanctions provided by law, be
13 liable to a civil penalty of not more than \$2,500 for the first
14 offense and not more than \$5,000 for the second and each
15 subsequent offense. For the purposes of this section, each
16 transaction or statutory violation shall constitute a separate
17 offense ¹[, except that a second or subsequent offense shall not
18 be deemed to exist unless an administrative or court order has
19 been entered in a prior, separate and independent proceeding]¹.
20 In lieu of an administrative proceeding or in an action in the
21 Superior Court, the commissioner may bring an action for the
22 collection or enforcement of civil penalties for the violation of
23 any provision of this act or any regulation promulgated pursuant
24 hereto. The action may be brought in a summary manner,
25 pursuant to "the penalty enforcement law," N.J.S. 2A:58-1 et
26 seq. Process in the action may be by summons or warrant and in
27 the event that the defendant in the action fails to answer the
28 action, the court shall, upon finding an unlawful act or practice
29 to have been committed by the defendant, issue a warrant for the
30 defendant's arrest in order to bring the person before the court
31 to satisfy the civil penalties imposed. In any action commenced
32 pursuant to this section, the court may order restored to any
33 person in interest any moneys or property acquired by means of
34 an unlawful act or practice. Any action alleging the unlicensed
35 practice of public adjuster shall be brought pursuant to this
36 section in the Superior Court. In any action brought pursuant to
37 this act, the commissioner or the court may order the payment of
38 costs for the use of the State.

39 ³[119.] 18.³ a. The commissioner shall set reasonable,
40 necessary and appropriate fees, other than licensure fees under
41 section 9 of this act, to effectuate the purposes of this act.

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

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

47 d. The commissioner may provide for the waiving of any fees
48 for disabled war veterans of the United States military service.¹

49 ³[112.] 19.³ a. All licenses shall at all times be the property
50 of the State of New Jersey and upon any suspension, revocation,
51 refusal to renew, expiration or other termination shall no longer
52 be in force and effect. Upon any suspension, revocation or other
53 termination of a license, the licensee or other person having
54 possession or custody of the license shall immediately deliver it

1 to the commissioner by personal delivery or by registered or
2 certified mail.

3 b. If a license is lost, stolen or destroyed, the commissioner
4 may accept in lieu of the return of the license the affidavit of
5 the licensee or other person or persons responsible for the
6 license, stating the facts of that loss, theft or destruction.¹

7 ¹[18.] ³[21.1] ^{20.}³ The commissioner may promulgate any rules
8 and regulations as may be necessary to effectuate the purposes of
9 this act pursuant to the "Administrative Procedure Act,"
10 P.L.1968, c.410 (C.52:14B-1 et seq.).

11 ¹[19.] ³[22.1] ^{21.}³ At the request of the Commissioner of
12 Insurance, the Division of State Police in the Department of Law
13 and Public Safety shall conduct a criminal history record
14 background check, which includes a name and fingerprint
15 identification check, of each individual applicant and proposed
16 sublicensee for a public adjuster's license, to ascertain whether
17 the person has a criminal history record, pursuant to subsection b.
18 of section 6 of P.L. , c. (C.) (now pending before the
19 Legislature as this bill).

20 ¹[20.] ³[23.1] ^{22.}³ There is appropriated \$50,000 to the
21 Department of Insurance for initial first year administrative
22 costs applicable to effectuate the purposes of this act. In each
23 year thereafter, expenditures by the Department of Insurance
24 deemed necessary to carry out the provisions of this act shall not
25 exceed revenues from the operation of the act.

26 ¹[21.] ³[24.1] ^{23.}³ This act shall take effect on the ¹[90th]
27 ^{365th}¹ day after enactment.

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32 Licenses public adjusters; appropriates \$50,000.

1 which includes a name and fingerprint identification check, of
2 each individual applicant and proposed sublicensee for a public
3 adjuster's license, to ascertain whether the person has a criminal
4 history record, pursuant to subsection b. of section 6 of P.L. ,
5 c. (C.)(now pending before the Legislature as this bill).

6 20. There is appropriated \$50,000 to the Department of
7 Insurance for initial first year administrative costs applicable to
8 effectuate the purposes of this act. In each year thereafter,
9 expenditures by the Department of Insurance deemed necessary
10 to carry out the provisions of this act shall not exceed revenues
11 from the operation of the act.

12 21. This act shall take effect on the 90th day after enactment.
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14

15

STATEMENT

16

17 This bill requires the licensing of public adjusters. Public
18 adjusters are those persons who act on behalf of an insured in
19 negotiating or effecting the settlement of claims.

20 The bill permits the Commissioner of Insurance to issue a
21 public adjuster's license to any individual, firm, association or
22 corporation which is trustworthy and competent to act as an
23 adjuster. Licenses which are issued to corporations may name as
24 sublicensees only the officers and directors of the corporation.
25 Each sublicensee shall be qualified to obtain a license as a public
26 adjuster. The bill establishes a biennial licensing fee of \$400.

27 The bill appropriates \$50,000 to the Department of Insurance
28 for its initial administrative costs. Thereafter, the department's
29 administrative expenses may not exceed the revenues generated
30 by the licensing of public adjusters.

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35 _____
Licenses public adjusters; appropriates \$50,000.

ASSEMBLY INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1548

STATE OF NEW JERSEY

DATED: JUNE 15, 1992

The Assembly Insurance Committee reports favorably Assembly Bill No. 1548.

