



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0274

Introduced 1/23/2009, by Rep. Edward J. Acevedo

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Insurance Code. Creates the Public Adjusters Law. Repeals the Article of the Illinois Insurance Code concerning Public Insurance Adjusters and Registered Firms. Provides that a person shall not act or hold himself out as a public adjuster in this State unless licensed as a public adjuster. Sets forth the specific residency requirements for a public adjuster licensee. Provides that an individual applying for a public adjuster license must pass a written examination unless exempt pursuant to certain provisions. Provides for the creation of an optional apprentice public adjuster license. Provides that the Director of Insurance may place on probation, suspend, revoke, or refuse to issue or renew a public adjuster's license or may levy a civil penalty or any combination of actions against a public adjuster licensee who violates the Act. Provides that an individual who holds a public adjuster license shall satisfactorily complete a minimum of 24 hours of continuing education courses. Sets forth certain standards of conduct for public adjusters. Provides that a public adjuster shall report to the Director any administrative action taken against the public adjuster in another jurisdiction or by another governmental agency in this State within 30 days of the final disposition of the matter. Amends the Freedom of Information Act to exempt from disclosure certain documents required under the Public Adjusters Law of the Illinois Insurance Code. Contains other provisions.

LRB096 04478 RPM 14530 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by adding
5 Article XLV as follows:

6 (215 ILCS 5/Art. XLV heading new)

7 ARTICLE XLV. PUBLIC ADJUSTERS

8 (215 ILCS 5/1501 new)

9 Sec. 1501. Short title. This Article may be cited as the
10 Public Adjustors Law.

11 (215 ILCS 5/1505 new)

12 Sec. 1505. Purpose and scope. This Article governs the
13 qualifications and procedures for the licensing of public
14 adjusters. It specifies the duties of and restrictions on
15 public adjusters, which include limiting their licensure to
16 assisting insureds in first party claims.

17 (215 ILCS 5/1510 new)

18 Sec. 1510. Definitions. In this Article:

19 "Apprentice public adjuster" means a person who is
20 qualified in all respects as a public adjuster, except as to

1 experience, education, or training.

2 "Business entity" means a corporation, association,
3 partnership, limited liability company, limited liability
4 partnership, or other legal entity.

5 "Director" means the Director of the Division of Insurance
6 of the Department of Financial and Professional Regulation.

7 "Division" means the Division of Insurance of the
8 Department of Financial and Professional Regulation.

9 "Fingerprints" means an impression of the lines on the
10 finger taken for the purpose of identification. The impression
11 may be electronic or in ink converted to electronic format.

12 "Home state" means the District of Columbia and any state
13 or territory of the United States where the public adjuster's
14 principal place of residence or principal place of business is
15 located. If neither the state in which the public adjuster
16 maintains the principal place of residence nor the state in
17 which the public adjuster maintains the principal place of
18 business has a substantially similar law governing public
19 adjusters, the public adjuster may declare another state in
20 which it becomes licensed and acts as a public adjuster to be
21 the home state.

22 "Individual" means a natural person.

23 "Person" means an individual or a business entity.

24 "Public adjuster" means any person who, for compensation or
25 any other thing of value on behalf of the insured:

26 (i) acts or aids, solely in relation to first party

1 claims arising under insurance contracts that insure the
2 real or personal property of the insured, on behalf of an
3 insured in negotiating for, or effecting the settlement of,
4 a claim for loss or damage covered by an insurance
5 contract;

6 (ii) advertises for employment as an public adjuster of
7 insurance claims or solicits business or represents
8 himself or herself to the public as an public adjuster of
9 first party insurance claims for losses or damages arising
10 out of policies of insurance that insure real or personal
11 property; or

12 (iii) directly or indirectly solicits business,
13 investigates or adjusts losses, or advises an insured about
14 first party claims for losses or damages arising out of
15 policies of insurance that insure real or personal property
16 for another person engaged in the business of adjusting
17 losses or damages covered by an insurance policy for the
18 insured.

19 "Uniform individual application" means the current version
20 of the National Association of Directors (NAIC) Uniform
21 Individual Application for resident and nonresident
22 individuals.

23 "Uniform business entity application" means the current
24 version of the National Association of Insurance Commissioners
25 (NAIC) Uniform Business Entity Application for resident and
26 nonresident business entities.

1 (215 ILCS 5/1515 new)

2 Sec. 1515. License required.

3 (a) A person shall not act or hold himself out as a public
4 adjuster in this State unless the person is licensed as a
5 public adjuster in accordance with this Article.

6 (b) A person licensed as a public adjuster shall not
7 misrepresent to a claimant that he or she is an adjuster
8 representing an insurer in any capacity, including acting as an
9 employee of the insurer or acting as an independent adjuster
10 unless so appointed by an insurer in writing to act on the
11 insurer's behalf for that specific claim or purpose. A licensed
12 public adjuster is prohibited from charging that specific
13 claimant a fee when appointed by the insurer and the
14 appointment is accepted by the public adjuster.

15 (c) A business entity acting as a public adjuster is
16 required to obtain a public adjuster license. Application shall
17 be made using the Uniform Business Entity Application. Before
18 approving the application, the Director shall find that:

19 (1) the business entity has paid the required fees to
20 be registered as a business entity in this State; and

21 (2) the business entity has designated a licensed
22 public adjuster responsible for the business entity's
23 compliance with the insurance laws, rules and regulations
24 of this State.

25 (d) Notwithstanding subsections (a) through (c) of this

1 Section, a license as a public adjuster shall not be required
2 of the following:

3 (1) an attorney admitted to practice in this State,
4 when acting in his or her professional capacity as an
5 attorney;

6 (2) a person who negotiates or settles claims arising
7 under a life or health insurance policy or an annuity
8 contract;

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

14 (4) a licensed health care provider, or employee of a
15 licensed health care provider, who prepares or files a
16 health claim form on behalf of a patient; or

17 (5) a person who settles subrogation claims between
18 insurers.

