

CHAPTER 55
LICENSING OF PUBLIC ADJUSTERS

191—55.1(82GA, HF499) Purpose. The purpose of this chapter is to govern the qualifications and procedures for licensing public adjusters in this state and to specify the duties of and restrictions on public adjusters, including limitation of such licensure to assisting only insureds with first-party claims.

191—55.2(82GA, HF499) Definitions. As used in this chapter, unless the context otherwise requires: “*Business entity*” means a corporation, association, partnership, limited liability company, limited liability partnership, or any other legal entity.

“*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.

“*Commissioner*” means the Iowa insurance commissioner.

“*Division*” means the Iowa insurance division.

“*Fingerprints*” means an electronic impression of the lines on a human finger taken for the purposes of identification.

“*First-party claim*” means a claim filed by a person insured under the insurance policy against which the claim is made.

“*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.”

“*Individual*” means a natural person.

“*Insured*” means a person insured under the insurance policy against which the claim is made.

“*NAIC*” means the National Association of Insurance Commissioners.

“*NIPR Gateway*” means the communication network developed and operated by the National Insurance Producer Registry that links state insurance regulators with the entities they regulate to facilitate the electronic exchange of, among other things, public adjuster information regarding license applications, license renewals, appointments and terminations. The National Insurance Producer Registry is a nonprofit affiliate of the NAIC. The NIPR’s Web site is www.licenseregistry.com.

“*Person*” means an individual or a business entity.

“*Producer database*” means the national database of insurance producers maintained by the NAIC.

“*Public adjuster*” means any person who, for compensation or any other thing of value, acts on behalf of an insured by doing any of the following:

1. Acting for or aiding an insured in negotiating for or in effecting the settlement of a first-party claim for loss or damage to real or personal property of the insured.
2. Advertising for employment as a public adjuster of first-party claims or otherwise soliciting business or representing to the public that the person is a public adjuster of first-party claims for loss or damage to real or personal property of an insured.
3. Directly or indirectly soliciting the business of investigating or adjusting losses, or of advising an insured about first-party claims for loss or damage to real or personal property of the insured.

“*Uniform business entity application*” means the current version of the NAIC’s uniform business entity application for resident and nonresident business entities.

“*Uniform individual application*” means the current version of the NAIC’s uniform individual application for resident and nonresident individuals.

191—55.3(82GA,HF499) License required to operate as public adjuster.

55.3(1) A person shall not operate as or represent that the person is a public adjuster in this state unless the person is licensed by the division in accordance with this chapter.

55.3(2) A person licensed as a public adjuster in accordance with this chapter shall assist only insureds with first-party claims.

55.3(3) Notwithstanding subrule 55.3(1), a license as a public adjuster shall not be required of the following:

- a. An attorney-at-law admitted to practice in this state, when acting in the attorney’s professional capacity as an attorney;
- b. A person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;
- c. 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;
- d. A licensed health care provider, or an employee of a licensed health care provider, who prepares or files a health claim form on behalf of a patient; or
- e. A person who settles subrogation claims between insurers.

191—55.4(82GA,HF499) Application for license.

55.4(1) A person applying for a public adjuster license shall make application on a uniform individual application or uniform business entity application available from the division by mail, through the division’s Web site (www.iid.state.ia.us), or as otherwise directed by the division.

55.4(2) Each individual resident applying for a public adjuster license shall be required to submit an electronic set of fingerprints with the application, through the division’s testing vendor, which shall be used by the division to determine the eligibility of the applicant for a license.

191—55.5(82GA,HF499) Issuance of resident license.

55.5(1) License of individual. A resident individual acting as a public adjuster is required to obtain a resident public adjuster license. Application shall be made using the uniform individual application. Before approving the application, the division shall find that the applicant:

- a. Either is eligible to designate this state as the individual’s home state, or is a nonresident who is not eligible for a license under rule 55.8(82GA,HF499);
- b. Has not committed any act that is a ground for denial, suspension or revocation of a license as set forth in rule 55.17(82GA,HF499);
- c. Is trustworthy, reliable, and of good reputation, evidence of which may be determined by the division;
- d. Is financially responsible to exercise the license and has provided proof of financial responsibility as required in rule 55.10(82GA,HF499);
- e. Has paid the fees set forth in rule 55.20(82GA,HF499);
- f. Maintains an office in the home state of residence with public access by reasonable appointment or regular business hours;
- g. Is at least 18 years of age; and
- h. Has successfully passed the public adjuster examination pursuant to rule 55.6(82GA,HF499).