This bill requires the licensing of public adjusters. Public adjusters are those persons who act on behalf of an insured in negotiating or effecting the settlement of claims.

The bill permits the Commissioner of Insurance to issue a public adjuster's license to any individual, firm, association or corporation which is trustworthy and competent to act as an adjuster. Licenses which are issued to corporations may name as sublicensees only the officers and directors of the corporation. Each sublicensee shall be qualified to obtain a license as a public adjuster. The bill establishes a biennial licensing fee of \$400.

The bill appropriates \$50,000 to the Department of Insurance for its initial administrative costs. Thereafter, the department's administrative expenses may not exceed the revenues generated by the licensing of public adjusters.

SENATE COMMERCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1548

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 23, 1992

The Senate Commerce Committee reports favorably and with committee amendments Assembly Bill No. 1548.

This bill, as amended, provides for the licensing and regulation of public adjusters by the Commissioner of Insurance. Public adjusters are those persons who act on behalf of an insured in negotiating for, or effecting, the settlement of claims under property insurance policies. The bill provides that no insured need compensate a public adjuster for his services unless the right to compensation is based on a written memorandum.

The bill does not apply to any attorney who acts or aids in adjusting insurance claims as an incident to the practice of his profession and who does not advertise himself as a public adjuster, or any licensed insurance producer who acts as an adjuster with respect to losses involving insurance contracts under which he was the broker of record or who was designated to act for the insured in writing before a loss occurs, or any licensed auto body repair facility acting in the capacity for which it is licensed.

The bill permits the commissioner to issue a public adjuster's license to any individual, firm, association or corporation which is trustworthy and competent to act as an adjuster. Licenses which are issued to a corporation may name as sublicensees only the officers and directors of the corporation and licenses issued to a firm or association may name as sublicensees only the individual members of the firm or association. Each sublicensee must be qualified to obtain a license as a public adjuster.

Applicants for licensure are required to submit a photograph and fingerprints of both hands. No license may be issued by the commissioner to any person who has ever been convicted of an indictable offense or of any crime or offense involving fraud or dishonesty.

Applicants are required to pass an examination to show evidence of their competency. The commissioner may also require evidence of experience as an adjuster. Persons licensed as public adjusters in another state may, at the discretion of the commissioner, be licensed without taking the examination if that state has licensing standards substantially similar to this State's and accepts public adjusters licensed from this State. Persons who have operated a public adjusting business in this State may also be licensed by the commissioner without taking an examination. Persons who have demonstrated trustworthiness and competence to act as adjusters and have been employed as or acted as public adjusters as their principal business for a period of at least five years immediately preceding the effective date of the bill shall be licensed by the commissioner without taking the examination.

The bill establishes a license fee of \$300 for an initial term of four years. Thereafter, the commissioner may adjust the license fee and term of the license.

Every public adjuster licensed pursuant to the bill would be required to post a bond of \$10,000. The bill also requires public adjusters licensed under the bill to establish an interest bearing escrow account to hold any moneys which are to be used in settlement of claims.

The bill prohibits licensees from making any misrepresentation of facts or advising any persons on questions of law. Public adjusters are prohibited from entering into any oral or written agreement with an insured between the hours of 6:00 p.m. and 8:00 a.m. during the 24 hours after a loss has occurred. Licensees are also prohibited from inducing cancellation of a duly executed written memorandum between an insured and a public adjuster and from splitting a fee with a licensed insurance producer.

The bill also requires a cooling off period during which an insured can rescind a contract with an adjuster within three business days.

The commissioner may refuse to issue or renew a license, or suspend or revoke the license of the licensee or any sublicensee named in the license if the licensee or sublicensee violates any provision of this bill. If a license is revoked, the licensee would not be permitted to be relicensed for a period of one year after the revocation.

Violators of the provisions of the bill would be subject to a civil penalty of not more than \$2,500 for a first offense and not more than \$5,000 for a subsequent offense.

The bill appropriates \$50,000 to the Department of Insurance for implementing the provisions of the bill.

As reported, this bill is identical to Senate Bill No. 908 [1R].

LEGISLATIVE FISCAL ESTIMATE TO
ASSEMBLY, No. 1548
STATE OF NEW JERSEY

DATED: August 11, 1992

Assembly Bill No. 1548 of 1992 requires the licensing of public adjusters. The bill permits the Commissioner of Insurance to issue a public adjuster's license to any individual, firm, association or corporation deemed competent to act as an adjuster. Licenses issued to corporations may name as sublicensees the officers or directors of the corporation. The bill establishes a biennial licensing fee of \$400 for an adjuster and each sublicensee. A fee of \$150 is charged for the licensing of a temporary sublicensee in the event of a catastrophic loss occurrence.

The bill appropriates \$50,000 to the Department of Insurance for its initial administrative costs. Thereafter, the department's administrative expenses may not exceed the revenues generated by the licensing of public adjusters.

The Department of Insurance and the Office of Management and Budget have not provided cost estimates concerning the fiscal impact of this bill.

The Office of Legislative Services (OLS) notes that the provisions of the bill limit its fiscal impact on the State to the initial appropriation of \$50,000. It is not certain, however, in the absence of detailed information from the department, whether the revenues generated from the fees will be sufficient to ensure adequate oversight of licensees.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.