19 (215 ILCS 5/1520 new)

20 Sec. 1520. Application for license.

21 (a) A person applying for a public adjuster license shall
22 make application to the Director on the appropriate uniform
23 application or other application prescribed by the Director.

24 (b) The applicant shall declare under penalty of perjury
25 and under penalty of refusal, suspension, or revocation of the

1 license that the statements made in the application are true,
2 correct, and complete to the best of the applicant's knowledge
3 and belief.

4 (c) In order to make a determination of license
5 eligibility, the Director is authorized to require
6 fingerprints of applicants and submit the fingerprints and the
7 fee required to perform the criminal history record checks to
8 the Illinois State Police and the Federal Bureau of
9 Investigation (FBI) for State and national criminal history
10 record checks. The Director shall require a criminal history
11 record check on each applicant in accordance with this Section.
12 The Director shall require each applicant to submit a full set
13 of fingerprints in order for the Director to obtain and receive
14 National Criminal History Records from the FBI Criminal Justice
15 Information Services Division.

16 (1) The Director may contract for the collection,
17 transmission, and resubmission of fingerprints required
18 under this Section. If the Director does so, the fee for
19 collecting, transmitting, and retaining fingerprints shall
20 be payable directly to the contractor. The Director may
21 agree to a reasonable fingerprinting fee to be charged by
22 the contractor.

23 (2) The Director may waive submission of fingerprints
24 by any person that has previously furnished fingerprints
25 and those fingerprints are on file with the Central
26 Repository of the NAIC, its affiliates, or subsidiaries.

1 (3) The Director is authorized to submit electronic
2 fingerprint records and necessary identifying information
3 to the NAIC, its affiliates, or subsidiaries for permanent
4 retention in a centralized repository. The purpose of such
5 a centralized repository is to provide Directors with
6 access to fingerprint records in order to perform criminal
7 history record checks.

8 (215 ILCS 5/1525 new)

9 Sec. 1525. Resident license.

10 (a) Before issuing a public adjuster license to an
11 applicant under this Section, the Director shall find that the
12 applicant:

13 (1) is eligible to designate this State as his or her
14 home state or is a nonresident who is not eligible for a
15 license under Section 1540;

16 (2) has not committed any act that is a ground for
17 denial, suspension, or revocation of a license as set forth
18 in Section 1555;

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

21 (4) is financially responsible to exercise the license
22 and has provided proof of financial responsibility as
23 required in Section 1560 of this Article; and

24 (5) maintains an office in the home state of residence
25 with public access by reasonable appointment or regular

1 business hours. This includes a designated office within a
2 home state of residence.

3 (b) In addition to satisfying the requirements of
4 subsection (a) of this Section, an individual shall

5 (1) be at least 18 years of age;

6 (2) have successfully passed the public adjuster
7 examination;

8 (3) designate a licensed individual public adjuster
9 responsible for the business entity's compliance with the
10 insurance laws, rules, and regulations of this State; and

11 (4) designate only licensed individual public
12 adjusters to exercise the business entity's license.

13 (c) The Director may require any documents reasonably
14 necessary to verify the information contained in the
15 application.

16 (215 ILCS 5/1530 new)

17 Sec. 1530. Examination.

18 (a) An individual applying for a public adjuster license
19 under this Article must pass a written examination unless he or
20 she is exempt pursuant to Section 1535 of this Article. The
21 examination shall test the knowledge of the individual
22 concerning the duties and responsibilities of a public adjuster
23 and the insurance laws and regulations of this State.
24 Examinations required by this Section shall be developed and
25 conducted under rules and regulations prescribed by the

1 Director.

2 (b) The Director may make arrangements, including
3 contracting with an outside testing service, for administering
4 examinations and collecting the nonrefundable fee. Each
5 individual applying for an examination shall remit a
6 non-refundable fee as prescribed by the Director. An individual
7 who fails to appear for the examination as scheduled or fails
8 to pass the examination shall reapply for an examination and
9 remit all required fees and forms before being rescheduled for
10 another examination.

11 (215 ILCS 5/1535 new)

12 Sec. 1535. Exemptions from examination.

13 (a) An individual who applies for a public adjuster license
14 in this State who was previously licensed as a public adjuster
15 in another state based on an public adjuster examination shall
16 not be required to complete any prelicensing examination. This
17 exemption is only available if (i) the person is currently
18 licensed in that state or if the application is received within
19 12 months of the cancellation of the applicant's previous
20 license; and (ii) if the prior state issues a certification
21 that, at the time of cancellation, the applicant was in good
22 standing in that state or the state's producer database records
23 or records maintained by the NAIC, its affiliates, or
24 subsidiaries, indicate that the public adjuster is or was
25 licensed in good standing.

1 (b) A person licensed as a public adjuster in another state
2 based on a public adjuster examination who moves to this State
3 shall submit an application within 90 days of establishing
4 legal residence to become a resident licensee pursuant to
5 Section 1525 of this Article. No prelicensing examination shall
6 be required of that person to obtain a public adjuster license.

7 (c) An individual who applies for a public adjuster license
8 in this State who was previously licensed as a public adjuster
9 in this State shall not be required to complete any
10 prelicensing examination. This exemption is only available if
11 the application is received within 12 months of the
12 cancellation of the applicant's previous license in this State
13 and if, at the time of cancellation, the applicant was in good
14 standing in this State.

15 (215 ILCS 5/1540 new)

16 Sec. 1540. Nonresident license reciprocity.

17 (a) Unless denied licensure pursuant to Section 1555 of
18 this Article, a nonresident person shall receive a nonresident
19 public adjuster license if:

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

23 (2) the person has submitted the proper request for
24 licensure and has provided proof of financial
25 responsibility as required in Section 1560 of this Article;

1 (3) the person has submitted or transmitted to the
2 Director the appropriate completed application for
3 licensure; and

4 (4) the person's home state awards non-resident public
5 adjuster licenses to residents of this State on the same
6 basis.

7 (b) The Director may verify the public adjuster's licensing
8 status through the producer database maintained by the NAIC,
9 its affiliates, or subsidiaries.