55.5(2) License of business entity. 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 division shall find that the business entity has:

- a. Paid the fees set forth in rule 55.20(82GA, HF499);
- b. Designated a licensed public adjuster responsible for the business entity's compliance with the insurance laws, rules and regulations of this state; and
- c. Designated a licensed individual public adjuster responsible for the business entity's compliance with the insurance laws, rules, and regulations of this state.

55.5(3) Supplemental documentation. The division may require the applicant for either type of license to supply any documents reasonably necessary to verify the information contained in the application.

191—55.6(82GA, HF499) Public adjuster examination.

55.6(1) A resident individual applying for a public adjuster license under this chapter shall pass a written examination, unless exempt pursuant to rule 55.7(82GA, HF499). 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 rule shall be conducted as prescribed by the division.

55.6(2) Each resident individual applying for an examination shall remit a nonrefundable fee as prescribed by the division and set forth in rule 55.20(82GA, HF499).

55.6(3) A resident 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 scheduled for another examination.

55.6(4) The division may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the fee set forth in rule 55.20(82GA, HF499).

191—55.7(82GA, HF499) Exemptions from examination.

55.7(1) 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 an examination in this state. However, an individual who moves to this state and who was previously licensed as a public adjuster in another state based on a public adjuster examination shall make application within 90 days of establishing legal residence to become a resident licensed public adjuster pursuant to rule 55.5(82GA, HF499). No examination shall be required of that individual to obtain a public adjuster license. This exemption is available only:

- a. If the individual is currently licensed in the other state or if the application is received within 12 months of the cancellation of the applicant's previous license; and
- b. If the other state issues a certification that the applicant is licensed and in good standing in that state or was licensed and in good standing at the time of cancellation or if 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 and in good standing.

55.7(2) 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 an examination. This exemption is only available if the application is received within 12 months of the termination of the applicant's previous license in this state and if, at the time of termination, the applicant was in good standing in this state.

191—55.8(82GA, HF499) Nonresident license reciprocity.

55.8(1) Unless denied licensure pursuant to rule 55.12(82GA, HF499), an individual for whom Iowa is not the individual's home state, but whose home state awards nonresident public adjuster licenses to residents of Iowa on the same basis, must satisfy the following requirements to obtain an Iowa nonresident public adjuster license:

- a. Be licensed as a resident public adjuster and in good standing in the individual's home state;
- b. Submit a proper request for licensure to the division through the NIPR Gateway; and
- c. Pay the appropriate fees required, as set forth in rule 55.20(82GA, HF499).

55.8(2) The division may verify the public adjuster's licensing status through the producer database maintained by the NAIC, its affiliates, or subsidiaries.

55.8(3) As a condition to continuation of a public adjuster license issued under this rule, the licensed public adjuster shall maintain a resident public adjuster license in the licensed public adjuster's home state. The nonresident public adjuster license issued under this chapter shall terminate and be surrendered immediately to the division if the home state public adjuster license terminates for any reason, unless the individual has been issued a license as a resident public adjuster in the individual's new home state. The individual shall notify the state or states where nonresident public adjuster licenses are issued as soon as possible, but no later than 30 days after the change to the new state's resident public adjuster license. The licensed public adjuster shall include both the new and the old addresses in the notice. A new state resident public adjuster license is required for the Iowa nonresident public adjuster license to remain valid. The new state resident public adjuster license must have reciprocity with Iowa as set forth in subrule 55.8(1) for the nonresident public adjuster license not to terminate. No fee or license application is required. If the new resident state is actively participating in the producer database, a letter of certification is not required. A nonresident licensed public adjuster who moves to Iowa and wishes to retain the nonresident license must file a change of address with the division within 90 days of the change of legal residence.

55.8(4) If an individual's home state does not license public adjusters or does not award nonresident public adjuster licenses to residents of Iowa on the same basis, the nonresident individual shall follow the procedures for obtaining a license set out in rule 55.5(82GA, HF499).

