

Legislative History for Connecticut Act

PA 14-175

HB5502

House	1663-1676	14
Senate	3350-3357	8
Insurance	813-817, 827-829, 832-847, 852-869, 884-885, 903-904, 984-1017	80

H – 1185

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2014**

**VOL.57
PART 5
1361 – 1680**

pat/gbr
HOUSE OF REPRESENTATIVES

154
April 22, 2014

Total number voting	142
Necessary for passage	72
Those voting Yea	142
Those voting Nay	0
Those absent and not voting	8

DEPUTY SPEAKER GODFREY:

The bill is passed. Mr. Clerk, 218 please.

THE CLERK:

On Page 13, House Calendar 218, Favorable Report of the Joint Standing Committee on Insurance and Real Estate, Substitute House Bill 5502 AN ACT CONCERNING CHANGES TO THE PROPERTY AND CASUALTY AND SURPLUS LINES INSURANCE STATUTES.

DEPUTY SPEAKER GODFREY:

The distinguished Chairman of the Insurance Committee, Representative Megna. Representative Megna just one moment. Getting just a tad loud. Thank you. Representative Megna.

REP. MEGNA (97th):

Thank you, Mr. Speaker. Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER GODFREY:

The question is on acceptance and passage. Would

you explain the bill please, sir.

REP. MEGNA (97th):

Yes, Mr. Speaker. Mr. Speaker, this is an eight-section bill that essentially deals with property claims for homeowners and small and large businesses and what I'll do is I'll go through the different sections, Mr. Speaker, and explain them and clarify them and at the end of going through the sections, I'm going to call an amendment to add to Section 1 and clarify it even more.

So Section 1 of the bill, Mr. Speaker, seeks to clarify 38a-316a when, which was Public Act 07-77 where this Legislature passed a bill that prohibited homeowners insurance companies in a regulated market to require storm shutters to be put on houses anywhere in the state, not only along the coast, but anywhere in the state as a requirement in order for them to underwrite them.

It was a very controversial issue and thousands of homeowners throughout the state had expressed concerns about it and as a result, we passed 7-77.

So this is seeking to really clarify that and add to it because since that law was passed, the Department of Insurance had issued a bulletin allowing

those insurers to not insure them if they don't have storm shutters on the present, on their premises ready to install.

So this Section 1 simply removes the word permanent, but I will come back to that section after I explain the other seven sections of the bill, Mr. Speaker because I would like to call an amendment on that Section 1.

Section 2 is really a section that comes to us from the Department of Insurance. A few years ago this Chamber passed legislation that told these homeowner insurance, the insurance marketplace, regulated marketplace, that they cannot not renew or not insure a property in the event they had a catastrophe loss.

A catastrophe loss is Hurricane Irene or Storm Sandy and what this does is, it clarifies that any catastrophe loss. The department had come to our Committee and said that companies were saying, wait a minute. Storm Sandy and Hurricane Irene, those were two catastrophes. Therefore, we cannot renew or decline to insure homeowners and the department said no, no, no. The intent of that law is any catastrophe, and so Section 2 simply clarifies that.

Section 3 goes into 38a-307, which is the standard fire policy and it changes the timeframe to bring an action against the insurer on a property claim from 18 to 24 months. This Chamber had increased that from one year to 18 months several years ago and there are many companies that already allow up to two years to bring an action.

And the reason why we did that, Mr. Speaker, is quite often commercial property claims and homeowner property claims go on for extended periods of time. You even have claims today that are still being resolved from Hurricane Irene and Storm Sandy, and homeowners and business owners always have a fear when you're coming up on that 18 months that 24 months, that unless they throw it into suit, they may prejudice whatever remaining recovery they have.

So this in a sense protects them from having to do that, having to bring an action when maybe they don't really need to bring an action. Maybe that final payment from that insurance company will be satisfactory.

Now Section 4 of the bill, Mr. Speaker, is a consumer protection against unscrupulous public insurance adjusters. Several years ago we passed a

law that actually was a regulation. We moved it into statute. It was a regulation that prohibited the solicitation of property claims by public adjusters between the hours of 8:00 at night until 8:00 in the morning. It's somewhat standard around the country and we spoke about this and we realized that even if a contract is signed during those hours, there may be a risk that the insurer has to provide that public adjuster with their 10 percent commission or whatever that commission is. It still may be an arguable contract in the eyes of the court, so we had it added that any employment contract solicited during that timeframe should be void and we did that for consumer protection for homeowners and business owners.

Section 5 of the bill, Mr. Speaker, begins to open up the private flood insurance marketplace here in Connecticut. We've heard a lot of talk over the last year or so about on a federal level with the national flood insurance program, increased rates.

In fact, a law was just passed, was tampered down on the increased rates that were resulting on that national flood insurance program, which essentially is really the only game in town for the regulated commercial and homeowner marketplace to buy insurance.

During that whole debate, Mr. Speaker, we learned that hey, based on the rates that are charged for national flood here in Connecticut, if you look back several years you'll see that the State of Connecticut, national flood would have had like a positive loss ratio here in Connecticut because the rates were so high and the losses were limited.

And then within the last year or so we saw a surplus lines market enter into the state and sell a couple of flood insurance policies at a competitive rate compared to the federal program.

So what this does is, it says to the regulated market, hey, if you want any of the traditional flood business in the state go ahead and take it and there are no limitations as to coming up with rates throughout the State of Connecticut and we do that in the hopes that some private company will come in and provide coverage. Okay.

In Section 6 of the bill, it just extends the notice on a surplus lines policy to the consumer to tell them to read it, make sure you read it, because this is a very different type of policy, very different type of policy compared to what you normally buy in a bided market and that you ought to read it.

Section 7 just says, if you're looking for flood insurance, you can skip the affidavit and go right to the surplus lines market. You don't need to have, not affidavit, I'm sorry, signed statement. You don't need to get a signed statement from the broker or the agent.

And Section 8 just seeks to clarify that the standard fire policy is something to be part of any surplus lines commercial policy or homeowner policy here in the State of Connecticut. It's existing law, but we did an audit last year and we found that many surplus lines companies are not following the standard fire policy and giving homeowners and commercial property owners something substandard to the standard fire policy.

And it also allows the surplus lines market to cut the commercial definition of depreciation loose, the commercial policies issued.

With that, Mr. Speaker, the Clerk is in possession of LCO 3318. I'd ask that it be called and I ask that I be permitted to summarize.

DEPUTY SPEAKER GODFREY:

The Clerk is in possession of LCO Number 3318 which will be designated House Amendment Schedule "A".

pat/gbr
HOUSE OF REPRESENTATIVES

161
April 22, 2014

Mr. Clerk, please call the Amendment.

THE CLERK:

House "A", LCO 3318 introduced by Representative Megna and Senator Crisco.

DEPUTY SPEAKER GODFREY:

The gentleman has asked leave of the Chamber to summarize. Is there objection? Hearing none, Representative Megna.

REP. MEGNA (97th):

Thank you, Mr. Speaker. Mr. Speaker, this goes back to Section 1 and it further clarifies that this Legislature intends to not allow the regulated market to deny coverage whether it's on the coast or anywhere in the state, to homeowners in the event they don't have storm shutters permanent attached to their house, plywood, a truckload of plywood cut up and sitting in their garage to install in the event of a windstorm, which, Mr. Speaker, I just want to add a little further, according to the Department of Insurance they use the word windstorm not necessarily hurricane.

So that guideline actually would require homeowners to pop up plywood on their home in the event of a tornado or any type of windstorm.

With that, I move adoption of the Amendment.

pat/gbr
HOUSE OF REPRESENTATIVES

162
April 22, 2014

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

The question is on adoption of House Amendment Schedule "A". Will you remark on House Amendment Schedule "A"? Will you remark on House Amendment Schedule "A"?

If not, let me try your minds. All those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

Opposed, nay? The ayes have it. The Amendment is adopted. The distinguished Ranking Member of the Insurance Committee, Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. Forgive me, there was a little bit of confusion. I had my light lit to speak on the Amendment.

DEPUTY SPEAKER GODFREY:

Sorry. Your light was lit before the Amendment was called, so I apologize. I just thought you wanted to speak on the main bill.

REP. SAMPSON: (80th):

Understood.

pat/gbr
HOUSE OF REPRESENTATIVES

163
April 22, 2014

DEPUTY SPEAKER GODFREY:

Obviously, since the Amendment has been adopted, you can comment on the bill as amended.

REP. SAMPSON (80th):

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

You're welcome.

REP. SAMPSON (80th):

This bill as the Chairman of the Insurance Committee has mentioned has eight sections, but I think that most folks would find the question about whether or not this is a good bill that ought to be adopted is in Section 1, and I'd just like to briefly say a few words about Section 1 and also clarify the Amendment that just occurred.

Under current law, an insurance company can request of a homeowner that owns a property that is on the coast to attempt to mitigate a potential loss because of a windstorm by requiring their insurance clients that own such properties to install shutters on their property, and they do this of course, because they feel that the installation of those shutters will result in far less losses, far less claims and ultimately less premiums for all insurance consumers

in the State of Connecticut.

The bill, now that it's been amended, would prohibit the practice of an insurance company from being able to make any requirement regarding the installation of permanent storm shutters and in fact, also, because of the Amendment, to even require that such a coastal homeowner have storm shutters on their premises.

Mr. Speaker, this to me is a question of personal responsibility, and whether or not it is really the responsibility of somebody who owns a house that is on the coast to try and prevent the potential loss or damage to their property in the case of a windstorm, and I'm very concerned about the ramifications of passing this type of legislation, and I'm not alone.

The State of Connecticut Insurance Department also testified in the Insurance Committee in opposition to this bill and particularly this section, and I'd like to just point out a couple of the things that they said about it.

One quote was that financially speaking, this legislation could be setting up coastal homeowners for the perfect storm. Legislation promoting coastal liening fees such as this bill, will likely result in

pat/gbr
HOUSE OF REPRESENTATIVES

165
April 22, 2014

increased rates and/or industry's departure from the Connecticut market.

Now, I think that that's an eye-opening statement when we are consistently concerned about generating business and jobs in our state that we might be passing legislation that ultimately is going to cost insurance consumers in the state more in the way of premiums, but also might cause insurance carriers that are doing business in our state to leave.

Another quote that they said was that instead of relaxing standards, we should be doing more to encourage insurers to mitigate potential storm loss.

As I said, this is a question about whether or not it is the responsibility of someone who owns their property, to try and protect it against loss. During the Insurance Committee meeting we had used quite a few different examples.

I made the comment that would it be improper for an insurance company to tell someone not to store flammable liquids like gasoline, for instance, inside their homes in combination with maybe candle light.

You know, at some point, the homeowner is responsible for protecting their property, and if we limit the ability of the insurance company to put any

requirements on consumers, ultimately insurance premiums are going to increase dramatically.

And in this case, I'm afraid that insurance premiums are going to increase dramatically across the board not just for coastal homeowners but for everyone, because insurance companies will be forced to be in a position to raise rates on all homeowner policyholders to make up for the potential losses that are generated by this change in policy.

And for those reasons, Mr. Speaker, I would urge my colleagues to vote in opposition to this bill.

Thank you.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Will you remark further on the bill as amended? Will you remark further on the bill as amended?

If not, staff and guests please come to the Well of the House. Members take their seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by Roll.

The House of Representatives is voting by Roll.

Will members please return to the Chamber immediately.

pat/gbr
HOUSE OF REPRESENTATIVES

167
April 22, 2014

DEPUTY SPEAKER GODFREY:

Have all the members voted? Have all the members voted? Have all the members voted? If all the members have voted, the machine will be locked. The Clerk will take a tally. And the Clerk will announce the tally.

THE CLERK:

House Bill 5502 as amended by House "A".

Total number voting	139
Necessary for passage	70
Those voting Yea	89
Those voting Nay	50
Those absent and not voting	11

DEPUTY SPEAKER GODFREY:

The bill as amended is passed. Ladies and gentlemen, we're going to do some referrals. Representative Paul Davis.

REP. DAVIS (117th):

Thank you, Mr. Speaker. Mr. Speaker, the Clerk is in possession of today's Supplemental Go List, which lists the bills to be referred. I move that we waive the reading of the List and refer the bills to the Committees as indicated.

DEPUTY SPEAKER GODFREY:

**S - 679
CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2014**

**VETO
SESSION**

**VOL. 57
PART 11
3246 – 3508**

pat/gbr
SENATE

165
May 7, 2014

SENATOR LOONEY:

Yes, thank you, Mr. President. Have four additional bills to add to the Go list. First, Calendar Page 16, Calendar 474, House Bill 5337.

Calendar Page 22, Calendar 536, House Bill 5546.

Calendar Page 36, Calendar 293, Senate Bill 425.

I skipped one. Calendar Page 26, Calendar 566, House Bill 5535.

And if the Clerk would call as the next Go item, Mr. President, Calendar Page 13, Calendar 447, House Bill 5502 to be followed by Calendar Page 36, Calendar 293, Senate Bill 425, to be followed by Calendar Page 2, Calendar 59, Senate Bill 71, to be followed by Calendar Page 13, Calendar 448, House Bill 5145 and then Calendar Page 30, Calendar 591, House Bill 5537.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator. Mr. Clerk.

THE CLERK:

On Page 13, Calendar 447, Substitute for House Bill Number 5502 AN ACT CONCERNING CHANGES TO THE PROPERTY AND CASUALTY AND SURPLUS LINES INSURANCE STATUTES. Favorable Report of the Committee on Insurance and Real Estate. There are amendments.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Thank you, Mr. President. Mr. President, I move for the acceptance of the Joint Committee's Favorable Report in concurrence with the House.

THE CHAIR:

pat/gbr
SENATE

166
May 7, 2014

On acceptance and passage. Will you remark?

SENATOR CRISCO:

Yes, Mr. President. Mr. President, I would like to just summarize the features of the bill. I will get to one of the features known as shutters, but I like to bring to the attention of the Circle two extremely important parts.

One of the sections extends the ability of the insurer to sue from 18, the extension is to 24 months, so there's an extension of 6 months.

In addition, the bill also creates a framework for any insurance company who wants to set up a flood insurance company or program in Connecticut to have the ability to do that.

In addition, the main reason for the bill, the bill really prohibits insurers from refusing to issue or renew a homeowner's policy because the insured failed to install storm shutters and require insurers to give a premium discount for the installation of temporary shutters.

It will amend the law, which prohibits insurers from declining, canceling or non-renewing a homeowner's policy based solely on a loss as a result of one catastrophic event and would increase the time period, which I mentioned for litigation.

But the most important thing, there was an Insurance Department ruling that created a problem for individual policyholders, which stated that you really had to have storm shutters located on the property or in your basement.

House Amendment "A" changes that and along with the litigation and also the potential of flood insurance companies, really provides our homes not only near water property, but other homes, with adequate coverage. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator. Senator Kelly.

pat/gbr
SENATE

167
May 7, 2014

SENATOR KELLY:

Thank you, Mr. President. The bill as amended does a number of things. Well, I want to make sure it does a number of things. Through you to the proponent of the bill, I want to make sure that the bill as amended does a couple of things. One is that it increases the number of events from one to one or more based on the national standard so that we can identify the weather event that would be affected by this.