10 (c) As a condition to continuation of a public adjuster
11 license issued under this Section, the licensee shall maintain
12 a resident public adjuster license in his or her home state.
13 The non-resident public adjuster license issued under this
14 Section shall terminate and be surrendered immediately to the
15 Director if the home state public adjuster license terminates
16 for any reason, unless the public adjuster has been issued a
17 license as a resident public adjuster in his or her new home
18 state. Notification to the state or states where the
19 non-resident license is issued must be made as soon as
20 possible, yet no later than 30 days of change in new state
21 resident license. The licensee shall include his or her new and
22 old address on the notification. A new state resident license
23 is required for non-resident licenses to remain valid. The new
24 state resident license must have reciprocity with the licensing
25 non-resident state or states for the non-resident license not
26 to terminate.

1 (215 ILCS 5/1545 new)

2 Sec. 1545. License.

3 (a) Unless denied licensure under this Article, persons who
4 have met the requirements of this Article shall be issued a
5 public adjuster license.

6 (b) A public adjuster license shall remain in effect unless
7 revoked, terminated, or suspended as long as the requirements
8 for license renewal are met by the due date.

9 (c) The licensee shall inform the Director by any means
10 acceptable to the Director of a change of address, change of
11 legal name, or change of information submitted on the
12 application within 30 days of the change.

13 (d) A licensed public adjuster shall be subject to Trade
14 Practices and Fraud Sections of this Code.

15 (e) A public adjuster who allows his or her license to
16 lapse may, within 12 months from the due date of the renewal,
17 be issued a new public adjuster license upon the Director's
18 receipt of the request for renewal. However, a penalty in the
19 amount of double the unpaid renewal fee shall be required for
20 the issue of the new public adjuster license. The new public
21 adjuster license shall be effective the date the Director
22 receives the request for renewal and the late payment penalty.

23 (f) Any public adjuster licensee that fails to apply for
24 renewal of a license before expiration of the current license
25 shall pay a lapsed license fee of twice the license fee and be

1 subject to other penalties as provided by law before the
2 license will be renewed. If the Division receives the request
3 for reinstatement and the required lapsed license fee within 60
4 days of the date the license lapsed, the Division shall
5 reinstate the license retroactively to the date the license
6 lapsed. If the Division receives the request for reinstatement
7 and the required lapsed license fee after 60 days, but within
8 one year of the date the license lapsed, the Division shall
9 reinstate the license prospectively with the date the license
10 is reinstated. If the person applies for reinstatement more
11 than one year from the date the license lapsed, the person
12 shall reapply for the license under this Article.

13 (g) A licensed public adjuster that is unable to comply
14 with license renewal procedures due to military service, a
15 long-term medical disability, or some other extenuating
16 circumstance, may request a waiver of the procedures in
17 subsection (f) of this Section. The public adjuster may also
18 request a waiver of any examination requirement, fine, or other
19 sanction imposed for failure to comply with renewal procedures.

20 (h) The license shall contain the licensee's name, city and
21 state of business address, personal identification number, the
22 date of issuance, the expiration date, and any other
23 information the Director deems necessary.

24 (i) In order to assist in the performance of the Director's
25 duties, the Director may contract with non-governmental
26 entities, including the NAIC or any affiliates or subsidiaries

1 that the NAIC oversees, to perform any ministerial functions,
2 including the collection of fees and data, related to licensing
3 that the Director may deem appropriate.

4 (215 ILCS 5/1550 new)

5 Sec. 1550. Apprentice public adjuster license.

6 (a) The apprentice public adjuster license is an optional
7 license to facilitate the training necessary to ensure
8 reasonable competency to fulfill the responsibilities of a
9 public adjuster as defined in this Article.

10 (b) The apprentice public adjuster license shall be subject
11 to the following terms and conditions:

12 (1) An attestation or certification from a licensed
13 public adjuster (licensee) shall accompany an application
14 for an initial apprentice public adjuster license assuming
15 responsibility for all actions of such applicant;

16 (2) The apprentice public adjuster is authorized to
17 adjust claims in the state that has issued licensure only;

18 (3) The apprentice public adjuster shall not be
19 required to take and successfully complete the prescribed
20 public adjuster examination;

21 (4) The licensee shall at all times be an employee of a
22 public adjuster and subject to training, direction, and
23 control by a licensed public adjuster;

24 (5) The apprentice public adjuster license is for a
25 period not to exceed 12 months, the license shall not be

1 renewed;

2 (6) The licensee is restricted to participation in
3 factual investigation, tentative closing, and solicitation
4 of losses subject to the review and final determination of
5 a licensed public adjuster;

6 (7) Compensation of an apprentice public adjuster
7 shall be on a salaried or hourly basis only; and

8 (8) The licensee shall be subject to suspension,
9 revocation, or conditions in accordance with State law.

10 (215 ILCS 5/1555 new)

11 Sec. 1555. License denial, non-renewal, or revocation

12 (a) The Director may place on probation, suspend, revoke,
13 refuse to issue or renew a public adjuster's license, or may
14 levy a civil penalty or any combination of actions, for any one
15 or more of the following causes:

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

18 (2) violating any insurance laws, or violating any
19 regulation, subpoena, or order of the Director or of
20 another state's Director;

21 (3) obtaining or attempting to obtain a license through
22 misrepresentation or fraud;

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

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

4 (6) having been convicted of a felony;

5 (7) having admitted or been found to have committed any
6 insurance unfair trade practice or insurance fraud;

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

11 (9) having an insurance license, or its equivalent,
12 denied, suspended, or revoked in any other state, province,
13 district, or territory;

14 (10) forging another's name to an application for
15 insurance or to any document related to an insurance
16 transaction;

17 (11) cheating, including improperly using notes or any
18 other reference material, to complete an examination for an
19 insurance license;

20 (12) knowingly accepting insurance business from an
21 individual who is not licensed but who is required to be
22 licensed by the Director;

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

25 (14) failing to pay State income tax or comply with any
26 administrative or court order directing payment of State

1 income tax.