191—55.9(82GA, HF499) Terms of licensure. Unless denied licensure under this chapter or under 2007 Iowa Acts, House File 499, sections 24 to 29, persons who have met the requirements of this chapter and 2007 Iowa Acts, House File 499, sections 24 to 29, shall be issued a public adjuster license.

55.9(1) Content of license. The license shall contain the public adjuster's name, city and state of business address, license number, the date of issuance, the expiration date, and any other information the division deems necessary. The license number shall be the same as the public adjuster's National Insurance Producer Registry (NIPR) national producer number (NPN). The division will not send a paper license to the public adjuster, but public adjusters may download and print licenses through the division's Web site, www.iid.state.ia.us.

55.9(2) Term of license. A public adjuster license shall remain in effect for a term of two years, unless revoked, terminated or suspended, and may be continually renewed as long as the request for renewal is received, the fee set forth in rule 55.20(82GA, HF499) is paid, and any other requirements for license renewal are met by the renewal due date. The license term shall be as follows:

a. For an individual public adjuster, the two-year-and-one-month period of time beginning on the first day of the public adjuster's birth month and ending on the last day of the public adjuster's birth month in the renewal year.

b. For a business entity public adjuster, the two-year-and-one-month period of time, including the year of application, beginning on the first day of the month of the business entity's formation date and ending on the last day of the month of the business entity's formation date. By arrangement with the division, a business entity may choose a different month for its license term.

55.9(3) Suspension for returned payment. If the division issues or renews a public adjuster license and subsequently determines that payment by check for the license or renewal was returned to the division by a bank without payment, or that the credit card company does not approve or cancels or refuses amounts charged to the credit card, the license shall be immediately suspended until the payments are made and any fees or penalties charged by the division are paid, at which time the license may be reinstated. The individual may request a hearing within 30 days of receipt of notice by the division that the license was suspended.

55.9(4) Change in name, address or state of residence.

a. Name change. If a licensed public adjuster's name is changed, the licensed public adjuster must file notification with the division within 30 days of the name change. Notification may be filed via electronic mail to producer.licensing@iid.state.ia.us, or through the NIPR Gateway, if available. The notification must include the licensed public adjuster's:

- (1) Former name;
- (2) License number; and
- (3) New name.

b. Address change. If a licensed public adjuster's address is changed, including an E-mail address, the licensed public adjuster must file notification with the division within 30 days of the address change. Notification may be filed via electronic mail to producer.licensing@iid.state.ia.us, or through the NIPR Gateway, if available. The notification must include the licensed public adjuster's:

- (1) Name;
- (2) License number;
- (3) Previous address; and
- (4) New address. A licensed public adjuster may designate a business address instead of a resident address at the option of the licensed public adjuster.

c. Change in state of residence. A nonresident licensed public adjuster who moves from one state to another state or an Iowa resident licensed public adjuster who moves to another state and wishes to retain an Iowa license must comply with subrule 55.8(3).

55.9(5) Reporting of actions.

a. A licensed public adjuster shall report to the division any administrative action taken against the licensed public adjuster in another jurisdiction or by another governmental agency in this state within 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 30 days of the initial pretrial hearing date, a licensed public adjuster shall report to the division any criminal prosecution of the licensed 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.

c. A licensed public adjuster shall report to the division all college student aid commission or child support recovery unit actions taken under or in connection with Iowa Code chapter 261 or 252J and all court orders entered in such actions.

55.9(6) Failure to notify the division or to file reports required by this rule is a violation of this chapter and will subject licensed public adjusters to penalty pursuant to subrule 55.19(82GA, HF499).

55.9(7) Renewal of license.

a. A person licensed as a public adjuster must apply for renewal of the license prior to the expiration date of the license.

b. Public adjuster licenses may be renewed only through the NIPR Gateway, or as otherwise directed by the division.

c. Failure to renew a license and to pay appropriate fees prior to the expiration date of the license will result in expiration of the license.

d. A resident public adjuster may reinstate an expired license up to 12 months after the license expiration date by submitting a request to the division and by paying a reinstatement fee and license renewal fees, as set forth in rule 55.20(82GA, HF499). A resident public adjuster who fails to apply for license reinstatement within 12 months of the license expiration date must apply for a new license.

e. A nonresident public adjuster may reinstate an expired license up to 12 months after the license expiration date by submitting a request to the division through the NIPR Gateway and by paying a reinstatement fee and license renewal fee. A nonresident public adjuster who fails to apply for license reinstatement within 12 months of the license expiration date must apply for a new license.

f. 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 make a request to the division for a waiver of those procedures.