And two, importantly, would be that a carrier cannot drop someone because of a claim during one of these events.

And then three, that there's not a cap on insurance premiums going forward.

Through you, Mr. President.

SENATOR CRISCO:

Mr. President.

THE CHAIR:

Senator Kelly has the floor. Yes, Senator Crisco.

SENATOR CRISCO:

Thank you, Mr. President. Through you to Senator Kelly, in regards to his three questions, the answer is yes.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Now, with regards to the other part of the bill dealing with storm shutters, could you explain a little bit more about that? As I understand what this would do is, it would allow people who are near coastlines that they would not be required to either install or have permanent shutters in their possession

pat/gbr
SENATE

168
May 7, 2014

in order to have a renewal for new insurance policy.
Through you, Mr. President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Mr. President, through you to Senator Kelly. Yes, the bill will prohibit insurers from refusing to issue or renew a homeowner's policy because the insured failed to store, install storm shutters and required insured if one properly does, to give a premium discount for the installation of temporary shutters.

It also amends the law, which I stated, which prohibits insurers from requiring that shutters be located on the property.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Senator Crisco. The 21st Senate District comprises of many coastal communities, not only the Town of Stratford, which is on both Long Island Sound and the Housatonic River, but also the City of Shelton, Monroe and Seymour, who all share that Housatonic River resource.

This bill is the type of bill that if you're in one of those areas it helps, and I think the Amendments to the bill initially, that changes it from the one that we saw at committee level, really enhanced this bill because what the individuals that were affected by these storm events really wanted, was the ability to get insurance.

The prior bill that was in existence dealt with one event and in 2012 we saw that we had both a storm and hurricane and so there were more than one event. And the big problem when you're on the coastline is that if you lose your insurance, it's very difficult to get

pat/gbr
SENATE

169
May 7, 2014

more insurance if the carriers have receded from the shoreline.

So in that regard, this will keep the carriers on the shore. It will keep people, or give them the opportunity to purchase insurance, and I think on the whole, if you represent the community that is affected thereby, this is a good bill. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator. Senator Welch.

SENATOR WELCH:

Thank you, Mr. President. I think Senator Kelly touched on an important point, and that is this benefits certain communities, but it does so at the expense of others, because as we all know how insurance works, if premiums are forced to go up because they're not allowed, insurance companies are not allowed to require certain protections in one area, well that expense is going to be passed on to other areas, areas where this issue isn't even really one of importance, and frankly, Mr. President, that is of concern to the district that I represent, the 31st District, with Bristol, Plymouth, Plainville, Torrington and Thomaston.

So I do not support the underlying bill as it is drafted. I do have an amendment, and I believe, Mr. President, the Clerk is in possession of LCO Number 4599. I ask that he call the amendment and I be given leave to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO Number 4599, Senate "A" offered by Senator Welch.

THE CHAIR:

Senator Welch.

pat/gbr
SENATE

170
May 7, 2014

SENATOR WELCH:

Thank you, Mr. President. I move the Amendment and seek leave to summarize.

THE CHAIR:

On adoption. Will you remark, sir?

SENATOR WELCH:

Thank you, Mr. President. What this Amendment does is, it defines storm shutters as steel, aluminum or other solid metal coverings used to protect dwellings from damage caused by storms.

So these are the really expensive shutters. So essentially if this Amendment were to pass, insurance companies wouldn't be able to say to an insured, you have to have metal shutters, but they can say you have to have wood shutters or you have to have wood in your basement, as it were, in order to keep the costs, I think where they appropriately ought to be and that is in the communities that are affected by these storms.

I urge the Committee's adoption of this Amendment. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator. Senator Crisco.

SENATOR CRISCO:

Thank you, Mr. President. I move rejection of the Amendment and request that the vote be taken by Roll.

THE CHAIR:

A Roll Call Vote will be ordered. Will you remark further on the Amendment? Will you remark further on the Amendment?

If not, Mr. Clerk, please announce the pendency of a Roll Call Vote. The machine will be opened.

pat/gbr
SENATE

171
May 7, 2014

THE CLERK:

An immediate Roll Call has been ordered in the Senate. Roll Call on Senate Amendment Schedule "A" has been ordered in the Senate.

THE CHAIR:

Have all members voted? If all members have voted, please check the board to make sure your vote is accurately recorded.

If all members have voted, the machine will be locked and the Clerk will announce the tally.

THE CLERK:

Senate Amendment Schedule "A".

Total number voting	36
Necessary for adoption	19
Those voting Yea	8
Those voting Nay	28
Those absent and not voting	0

THE CHAIR:

The Amendment fails. Will you remark further on the Amendment? Senator Crisco.

SENATOR CRISCO:

On the bill, Mr. President?

THE CHAIR:

I'm sorry. Would you remark further on the bill?

SENATOR CRISCO:

Yes, I request a Roll Call Vote.

THE CHAIR:

Mr. Clerk.

THE CLERK:

pat/gbr
SENATE

172
May 7, 2014

An immediate Roll Call has been ordered in the Senate.
Roll Call in the Senate.

THE CHAIR:

(Senator Duff in the Chair.)

Senator Bartolomeo. Have all the members voted? If all members have voted, the machine will be, check the board to make sure your vote is accurately recorded.

If all members have voted, the machine will be closed and the Clerk will announce the tally.

THE CLERK:

House Bill Number 5502.

Total number voting	36
Necessary for passage	19
Those voting Yea	28
Those voting Nay	8
Those absent and not voting	0

THE CHAIR:

The bill passes in concurrence with the House.

SENATOR LOONEY:

Mr. President.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. If the Clerk would call as the next item, Calendar Page 36, Calendar 293, Senate Bill 425 to be followed by Calendar Page 2, Calendar 59, Senate Bill 71.

THE CHAIR:

Thank you, Senator Looney. Mr. Clerk.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**INSURANCE AND
REAL ESTATE
PART 2
435 – 895**

2014

With that, I'd like to call up -- our first speaker is George Bradner from the Department of Insurance.

GEORGE BRADNER: Would you just like me to address 5502 at this point and come back later on 278 or do both? It -- it'll --

REP. MEGNA: You -- you can address every bill that --

GEORGE BRADNER: Okay. All right. Senator Crisco, Representative Megna, and Members of the Insurance and Real Estate Committee, the Insurance Department appreciates the opportunity to provide testimony regarding 5502. The department recognizes and appreciates that the intent of this bill is to help Connecticut homeowners by removing what some consider burdensome requirements in protecting their property. However, this bill may be fraught with unintended consequences resulting in issues of affordability and availability.

Financially speaking, this legislation could be setting up coastal homeowners for the perfect storm. As an agency with a prime mission of consumer protection, the department respectfully requests that the Insurance and Real Estate Committee not give H.B. 5502 a joint favorable report. The department's gravest concerns are found in section one, which eliminates the word permanent in Section 38a-316a(a).

This means insurer will -- would not be able to require policyholders living within 2600 feet of the coast, the most vulnerable area of the state, to have some form of mitigation to

SB 278
HB 536d

protect their homes from devastating hurricane force winds. We believe that -- the intent, we -- we believe, is that you're -- you're looking to remove any requirement that a homeowner would have to have any form of shutter, whether it's plywood that they have on hand or some other means that they can install before an event.

At a time when the state has experienced some of the most damaging storms in recent memory, none of which were officially designated hurricanes, the state of Connecticut should avoid discouraging individuals from taking precautionary measures to protect their property. Ultimately, the property owner will pay the price. The vast majority of insurers did not or could not impose hurricane deductibles for those storms.

Legislation promoting coastal leniency such as this bill and S.B. 278, the adverse weather bill, will likely result in increased rates and/or industry departure from the Connecticut marketplace. Between Storm Irene, the October nor'easter, Superstorm Sandy, the industry responded to more than 200,000 claims and paid close to \$1 billion in losses. Instead of relaxing standards, we should be doing more to encourage insureds to mitigate potential storm loss, and we should be doing everything in our power to -- today to prepare for the day when we are revisited by a category three hurricane similar to the 1938 Long Island Express.

Connecticut has over \$480 billion of coastal property exposure. And studies have indicated that should a category three hit today, the estimated insured loss in Connecticut would be between 25 and 35 billion dollars. The economic toll would be even more devastating.

The economic loss attributed to Superstorm Sandy for the region was over \$50 billion.

As co-chair of the Connecticut Long-Term Recovery Committee, I have seen firsthand the effects of these storms have caused on our residents. Many individuals are still not in their homes and are struggling to make ends meet, as they have found that their homeowners insurance, flood insurance, or FEMA assistance does not come close to covering their losses. In the recovery world, we call this unmet need, and individuals affected by Irene and Sandy are finding in many instances they have tens of thousands of dollars of unmet need.

While we are working to help these individuals today, we can do more as a state by working to encourage communities to be more resilient and to adopt stronger mitigation standards which are proven to protect property and minimize future storm victims' losses and hardships. The Institute for Business and Home Safety calculates that for every dollar of mitigation that is undertaken, there is a \$4 return in loss reduction to that community. And for those insureds who mitigate, there is a 78 percent -- 78 percent reduction in loss.

One way of promoting mitigation is by incentivizing it. Some examples include tax credits and possibly providing sales-tax-free incentives during the month of June for building supplies and materials used for property loss. We see this being done when people buy an electric car, when people put solar panels on their house, the incentives that are provided.

The Governor has taken the first and very important step in accomplishing this and that

by announcing the creation of the Connecticut Shoreline Resiliency Fund. He is seeking the assistance of the Legislature to provide an additional \$25 million for this fund to help homeowners elevate their homes, thereby reducing their flood insurance premiums and at the same time making their home more resilient to future storms.

For this and many more reasons, the department opposes the section -- the change to Section 1 of the bill, as it has the potential to significantly impact affordability and availability of homeowners insurance in the state and may ultimately lead consumers to having fewer choices when it comes to finding homeowners insurance. The department opposes this change and encourages the Committee to refrain from making the changes -- any further changes to the current law regarding the use of storm shutters.

Additionally, the department supports the change in Section 3, the catastrophe clarification that a company may not decline, cancel, or non-renew for any catastrophic loss but would like to recommend the following addition as we proposed in our -- as we'll propose in S.B. 278. We suggest modification is the -- in the legislation as follows.

Section 3(a), the declination, cancellation, or -- or non-renewal on any loss incurred as a result of one or more catastrophic events. The Committee may also wish to include in this section additional wording that allows for an increase in premium only after the second catastrophe loss.

Lastly, pertaining to Section 5, the department has concerns with addition to -- of

the following language, (C), discusses -- discusses with the insured insurance company first-party property loss or damage under the insured's policy or a first-policy property claim.

This language may have the unintended consequences of broadening unnecessarily the definition of public adjuster and to cause individuals who are not adjusting any claims to fall within the definition. We would encourage the Committee to consider removing this language above from the underlying bill. The department appreciates the opportunity to offer testimony on S.B. 5502. Would you like to go on to 78, 278 or discuss this?

REP. MEGNA: Sure.

GEORGE BRADNER: All right. Forego the formalities here. Last year, the department provided testimony in support of Public Act 13-138 to protect homeowners insurance consumers from being cancelled, declined, or non-renewed solely due to submission of catastrophe loss or losses and increasing premiums for de minimis claims.

This new legislation significantly changes that legislation and now prohibits an insurer from cancelling, declining, or non-renewing or increasing the premium for a loss incurred as a result of any adverse weather, even if such action is actuarially justified. As it stands, this bill has potentially -- potential to significantly impact affordability and availability for homeowners insurance in the state and may ultimately lead to consumers having few choices when it comes to finding homeowners insurance.

GEORGE BRADNER: -- legislation, and now they have to reconcile that with the Senate bill. I -- I don't -- basically, what those bills now do is it takes us back prior to bigger waters. So the issue that you're going to have is tremendously subsidized rates, so I don't think you're going to have a private insurer that's going to be interested in coming, because they won't be able to compete with the subsidized rate.

REP. MEGNA: If, yeah, I can understand that too if that goes through the Senate, but it may not happen.

GEORGE BRADNER: I've -- I've heard that two key Senators that wrote the Senate bill are backing the Congressional bill, so --

REP. MEGNA: Yeah.

GEORGE BRADNER: -- I, you know --

REP. MEGNA: Under --

GEORGE BRADNER: -- I believe something is going to happen.

REP. MEGNA: Under Section 7 of the -- of -- of 5502, do you see any issue with that?

GEORGE BRADNER: I don't have that. What's that section?

REP. MEGNA: That's where we allow an insurer to take any territory throughout the state to offer flood insurance.

GEORGE BRADNER: No, I -- it -- it's just --

REP. MEGNA: No.

GEORGE BRADNER: You know, you're basically allowing them to cherry pick where they want to write.

REP. MEGNA: But that's --

GEORGE BRADNER: And if that's your intent, you're -- they're going to be able to --

REP. MEGNA: Yeah.

GEORGE BRADNER: And what will happen, if -- it will be interesting to see --

REP. MEGNA: But if they could beat National Flood, doesn't that make sense?

GEORGE BRADNER: If they can, yeah. It -- you know, the thing is -- what's going to happen is it's going to make the, you know, the National Flood Insurance Plan probably even more unprofitable, because the industry will come if they cherry pick those risks, if they think they can price those risks in the first place.

REP. MEGNA: Right.

GEORGE BRADNER: They'll take those good risks, and so that will leave the NFIP even with worse experience, because now they'll be left with adverse selection. They're going to be stuck with the business that no one wants to write. So you could see the overall plan continue to deteriorate at the federal level.

REP. MEGNA: But it -- it also may mature here in our state too as we talked about the loss ratio in Connecticut with the rates that National Flood --

GEORGE BRADNER: Yeah.

REP. MEGNA: -- it's -- it's not a bad loss ratio.

GEORGE BRADNER: It could. It just -- it -- it really could, you know. The -- it's -- you and I have spoken about it -- and I did a presentation before the Shoreline Preservation Task Force -- the pure premium loss ratio in Connecticut prior to Irene was 54.

REP. MEGNA: Yeah.

GEORGE BRADNER: So when you add company -- if you added typical expenses of 30 or 40 points, that still means a -- your company could have been making six cents on the dollar prior to investments and, you know, all that calculation.

But after Irene, if you recall, the pure premium loss ratio -- or not Irene, after Sandy -- that pure premium went from 54 to 103. And if you add in 40 points of expense, they'd have 140 combined ratio. So there would still need to be some more rate, but I think Connecticut's attractive.

HB 5306
REP. MEGNA: One other -- moving over to another subject you didn't testify on, surplus lines. We agree. I think we've had the conversations that the surplus lines companies are supposed to abide by the standard fire policy. Correct?

GEORGE BRADNER: True.

REP. MEGNA: Okay. Did you see any harm in clarifying that?

REP. MEGNA: Okay.

A VOICE: That's fine.

REP. MEGNA: Rich Ouellette.

A VOICE: Should we get the timer?

REP. MEGNA: No, we won't.