2 (b) In the event that the action by the Director is to deny
3 an application for or not renew a license, the Director shall
4 notify the applicant or licensee and advise, in writing, the
5 applicant or licensee of the reason for the non-renewal or
6 denial of the applicant's or licensee's license. The applicant
7 or licensee may make written demand upon the Director for a
8 hearing before the Director to determine the reasonableness of
9 the Director's action.

10 (c) The license of a business entity may be suspended,
11 revoked, or refused if the Director finds, after hearing, that
12 an individual licensee's violation was known or should have
13 been known by one or more of the partners, officers, or
14 managers acting on behalf of the business entity and the
15 violation was neither reported to the Director, nor corrective
16 action taken.

17 (d) In addition to or in lieu of any applicable denial,
18 suspension or revocation of a license, a person may, after
19 hearing, be subject to a civil fine.

20 (e) The Director shall retain the authority to enforce the
21 provisions of and impose any penalty or remedy authorized by
22 this Article against any person who is under investigation for
23 or charged with a violation of this Article even if the
24 person's license or registration has been surrendered or has
25 lapsed by operation of law.

1 (215 ILCS 5/1560 new)

2 Sec. 1560. Bond or letter of credit.

3 (a) Prior to the issuance of a license as a public adjuster
4 and for the duration of the license, the applicant shall secure
5 evidence of financial responsibility in a format prescribed by
6 the Director through a security bond or irrevocable letter of
7 credit, subject to all of the following requirements:

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

10 (A) shall be in the minimum amount of \$20,000;

11 (B) shall be in favor of this State and shall
12 specifically authorize recovery by the Director on
13 behalf of any person in this State who sustained
14 damages as the result of erroneous acts, failure to
15 act, conviction of fraud, or conviction of unfair
16 practices in his or her capacity as a public adjuster;
17 and

18 (C) shall not be terminated unless at least 30
19 days' prior written notice will have been filed with
20 the Director and given to the licensee; and

21 (2) An irrevocable letter of credit issued by a
22 qualified financial institution, which letter of credit

23 (A) shall be in the minimum amount of \$20,000;

24 (B) shall be to an account to the Director and
25 subject to lawful levy of execution on behalf of any
26 person to whom the public adjuster has been found to be

1 legally liable as the result of erroneous acts, failure
2 to act, fraudulent acts, or unfair practices in his or
3 her capacity as a public adjuster; and

4 (C) shall not be terminated unless at least 30
5 days' prior written notice will have been filed with
6 the and given to the licensee.

7 (b) The issuer of the evidence of financial responsibility
8 shall notify the Director upon termination of the bond or
9 letter of credit, unless otherwise directed by the Director.

10 (c) The Director may ask for the evidence of financial
11 responsibility at any time he or she deems relevant.

12 (d) The authority to act as a public adjuster shall
13 automatically terminate if the evidence of financial
14 responsibility terminates or becomes impaired.

15 (215 ILCS 5/1565 new)

16 Sec. 1565. Continuing education.

17 (a) An individual, who holds a public adjuster license and
18 who is not exempt under subsection (b) of this Section, shall
19 satisfactorily complete a minimum of 24 hours of continuing
20 education courses, including ethics, reported on a biennial
21 basis in conjunction with the license renewal cycle.

22 (b) This Section shall not apply to:

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

25 (2) licensees holding nonresident public adjuster

1 licenses who have met the continuing education
2 requirements of their home state and whose home state gives
3 credit to residents of this State on the same basis.

4 (c) Only continuing education courses approved by the
5 Director shall be used to satisfy the continuing education
6 requirement of subsection (a) of this Section.

7 (215 ILCS 5/1570 new)

8 Sec. 1570. Public adjuster fees.

9 (a) A public adjuster shall not pay a commission, service
10 fee, or other valuable consideration to a person for
11 investigating or settling claims in this State if that person
12 is required to be licensed under this Article and is not so
13 licensed.

14 (b) A person shall not accept a commission, service fee, or
15 other valuable consideration for investigating or settling
16 claims in this State if that person is required to be licensed
17 under this Article and is not so licensed.

18 (c) A public adjuster may pay or assign commission, service
19 fees, or other valuable consideration to persons who do not
20 investigate or settle claims in this State, unless the payment
21 would violate State law.

22 (215 ILCS 5/1575 new)

23 Sec. 1575. Contract between public adjuster and insured.

24 (a) Public adjusters shall ensure that all contracts for

1 their services are in writing and contain the following terms:

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

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

6 (3) license number;

7 (4) title of "Public Adjuster Contract";

8 (5) the insured's full name, street address, insurance
9 company name, and policy number, if known or upon
10 notification;

11 (6) a description of the loss and its location, if
12 applicable;

13 (7) description of services to be provided to the
14 insured;

15 (8) signatures of the public adjuster and the insured;

16 (9) date contract was signed by the public adjuster and
17 date the contract was signed by the insured;

18 (10) attestation language stating that the public
19 adjuster is fully bonded pursuant to State law; and

20 (11) full salary, fee, commission, compensation, or
21 other considerations the public adjuster is to receive for
22 services.

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

25 (1) If the compensation is based on a share of the
26 insurance settlement, the exact percentage shall be

1 specified.

2 (2) Initial expenses to be reimbursed to the public
3 adjuster from the proceeds of the claim payment shall be
4 specified by type, with dollar estimates set forth in the
5 contract and with any additional expenses first approved by
6 the insured.

7 (3) Compensation provisions in a public adjusting
8 contract shall not be redacted in any copy of the contract
9 provided to the Director.

10 (c) If the insurer, not later than 72 hours after the date
11 on which the loss is reported to the insurer, either pays or
12 commits in writing to pay to the insured the policy limit of
13 the insurance policy, the public adjuster shall:

14 (1) not receive a commission consisting of a percentage
15 of the total amount paid by an insurer to resolve a claim;

16 (2) inform the insured that loss recovery amount might
17 not be increased by insurer; and

18 (3) be entitled only to reasonable compensation from
19 the insured for services provided by the public adjuster on
20 behalf of the insured, based on the time spent on a claim
21 and expenses incurred by the public adjuster, until the
22 claim is paid or the insured receives a written commitment
23 to pay from the insurer.