55.9(8) Division functions.

a. If a licensed public adjuster has provided an E-mail address to the division, the division has the option to send information to the licensed public adjuster through E-mail rather than through United States mail.

b. In order to assist in the performance of the division's duties, the division may contract with nongovernmental entities, including the NAIC or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions that the division may deem appropriate, including the collection of fees and data related to licensing.

191—55.10(82GA, HF499) Evidence of financial responsibility.

55.10(1) Prior to the issuance of a license as a public adjuster and for the duration of the license, an applicant shall secure evidence of financial responsibility in a format prescribed by the division through a surety bond. The surety bond shall be executed and issued by an insurer authorized to issue surety bonds in this state, which bond:

a. Shall be in the minimum amount of \$20,000;

b. 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 the applicant's capacity as a public adjuster; and

c. Shall not be terminated unless at least 30 days' prior written notice has been filed with the division and submitted to the licensed public adjuster.

55.10(2) The division may request the evidence of financial responsibility at any time the division deems relevant.

55.10(3) A public adjuster shall immediately notify the division if evidence of financial responsibility terminates or becomes impaired. The authority to act as a public adjuster shall automatically terminate if the evidence of financial responsibility terminates or becomes impaired.

191—55.11(82GA, HF499) Continuing education.

55.11(1) An individual who holds a public adjuster license shall satisfactorily complete a minimum of 24 credits of continuing education, including 2 credits of ethics, reported on a biennial basis in conjunction with the license renewal cycle. "Credit" means 50 minutes of instruction or reading material in an acceptable topic of continuing education.

55.11(2) This rule shall not apply to a licensed public adjuster holding a nonresident public adjuster license who has met the continuing education requirements of the adjuster's home state and whose home state gives credit to residents of this state on the same basis.

55.11(3) Only continuing education courses approved by the division pursuant to 191—Chapter 11, substituting "public adjuster" for "insurance producer," shall be used to satisfy the continuing education requirement of subrule 55.11(1).

191—55.12(82GA, HF499) License denial, nonrenewal or revocation.

55.12(1) 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 Iowa Code section 505.7A or take corrective action pursuant to Iowa Code section 505.8 as amended by 2007 Iowa Acts, House File 499, section 6, or any combination of actions, for any one or more of the following causes:

- a.* Providing incorrect, misleading, incomplete, or materially untrue information in the license application;
- b.* Failing to complete continuing education as required by rule 55.11(82GA, HF499);
- c.* Violating any insurance laws, or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner;
- d.* Obtaining or attempting to obtain a license through misrepresentation or fraud;
- e.* Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing adjuster business;
- f.* Intentionally misrepresenting the terms of an insurance contract;
- g.* Having been convicted of a felony;
- h.* Having admitted to or having been found to have committed any insurance unfair trade practice or insurance fraud;
- i.* Using fraudulent, coercive or dishonest practices; or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;
- j.* Having an insurance license or a public adjuster license, or the equivalent, denied, suspended, or revoked in any other state, province, district or territory;
- k.* Cheating, including improperly using notes or any other reference material, to complete an examination for any adjuster license;
- l.* Failing to comply with an administrative or court order imposing a child support or student loan obligation, following procedures of rules 191—10.20(522B) and 191—10.21(522B), replacing the words "producer" with "public adjuster";
- m.* Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax;
- n.* Misrepresenting to a claimant that the public adjuster 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 the public adjuster is appointed by the insurer and the appointment is accepted by the public adjuster;
- o.* Failing to maintain evidence of financial responsibility as required by rule 55.10(82GA, HF499);
- p.* For a business entity licensed as a public adjuster, failing to designate only licensed individual public adjusters to exercise the business of the business entity's license;
- q.* Failing to report to the division any notifications or actions required to be reported pursuant to rule 55.9(82GA, HF499); or
- r.* Failing to file reports required by this chapter.

55.12(2) In the event that the action by the commissioner is to deny an application for or not to renew a license, the commissioner shall notify the applicant or licensed public adjuster and advise, in writing, the applicant or licensed public adjuster of the reason for the nonrenewal or denial of the applicant's or licensed public adjuster's license. The applicant or licensed public adjuster may request a hearing pursuant to 191—Chapter 3 and Iowa Code chapter 17A.