RICHARD OUELLETTE: Good evening, Senator Crisco, Representative Megna, and the Members of the Committee. We appreciate you coming out here to the community for this meeting in New Haven. My name is Richard Ouellette. I reside in Newington, Connecticut, and I am a licensed public insurance adjuster with the Insurance Department of the State of Connecticut and a partner of Nutmeg Adjusters, 265 Congress Street, in Bridgeport, Connecticut.

Presently, I serve as the president of the Connecticut Association of Public Insurance Adjusters, and we're here today in support of the House Bill 5502. And in addition, I'd like -- we have members of our association with us in support of this bill, and I'd like to have them stand so they could be acknowledged, please. Thank you.

HB5247

We support this bill, Section 5, Section 38a-732, the extended duties of the public adjuster to discuss the coverage. We think it's great -- a great idea. However, the language should be a little more tightened up and defined. And my testimony has attached a sample of the National Association of Insurance Commissioners Public Adjusters Licensing Model Act 228 that maybe can be

reviewed as sample language that maybe would help define the duties of a public adjuster and what we can do for the consumer.

Section 6, Section 38a-732 -- 2(b), public adjuster employment contract; the -- the null and void of the contract the way you have it for contracts that are signed after 8:00 p.m. and prior to 8:00 a.m., I think it's a -- it stands for itself.

Our -- we have language already in place within the contracts and our definitions that we are not able to solicit between those hours, so the firms that work on an ethical manner kind of respect that. And we normally don't sign losses up or do any solicitation after 8:00 p.m. or before 8:00 a.m., but there are some people that do. This would maybe help the public get out of a bad contract in the event that this was the issue at hand. But the -- for those of us that operate in an ethical manner and follow the guidelines already, it doesn't really apply to us.

And if I may while I'm here, I'd like to make a comment on the Bill 5247, ACTING CONCERN THE AWARDS COSTS OF ATTORNEY'S FEES. We think that this is a great idea. It'll allow the policyholder to recover funds, fees, expenses that they've incurred that were unnecessary where the insurance company should have paid that claim from the beginning, and they didn't take the defensive posture and have to litigate in order to get what they deserved from the beginning. I'd like to thank you all for your attentiveness and if you should have any questions --

HB5247

REP. MEGNA: Yeah, Rich, that -- you mentioned about alternative language on that -- good

timing, man, good timing. You mentioned about alternative language on the piece about the -- discussing coverage --

RICHARD OUELLETTE: Yeah.

REP. MEGNA: -- with the policyholder or with the insurance company, yeah. If you could get that to us, that is, I don't know if it's in your testimony.

RICHARD OUELLETTE: It's in -- it's in this --

REP. MEGNA: Okay.

RICHARD OUELLETTE: -- model act that you -- you've got.

REP. MEGNA: Okay.

RICHARD OUELLETTE: You've got the whole --

REP. MEGNA: All right. Thank you.

RICHARD OUELLETTE: -- enchilada right there.

REP. MEGNA: And that's it. Are there any questions? Thank you very much.

RICHARD OUELLETTE: Thank you.

REP. MEGNA: Arthur Kohloff.

ARTHUR KOHLOFF: Correct. Good evening.

REP. MEGNA: Good evening.

ARTHUR KOHLOFF: I'm here representing my son and the mortgage holder, who I am. My son owns a house at 174 Cove Street in New Haven. The past two storms, he got hit with -- the first

HB5502

storm he lost two furnaces and two water heaters. The second storm he lost two water heaters and two furnaces.

In October, the insurance company received a check for his insurance for \$5,042 for the year. That was in October of 2013. He got a cancellation notice in February of this year that if he doesn't pay an increase of \$1,930 by the 22nd of this month, his insurance will only be -- his original insurance was 250,000 on the building and 100,000 on the -- on the contents. He'll revert back to 30,600 on the building and \$6,700 on the contents.

His insurance is going to put him broke. We sent a letter to the insurance company, Willis, who holds our insurance, stating that we will not pay this additional \$1930. If he had a mortgage with a bank, he would be obligated to pay this, but seeing as I am the mortgage holder, he doesn't have to pay that. I owned the house for 30 years, and I never had a flood there. When I turned it over to my son, oh, six or seven years ago, he's got hit with these two floods.

And with it -- the house is on the lowest part of Cove Street. I don't know if you're familiar with Cove Street, but the other end of Cove Street, if they get flooded, downtown New Haven will have four or five feet of water, because that part of Cove Street is way up on a hill. There's about three or four houses involved on Cove Street that get flooded every storm like that.

Now I don't know how they can cancel a policy and say you've got to pay more when they cash the check that we had the -- the policy on and then come back three months later and say, oh,

well, gee, you've got to pay more money or else we're not going to insure you. And as of, I think it was 12:01 on the 19th of -- of October, the insurance was cancelled, but, yet, they kept the check. We still have the insurance, I figure, even though they -- they cancelled it at the lower amount.

REP. MEGNA: Mr. Kohloff, is that flood insurance or homeowner insurance?

ARTHUR KOHLOFF: Flood insurance.

REP. MEGNA: Flood insurance. Okay.

ARTHUR KOHLOFF: And the new company that took over the flood insurance is called Wright Flood, and Willis is my company where I deal with.

REP. MEGNA: Okay. Thank you.

ARTHUR KOHLOFF: Now I can't understand how -- how can they --

REP. MEGNA: Yeah, I don't -- you know, the National Flood is a federal program. The laws that we have in terms of premiums and rates and payments and cancellations are all applied to the homeowner insurance company or the -- the regulated companies within the state, not National Flood, so I don't know what the -- what the guidelines are on that, but maybe if you leave information with my aide, we can take a look at it for you.

ARTHUR KOHLOFF: Yeah, well, I mean, it said flood insurance. You're -- you're talking about flood insurance with the gentleman that was just --

REP. MEGNA: Yes, but that -- what -- what we're trying to do in this bill is create something so we allow the companies that insure for homes here in the state insure for flood, trying to create an incentive for them to insure for flood. That's what this bill is in front of us.

ARTHUR KOHLOFF: Well, they're actually going to go up with my home insurance too.

REP. MEGNA: Excuse me?

ARTHUR KOHLOFF: They're going -- on my -- on my home --

REP. MEGNA: Yes.

ARTHUR KOHLOFF: -- which is within 150 yards of the water --

REP. MEGNA: Yeah.

ARTHUR KOHLOFF: -- they're -- and I don't have flood insurance --

REP. MEGNA: Are they making you put -- requiring you to have some kind of storm shutters?

ARTHUR KOHLOFF: No, I haven't received anything like that --

REP. MEGNA: No.

ARTHUR KOHLOFF: -- from -- from my insurance company, but they're going from -- my insurance is like \$3,000 a year. They went up to over \$6,000. But my agent is going to shop around, because --

REP. MEGNA: Yeah.

ARTHUR KOHLOFF: -- I just paid that.

REP. MEGNA: Yeah.

ARTHUR KOHLOFF: And, you know, I -- I don't -- I can't understand how they can issue a policy and then go up on it three months later.

REP. MEGNA: Yeah. Okay. Are there any questions? No. Thank you very much. And like I mentioned, my aide could look into that issue, maybe if we could look into it.

ARTHUR KOHLOFF: Yeah, who's your --

REP. MEGNA: If you just left her with the information at the desk --

ARTHUR KOHLOFF: That young lady there.

REP. MEGNA: Yeah.

ARTHUR KOHLOFF: Okay.

REP. MEGNA: Thank you.

ARTHUR KOHLOFF: Thank you.

REP. MEGNA: Next up Todd Moler.

TODD MOLER: Hi, my name is Todd Moler. I'm a public insurance adjuster. I'm here representing CAPIA as well as my public adjusting firm, The Public's Adjuster, in support of House Bill 5502.

There's two sections that are of importance. To demonstrate what we talk about when we need to, we're suggesting that some of the language in the model 228 -- more specifically on page

two on Section H in parentheses (3) -- would address the concern. I have a claim recently where an insurance company is not allowing me to discuss a coverage issue that they're wrongly applied for.

We're all licensed, and we're -- our licensure test requires us to have extensive knowledge on coverage, and that's -- we know the contract better than most attorneys do, and, yet, we're not allowed to talk about it. They're taking this very vague word in the statute as is, saying that we are -- it's okay for us to represent covered losses, so they take that to mean that we can't talk about a coverage issue when they're wrongfully determining coverage. They often hire inexperienced adjusters to save money, and they routinely make bad calls.

And I think that it is important for us to be able to represent people that are -- that are being -- and -- and it's a -- it's just a mistake that the insurance company is making. Once you bring it to their attention, we -- we often have them overturned with -- very amicably. It's like, oh, we're sorry, our guy was wrong about that.

We should be able to do that, and that Section H would -- would be some helpful language for that, because right now they're using it to save money in cases, I believe. The -- another section that -- that should be talked about is the -- extending the -- the timeframe for bringing lawsuits against a carrier. Right now, it's 18 months. Most contracts, it's six years. I don't know why we have such a tight restriction on time to bring suit.

Some of our cases can be very complicated, and we -- it -- it takes quite some time to adjust a loss. If you go a day over 18 months with the, you know, tactics and delays that we can -- you know, we have to start filing suit just to protect this. And they often grant it to us, but, you know, most contracts are six years. I think two years would be great, but I don't understand why it's not six like every other contract.

REP. MEGNA: Yeah, I think -- are you finished testifying, Todd?

TODD MOLER: Yes.

REP. MEGNA: Okay. I think that when we came up with that language under the public adjuster section, and, in fact, you and I talked about this, the word covered. Then all the sudden an insurer is telling you that, hey, it's not covered. You -- I can't talk to you about it.

But the common practice has been public adjusters have talked about coverage for, I mean, as long as 30 years for me, so -- so it sounds like we just need to tighten up that language somehow under that section. Also with regard to the two-year -- the 18-month statute of limitation to bring an action, I totally agree with you.

In fact, maybe we can develop language that says something to the effect after, you know, both parties -- two years within both parties meeting their full obligation or under the contract or the claim is denied or an umpire award comes out of it or -- or whatever, because like we talked about, sometimes that goes on for -- for years. And then the homeowner is forced to pay money to throw

something into suit when they don't really need to have it in a suit.

TODD MOLER: But it's a formality that needs to be followed --

REP. MEGNA: Yes.

TODD MOLER: -- because otherwise they relinquish -- there's nothing that would make an insurance company pay the claim that they've been negotiating for two -- for 18 months on. If it goes one day over, they don't --

REP. MEGNA: Absolutely.

TODD MOLER: -- there's -- we're powerless to do it. And, you know, I -- I don't -- it was brought to my attention today that we're the only state that does this.

REP. MEGNA: Does what?

TODD MOLER: That has a -- a restriction of 18 months.

REP. MEGNA: I think that the original standard fire policy, probably when it was adopted, was one year. And a few years ago, this Committee moved it to -- we wanted 24 months, but it wound up being 18 months, but out of all the standard fire policy states, I don't know, maybe some of them do two -- two years, but I think the original standard fire policy was one year --

TODD MOLER: Okay.

REP. MEGNA: -- but, yeah, but I totally agree and support it. But thank you very much. Are

there any -- wait a minute. Representative Yaccarino.

REP. YACCARINO: Thank you. Thank you for your testimony. I just -- really, it's a question to you, Bob. Why can't we -- if somebody has a -- a disagreement with the insurance company, if they at least file a -- a claim that that -- like a -- a suit at that point -- point, like a -- a legal suit, then that's -- at least it's a claim on them filing for a suit in the future. You know what I'm saying? You -- you have to file something ahead of time. So if it's within the 18 months, can't we do that now?

TODD MOLER: But it creates more of a burden, right?

REP. MEGNA: Yeah, I -- yeah, it does.

TODD MOLER: It's a -- it's a -- it's an additional cost or a burden on someone just to protect a contract that is intended to provide coverage in these instances.

REP. MEGNA: The homeowner will have to spend money on an attorney to throw it into suit even though they're -- they may very well be paid on the claim. It's just that it's going over an 18-month period. Could be a bad fire or something like that. That's why -- that what -- that's the concern is.

REP. YACCARINO: I -- I'm just trying to think of something that's a compromise where it gives the homeowner some -- some meat as far as knowing that at least they're going to be covered and maybe the insurance company. If they're right, then the insurance company

would have to pay those legal costs. You know, a filing is maybe 100 or 200 dollars.

REP. MEGNA: Yeah.

REP. YACCARINO: But if some sort of compromise where both parties are -- are satisfied --

REP. MEGNA: Yeah.

REP. YACCARINO: -- so you don't lose everything. That's -- that's just my view. Thank you.

REP. MEGNA: Thank you, Representative. It's actually, when you think about it, it's -- some of the language in there is very unfair, because it tells the -- the homeowner that they can't file suit until they meet all their obligations under the contract, and then you have a law that says 18 months, you know. The obligations could go over 18 months, but in any event, are there any other questions? No. Thank you very much, Todd.

TODD MOLER: Thank you. You're welcome.

REP. MEGNA: Linda Pinsky.

LINDA PINSKY: Hi. I'm just representing myself.

REP. MEGNA: Just identify yourself, your name and all that --

HB 5502
LINDA PINSKY: I'm Linda Pinsky. I live on Cove Street. I live on the end that doesn't flood, and I still had an issue on (inaudible). I never filed a claim, and I'm being told the reasons for the hike is because of all the damage in New Jersey and all the damage in all these other states, so I'm paying for it.

I'm a single person. I have no kids. But my taxes go to pay for other people's kids who go to school. I'm paying my insurance bills, and they pay to help other people. So what I'm hearing now is that there are a lot of people against this passage in Obama's hands, because they're saying, well, the rich -- that regular taxpayers shouldn't help people who get flooded. You know, they shouldn't be responsible for helping pay out people who get flooded.

Well, if I'm paying for someone else's kids to go to school, or I'm paying someone else's welfare bills, or I'm paying someone else's stuff, I don't see why I can't get help and why I should even have to be at a disposition like that. And I'm just thinking that this is just -- I -- I know -- my brother is an attorney here in New Haven, and I'm a nurse who works for the insurance companies.

But -- but I'll tell you something, I know the insurance companies are sitting on trillions of dollars, so for them to have to sit and pay a few billion here and there, that's not a big ticket item for them -- that it should go into our pockets when we work, we're living in this community, we're -- it's not a very wealthy community. It's a -- it's a stable middle-income community, and if we get hit with high-income flood insurance, that will decimate this neighborhood. People won't be able to sell their homes. People won't be able to afford to stay in their homes.

And I've got to tell you -- and what they should be looking at is maybe doing things like fixing the end of Cove Street that does get flooded by putting in better drainage systems. It's a constant known fact that that

area gets -- gets soaked. And I don't see where -- that's where the money should be going to, not to be charging me to pay for insurance that I have never needed, because my house has been standing there for a hundred years, has gone through Gloria, has gone through Sandy, and I didn't even lose a leaf on a tree.

REP. MEGNA: Thank you. Thank you very much for your testimony. The increase in the premiums, your homeowner or your --

LINDA PINSKY: My homeowner --

REP. MEGNA: Your homeowner.

LINDA PINSKY: -- went up 500 bucks.