24 (d) A public adjuster shall provide the insured a written
25 disclosure concerning any direct or indirect financial
26 interest that the public adjuster has with any other party who

1 is involved in any aspect of the claim, other than the salary,
2 fee, commission, or other consideration established in the
3 written contract with the insured, including, but not limited
4 to, any ownership of, other than as a minority stockholder, or
5 any compensation expected to be received from, any construction
6 firm, salvage firm, building appraisal firm, motor vehicle
7 repair shop, or any other firm which that provides estimates
8 for work, or that performs any work, in conjunction with
9 damages caused by the insured loss on which the public adjuster
10 is engaged. The word "firm" shall include any corporation,
11 partnership, association, joint-stock company, or person.

12 (e) A public adjuster contract may not contain any contract
13 term that:

14 (1) allows the public adjuster's percentage fee to be
15 collected when money is due from an insurance company, but
16 not paid, or that allows a public adjuster to collect the
17 entire fee from the first check issued by an insurance
18 company, rather than as percentage of each check issued by
19 an insurance company;

20 (2) requires the insured to authorize an insurance
21 company to issue a check only in the name of the public
22 adjuster;

23 (3) imposes collection costs or late fees; or

24 (4) precludes a public adjuster from pursuing civil
25 remedies.

26 (f) The following provisions apply to a contract between a

1 public adjuster and an insured:

2 (1) Prior to the signing of the contract, the public
3 adjuster shall provide the insured with a separate
4 disclosure document regarding the claim process that
5 states:

6 "Property insurance policies obligate the insured to
7 present a claim to his or her insurance company for
8 consideration. There are 3 types of adjusters that could be
9 involved in that process. The definitions of the 3 types
10 are as follows:

11 (A) "Company adjuster" means the insurance
12 adjusters who are employees of an insurance company.
13 They represent the interest of the insurance company
14 and are paid by the insurance company. They will not
15 charge you a fee.

16 (B) "Independent adjuster" means the insurance
17 adjusters who are hired on a contract basis by an
18 insurance company to represent the insurance company's
19 interest in the settlement of the claim. They are paid
20 by your insurance company. They will not charge you a
21 fee.

22 (C) "Public adjuster" means the insurance
23 adjusters who do not work for any insurance company.
24 They work for the insured to assist in the preparation,
25 presentation and settlement of the claim. The insured
26 hires them by signing a contract agreeing to pay them a

1 fee or commission based on a percentage of the
2 settlement, or other method of compensation.".

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

6 (3) The insured has the right to initiate direct
7 communications with the insured's attorney, the insurer,
8 the insurer's adjuster, and the insurer's attorney, or any
9 other person regarding the settlement of the insured's
10 claim. Once a public adjuster has been retained, the
11 company adjuster or other insurance representative may not
12 communicate directly with the insured without the
13 permission or consent of the public adjuster or the
14 insured's legal counsel.

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

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

20 (g) The contracts shall be executed in duplicate to provide
21 an original contract to the public adjuster, and an original
22 contract to the insured. The public adjuster's original
23 contract shall be available at all times for inspection without
24 notice by the Director.

25 (h) The public adjuster shall provide the insurer a
26 notification letter, which has been signed by the insured,

1 authorizing the public adjuster to represent the insured's
2 interest.

3 (i) The public adjuster shall give the insured written
4 notice of the insured's rights as a consumer under the law of
5 this State.

6 (j) The insured has the right to rescind the contract
7 within 3 business days after the date the contract was signed.
8 The rescission shall be in writing and mailed or delivered to
9 the public adjuster at the address in the contract within the 3
10 business day period.

11 (k) If the insured exercises the right to rescind the
12 contract, anything of value given by the insured under the
13 contract will be returned to the insured within 15 business
14 days following the receipt by the public adjuster of the
15 cancellation notice.

16 (215 ILCS 5/1580 new)

17 Sec. 1580. Escrow or trust accounts. A public adjuster who
18 receives, accepts, or holds any funds on behalf of an insured
19 towards the settlement of a claim for loss or damage shall
20 deposit the funds in a non-interest bearing escrow or trust
21 account in a financial institution that is insured by an agency
22 of the federal government in the public adjuster's home state
23 or where the loss occurred.

24 (215 ILCS 5/1585 new)

1 Sec. 1585. Record retention.

2 (a) A public adjuster shall maintain a complete record of
3 each transaction as a public adjuster. The records required by
4 this Section shall include the following:

5 (1) name of the insured;

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

7 (3) copy of the contract between the public adjuster
8 and insured;

9 (4) name of the insurer, amount, expiration date and
10 number of each policy carried with respect to the loss;

11 (5) itemized statement of the insured's recoveries;

12 (6) itemized statement of all compensation received by
13 the public adjuster, from any source whatsoever, in
14 connection with the loss;

15 (7) a register of all monies received, deposited,
16 disbursed, or withdrawn in connection with a transaction
17 with an insured, including fees transfers and
18 disbursements from a trust account and all transactions
19 concerning all interest bearing accounts;

20 (8) name of public adjuster who executed the contract;

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

24 (10) evidence of financial responsibility in a format
25 prescribed by the Director.

26 (b) Records shall be maintained for at least 5 years after

1 the termination of the transaction with an insured and shall be
2 open to examination by the Director at all times.

3 (c) Records submitted to the Director in accordance with
4 this Section that contain information identified in writing as
5 proprietary by the public adjuster shall be treated as
6 confidential by the Director and shall not be subject Freedom
7 of Information Act.

8 (215 ILCS 5/1590 new)

9 Sec. 1590. Standards of conduct of public adjuster.

10 (a) A public adjuster is obligated, under his or her
11 license, to serve with objectivity and complete loyalty for the
12 interests of his client alone, and to render to the insured
13 such information, counsel, and service, as within the
14 knowledge, understanding, and opinion in good faith of the
15 licensee, as will best serve the insured's insurance claim
16 needs and interest.