55.12(3) The license of a business entity may be suspended, revoked or refused if the commissioner finds, after hearing, that an individual licensed public adjuster'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.

55.12(4) In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil fine pursuant to Iowa Code section 505.7A, or to other corrective action pursuant to Iowa Code section 505.8 as amended by 2007 Iowa Acts, House File 499, section 6.

55.12(5) The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this chapter and Iowa Code chapters 505 and 522C against any person who is under investigation for or charged with a violation of this chapter and 2007 Iowa Acts, House File 499, sections 24 to 29, even if the person's license has been surrendered or has lapsed by operation of law.

191—55.13(82GA,HF499) Reinstatement or reissuance of a license after suspension, revocation or forfeiture in connection with disciplinary matters; and forfeiture in lieu of compliance.

55.13(1) Definitions and scope.

a. The term "reinstatement" as used in this rule means the reinstatement of a suspended license.

b. The term "reissuance" as used in this rule means the issuance of a new license following either the revocation of a license or the forfeiture of a license in connection with a disciplinary matter.

c. This rule does not apply to the reinstatement of an expired license.

55.13(2) Any person licensed in Iowa as a public adjuster whose license has been revoked or suspended by order, or who forfeited a license in connection with a disciplinary matter, may apply to the commissioner for reinstatement or reissuance in accordance with the terms of the order of revocation or suspension or the order accepting the forfeiture.

a. All proceedings for reinstatement or reissuance shall be initiated by the applicant who shall file with the commissioner an application for reinstatement or reissuance of a license.

b. An application for reinstatement or reissuance shall allege facts which, if established, will be sufficient to enable the commissioner to determine that the basis of revocation, suspension or forfeiture of the applicant's license no longer exists and that it will be in the public interest for the application to be granted. The burden of proof to establish such facts shall be on the applicant.

c. A person licensed as a public adjuster may request reinstatement of a suspended license prior to the end of the suspension term.

d. Unless otherwise provided by law, if the order of revocation or suspension did not establish terms upon which reinstatement or reissuance may occur, or if the license was forfeited, an initial application for reinstatement or reissuance may not be made until at least one year has elapsed from the date of the order of the suspension (notwithstanding paragraph 55.13(2) "c"), revocation, or acceptance of the forfeiture of a license.

55.13(3) All proceedings upon the application for reinstatement or reissuance, including matters preliminary and ancillary thereto, shall be held in accordance with Iowa Code chapter 17A. Such application shall be docketed in the original case in which the original license was suspended, revoked, or forfeited, if a case exists.

55.13(4) An order of reinstatement or reissuance shall be based upon a written decision which incorporates findings of fact and conclusions of law. An order granting an application for reinstatement or reissuance may impose such terms and conditions as the commissioner or the commissioner's designee deems desirable, which may include one or more of the types of disciplinary sanctions provided by this chapter and 2007 Iowa Acts, House File 499, sections 24 to 29. The order shall be a public record, available to the public, and may be disseminated in accordance with Iowa Code chapters 22 and 505.

55.13(5) When a public adjuster's license has been suspended for a period of time which extends beyond the public adjuster's license expiration date, the license will terminate at the license expiration date, and the public adjuster must request reinstatement pursuant to subrule 55.10(2). If suspension for a period of time ends prior to the public adjuster's license expiration date, the division shall reinstate the license at the end of the suspension period. The commissioner is not prohibited from bringing an additional immediate action if the public adjuster has engaged in misconduct during the period of suspension.

55.13(6) A request for voluntary forfeiture of a license shall be made in writing to the commissioner. Forfeiture of a license is effective upon submission of the request unless a contested case proceeding is pending at the time the request is submitted. If a contested case proceeding is pending at the time of the request, the forfeiture shall become effective when and upon such conditions as required by order of the commissioner. A forfeiture made during the pendency of a contested case proceeding is considered disciplinary action and shall be published in the same manner as is applicable to any other form of disciplinary order.

55.13(7) A license may be voluntarily forfeited in lieu of compliance with an order of the commissioner or the commissioner's designee with the written consent of the commissioner. The forfeiture shall become effective when and upon such conditions as required by order of the commissioner, which may include one or more of the types of disciplinary sanctions provided by this chapter and 2007 Iowa Acts, House File 499, sections 24 to 29.