REP. MEGNA: Okay.

LINDA PINSKY: And --

REP. MEGNA: Well, it's good that you're here and you say that today, because the Department of Insurance is here, and they're the individuals that are responsible for approving --

LINDA PINSKY: Mm-hmm.

REP. MEGNA: -- or not approving the rates that are charged in this area. So it's good --

LINDA PINSKY: Well, there's a lot of this area that doesn't get flooded and doesn't get damaged, and --

REP. MEGNA: Yeah.

LINDA PINSKY: -- and we're -- and I don't want to see this area be subject to rules that are

confided by somebody who's -- really is always getting hit.

REP. MEGNA: Yeah.

LINDA PINSKY: And we shouldn't have to pay that -- that penalty.

REP. MEGNA: Yes, the rate should be spread out among --

LINDA PINSKY: I should be able to live in my home, yeah.

REP. MEGNA: I'll have to say --

LINDA PINSKY: It -- it's bad enough we pay high taxes to live here too.

REP. MEGNA: Yeah.

LINDA PINSKY: I live on the water.

REP. MEGNA: No, I totally agree.

LINDA PINSKY: Yeah, so if you're going to put the high taxes on top of the house value these days and then a high insurance rate on top of that, and if you want to make me put on flood -- shutters on my house when I just spent \$30,000 putting in beautiful Harvey windows that stood up very nicely to -- to the Hurricane Sandy --

REP. MEGNA: Yeah.

LINDA PINSKY: -- that -- you know, it's crazy. I put in really heavy windows.

REP. MEGNA: Yes, yes.

LINDA PINSKY: But I shouldn't have to go putting up shutters too, and those shutters aren't cheap. Those hurricane shutters are very expensive.

REP. MEGNA: Thank you.

LINDA PINSKY: Thank you.

REP. MEGNA: Thank you very much for your testimony. Wait. Are there any questions? No. Thank you very much.

LINDA PINSKY: Thank you.

REP. MEGNA: We're going to move on to 5366. Bill Kiley, is he here?

A VOICE: He was here.

WILLIAM KILEY: Good evening, Chairman Megna, Chairman Crisco, Committee Members. I'm Bill Kiley, president of Connecticut Underwriters in Middletown, Connecticut, and the past president of New England Surplus Lines Association. I'm here on behalf of the Association and Connecticut Underwriters to oppose Raised Bill 5366.

By mandating the inclusion of nonadmitted insurers or the representatives to comply with 38a-308 in essence takes away the ability of the surplus lines market to operate how we were intended. The surplus lines market is free of rate and form so we can tailor policies for the insureds who otherwise would not be able to obtain insurance.

More specifically, Section 2(c) of the proposed bill will not allow for nonadmitted insurers of homeowners to offer anything but

REP. MEGNA: The policies -- when we -- we did an audit, and we pulled some of these homeowner policies, and the ones with the functional replacement costs --

WILLIAM KILEY: Mm-hmm.

REP. MEGNA: -- homeowners could get -- if their home was blown over in a windstorm -- could get actually less money than they could on the less than fair market value. I mean, it's --

WILLIAM KILEY: If -- if --

REP. MEGNA: -- they -- I don't think they're aware of that when they buy those policies, you know.

WILLIAM KILEY: I respectfully disagree.

REP. MEGNA: Okay. But it's currently the law, not supposed to sell these functional replacement cost policies, but, but I thank you for your testimony. Are there any questions? No? Thank you very much, Mr. Kiley.

REP. MEGNA: I'm going to jump back to 5502. Bob Kehmna came in the room. And then we have some members of the public too.

BOB KEHMNA: Thank you, Representative Megna, Senator Crisco, Members of the Insurance and Real Estate Committee. For the record, my name is Bob Kehmna from the Insurance Association of Connecticut. I'm here today to speak in opposition to House Bill 5502. Section 1 would provide that the insurer cannot refuse to issue or renew a homeowners policy on the basis that the insurer did not install storm shutters on the dwelling.

Currently, the prohibition is limited to failure to install permanent shutters. Such a change would be counterproductive, as it would diminish the likelihood of proper loss mitigation, efforts being undertaken in the areas where they're most needed. The effects of mitigation, the effects of use of shutters, are undeniable, and the protection of the home, protection of the inside and outside of the home and reduction of loss costs -- the last thing we -- we would suggest we should be doing is creating a disincentive to take those proper measures.

Section 2 would require insurers to offer a premium discount to any homeowner who installs storm shutters on the dwelling. Currently, the requirement is on us to offer a discount if permanent shutters are put on the building. That's something that's identifiable. That's something that's verifiable. You're asking us to exercise sound actuarial principles on something that is not permanent. Its presence, its use, the timeliness of its presence are unknown.

We don't know how we could construct an -- a actuarially sound discount based on the bill as you would present it with this amendment. As to Section 3, this bill prohibits insurers from underwriting based on the loss from any rather than a catastrophic event. Repeated losses are predictive of future loss, and we would oppose this change.

Subsection (d) of that same section would require insurers to offer coverage for code compliance improvements that are required under local or state law. Localities have different requirements. This would make this

product very difficult to price in addition to the grandfathering issues that present themselves with code compliance.

Section 4 of the bill would increase the timeline -- the statute of limits, if you will -- from 18 to 24 months. That was changed in 2009, as I recall. Previously, it was 12 months per the standard policy. We don't see why it should be changed to 24. The longer you wait, the staler the information is, the evidence, the ability to prove what did or did not happen, the more likelihood the claim will be affected by intervening weather events and the inevitable increase in repair costs.

Section 5 amends the definition of public adjuster. As this section is written right now, it would apparently require insurance agents to be licensed as insurance or public adjusters, because they, in a matter of course in their -- in their standard business practices, would discuss the claim with the employer. We're not quite sure what discuss means in this context. And would it mean that a -- that a public adjuster who simply discusses an issue with an insurer would be entitled to compensation of some sort? We're -- frankly, we don't know what is intended in that section.

And then finally in Section 6, there's a -- a removal of the word prominently regarding a consumer protection notice that's -- that has to be in any such contract. We don't know why prominently would be eliminated. Thank you. I'd welcome any questions.

REP. MEGNA: Thank you, Bob. On -- and good timing, Bob. I don't know, was it Section 5

you talked about? Yeah, in Section 5, I mean, it's simply them talking about whether a claim is covered or not. It's been the standard business practice all along. If you can help us with language to get there, that would be fine. Are there any questions?
Representative Yaccarino.

REP. YACCARINO: Thank you, Mr. Chair. Thank you, Bob, for your testimony and being here this evening. I just have a question, and I guess every case is different. When people put a claim in, and there's a dispute, and it goes 18 months, 19, you know, 2 years, what's usually the biggest roadblock why the claims aren't being paid or -- at least resolved? Know what I'm saying? Why -- why does it take so long? Is it the homeowner, or is it the insurance companies that obviously -- I worked construction for a long time --

BOB KEHMNA: Sure.

REP. YACCARINO: -- in the past, and I -- generally things were solved fairly quickly, so I don't see -- why does it take 18 months or 12 months?

BOB KEHMNA: I don't know. The -- as I understood it, the original reason for the 12-month rule was to try and encourage expeditious settlement to try and get this thing done, get the -- get the home repaired, because even anti-blight rules that a -- a town or municipality might have, the idea is to try and get that house repaired as quickly as possible for public safety if nothing else, never mind the -- the best interests of the -- of the homeowner.

REP. YACCARINO: Well, I would just think that -- and I'm not, I don't know whose fault it is, but you would think it would be very quick, because you're living in this home, you have -- generally you have other -- your family or, you know, and it's your home. I don't know why it would take so long.

BOB KEHMNA: Well, we are -- as insurers, we are subject to the Unfair Insurance Practices Act, and we are required under the law to settle a claim in a fair and expeditious manner. So I can assure you it's not in our interest, either in our relations with our insured or with the regulator, to -- to drag our feet.

REP. YACCARINO: No, that -- that's fine. I was just -- I was just wondering if there's any numbers why it would take -- I just find it hard to believe it takes that long. And I guess it does. Obviously, that's why we're here. And I'm not blaming you at all. I'm -- I'm just saying it just doesn't make any sense, and it -- it must be a -- a need for it. That's why we're here, so thank you.

REP. MEGNA: Thank you, Representative. Are there any other questions? Thank you very much, Bob, for your testimony.

BOB KEHMNA: Thank you.

REP. MEGNA: Chris Avallone. Good to see you a year later.

CHRIS AVALLONE: Good to see you. We had several discussions on this issue of storm shutters.

REP. MEGNA: Yeah.

CHRIS AVALLONE: I live --

REP. MEGNA: Identify yourself first, Chris.

HB 5502
CHRIS AVALLONE: My name is Chris Avallone. I live here in the neighborhood about two blocks here in the -- up the street on Townsend Avenue. And I -- we've had several discussions about this -- the -- the storm shutter issue. And from my understanding, at one time it was a thousand or 1500 feet from the shore that this requirement -- there was this requirement. Then it got pushed out to 2600 feet. What's to stop the insurance industry now from, well, let's extend it out to 5,000 feet from the shore?

REP. MEGNA: I -- I think just to clarify, I think the department allows it throughout the entire state too under certain -- it allows the insurer not to insure with one or the other, the hurricane deductible or storm shutters, greater than 2600, which would take you right to Massachusetts.

CHRIS AVALLONE: Okay. All right.

REP. MEGNA: Just to clarify it. Thank you.

CHRIS AVALLONE: Right. Okay. Are there any studies in this particular neighborhood in New Haven where there has been considerable payouts to have this requirement? I mean, we live on a higher elevation here. As you move closer down to the -- to the water there, obviously, there's more risk. So I -- I -- I'm just wondering what -- how this -- is there a science where they came up with this 2600 feet? It -- it's kind of arbitrary.

So the person residing at 2700 feet is -- is deemed safe, and they would be eligible for a

regular insurance carrier to insure their home. I -- I just don't understand it. And I have priced permanent shutters. They are outrageously expensive. The -- the -- it's -- it's cost prohibitive. The -- I would not net a savings if I were to install permanent shutters on my home.

As far as temporary or -- shutters, I priced those too. I have two stories in my home. How would I even begin to affix heavy plywood onto brick, climb a ladder? I -- I just don't understand the rationality behind this, and I -- I find it grossly unfair for this requirement to be imposed to -- in order to be covered by a -- a regular carrier. In addition, now I have no other choice but to go to a surplus line.

I am not afforded any of the discounts that -- such as a burglar alarm, any -- it's just a straight premium. This is what it is. You like it, fine. You don't, you know, go shop around. So I believe we are at a disadvantage, and I don't see how it could benefit this neighborhood when we would want new residents to come in and move into this neighborhood.

I know some people who have lived here for a period of time are kind of grandfathered in where they're not required to -- if they've been here several years, 20-plus years -- they're not required to -- to have these shutters, nor would I like to see them be required. But as soon as they sell their home, and another person such as myself bought a home here seven years ago, I was required to install these -- these shutters.

000859

48

March 11, 2014

cip/gbr

INSURANCE AND REAL ESTATE
COMMITTEE

6:00 P.M.

REP. MEGNA: Thanks. Thanks for your testimony,
Chris. I know we talked about this last year,
and I was waiting for you to send me a copy of
your --

CHRIS AVALONE: I -- I --

REP. MEGNA: -- surplus lines, but that's fine.

CHRIS AVALONE: I will get that. I will --

REP. MEGNA: We did an audit, and we looked at some
of these, but --

CHRIS AVALONE: Yeah.

REP. MEGNA: -- I'd still be interested if you --

CHRIS AVALONE: I (inaudible).

REP. MEGNA: -- ever have a chance to -- and
hopefully maybe we can change things with this
law.

CHRIS AVALONE: I hope so.

REP. MEGNA: So I appreciate it very much. Are
there any other questions? No. Thank you,
Chris.

CHRIS AVALONE: Thank you.

REP. MEGNA: Heather, Heather Findlay. How are
you?

HEATHER FINDLAY: I'm good. How are you?

REP. MEGNA: Good, good.

HEATHER FINDLAY: It's been a while.

REP. MEGNA: Good to see you.

HEATHER FINDLAY: I just wanted to kind of continue the conversation of the storm shutters. I bought a --

REP. MEGNA: Identify yourself.

HEATHER FINDLAY: Sorry. My name is Heather Findlay. I live at 6 Upson Terrace. I bought a house April of 2013. I was not able to obtain -- hello -- of -- to obtain insurance without getting the storm shutters. You know, the research that I had to do to -- even to find out what that meant, because that wasn't -- nobody explained that to you, so I had to do the research, found out the difference between permanent -- a lot of reference to Wade County or Dade County down in Florida. That was sort of the standard everybody seemed to go after.

HB5502

So \$2500 later of an unexpected, you know, cost, I have storm shutters now stored in my garage. I don't see the water, taste the water, smell the water, anything about the water. But I fell within that 2600 feet. It would have been nice coming into the neighborhood knowing that would have been a requirement. I didn't know that until after the fact.

Everybody from my realtor on up was shocked, and I just don't think there's a proper dissemination of that information to us. I found what you brought up very first of sort of that decree about that. I found that online, but I didn't see anything else. So to hear that there's sort of some contradictory things going on, you know, as a consumer, where do you go with this?

I want -- I need to get insurance on my house, so we're kind of held by that. We don't have a choice. There is no option. There's no added deduction on my insurance. It's a you have it, or I won't insure you, blanket statement. I called about 20 insurance companies, wouldn't even talk to me unless I was willing to do this.

REP. MEGNA: Thank you very much. What's interesting, it -- it evens says if you're over 2600 feet --

HEATHER FINDLAY: Right.

REP. MEGNA: -- which, like I said, can put you up on the Massachusetts border.

HEATHER FINDLAY: Exactly. Exactly. There just -- it seems to be a lot of contradictions, and as a consumer --

REP. MEGNA: Yeah.

HEATHER FINDLAY: -- we don't know what to do with that.

REP. MEGNA: Yes. Okay. Thank you very much for your testimony. Are there any questions? Thank you very much.

HEATHER FINDLAY: Thank you.

REP. MEGNA: Good to see you again.

HEATHER FINDLAY: Thank you.

REP. MEGNA: Jody Yowell. Hi.

JODY POWELL: Hi, Representative Megna and Senator Crisco and Members of the Committee. I really appreciate you coming to Morris Cove to come talk to us. Really is a pleasure. I bought a home -- I'll try to be brief -- I bought a home here exactly a year ago, and much like you've heard already, when I purchased my home, in fact, I was told that I needed to put storm shutters on the house.

HB5502

It was a HUD home down here on Concord. HUD said, you can't put shutters on the house. You don't own it. No insurance company in Connecticut would insure my home. No one would offer me homeowners. I want to be very clear, and I sought you out, and they said, you have to go into this big, expensive pool if you want to insure your home. I actually have insurance through Tower Insurance of New York, but no insurance company in Connecticut would insure my home without the shutters on prior to closing. I want to -- it -- it's really important that you understand that.