17 (b) A public adjuster shall not solicit or attempt to
18 solicit an insured during the progress of a loss-producing
19 occurrence, as defined in the insured's insurance contract.

20 (c) A public adjuster shall not permit an unlicensed
21 employee or representative of the public adjuster to conduct
22 business for which a license is required under this Article.

23 (d) A public adjuster shall not have a direct or indirect
24 financial interest in any aspect of the claim, other than the
25 salary, fee, commission, or other consideration established in

1 the written contract with the insured, unless full written
2 disclosure has been made to the insured as set forth in
3 subsection (g) of Section 1575.

4 (e) A public adjuster shall not acquire any interest in the
5 salvage of property subject to the contract with the insured
6 unless the public adjuster obtains written permission from the
7 insured after settlement of the claim with the insurer as set
8 forth in subsection (g) of Section 1575 of this Article.

9 (f) The public adjuster shall abstain from referring or
10 directing the insured to get needed repairs or services in
11 connection with a loss from any person, unless disclosed to the
12 insured:

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

15 (2) from whom the public adjuster may receive direct or
16 indirect compensation for the referral.

17 (g) The public adjuster shall disclose to an insured if he
18 or she has any interest or will be compensated by any
19 construction firm, salvage firm, building appraisal firm,
20 motor vehicle repair shop, or any other firm that performs any
21 work in conjunction with damages caused by the insured loss.
22 The word "firm" shall include any corporation, partnership,
23 association, joint-stock company or individual as set forth in
24 Section 1575 of this Article.

25 (h) Any compensation or anything of value in connection
26 with an insured's specific loss that will be received by a

1 public adjuster shall be disclosed by the public adjuster to
2 the insured in writing including the source and amount of any
3 such compensation.

4 (i) Public adjusters shall adhere to the following general
5 ethical requirements:

6 (1) A public adjuster shall not undertake the
7 adjustment of any claim if the public adjuster is not
8 competent and knowledgeable as to the terms and conditions
9 of the insurance coverage, or which otherwise exceeds the
10 public adjuster's current expertise;

11 (2) A public adjuster shall not knowingly make any oral
12 or written material misrepresentations or statements which
13 are false or maliciously critical and intended to injure
14 any person engaged in the business of insurance to any
15 insured client or potential insured client;

16 (3) No public adjuster, while so licensed by the
17 Department, may represent or act as a company adjuster or
18 independent adjuster on the same claim;

19 (4) The contract shall not be construed to prevent an
20 insured from pursuing any civil remedy after the 3-business
21 day revocation or cancellation period;

22 (5) A public adjuster shall not enter into a contract
23 or accept a power of attorney that vests in the public
24 adjuster the effective authority to choose the persons who
25 shall perform repair work; and

26 (6) A public adjuster shall ensure that all contracts

1 for the public adjuster's services are in writing and set
2 forth all terms and conditions of the engagement.

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

5 (215 ILCS 5/1595 new)

6 Sec. 1595. Reporting of actions.

7 (a) The public adjuster shall report to the Director any
8 administrative action taken against the public adjuster in
9 another jurisdiction or by another governmental agency in this
10 State within 30 days of the final disposition of the matter.
11 This report shall include a copy of the order, consent to
12 order, or other relevant legal documents.

13 (b) Within 30 days of the initial pretrial hearing date,
14 the public adjuster shall report to the Director any criminal
15 prosecution of the public adjuster taken in any jurisdiction.
16 The report shall include a copy of the initial complaint filed,
17 the order resulting from the hearing, and any other relevant
18 legal documents.

19 (215 ILCS 5/1600 new)

20 Sec. 1600. Rules. The Director shall promulgate reasonable
21 rules as are necessary or proper to carry out the purposes of
22 this Article.

23 Section 900. The Freedom of Information Act is amended by

1 changing Section 7 as follows:

2 (5 ILCS 140/7) (from Ch. 116, par. 207)

3 (Text of Section before amendment by P.A. 95-988)

4 Sec. 7. Exemptions.

5 (1) The following shall be exempt from inspection and
6 copying:

7 (a) Information specifically prohibited from
8 disclosure by federal or State law or rules and regulations
9 adopted under federal or State law.

10 (b) Information that, if disclosed, would constitute a
11 clearly unwarranted invasion of personal privacy, unless
12 the disclosure is consented to in writing by the individual
13 subjects of the information. The disclosure of information
14 that bears on the public duties of public employees and
15 officials shall not be considered an invasion of personal
16 privacy. Information exempted under this subsection (b)
17 shall include but is not limited to:

18 (i) files and personal information maintained with
19 respect to clients, patients, residents, students or
20 other individuals receiving social, medical,
21 educational, vocational, financial, supervisory or
22 custodial care or services directly or indirectly from
23 federal agencies or public bodies;

24 (ii) personnel files and personal information
25 maintained with respect to employees, appointees or

1 elected officials of any public body or applicants for
2 those positions;

3 (iii) files and personal information maintained
4 with respect to any applicant, registrant or licensee
5 by any public body cooperating with or engaged in
6 professional or occupational registration, licensure
7 or discipline;

8 (iv) information required of any taxpayer in
9 connection with the assessment or collection of any tax
10 unless disclosure is otherwise required by State
11 statute;

12 (v) information revealing the identity of persons
13 who file complaints with or provide information to
14 administrative, investigative, law enforcement or
15 penal agencies; provided, however, that identification
16 of witnesses to traffic accidents, traffic accident
17 reports, and rescue reports may be provided by agencies
18 of local government, except in a case for which a
19 criminal investigation is ongoing, without
20 constituting a clearly unwarranted per se invasion of
21 personal privacy under this subsection; and

22 (vi) the names, addresses, or other personal
23 information of participants and registrants in park
24 district, forest preserve district, and conservation
25 district programs.