191—55.14(82GA, HF499) Contract between public adjuster and insured.

55.14(1) Public adjusters shall ensure that all contracts for their services are in writing and contain the following terms:

- a.* Legible full name of the adjuster signing the contract, as specified in division records;
- b.* Permanent home state business address and telephone number;
- c.* Public adjuster license number;
- d.* Title of "Public Adjuster Contract";
- e.* Insured's full name, street address, insurance company name and policy number, if known or upon notification;
- f.* Description of the loss and its location, if applicable;
- g.* Description of services to be provided to the insured;
- h.* Signatures of the public adjuster and the insured;
- i.* Date contract was signed by the public adjuster and date the contract was signed by the insured;
- j.* Attestation language stating that the public adjuster is fully bonded pursuant to state law; and
- k.* Full salary, fee commission, compensation or other considerations the public adjuster is to receive for services.

55.14(2) The contract may specify that the public adjuster shall be named as a co-payee on an insurer's payment of a claim.

- a.* If the compensation is based on a share of the insurance settlement, the exact percentage shall be specified.
- b.* 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. Any additional expenses shall be approved by the insured.
- c.* Compensation provisions in a public adjusting contract shall not be redacted in any copy of the contract provided to the division. Such a redaction shall constitute a dishonest practice in violation of paragraph 55.12(1)"i."

55.14(3) If the insurer, not later than 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:

- a.* Not receive a commission consisting of a percentage of the total amount paid by an insurer to resolve a claim;
- b.* Inform the insured that the loss recovery amount might not be increased by the insurer; and
- c.* 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.

55.14(4) 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 that provides estimates for work, or that performs any work, in conjunction with damage caused by the insured loss on which the public adjuster is engaged. The term "firm" shall include any corporation, partnership, association, joint-stock company or person.

55.14(5) A public adjuster contract may not contain any contract term that:

- a.* Allows the public adjuster's percentage fee to be collected when money is due from an insurance company, but not paid, or that allows a public adjuster to collect the entire fee from the first check issued by an insurance company, rather than as a percentage of each check issued by an insurance company;
- b.* Requires the insured to authorize an insurance company to issue a check only in the name of the public adjuster;
- c.* Imposes collection costs or late fees; or
- d.* Precludes a public adjuster from pursuing civil remedies.

55.14(6) Prior to the signing of the contract, the public adjuster shall provide the insured with a separate disclosure document regarding the claim process as set forth in Appendix I.

55.14(7) The contract 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 division.

55.14(8) 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.

55.14(9) The public adjuster shall give the insured written notice of the insured's rights as provided in Iowa Code chapter 555A, and the insured may rescind the contract as provided in Iowa Code chapter 555A. The contract shall not be construed to prevent an insured from pursuing any civil remedy after the three-business-day revocation or cancellation period.

55.14(10) 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 15 business days following the receipt by the public adjuster of the cancellation notice.

191—55.15(82GA, HF499) Escrow accounts. A public adjuster who receives, accepts or holds, on behalf of an insured, any funds toward the settlement of a claim for loss or damage shall deposit the funds in a non-interest-bearing escrow 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.

191—55.16(82GA, HF499) Record retention.

55.16(1) A public adjuster shall maintain a complete record of each transaction as a public adjuster. The records required by this rule shall include the following:

- a.* The name of the insured;
- b.* The date, location and amount of the loss;
- c.* A copy of the contract between the public adjuster and the insured;
- d.* The name of the insurer, amount, expiration date and number of each policy carried with respect to the loss;
- e.* An itemized statement of the insured's recoveries;
- f.* An itemized statement of all compensation received by the public adjuster, from any source whatsoever, in connection with the loss;
- g.* A register of all moneys 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;
- h.* The name of the public adjuster who executed the contract;
- i.* The name of the attorney representing the insured, if applicable, and the name of the claims representative of the insurance company; and
- j.* Evidence of financial responsibility in a format prescribed by the insurance division.

55.16(2) Records shall be maintained for at least five years after the termination of the transaction with an insured and shall be open to examination by the division at all times.

55.16(3) Records submitted to the division in accordance with this rule that contain information identified in writing as proprietary by the public adjuster shall be treated as confidential by the division and shall not be subject to Iowa Code chapter 22.