And as far as flood insurance and all of that issue, I am now the -- your student on National Flood Insurance. I would also like to put out there that I did the plywood issue too, and there's a great company called PLYLOX. They're these little pieces of metal you can put on your home, and it works with brick. Anyway, I -- so that was a huge shock and a cost to me. Nobody told me about that, and I'm at closing, and I'm a single mom, and I'm up against the wall, so I've got to do this. So I did that.

Then the flood insurance comes. Then the Biggert-Waters law comes. And you're basically at the whim of everybody down here. Again, we haven't been hit with water I guess

in the 150 years that my house has been around. But the ultimate thing is, is that Connecticut's not helping out with this.

And -- and I do have a problem with permanent. I own a home that's worth less than \$185,000. I'm a single mom. I'm currently unemployed. I don't have the extra funds to put on permanent storm shutters even if we were to get a little bit of wind down here. It hasn't happened.

I would like to comment on National Flood Insurance, which I know has nothing to do with the state. However, I will tell you that I had to pay my flood insurance at \$1800, which is a lot of money when you're paying high taxes in New Haven plus a high homeowners policy. And I was told this year, we're cancelling you because of this new law. Unless you have a flood elevation certificate done on your home, we're going to cancel you.

I pay \$800 that I still owe the engineer. Thank you. I won't give you his name, because I don't want everybody to owe him. And it turns out that I will get in -- within a hundred years two feet of water in -- in my house. My flood insurance now has gone from \$1800 to \$6800. If this law does not go through the House, it's going to happen to everybody who has a mortgage in Morris Cove, everyone. It doesn't matter. They don't care if you're on a river.

The only reason my house will ever get flooded is not because I'm near the ocean. I'm a block and a half from the ocean. It's because there's a creek that runs behind near Tweed New Haven Airport. I can tell you that unless the state does some mitigation and the city

does mitigation, which they haven't done -- they let a drainpipe close over by Anthony's -- nobody's fixed that. They want to make changes over at Tweed, I'm all about that.

Fix the flooding problem that Tweed New Haven is causing for Morris Cove. I will be all about that. I'm really concerned, and I'm really hoping that the feds pass this through, because there are homes that are being forced to pay. Our homes aren't going to be worth that.

Oh, quickly, the Governor's idea about helping out with flood mitigation and raising the homes, I was speaking to his office. They said, yeah, it's great for people that have second homes on the shore. It is. It's perfect for those people that have second homes on the shore. Let me tell you why, and then I'm done. Governor, with all due respect, I cannot take a zero percent loan for you to help me raise my home. I'm barely making my mortgage payments thanks to my 80-year-old mother.

I understand that a millionaire might be able to take the zero percent to -- to -- \$80,000 to raise my home above flood. So thank you very much for putting that program in place, but it does not help the middle class.

A VOICE: Here, here.

JODY POWELL: And it does not help Morris Cove. So I would ask the State, Representative Megna, to work with the City of New Haven, fix the flooding issue at Tweed New Haven before we let them get bigger. Get bigger, it's fine.

Fix the old drainpipe over by Anthony's.
Let's take this seriously.

And the storm shutters, I'll climb the ladder with that huge piece of plywood. And I hope -- thank God for Obamacare, because I'm going to need it when I fall down putting up my shutters. So it's unbelievable. I came to this little neighborhood, and it's been a nightmare for the last year. So if anyone has any questions for me, I will let you know how to get a hold of me.

REP. MEGNA: Thank -- thank you so much for your testimony. It's important that we come down here on stuff like this --

JODY POWELL: I really appreciate it.

REP. MEGNA: -- because I never -- alls I see is a -- alls we see is the -- the corporate lobbyists when we're up in -- in Hartford.

JODY POWELL: Yeah.

REP. MEGNA: And to see you guys is a -- a blessing.

JODY POWELL: I would say that anybody who has any power whatsoever -- and you all have powers to call your Legislators in D.C. --

REP. MEGNA: Yeah.

JODY POWELL: -- right now --

A VOICE: Thank you.

JODY POWELL: -- because you will be forced out of your homes, and Morris Cove won't be Morris Cove. If I were a real estate person, I would

buy up every home in Morris Cove right now and build huge condos when you all lost your houses.

REP. MEGNA: Yeah, it's -- I always tell people it's kind of a double whammy when you're in an urban area on the coast, because the insurance rates are out of this world, if you look at them all around the state. And in an urban area, they're -- they're even worse, you know, when you're on the coast.

JODY POWELL: And if you can -- if you can afford a mortgage and pay off your mortgage--

REP. MEGNA: Yeah.

JODY POWELL: -- you're all good.

REP. MEGNA: Yeah.

JODY POWELL: You're fine. You don't need to take flood. I'll take the risk. I can't.

REP. MEGNA: And pay the city taxes.

JODY POWELL: I can't.

REP. MEGNA: I know.

JODY POWELL: So I ask you to remember all of that when you consider --

REP. MEGNA: Yes.

JODY POWELL: -- particularly the storm shutters --

REP. MEGNA: Yes.

JODY POWELL: -- because I know that that's an issue.

REP. MEGNA: Yes.

JODY POWELL: But I would also say and state to the Insurance Department, there is nobody, not Liberty Mutual, not anybody, that will -- will or would a year ago -- insure my property without the shutters on the house already --

REP. MEGNA: Yes.

JODY POWELL: -- which really puts us in a bind, so --

REP. MEGNA: Yes.

JODY POWELL: -- I would ask you to look at that too.

REP. MEGNA: I appreciate it. Are there any questions? No? Thank you very much for your testimony.

JODY POWELL: Thank you.

REP. MEGNA: Jody, I think I have you on 5365 also. You okay? Okay.

JODY POWELL: I'm good. You don't want to hear more from me.

REP. MEGNA: No, actually, I -- I kind of enjoy it, and I'm -- I'm glad my -- my colleagues see the public on -- on issues like this. Rachel on 5365. Sorry (inaudible).

HB 5365

RACHEL HEEREMA: Good evening. My name is Rachel Heerema. I live on Lighthouse Road. I moved here -- and thank you so much for coming down and -- and listening to us. We so appreciate it. I so appreciate it. I moved here about

two years ago and encountered similar difficulties to what's already been mentioned, you know, kind of came in blindly, have always loved the Cove and really wanted to move here and had no idea how much insurance was going to cost.

And I called and called and called and called and called and called and finally found one broker who said, yeah, okay, great, we can -- we can cover you. You need, you know, storm shutters. And I had already done a little bit of research, because in the -- while waiting for people to call me back and say no, and so I pushed her a little. I was like, okay, great. You know, what kind of storm shutters would you require, knowing that she was going to say permanent storm shutters. And she was like, you just need to get those storm shutters. Okay. What kind of storm shutters? The -- and -- and the real kind. What's the real kind? Plywood.

So here's a broker who didn't know what she was requiring of me, and I'm sure had I gone with that, I would have been, you know, there would have been no payout had there ever been a loss. But I am over the 100-foot -- or 100-year flood map anyway but still could not get commercial insurance. So I'm in a surplus line right now, and I do have significant concerns.

I am not a public adjuster. I'm not an insurance person. And I just -- but I just kind of have the normal human sniff test going on, and I worry that I'm not getting the kind of coverage that, you know, I'm paying for or should be paying for. So -- but the nice thing about the surplus line is that they did not ask me anything about hurricane shutters,

so I was able to close on my house without that double bind that was happening to other people.

Let's see, was there anything I wanted to say other than that? Just echoing other people's testify -- testimony that it's a great neighborhood, and I think we're all getting really concerned about just multiple economic impacts on middle class families. This is just a longstanding neighborhood of, you know, families and generations, and I would hate to see people being forced out of our homes over these things that are really macro level issues that somehow we just need a little bit of help. You know, we'll work. You know, help us save our homes. So thank you.

REP. MEGNA: Thank you very much, and we -- we would appreciate it if maybe you copied your surplus lines policy and e-mailed a copy up to my aide at the state house.

RACHEL HEEREMA: Okay.

REP. MEGNA: We could take a look at it --

RACHEL HEEREMA: Yeah, I'd be happy to.

REP. MEGNA: -- and see -- see what the quality is of it. Thank you very much. Are there any questions? No?

RACHEL HEEREMA: No. Thanks.

REP. MEGNA: Thank you very much. Moving on to 5247, Ryan.

HB 5247
RYAN SUERTH: Good evening. Thank you very much for holding this hearing and having me and -- and the other speakers here tonight. My name

REP. MEGNA: Yeah.

SUSAN GIACALONE: -- it's sounding like it's not this rule. It sounds like there's varying degrees of it just by --

REP. MEGNA: Yeah.

SUSAN GIACALONE: -- listening to what I've heard here. I don't know what the other states say.

REP. MEGNA: Okay.

SUSAN GIACALONE: I can certainly look into it and find out.

REP. MEGNA: Okay. Thank you very much. Are there any questions? No. Thank you very much, Susan.

SUSAN GIACALONE: Thank you.

REP. MEGNA: We have -- we're going to put up -- Senator Looney just came in to join us. Would you like to come up and testify, Senator? Thank you. Thank you for coming.

A VOICE: (Inaudible) special guest.

REP. MEGNA: Yeah.

SENATOR LOONEY: Thank you, Mr. Chairman. Apologize for being late. Was at the -- at the Capitol until after 6:00 and then had to make two other stops on my way here, so thank you very much. Representative Megna, good evening. Members of the Insurance and Real Estate Committee, thank you so much for coming to New Haven for this event this evening in --

SB 278
HB 5502
HB 5247

in the district represented by Representative Megna and by -- by me.

My name is Martin Looney. I represent the eastern half of New Haven as well as parts of Hamden and North Haven. And I'm also Senate majority leader, represent the 11th District. And I'm here to testify in support of Senate Bill 278, AN ACT CONCERNING RESTRICTIONS ON INSURERS FOR ADVERSE WEATHER-RELATED EVENTS, House Bill 5502, AN ACT CONCERNING CHANGES TO THE PROPERTY AND CASUALTY INSURANCE STATUTES, and House Bill 5247, AN ACT CONCERNING THE AWARD OF COSTS AND ATTORNEY'S FEES IN AN ACTION CONCERNING A HOMEOWNERS INSURANCE POLICY.

Senate Bill 278 would prohibit an insurer from cancelling, refusing to renew, or increasing the cost of the homeowners insurance policy based solely on a loss incurred as a result of any adverse weather-related event so long as the loss was not the result of the negligence of the insured.

House Bill 5502 would require storm shutters rather than permanent storm shutters for the purposes of insurance coverage for loss due to hurricanes and other severe storms, clarifies also that the prohibition against policy cancellation applied to any catastrophic event, specifies that a public adjuster may discuss with an insurer first-party property loss or damage or a claim on behalf of an insured, changes the time period that a suit or action may be brought from 18 to 24 months, and allows an insurer to provide flood insurance coverage in this state on a less than statewide basis.

**JOINT
STANDING
COMMITTEE
HEARINGS**

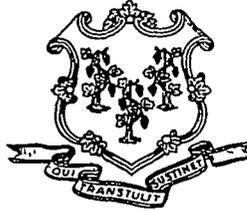
**INSURANCE AND
REAL ESTATE
PART 3
896 – 1294**

2014

As
Likely

SENATOR MARTIN M. LOONEY
MAJORITY LEADER

Eleventh District
New Haven, Hamden & North Haven



State of Connecticut

SENATE

State Capitol
Hartford, Connecticut 06106-1591
132 Fort Hale Road
New Haven, Connecticut 06512
Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420
www.SenatorLooney.cga.ct.gov

March 11, 2014

Good evening Senator Crisco, Representative Megna and members of the Insurance and Real Estate Committee. I am here to testify in support of S.B. 278 AN ACT CONCERNING RESTRICTIONS ON INSURERS FOR ADVERSE WEATHER-RELATED EVENTS, H.B. 5502 AN ACT CONCERNING CHANGES TO THE PROPERTY AND CASUALTY INSURANCE STATUTES, and H.B. 5247 AN ACT CONCERNING THE AWARD OF COSTS AND ATTORNEY'S FEES IN AN ACTION CONCERNING A HOMEOWNERS INSURANCE POLICY.

SB 278 would prohibit an insurer from cancelling, refusing to renew or increasing the cost of a homeowners insurance policy based solely on a loss incurred as a result of any adverse weather-related event so long as the loss was not the result of the negligence of the insured.

HB 5502 would require storm shutters rather than permanent storm shutters for the purposes of insurance coverage for loss due to hurricanes and other severe storms, clarifies that the prohibition against policy cancellation apply to any catastrophic event, specifies that a public adjuster may discuss with an insurer first-party property loss or damage or a claim on behalf of an insured, changes the time period that a suit or action may be brought from eighteen

to twenty-four months, and allows an insurer to provide flood insurance coverage in this state on a less than state-wide basis.

HB 5247 would award costs and a reasonable attorney's fee to a plaintiff who prevails in any action concerning a homeowner's insurance policy.

Taken together these bills represent much needed protection for homeowners (especially shoreline homeowners) who have faced catastrophic losses from the unusual number of severe weather events in the last few years. Thank you for raising these important bills.

**INDEPENDENT
INSURANCE AGENTS OF
CONNECTICUT, INC.**

30 Jordan Lane, Wethersfield, CT 06109
(860) 563-1950 (800) 842-2208
FAX (860) 257-9981



Warren C. Ruppard
President

March 11, 2014

**Testimony of the Independent Insurance Agents of Connecticut
to the Insurance And Real Estate Committee
In Regard to House Bill 5502
An Act Concerning Changes to the Property and Casualty Insurance Statutes**

Senator Crisco, Representative Megna and members of the Insurance and Real Estate Committee, my name is Warren Ruppard and I am President of the Independent Insurance Agents of Connecticut. The Independent Insurance Agents of Connecticut is a trade association which has been located in Connecticut and has represented independent agents for 115 years. IIAC currently represents more than 400 member agencies and their associates as well as their 3600-plus employees. I come to you today to speak on House Bill 5502.

In section 5-1 (c) the proposal states that any person who "discusses with the insured's insurance company first-party property loss or damage under the insured's policy or a first party claim" would be defined as a "public adjuster." This language is very broad and appears to include an insurance producer, any agency staff person or customer services representative in the definition of "public adjuster." The normal duties of a producer or staff include talking with the insured and or an insurance company claim person to assist with the resolution of a claim. These individuals are not considered public adjusters.

In section 6-2 (b) there is also a restriction on when a "public adjuster" may contact an insured. This restriction may hinder the ability of a producer, agency staff or customer service representative in talking with an insured in the event of a claim if the definition in section 5-1 (c) remains.

IIAC suggests that insurance producers, agency staff and customer service representatives be exempted from this definition so that they may assist their customers when a loss occurs.



Property Casualty Insurers
Association of America
Advocacy. Leadership. Results.

STATEMENT

PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA (PCI)

H.B. No. 5502 – AN ACT CONCERNING PROPERTY AND CASUALTY INSURANCE STATUTES

COMMITTEE ON INSURANCE AND REAL ESTATE

March 11, 2014

The Property Casualty Insurers Association of America (PCI) appreciates the opportunity to comment on H.B. 5502, An Act Concerning Property and Casualty Insurance Statutes. Our comments are provided on behalf of the member companies of PCI, a national property casualty trade association with over 1,000 member companies. PCI member companies provide 49 percent of Connecticut's personal lines insurance coverage.