26 (c) Records compiled by any public body for

1 administrative enforcement proceedings and any law
2 enforcement or correctional agency for law enforcement
3 purposes or for internal matters of a public body, but only
4 to the extent that disclosure would:

5 (i) interfere with pending or actually and
6 reasonably contemplated law enforcement proceedings
7 conducted by any law enforcement or correctional
8 agency;

9 (ii) interfere with pending administrative
10 enforcement proceedings conducted by any public body;

11 (iii) deprive a person of a fair trial or an
12 impartial hearing;

13 (iv) unavoidably disclose the identity of a
14 confidential source or confidential information
15 furnished only by the confidential source;

16 (v) disclose unique or specialized investigative
17 techniques other than those generally used and known or
18 disclose internal documents of correctional agencies
19 related to detection, observation or investigation of
20 incidents of crime or misconduct;

21 (vi) constitute an invasion of personal privacy
22 under subsection (b) of this Section;

23 (vii) endanger the life or physical safety of law
24 enforcement personnel or any other person; or

25 (viii) obstruct an ongoing criminal investigation.

26 (d) Criminal history record information maintained by

1 State or local criminal justice agencies, except the
2 following which shall be open for public inspection and
3 copying:

4 (i) chronologically maintained arrest information,
5 such as traditional arrest logs or blotters;

6 (ii) the name of a person in the custody of a law
7 enforcement agency and the charges for which that
8 person is being held;

9 (iii) court records that are public;

10 (iv) records that are otherwise available under
11 State or local law; or

12 (v) records in which the requesting party is the
13 individual identified, except as provided under part

14 (vii) of paragraph (c) of subsection (1) of this
15 Section.

16 "Criminal history record information" means data
17 identifiable to an individual and consisting of
18 descriptions or notations of arrests, detentions,
19 indictments, informations, pre-trial proceedings, trials,
20 or other formal events in the criminal justice system or
21 descriptions or notations of criminal charges (including
22 criminal violations of local municipal ordinances) and the
23 nature of any disposition arising therefrom, including
24 sentencing, court or correctional supervision,
25 rehabilitation and release. The term does not apply to
26 statistical records and reports in which individuals are

1 not identified and from which their identities are not
2 ascertainable, or to information that is for criminal
3 investigative or intelligence purposes.

4 (e) Records that relate to or affect the security of
5 correctional institutions and detention facilities.

6 (f) Preliminary drafts, notes, recommendations,
7 memoranda and other records in which opinions are
8 expressed, or policies or actions are formulated, except
9 that a specific record or relevant portion of a record
10 shall not be exempt when the record is publicly cited and
11 identified by the head of the public body. The exemption
12 provided in this paragraph (f) extends to all those records
13 of officers and agencies of the General Assembly that
14 pertain to the preparation of legislative documents.

15 (g) Trade secrets and commercial or financial
16 information obtained from a person or business where the
17 trade secrets or information are proprietary, privileged
18 or confidential, or where disclosure of the trade secrets
19 or information may cause competitive harm, including:

20 (i) All information determined to be confidential
21 under Section 4002 of the Technology Advancement and
22 Development Act.

23 (ii) All trade secrets and commercial or financial
24 information obtained by a public body, including a
25 public pension fund, from a private equity fund or a
26 privately held company within the investment portfolio

1 of a private equity fund as a result of either
2 investing or evaluating a potential investment of
3 public funds in a private equity fund. The exemption
4 contained in this item does not apply to the aggregate
5 financial performance information of a private equity
6 fund, nor to the identity of the fund's managers or
7 general partners. The exemption contained in this item
8 does not apply to the identity of a privately held
9 company within the investment portfolio of a private
10 equity fund, unless the disclosure of the identity of a
11 privately held company may cause competitive harm.

12 Nothing contained in this paragraph (g) shall be construed
13 to prevent a person or business from consenting to disclosure.

14 (h) Proposals and bids for any contract, grant, or
15 agreement, including information which if it were
16 disclosed would frustrate procurement or give an advantage
17 to any person proposing to enter into a contractor
18 agreement with the body, until an award or final selection
19 is made. Information prepared by or for the body in
20 preparation of a bid solicitation shall be exempt until an
21 award or final selection is made.

22 (i) Valuable formulae, computer geographic systems,
23 designs, drawings and research data obtained or produced by
24 any public body when disclosure could reasonably be
25 expected to produce private gain or public loss. The
26 exemption for "computer geographic systems" provided in

1 this paragraph (i) does not extend to requests made by news
2 media as defined in Section 2 of this Act when the
3 requested information is not otherwise exempt and the only
4 purpose of the request is to access and disseminate
5 information regarding the health, safety, welfare, or
6 legal rights of the general public.

7 (j) Test questions, scoring keys and other examination
8 data used to administer an academic examination or
9 determined the qualifications of an applicant for a license
10 or employment.

11 (k) Architects' plans, engineers' technical
12 submissions, and other construction related technical
13 documents for projects not constructed or developed in
14 whole or in part with public funds and the same for
15 projects constructed or developed with public funds, but
16 only to the extent that disclosure would compromise
17 security, including but not limited to water treatment
18 facilities, airport facilities, sport stadiums, convention
19 centers, and all government owned, operated, or occupied
20 buildings.

21 (l) Library circulation and order records identifying
22 library users with specific materials.

23 (m) Minutes of meetings of public bodies closed to the
24 public as provided in the Open Meetings Act until the
25 public body makes the minutes available to the public under
26 Section 2.06 of the Open Meetings Act.

1 (n) Communications between a public body and an
2 attorney or auditor representing the public body that would
3 not be subject to discovery in litigation, and materials
4 prepared or compiled by or for a public body in
5 anticipation of a criminal, civil or administrative
6 proceeding upon the request of an attorney advising the
7 public body, and materials prepared or compiled with
8 respect to internal audits of public bodies.

9 (o) Information received by a primary or secondary
10 school, college or university under its procedures for the
11 evaluation of faculty members by their academic peers.