191—55.17(82GA, HF499) Standards of conduct of public adjuster.

55.17(1) A public adjuster shall serve with objectivity and complete loyalty the interest of the public adjuster's client and shall render to the insured in good faith such information, counsel and service, as within the knowledge, understanding and opinion of the licensed public adjuster, as will best serve the insured's insurance claim needs and interest.

55.17(2) 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.

55.17(3) 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 chapter or 2007 Iowa Acts, House File 499, sections 24 to 29.

55.17(4) 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 subrule 55.14(4).

55.17(5) 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 subrule 55.14(4).

55.17(6) The public adjuster shall abstain from referring or directing the insured to obtain needed repairs or services in connection with a loss from any person, unless disclosed to the insured:

- a.* With whom the public adjuster has a financial interest; or
- b.* From whom the public adjuster may receive direct or indirect compensation for the referral.

55.17(7) Licensed public adjusters may not solicit a client for employment between the hours of 8 p.m. and 9 a.m.

55.17(8) 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.

55.17(9) 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 if the loss or coverage otherwise exceeds the public adjuster's current expertise.

55.17(10) A public adjuster shall not knowingly make any false oral or written material statements regarding any person engaged in the business of insurance to any insured client or potential insured client.

55.17(11) No public adjuster, while so licensed by the division, may represent or act as a company adjuster or independent adjuster in any circumstance.

55.17(12) 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.

55.17(13) A public adjuster may not agree to any loss settlement without the insured's knowledge and consent.

191—55.18(82GA, HF499) Public adjuster fees.

55.18(1) A public adjuster may charge the insured a reasonable fee for public adjuster services.

55.18(2) 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 chapter and is not so licensed.

55.18(3) 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 or more than 10 percent 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, unless the loss is being handled by the public adjuster on a time-plus-expense basis.

191—55.19(82GA, HF499) Penalties. Failure to comply with this chapter or with 2007 Iowa Acts, House File 499, sections 24 to 29, shall subject a person to penalties set forth in 2007 Iowa Acts, House File 499, section 29.

191—55.20(82GA, HF499) Fees.

55.20(1) Fees may be paid by check or credit card.

55.20(2) The fee for obtaining an electronic fingerprint pursuant to subrule 55.4(3) shall be set by the outside vendor under contract with the division and approved by the division.

55.20(3) The fee for issuance or renewal of an individual public adjuster license is \$50 for two years.

55.20(4) The fee for issuance or renewal of a business entity public adjuster license is \$50 for two years.

55.20(5) The fee for reinstatement of a public adjuster license is \$50.

55.20(6) The division may charge a reasonable fee for the compilation and production of public adjuster licensing records.

191—55.21(82GA, HF499) Severability. If any rule or portion of a rule of this chapter, or its applicability to any person or circumstances, is held invalid by a court, the remainder of this chapter, or the applicability or its provisions to other persons, shall not be affected.

These rules are intended to implement 2007 Iowa Acts, House File 499, sections 24 to 29.

[Filed 10/5/07, Notice 8/29/07—published 10/24/07, effective 11/28/07]

APPENDIX I
DISCLOSURE DOCUMENT
REGARDING THE CLAIM PROCESS

(1) Property insurance policies obligate the insured to present a claim to the insured's insurance company for consideration. There are three types of adjusters that could be involved in that process. The definitions of the three types are as follows:

(a) "Company adjusters" means the insurance adjusters who are employees of insurance companies. They represent the interests of the insurance companies and are paid by the insurance companies. They will not charge the insureds fees.

(b) "Independent adjusters" means the insurance adjusters who are hired on a contract basis by insurance companies to represent the insurance companies' interests in the settlement of claims. They are paid by the insurance companies. They will not charge the insureds fees.

(c) "Public adjusters" means the insurance adjusters who do not work for any insurance companies. They work for insureds to assist in the preparation, presentation and settlement of claims. The insureds hire them by signing contracts agreeing to pay them fees or commissions based on a percentage of the settlements, or other method of compensation.

(2) The insured is not required to hire a public adjuster to help the insured meet the insured's 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, 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.

(6) An insured may contact the Iowa Insurance Division with questions about insurance law toll-free from within Iowa at (877)955-1212 or through the Division's Web site at www.iid.state.ia.us.