PCI has serious concerns regarding this bill. Section one of this bill would prohibit insurers from refusing to issue or renew a homeowners policy because the insured failed to install storm shutters. Under current law, insurers are prohibited from refusing to issue or renew a homeowners policy if an insured fails to install permanent storm shutters, but this bill would prohibit insurers from refusing to issue or renew a policy when the policyholder refuses to agree to install even temporary storm shutters. Storm shutters are one of the most effective mitigation measures and, depending upon the type of shutter, can be relatively inexpensive. Installing shutters over windows can reduce the chance that the glass will break, allowing wind-driven rain to soak the home's interior. They also can keep wind pressure from building up inside the structure, which often leads to roof loss. As severe weather events become more frequent, storm preparation and employing mitigation measures becomes increasingly more important and this bill would take CT in the wrong direction by prohibiting insurers from requiring insureds to install even temporary storm shutters.

This bill would also require insurers to give a premium discount for the installation of temporary shutters (Section two of the bill). As previously stated, insurers support and should be able to require the use of temporary shutters when the installation of permanent shutter is too costly or is otherwise not feasible under the circumstances. Because the shutters are temporary, however, it may not be appropriate for an insurer to give a discount for such shutters because temporary shutters may or may not be installed appropriately or at all in advance of a storm. Requiring a premium discount for a mitigation measure which may not be used is not appropriate and will require CT policyholders who do not receive the shutter discount to subsidize those who may be inappropriately receiving the discount.

PCI is also concerned with the provisions in Section three of this bill which would amend a law passed only last year which prohibits insurers from declining, cancelling or nonrenewing a homeowners policy based solely on a loss incurred as a result of one catastrophic event. This bill would prohibit such actions by an insurer based on a loss incurred as a result of any catastrophic event, thereby prohibiting insurers from considering multiple losses from catastrophic events when

determining whether to write a policy or whether to continue to insure a property. Insurers must be able to consider multiple losses when making these decisions as such losses show a likelihood of future losses and an insurer must be able to consider this so that the insurer can appropriately manage risk. A property which has been subject to repetitive losses due to catastrophic events may be simply too risky for a given insurer to continue to insure and insurers must be able to take a property's loss history into account when making decisions as to whether to insure or continue to insure a property.

Section four of this bill would increase the time period during which suit must be brought under the standard fire policy from eighteen to twenty-four months. PCI opposes this extension because it will increase litigation costs and make insurance more expensive in CT. The current eighteen month timeframe provides ample time in which to bring an action under the standard fire policy and extending this timeframe will only allow more litigation regarding stale claims which will increase costs. Many CT homeowners are already struggling to pay their insurance premiums and make ends meet and changing the law to allow more lawsuits under the standard fire policy will likely only exacerbate affordability issues with regard to this coverage.

For the foregoing reasons, PCI urges your Committee NOT to advance this bill.

Statement

Insurance Association of Connecticut

Insurance and Real Estate Committee

March 11, 2014

HB 5502, An Act Concerning Changes To The
Property And Casualty Insurance Statutes

The Insurance Association of Connecticut (IAC) opposes HB 5502, An Act Concerning Changes To The Property And Casualty Insurance Statutes.

Section 1 would provide that insurers cannot refuse to issue or renew a homeowners insurance policy on the basis that the insured did not install storm shutters on the dwelling. Currently that prohibition is limited to the failure to install permanent shutters. IAC believes such a change would be counterproductive, as it would diminish the likelihood of proper loss mitigation efforts being undertaken where they are most needed. Such a change would also restrict an insurer's ability to control its risk exposure in high risk areas, which could have a negative effect on the homeowners insurance market, to the detriment of consumers across the state.

IAC opposes section 2, which would require insurers to offer a premium discount to any homeowner who installs storm shutters on the dwelling. Currently the requirement is triggered by the installation of permanent storm shutters. Discounts are supposed to be based on "sound actuarial principles," yet the removal of "permanent" would make such a determination highly questionable if not impossible. How is the insurer to calculate a discount for non-permanent storm shutters that may or may not be used properly or in a timely manner? In contrast, permanent storm shutters establish a consistent and verifiable basis for any such discount.

Section 3 would amend CGS 38a-316d to prohibit homeowners insurers from underwriting based on a loss from “any”, rather than “a”, catastrophic event. IAC opposes such a change, as the fact of multiple claims from a property is highly predictive of future losses. If an insured property has repeated losses, there are likely reasons for that experience that increases the probability of future claims. If insurers are forced to ignore legitimate underwriting tools, they will be unable to properly manage their risk exposure, putting unnecessary strains on the homeowners insurance market.

Subsection (d) of section 3 would require a homeowners insurer to offer coverage for “code compliance improvements that are required under local or state law”. IAC opposes such a requirement, as code compliance requirements differ from town to town, making the pricing of such coverage difficult. It is also not clear how the coverage would be triggered, and how it would relate to properties that are grandfathered out of new code requirements.

IAC opposes section 4 of HB 5502, which would increase the time within which a suit may be brought under a fire insurance policy from 18 to 24 months after the loss. The purpose behind a statute of limitations law is to encourage speedy resolution of claims. Without a quick resolution, the claim becomes stale, proof of what happened may be less available and reliable, the claim will be more affected by inevitable repair cost inflation, and the possibility of secondary weather related damage only increases. Recent legislative and regulatory efforts have encouraged expedited claims resolutions, yet section 4 would move in the opposite direction. Such a change could also be contrary to public policy behind municipal anti-blight ordinances which are designed to encourage the quick resolution of claims and repair of damaged buildings for the public

good. The statute of limitations for these actions was increased from 12 to 18 months in 2009. IAC sees no reason for any further increase.

Section 5 amends the definition of "public adjuster" to include persons who, on behalf of the insured, discuss the insured's property loss claim with the insured's insurer. IAC opposes such a change as, due to the vagueness of the term "discuss", section 5 will apparently require insurance agents to be licensed as public adjusters. Could a family member of the insured who discusses the claim with the insurer, in an attempt to assist the insured, also be considered a public adjuster under the revised definition? It is not clear what the meaning of "discuss" is in this context. Does a mere discussion entitle a public adjuster to compensation from the insured?

Section 6 of HB 5502 would remove the requirement that certain notifications be "prominently" displayed on the first page of a public adjuster contract. It is not clear what consumer benefit can come from removing the statutory requirement that certain consumer protection provisions be displayed prominently on such a contract.

IAC would respectfully urge rejection of HB 5502.

**STATE OF CONNECTICUT***INSURANCE DEPARTMENT***Testimony****Insurance and Real Estate Committee****March 11, 2014****Raised Bill No. 5502 AN ACT CONCERNING CHANGES TO THE PROPERTY AND CASUALTY INSURANCE STATUTES.**

Senator Crisco, Representative Megna, and members of the Insurance and Real Estate Committee, the Insurance Department appreciates the opportunity to provide testimony regarding H.B. 5502.

The Department recognizes and appreciates that the intent of this bill is to help Connecticut homeowners by removing what some consider a burdensome requirement in protecting their property. However, this bill maybe fraught with unintended consequences resulting in issues of affordability and availability. Financially speaking, this legislation could be setting up coastal homeowners for the "perfect storm." As an agency with a prime mission of consumer protection, the Department respectfully requests that the Insurance and Real Estate Committee not give H.B. 5502 a Joint Favorable Report.

The Department's gravest concerns are found in Section 1, which eliminates the word "Permanent" in section 38a-316a(a). This means insurers would not be able to require policyholders living within 2,600 feet of the coast – the most vulnerable area in the state - to have some form of mitigation to protect their homes from devastating hurricane force winds.

At a time when the state has experienced some of the most damaging storms in recent memory, none of which were officially designated hurricanes, the state of Connecticut should avoid discouraging individuals from taking precautionary measures to protect their property. Ultimately, the property owner will pay the price. The vast majority of insurers did not or could not impose hurricane deductibles for those storms. Legislation promoting coastal leniency, such as this bill and S.B. 278 (the Adverse Weather bill), will likely result in increased rates and/or industry's departure from the Connecticut market.

Between Storm Irene, the October nor'easter and Superstorm Sandy the industry responded to more than 200,000 claims and paid close to \$1 billion in losses. Instead of relaxing standards, we should be doing more to encourage insureds to "mitigate" potential storm loss and we should be

doing everything in our power today to prepare for the day when we are revisited by a Category 3 hurricane similar to the 1938 Long Island Express.

Connecticut has over \$480 billion in coastal property exposure and studies have indicated that should a Category 3 hit today the estimated insured loss in Connecticut would be between \$25 billion and \$35 billion. The economic loss would be even more devastating. The economic loss attributed to Superstorm Sandy was estimated at more than \$50 billion.

As co-chair of the Connecticut Long Term Recovery Committee I have seen firsthand the affects these storms have caused our residents. Many individuals are still not in their homes and are struggling to make ends meet as they have found that their homeowner insurance, flood insurance or FEMA assistance does not come close to covering all their losses. In the recovery world we call this "Unmet Need" and individuals affected by Irene and Sandy are finding in many instances they have tens of thousands of dollars of unmet need. While we are working to help these individuals today we can do more as a state by working to encourage communities to be more resilient and to adopt stronger mitigation standards, which are proven to protect property and minimize future storm victim's losses and hardships.

The Institute for Business and Home Safety calculates that for every \$1 of mitigation that is undertaken there is a \$4 dollar return in loss reduction to that community, and for those insureds who mitigate there is a 78 percent reduction in losses. One way of promoting mitigation is by incentivizing it. Some examples include tax credits, and possibly providing a "sales tax free" incentive during the month of June for building supplies or materials used to mitigate property loss.

The Governor has taken the first and very important step in accomplishing this by announcing the creation of the Connecticut Shoreline Resiliency Fund. He is seeking the assistance of the Legislature to provide an additional \$25 million for this fund to help homeowners elevate their homes, thereby reducing their flood insurance premiums and at the same time making them more resilient to future storms.

For these and many more reasons the Department opposes the change to Section 1 of the bill as it has the potential to significantly impact affordability and availability of homeowners insurance in the state and may ultimately lead to consumers having fewer choices when it comes to finding homeowner insurance. The Department opposes this change and encourages the Committee to refrain from making any changes to the current law regarding the usage of storm shutters.

Additionally, the Department supports the change in Section 3(a) the catastrophe clarification that a company may not decline, cancel or non-renew for any catastrophic loss, but would like to recommend the following addition as we proposed in our earlier testimony under S.B. 278.

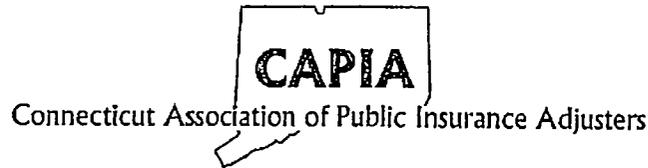
We suggest modification to the legislation as follows: Section 3. (a) The declination, cancellation or nonrenewal . . . on any loss incurred as a result of one or more catastrophic events. The Committee may also wish to include in this section additional wording that allows for an increase in premium only after the second catastrophe loss.

Lastly, pertaining to Section 5, the Department has concerns with the addition of the following language, "(C) discusses with the insured's insurance company first-party property loss or damage under the insured's policy or a first-party property claim" This language may have the unintended consequence of broadening unnecessarily the definition of public adjuster and to cause individuals who are not adjusting any claims to fall within the definition. We would encourage the Committee to consider removing the language above from the underlying bill.

The Department appreciates the opportunity to offer testimony on H.B. 5502 to the Insurance and Real Estate Committee. Thank you for your consideration, we look forward to working with you on this legislation.

About the Connecticut Insurance Department: The mission of the Connecticut Insurance Department is to protect consumers through regulation of the industry, outreach, education and advocacy. The Department recovers an average of more than \$4 million yearly on behalf of consumers and regulates the industry by ensuring carriers adhere to state insurance laws and regulations and are financially solvent to pay claims. The Department's annual budget is funded through assessments from the insurance industry. Each year, the Department returns an average of \$100 million a year to the state General Fund in license fees, premium taxes, fines and other revenue sources to support various state programs, including childhood immunization.

www.ct.gov/cid
P O Box 816 Hartford, CT 06142-0816
An Equal Opportunity Employer



Richard Ouellette
President of the Connecticut Association of Public Insurance Adjusters (CAPIA)

Testimony On

H.B. No. 5502 (Raised) An Act Concerning Changes To The Property And Casualty Insurance Statutes

H.B. No. 5247 (Raised) An Act Concerning The Award Of Costs And Attorney's Fees In An Action Concerning A Homeowners Insurance Policy

March 11, 2014

Good evening, Senator Crisco, Representative Megna, Senator Kelly, Representative Sampson, and members of the Insurance and Real Estate Committee.

My name is Richard Ouellette, and I reside in Newington, CT. I am a licensed Public Insurance Adjuster with the Insurance Department, State of Connecticut, and a partner at Nutmeg Adjusters, Inc. of 265 Congress Street, Bridgeport, CT.

Presently, I serve as the President of the Connecticut Association of Public Insurance Adjusters, (CAPIA). I am here today in support of H.B. No. 5502 (Raised) An Act Concerning Changes To The Property And Casualty Insurance Statutes.

We support:

Section 1, Subsection (a) of Section 38a-316a-That the installation of storm shutters should be enough and need not be permanently attached.

Section 2, Section 38a-316b-Premium discount

Section 3, Section 38a-316d - Notice of cancellation or non-renewal

Section 4, Section 38a-307- Time frame for suit or action against the insurance company is good for the consumer. Many times at the end of a claim, we need to now ask for an extension of the 18-months and this would help eliminate that exercise as the consumer's advocate.

Section 5, Section 38a-723-Extending the duties of a Public Adjuster to be able to discuss coverage is great. However, the language needs to be better defined. May I suggest reviewing the National Association of Insurance Commissioners-*Public Adjuster Licensing Model Act #228* for language. A copy of same is enclosed.

Section 6, Section 38a-724 (2) b-Public Adjuster Employment Contracts shall be void ab Initio, if signed after 8:00 p.m. and before 8:00 a.m. This does not apply for most ethical firms, but for those who break the rules, this would be further the ability to cancel contract. Language is redundant; laws already state not allowed to solicit.

I would also like to support H.B. No. 5247- An Act Concerning The Award Of Costs And Attorney's Fees In An Action Concerning A Homeowners Insurance Policy

Policyholders to recover attorney's fees- This helps the consumer recover these unnecessary expenses that they had to incur in order to make the recovery complete.

I would like to thank you all for your attentiveness, and if there are any questions, I would be happy to answer them.

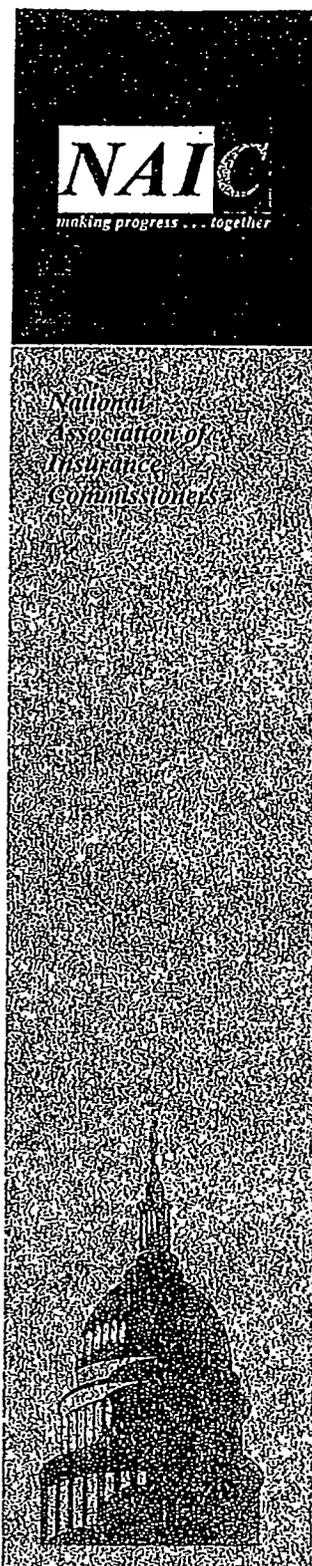
Respectfully submitted,

Richard Ouellette
V.P., Nutmeg Adjusters, Inc.
President, CAPIA

Attachment

Model #228

**Public Adjuster Licensing
Model Act**



Public Adjuster Licensing Model Act

Model # 228



National Association
of Insurance Commissioners

© 2005 National Association of Insurance Commissioners
All rights reserved.

National Association of Insurance Commissioners
Insurance Products & Services Division
816-783-8300
Fax 816-460-7593
www.naic.org/insprod
prodserv@naic.org

Printed in the United States of America

No part of this book may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or any storage or retrieval system, without written permission from the NAIC.

Executive Headquarters
2301 McGee Street, Suite 800
Kansas City, MO 64108-2662
816-842-3600

Securities Valuation Office
48 Wall Street, 6th Floor
New York, NY 10005-2906
212-398-9000

Government Relations
Hall of States Bldg.
444 North Capitol NW, Suite 701
Washington, DC 20001-1509
202-624-7790

Model Regulation Service—October 2005

PUBLIC ADJUSTER LICENSING MODEL ACT

Table of Contents

Section 1.	Purpose and Scope
Section 2.	Definitions
Section 3.	License Required
Section 4.	Application for License
Section 5.	Resident License
Section 6.	Examination
Section 7.	Exemptions from Examination
Section 8.	Nonresident License Reciprocity
Section 9.	License
Section 10.	Apprentice Public Adjuster License [Optional]
Section 11.	License Denial, Nonrenewal, or Revocation
Section 12.	Bond or Letter of Credit
Section 13.	Continuing Education
Section 14.	Public Adjuster Fees
Section 15.	Contract Between Public Adjuster and Insured
Section 16.	Escrow or Trust Accounts
Section 17.	Record Retention
Section 18.	Standards of Conduct of Public Adjuster
Section 19.	Reporting of Actions
Section 20.	Regulations
Section 21.	Severability
Section 22.	Effective Date

Section 1. Purpose and Scope

This Act governs the qualifications and procedures for the licensing of public adjusters. It specifies the duties of and restrictions on public adjusters, which include limiting their licensure to assisting insureds in first party claims.

Drafting Note: It is recommended that any statute or regulation inconsistent with this Act be repealed or amended.

Drafting Note: This Act also requires a report to the insurance commissioner of any action in another jurisdiction against either the public adjuster license or licensee.

Section 2. Definitions

- A. "Apprentice public adjuster" means the one who is qualified in all respects as a public adjuster except as to experience, education and/or training.
- B. "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.
- C. "Catastrophic disaster" according to the Federal Response Plan, means an event that results in large numbers of deaths and injuries; causes extensive damage or destruction of facilities that provide and sustain human needs; produces an overwhelming demand on state and local response resources and mechanisms; causes a severe long-term effect on general economic activity; and severely affects state, local and private sector capabilities to begin and sustain response activities. A catastrophic disaster shall be declared by the President of the United States or the Governor of the state or district in which the disaster occurred.

Public Adjuster Licensing Model Act

- D. "Fingerprints" for the purposes of this act, means an impression of the lines on the finger taken for purpose of identification. The impression may be electronic or in ink converted to electronic format.
- E. "Home state" means the District of Columbia and any state or territory of the United States in which the public adjuster's principal place of residence or principal place of business is located. If neither the state in which the public adjuster maintains the principal place of residence nor the state in which the public adjuster maintains the principal place of business has a substantially similar law governing public adjusters, the public adjuster may declare another state in which it becomes licensed and acts as a public adjuster to be the 'home state.'
- F. "Individual" means a natural person.
- G. "Person" means an individual or a business entity.
- H. "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 an public adjuster of insurance claims or solicits business or represents himself or herself to the public as an 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.
- I. "Uniform individual application" means the current version of the National Association of Insurance Commissioners (NAIC) Uniform Individual Application for resident and nonresident individuals.
- J. [Optional] "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.

Drafting Note: Subsection J is optional and would apply only to those states that have a business entity license requirement.

Drafting Note: If any term is similarly defined in a relevant section of the state's insurance code, do not include the definition of the term in this Act or, in the alternative, reference the statute: "[term] is defined in [insert appropriate reference to state law or regulation]"

Section 8. License Required

- A. A person shall not act or hold himself out as a public adjuster in this state unless the person is licensed as a public adjuster in accordance with this Act.

Model Regulation Service—October 2005

- B. A person licensed as a public adjuster shall not misrepresent to a claimant that he or she 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 appointed by the insurer and the appointment is accepted by the public adjuster.
- C. A business entity acting as a public adjuster is required to obtain a public adjuster license. Application shall be made using the Uniform Business Entity Application. Before approving the application, the insurance commissioner shall find that:
- (1) The business entity has paid the fees set forth in [insert appropriate reference to state law or regulation; and
 - (2) The business entity has designated a licensed public adjuster responsible for the business entity's compliance with the insurance laws, rules and regulations of this state.

Drafting Note: Subsection C is optional and would apply only to those states that have a business entity license requirement

- D. Notwithstanding subsection A through C, a license as a public adjuster shall not be required of the following:
- (1) An attorney-at-law admitted to practice in this state, when acting in his or her 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;
 - (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;
 - (4) A licensed health care provider, or employee of a licensed health care provider, who prepares or files a health claim form on behalf of a patient; or
 - (5) A person who settles subrogation claims between insurers.

Section 4. Application for License

- A. A person applying for a public adjuster license shall make application to the commissioner on the appropriate uniform application or other application prescribed by the commissioner.]
- B. The applicant shall 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.
- C. In order to make a determination of license eligibility, the insurance commissioner is authorized to require fingerprints of applicants and submit the fingerprints and the fee required to perform the criminal history record checks to the state identification

Public Adjuster Licensing Model Act

bureau (or state department of justice public state agency) and the Federal Bureau of Investigation (FBI) for state and national criminal history record checks; the insurance commissioner shall require a criminal history record check on each applicant in accordance with this Act. The insurance commissioner shall require each applicant to submit a full set of fingerprints in order for the insurance commissioner to obtain and receive National Criminal History Records from the FBI Criminal Justice Information Services Division.

- (1) The insurance commissioner may contract for the collection, transmission and resubmission of fingerprints required under this section. If the commissioner does so, the fee for collecting, transmitting and retaining fingerprints shall be payable directly to the contractor by the person. The insurance commissioner may agree to a reasonable fingerprinting fee to be charged by the contractor.
- (2) The insurance commissioner may waive submission of fingerprints by any person that has previously furnished fingerprints and those fingerprints are on file with the Central Repository of the National Association of Insurance Commissioners (NAIC), its affiliates or subsidiaries.
- (3) The insurance commissioner is authorized to receive criminal history record information in lieu of the [insert reference to Department of Justice/Public Safety Agency] that submitted the fingerprints to the FBI.
- (4) The insurance commissioner is authorized to submit electronic fingerprint records and necessary identifying information to the NAIC, its affiliates or subsidiaries for permanent retention in a centralized repository. The purpose of such a centralized repository is to provide insurance commissioners with access to fingerprint records in order to perform criminal history record checks.

Drafting Note: The FBI requires that fingerprints be submitted to the state Department of Law Enforcement, Public Safety or Criminal Justice for a check of state records before the fingerprints are submitted to the FBI for a criminal history check. The FBI recommends all fingerprint submissions to be in an electronic format. The FBI has approved the language in Section 4 (C) to authorize a state identification bureau to submit fingerprints on behalf of its applicants in conjunction with licensing and employment.

Drafting Note: If the state has adopted the Producer Licensing Model Act, it may not be necessary to adopt this section. Rather, the state may want to amend its relevant insurance producer statute to include public adjusters.

Drafting Note: This provision does not permit the sharing of criminal history record information with the NAIC or other insurance commissioners as such sharing of information is prohibited by 28 CFR 20.33.

Section 5. Resident License

- A. Before issuing a public adjuster license to an applicant under this section, the commissioner shall find that the applicant:
 - (1) Is eligible to designate this state as his or her home state or is a nonresident who is not eligible for a license under Section 8;
 - (2) Has not committed any act that is a ground for denial, suspension or revocation of a license as set forth in Section 11;
 - (3) Is trustworthy, reliable, and of good reputation, evidence of which may be determined by the commissioner;

Model Regulation Service—October 2005

- (4) Is financially responsible to exercise the license and has provided proof of financial responsibility as required in Section 12 of this Act;
- (5) Has paid the fees set forth in [insert appropriate reference to state law or regulation]; and
- (6) Maintains an office in the home state of residence with public access by reasonable appointment and/or regular business hours. This includes a designated office within a home state of residence.

B. In addition to satisfying the requirements of Subsection A, an individual shall

- (1) Be at least eighteen (18) years of age; and
- (2) Have successfully passed the public adjuster examination.
- (3) Designate a licensed individual public adjuster responsible for the business entity's compliance with the insurance laws, rules, and regulations of this state; and
- (4) Designate only licensed individual public adjusters to exercise the business entity's license.

Drafting Note: Subsection C is optional and would apply only to those states that have a business entity license requirement C's PLMA Section 6B

- C. The commissioner may require any documents reasonably necessary to verify the information contained in the application.

Section 6. Examination

- A. An individual applying for a public adjuster license under this act shall pass a written examination unless exempt pursuant to Section 7. The examination shall 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 shall be developed and conducted under rules and regulations prescribed by the commissioner.
- B. The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee set forth in [insert appropriate reference to state law or regulation].
- C. Each individual applying for an examination shall remit a non-refundable fee as prescribed by the commissioner as set forth in [insert appropriate reference to state law or regulation].
- D. An individual who fails to appear for the examination as scheduled or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

Drafting Note: A state may wish to prescribe by regulation limitations on the frequency of application for examination in addition to other prelicensing requirements.

Public Adjuster Licensing Model Act

Drafting Note: If the state has adopted the Producer Licensing Model Act, it may not be necessary to adopt this section. Rather, the state may want to amend its relevant insurance producer statute to include public adjusters.

Section 7. Exemptions from Examination

- A. An individual who applies for a public adjuster license in this state who was previously licensed as a public adjuster in another state based on a public adjuster examination shall not be required to complete any preclicensing examination. This exemption is only available if the person is currently licensed in that state or if the application is received within twelve (12) months of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer database records or records maintained by the NAIC, its affiliates, or subsidiaries, indicate that the public adjuster is or was licensed in good standing.
- B. A person licensed as a public adjuster in another state based on a public adjuster examination who moves to this state shall make application within ninety (90) days of establishing legal residence to become a resident licensee pursuant to Section 6. No preclicensing examination shall be required of that person to obtain a public adjuster license.
- C. An individual who applies for a public adjuster license in this state who was previously licensed as a public adjuster in this state shall not be required to complete any preclicensing examination. This exemption is only available if the application is received within twelve (12) months of the cancellation of the applicant's previous license in this state and if, at the time of cancellation, the applicant was in good standing in this state.

Drafting Note: If the state has adopted the Producer Licensing Model Act, it may not be necessary to adopt this section. Rather, the state may want to amend its relevant insurance producer statute to include public adjusters.

Section 8. Nonresident License Reciprocity

- A. Unless denied licensure pursuant to Section 11, a nonresident person shall receive a nonresident public adjuster license if:
 - (1) The person is currently licensed as a resident public adjuster and in good standing in his or her home state;
 - (2) The person has submitted the proper request for licensure, has paid the fees required by [insert appropriate reference to state law or regulation] [NAIC's PLMA Section 8A(2)], and has provided proof of financial responsibility as required in Section 12 of this Act;
 - (3) The person has submitted or transmitted to the commissioner the appropriate completed application for licensure; and
 - (4) The person's home state awards non-resident public adjuster licenses to residents of this state on the same basis.
- B. The commissioner may verify the public adjuster's licensing status through the producer database maintained by the NAIC, its affiliates, or subsidiaries.

Model Regulation Service—October 2005

- C. As a condition to continuation of a public adjuster license issued under this section, the licensee shall maintain a resident public adjuster license in his or her home state. The non-resident public adjuster license issued under this section shall terminate and be surrendered immediately to the commissioner if the home state public adjuster license terminates for any reason, unless the public adjuster has been issued a license as a resident public adjuster in his or her new home state. Notification to the state or states where non-resident license is issued must be made as soon as possible, yet no later than thirty (30) days of change in new state resident license. Licensee shall include new and old address. A new state resident license is required for non-resident licenses to remain valid. The new state resident license must have reciprocity with the licensing non-resident state(s) for the non-resident license not to terminate.

Drafting Note: If the state has adopted the PLMA, it may not be necessary to adopt this section. Rather, the state may want to amend its relevant insurance producer statute to include public adjusters.

Section 9. License

- A. Unless denied licensure under this Act, persons who have met the requirements of this Act shall be issued a public adjuster license.
- B. A public adjuster license shall remain in effect unless revoked, terminated or suspended as long as the request for renewal and fee set forth in [insert appropriate reference to state law or regulation] is paid and any other requirements for license renewal are met by the due date.
- C. The licensee shall inform the commissioner by any means acceptable to the commissioner of a change of address, change of legal name, or change of information submitted on the application within thirty (30) days of the change.
- D. A licensed public adjuster shall be subject to [cite state's Unfair Claims Settlement Act and state's Trade Practices and Fraud sections of the Insurance Code].
- E. A public adjuster who allows his or her license to lapse may, within twelve (12) months from the due date of the renewal, be issued a new public adjuster license upon the commissioner's receipt of the request for renewal. However, a penalty in the amount of double the unpaid renewal fee shall be required for the issue of the new public adjuster license. The new public adjuster license shall be effective the date the commissioner receives the request for renewal and the late payment penalty.
- F. Any public adjuster licensee that fails to apply for renewal of a license before expiration of the current license shall pay a lapsed license fee of twice the license fee and be subject to other penalties as provided by law before the license will be renewed. If the Department receives the request for reinstatement and the required lapsed license fee within sixty (60) days of the date the license lapsed, the Department shall reinstate the license retroactively to the date the license lapsed. If the Department receives the request for reinstatement and the required lapsed license fee after sixty (60) days but within one year of the date the license lapsed, the Department shall reinstate the license prospectively with the date the license is reinstated. If the person applies for reinstatement more than one year from date of lapse, the person shall reapply for the license under this Act.

Public Adjuster Licensing Model Act

- G. A licensed public adjuster that is unable to comply with license renewal procedures due to military service, a long-term medical disability, or some other extenuating circumstance, may request a waiver of those procedures. The public adjuster may also request a waiver of any examination requirement, fine, or other sanction imposed for failure to comply with renewal procedures.

Drafting Note: References to license "renewal" should be deleted in those states that do not require license renewal

- H. The license shall 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 commissioner deems necessary.
- I. In order to assist in the performance of the commissioner's duties, the commissioner may contract with non-governmental entities, including the 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 commissioner may deem appropriate.]

Drafting Note: If the state has adopted the Producer Licensing Model Act, it may not be necessary to adopt this section. Rather, the state may want to amend its relevant insurance producer statute to include public adjusters

Section 10. Apprentice Public Adjuster License [Optional]

- A. The apprentice public adjuster license is an optional license to facilitate the training necessary to ensure reasonable competency to fulfill the responsibilities of a public adjuster as defined in [insert state statute].
- B. The apprentice public adjuster license shall be subject to the following terms and conditions:
- (1) An attestation/certification from a licensed public adjuster (liconsee) shall accompany an application for an initial apprentice public adjuster license assuming responsibility for all actions of such applicant;
 - (2) The apprentice public adjuster is authorized to adjust claims in the state that has issued licensure only;
 - (3) The apprentice public adjuster shall not be required to take and successfully complete the prescribed public adjuster examination;
 - (4) The licensee shall at all times be an employee of a public adjuster and subject to training, direction, and control by a licensed public adjuster;
 - (5) The apprentice public adjuster license is for a period not to exceed twelve (12) months, the license shall not be renewed;
 - (6) The license is restricted to participation in factual investigation, tentative closing and solicitation of losses subject to the review and final determination of a licensed public adjuster;
 - (7) Compensation of an apprentice public adjuster shall be on a salaried or hourly basis only; and

- (8) The licensee shall be subject to suspension, revocation, or conditions in accordance with [Insert State Laws].

Section 11. License Denial, Non-renewal or Revocation

A. The commissioner may place on probation, suspend, revoke or refuse to issue or renew a public adjuster's license or may levy a civil penalty in accordance with [insert appropriate reference to state law] 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 commissioner or of another state's insurance commissioner;
- (3) Obtaining or attempting to obtain a license through misrepresentation or fraud;
- (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;
- (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) Cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license;
- (12) Knowingly accepting insurance business from an individual who is not licensed but who is required to be licensed by the commissioner;
- (13) Failing to comply with an administrative or court order imposing a child support obligation; or
- (14) Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

Public Adjustor Licensing Model Act

Drafting Note: Paragraph (14) is for those states that have a state income tax

- B. In the event that the action by the commissioner is to deny an application for or not renew a license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the non-renewal or denial of the applicant's or licensee's license. The applicant or licensee may make written demand upon the commissioner within [insert appropriate time period from state's administrative procedure act] for a hearing before the commissioner to determine the reasonableness of the commissioner's action. The hearing shall be held within [insert time period from state law] and shall be held pursuant to [insert appropriate reference to state law].
- C. The license of a business entity may be suspended, revoked or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and the violation was neither reported to the commissioner nor corrective action taken.
- D. 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 according to [insert appropriate reference to state law].
- E. The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this Act and Title [insert appropriate reference to state law] against any person who is under investigation for or charged with a violation of this Act or Title [insert appropriate reference to state law] even if the person's license or registration has been surrendered or has lapsed by operation of law.

Drafting Note: If the state has adopted the Producer Licensing Model Act, it may not be necessary to adopt this section. The state may want to amend its relevant insurance producer statute to include public adjusters

Section 12. Bond or Letter of Credit

Prior to issuance of a license as a public adjuster and for the duration of the license, the applicant shall secure evidence of financial responsibility in a format prescribed by the insurance commissioner 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) Shall be in the minimum amount of \$20,000;
 - (2) Shall be in favor of this state and shall specifically authorize recovery by the commissioner 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 or her capacity as a public adjuster; and
 - (3) Shall not be terminated unless at least thirty (30) days' prior written notice will have been filed with the commissioner and given to the licensee.

Model Regulation Service—October 2005

- B. An irrevocable letter of credit issued by a qualified financial institution, which letter of credit:
- (1) Shall be in the minimum amount of \$20,000;
 - (2) Shall be to an account to the commissioner 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 or her capacity as a public adjuster; and
 - (3) Shall not be terminated unless at least thirty (30) days' prior written notice will have been filed with the commissioner and given to the licensee.
- C. The issuer of the evidence of financial responsibility shall notify the commissioner upon termination of the bond or letter of credit, unless otherwise directed by the commissioner.
- D. The commissioner may ask for the evidence of financial responsibility at any time he or she deems relevant.
- E. The authority to act as a public adjuster shall automatically terminate if the evidence of financial responsibility terminates or becomes impaired.

Section 13. Continuing Education

- A. An individual, who holds a public adjuster license and who is not exempt under Subsection B of this section, shall satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses, including ethics, reported on a biennial basis in conjunction with the license renewal cycle.
- B. This section shall 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 commissioner shall be used to satisfy the continuing education requirement of Subsection A.

Section 14. Public Adjuster Fees

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

Drafting Note: This model designates Section 14A as optional. A majority of the states do not require a cap on fees of public adjusters

- B. A public adjuster shall not pay a commission, service fee or other valuable consideration to a person for investigating or settling claims in this state if that person is required to be licensed under this Act and is not so licensed.

Public Adjuster Licensing Model Act

- C. A person shall not accept a commission, service fee or other valuable consideration for investigating or settling claims in this state if that person is required to be licensed under this Act and is not so licensed.
- D. A public adjuster may pay or assign commission, service fees or other valuable consideration to persons who do not investigate or settle claims in this state, unless the payment would violate [insert appropriate reference to state law, i.e. citation to anti-rebating statute or sharing commission statute, if applicable].
- E. [Optional] In the event of a catastrophic disaster, there shall be limits on catastrophic fees, no public adjuster shall charge, agree to or accept as compensation or reimbursement any payment, commission, fee, or other thing of value equal to more than ten percent (10%) of any insurance settlement or proceeds. No public adjuster shall require, demand or accept any fee, retainer, compensation, deposit, or other thing of value, prior to settlement of a claim.

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

Section 15. Contract Between Public Adjuster and Insured

- A. Public adjusters shall ensure that all contracts for their services are in writing and contain the following terms:
 - (1) Legible full name of the 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, if known or upon notification;
 - (6) A description of the loss and its location, if applicable;
 - (7) Description of services to be provided 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; and
 - (11) Full salary, fee, commission, compensation or other considerations the public adjuster is to receive for services

Model Regulation Service—October 2006

- B. The contract may specify that the public adjuster shall be named as a co-payee on an insurer's payment of a claim.
- (1) If the compensation is based on a share of the insurance settlement, the exact percentage shall be specified.
 - (2) Initial expenses to be reimbursed to the public adjuster from the proceeds of the claim payment shall be specified by type, with dollar estimates set forth in the contract and with any additional expenses first approved by the insured.
 - (3) Compensation provisions in a public adjusting contract shall not be redacted in any copy of the contract provided to the commissioner. Such a redaction shall constitute an omission of material fact in violation of [insert reference to relevant state law].
- C. If the insurer, not later than seventy-two (72) hours after the date on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insurance policy, the public adjuster shall:
- (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.
- D. A public adjuster shall 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 which 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" shall include any corporation, partnership, association, joint-stock company 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 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;

Public Adjuster Licensing Model Act

- (3) Imposes collection costs or late fees; or
 - (4) Precludes a public adjuster from pursuing civil remedies.
- F. Prior to the signing of the contract the public adjuster shall 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 or her insurance company for consideration. There are three (3) 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 you 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 your insurance company. They will not charge you 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 settlement, or other method of compensation.
 - (2) The insured is not required to hire a public adjuster to help the insured meet his or her 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 shall 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 shall be available at all times for inspection without notice by the commissioner.
- H. The public adjuster shall provide the insurer a notification letter, which has been signed by the insured, authorizing the public adjuster to represent the insured's interest.
- I. The public adjuster shall give the insured written notice of the insured's right as provided in [cite the state consumer protection laws].

Model Regulation Service—October 2005

- J. The insured has the right to rescind the contract within three (3) business days after the date the contract was signed. The rescission shall be in writing and mailed or delivered to the public adjuster at the address in the contract within the three (3) business day period.
- K. 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 (15) business days following the receipt by the public adjuster of the cancellation notice.

Drafting Note: The details in this section should comply with your state's consumer protection contract rescission law.

Section 16. Escrow or Trust Accounts

A public adjuster who receives, accepts or holds any funds on behalf of an insured, towards the settlement of a claim for loss or damage, shall deposit the funds in a non-interest bearing escrow or trust account in a financial institution that is insured by an agency of the federal government in the public adjuster's home state or where the loss occurred.

Section 17. Record Retention

- A. A public adjuster shall maintain a complete record of each transaction as a public adjuster. The records required by this section shall include the following:
 - (1) Name of the insured;
 - (2) Date, location and amount of the loss;
 - (3) Copy of the 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 the 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 insurance commissioner.
- B. Records shall be maintained for at least five (5) years after the termination of the transaction with an insured and shall be open to examination by the commissioner at all times.

Public Adjuster Licensing Model Act

- C. Records submitted to the commissioner in accordance with this section that contain information identified in writing as proprietary by the public adjuster shall be treated as confidential by the commissioner and shall not be subject to [insert reference to open record laws] of this state.

Section 18. Standards of Conduct of Public Adjuster

- A. A public adjuster is obligated, under his or her 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.
- B. A public adjuster shall not solicit, or attempt to solicit, an insured during the progress of a loss-producing occurrence, as defined in the insured's insurance contract.
- C. A public adjuster shall not permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under this Act.
- D. A public adjuster shall 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, unless full written disclosure has been made to the insured as set forth in Section 15G .
- E. A public adjuster shall 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 15G.
- F. The public adjuster shall abstain from referring or directing the insured to get needed repairs or services in connection with a loss from any person, unless disclosed to the insured:
- (1) With whom the public adjuster has a financial interest; or
 - (2) From whom the public adjuster may receive direct or indirect compensation for the referral.

Drafting Note: Optional language for Subsection F. "Licensees may not solicit a client for employment between the hours of ___ pm and ___ am"

- G. The public adjuster shall disclose to an insured if he or she has any interest or will be compensated by any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop or any other firm that performs any work in conjunction with damages caused by the insured loss. The word "firm" shall include any corporation, partnership, association, joint-stock company or individual as set forth in Section 15A(4).

- H. Any compensation or anything of value in connection with an insured's specific loss that will be received by a public adjuster shall be disclosed by the public adjuster to the insured in writing including the source and amount of any such compensation.

Model Regulation Service—October 2005

- I. Public adjusters shall adhere to the following general ethical requirements:
- (1) A public adjuster shall 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 shall not knowingly make any oral or written material misrepresentations or statements which are 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;

Drafting Note: If a state only allows licensure in one class of adjuster licensing, the adjuster may not represent another type of licensure in any circumstance

- (4) The contract shall not be construed to prevent an insured from pursuing any civil remedy after the three-business day revocation or cancellation period;
 - (5) A public adjuster shall not enter into a contract or accept a power of attorney that vests in the public adjuster the effective authority to choose the persons who shall perform repair work; and
 - (6) A public adjuster shall ensure that all contracts for the public adjuster's services are in writing and set forth all terms and conditions of the engagement.
- J. A public adjuster may not agree to any loss settlement without the insured's knowledge and consent.

Section 19. Reporting of Actions

- A. The public adjuster shall report to the commissioner any administrative action taken against the public adjuster in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents.
- B. Within thirty (30) days of the initial pretrial hearing date, the public adjuster shall report to the commissioner any criminal prosecution of the public adjuster taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

Drafting Note: If the state has adopted the Producer Licensing Model Act, it may not be necessary to adopt this section. Rather, the state may want to amend its relevant insurance producer statute to include public adjusters.

Section 20. Regulations

The commissioner may, in accordance with [insert appropriate reference to state law], promulgate reasonable regulations as are necessary or proper to carry out the purposes of this Act.

Public Adjuster Licensing Model Act

Section 21. Severability

If any provisions of this Act, or the application of a provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

Section 22. Effective Date

This Act shall take effect [insert date]. Provided, however that the provision of Section 4 do not become effective until a state participates in the NAIC's central repository for the purpose of obtaining criminal background information.

Drafting Note: A minimum of six months to one-year implementation time for proper notice of changes, fees, and procedures is recommended

Legislative History (all references are to the Proceedings of the NAIC).

2005 Proc. 8th Quarter (adopted by parent committee).

2006 Proc. 3rd Quarter (amended and adopted by Plenary).

Model Regulation Service—October 2005

NAIC Public Insurance Adjuster Surety Bond Sample

BOND NO. _____

Know All Persons by These Presents:

That we, _____ as Principal, whose address is _____
 _____ and _____ as Surety, being a
 surety company authorized to do business in the State of _____ are bound to the _____ Department
 of Insurance in the sum of \$10,000.00 as specified at [insert reference to state law or regulation].
 The specified sum is payable to the [insert state] Department of Insurance for the use and benefit of
 any customer of the above described Principal and as defined by the [insert state] Insurance Code,
 [insert citation] in acceptable currency of the United States in accordance with the statutory
 provision cited above. By this instrument, we jointly and severally firmly bind ourselves, our heirs,
 executors, administrators, successors and assigns.

The conditions of the above obligations are:

Whereas the above named Principal has applied to the [insert state] Department of Insurance for a
 license as a Public Insurance Adjuster to engage in or continue the business of insurance as a Public
 Insurance Adjuster in accordance with the [insert state] Insurance Code;

Now, Therefore, should the Principal discharge losses that result from any final judgment
 recovered against the Principal by any customer, this obligation will become void. If this obligation is
 not void, it remains in full force and effect, subject to the following conditions:

1. As of _____, 20____, this bond will be in full force and effect indefinitely.
Continuation or renewal certificates are unnecessary.
2. The surety may, at any time, terminate this bond by submitting written notice to the [insert
state] Department of Insurance thirty (30) days prior to the termination date. The surety, however,
remains liable for any defaults under this bond committed prior to the termination date.
3. In no event will the aggregate liability of the Surety under this bond, for any or all damages
to one or more claimants, exceed the penal sum of this bond.

In Witness Whereof said Principal and Surety have executed this bond this _____ day of _____
 _____, 20____ to be effective the _____ day of _____, 20____
 _____.

PRINCIPAL_____
BY_____
ADDRESS_____
SURETY

Public Adjuster Licensing Model Act