12 (p) Administrative or technical information associated
13 with automated data processing operations, including but
14 not limited to software, operating protocols, computer
15 program abstracts, file layouts, source listings, object
16 modules, load modules, user guides, documentation
17 pertaining to all logical and physical design of
18 computerized systems, employee manuals, and any other
19 information that, if disclosed, would jeopardize the
20 security of the system or its data or the security of
21 materials exempt under this Section.

22 (q) Documents or materials relating to collective
23 negotiating matters between public bodies and their
24 employees or representatives, except that any final
25 contract or agreement shall be subject to inspection and
26 copying.

1 (r) Drafts, notes, recommendations and memoranda
2 pertaining to the financing and marketing transactions of
3 the public body. The records of ownership, registration,
4 transfer, and exchange of municipal debt obligations, and
5 of persons to whom payment with respect to these
6 obligations is made.

7 (s) The records, documents and information relating to
8 real estate purchase negotiations until those negotiations
9 have been completed or otherwise terminated. With regard to
10 a parcel involved in a pending or actually and reasonably
11 contemplated eminent domain proceeding under the Eminent
12 Domain Act, records, documents and information relating to
13 that parcel shall be exempt except as may be allowed under
14 discovery rules adopted by the Illinois Supreme Court. The
15 records, documents and information relating to a real
16 estate sale shall be exempt until a sale is consummated.

17 (t) Any and all proprietary information and records
18 related to the operation of an intergovernmental risk
19 management association or self-insurance pool or jointly
20 self-administered health and accident cooperative or pool.

21 (u) Information concerning a university's adjudication
22 of student or employee grievance or disciplinary cases, to
23 the extent that disclosure would reveal the identity of the
24 student or employee and information concerning any public
25 body's adjudication of student or employee grievances or
26 disciplinary cases, except for the final outcome of the

1 cases.

2 (v) Course materials or research materials used by
3 faculty members.

4 (w) Information related solely to the internal
5 personnel rules and practices of a public body.

6 (x) Information contained in or related to
7 examination, operating, or condition reports prepared by,
8 on behalf of, or for the use of a public body responsible
9 for the regulation or supervision of financial
10 institutions or insurance companies, unless disclosure is
11 otherwise required by State law.

12 (y) Information the disclosure of which is restricted
13 under Section 5-108 of the Public Utilities Act.

14 (z) Manuals or instruction to staff that relate to
15 establishment or collection of liability for any State tax
16 or that relate to investigations by a public body to
17 determine violation of any criminal law.

18 (aa) Applications, related documents, and medical
19 records received by the Experimental Organ Transplantation
20 Procedures Board and any and all documents or other records
21 prepared by the Experimental Organ Transplantation
22 Procedures Board or its staff relating to applications it
23 has received.

24 (bb) Insurance or self insurance (including any
25 intergovernmental risk management association or self
26 insurance pool) claims, loss or risk management

1 information, records, data, advice or communications.

2 (cc) Information and records held by the Department of
3 Public Health and its authorized representatives relating
4 to known or suspected cases of sexually transmissible
5 disease or any information the disclosure of which is
6 restricted under the Illinois Sexually Transmissible
7 Disease Control Act.

8 (dd) Information the disclosure of which is exempted
9 under Section 30 of the Radon Industry Licensing Act.

10 (ee) Firm performance evaluations under Section 55 of
11 the Architectural, Engineering, and Land Surveying
12 Qualifications Based Selection Act.

13 (ff) Security portions of system safety program plans,
14 investigation reports, surveys, schedules, lists, data, or
15 information compiled, collected, or prepared by or for the
16 Regional Transportation Authority under Section 2.11 of
17 the Regional Transportation Authority Act or the St. Clair
18 County Transit District under the Bi-State Transit Safety
19 Act.

20 (gg) Information the disclosure of which is restricted
21 and exempted under Section 50 of the Illinois Prepaid
22 Tuition Act.

23 (hh) Information the disclosure of which is exempted
24 under the State Officials and Employees Ethics Act.

25 (ii) Beginning July 1, 1999, information that would
26 disclose or might lead to the disclosure of secret or

1 confidential information, codes, algorithms, programs, or
2 private keys intended to be used to create electronic or
3 digital signatures under the Electronic Commerce Security
4 Act.

5 (jj) Information contained in a local emergency energy
6 plan submitted to a municipality in accordance with a local
7 emergency energy plan ordinance that is adopted under
8 Section 11-21.5-5 of the Illinois Municipal Code.

9 (kk) Information and data concerning the distribution
10 of surcharge moneys collected and remitted by wireless
11 carriers under the Wireless Emergency Telephone Safety
12 Act.

13 (ll) Vulnerability assessments, security measures, and
14 response policies or plans that are designed to identify,
15 prevent, or respond to potential attacks upon a community's
16 population or systems, facilities, or installations, the
17 destruction or contamination of which would constitute a
18 clear and present danger to the health or safety of the
19 community, but only to the extent that disclosure could
20 reasonably be expected to jeopardize the effectiveness of
21 the measures or the safety of the personnel who implement
22 them or the public. Information exempt under this item may
23 include such things as details pertaining to the
24 mobilization or deployment of personnel or equipment, to
25 the operation of communication systems or protocols, or to
26 tactical operations.

1 (mm) Maps and other records regarding the location or
2 security of generation, transmission, distribution,
3 storage, gathering, treatment, or switching facilities
4 owned by a utility or by the Illinois Power Agency.

5 (nn) Law enforcement officer identification
6 information or driver identification information compiled
7 by a law enforcement agency or the Department of
8 Transportation under Section 11-212 of the Illinois
9 Vehicle Code.

10 (oo) Records and information provided to a residential
11 health care facility resident sexual assault and death
12 review team or the Executive Council under the Abuse
13 Prevention Review Team Act.

14 (pp) Information provided to the predatory lending
15 database created pursuant to Article 3 of the Residential
16 Real Property Disclosure Act, except to the extent
17 authorized under that Article.

18 (qq) Defense budgets and petitions for certification
19 of compensation and expenses for court appointed trial
20 counsel as provided under Sections 10 and 15 of the Capital
21 Crimes Litigation Act. This subsection (qq) shall apply
22 until the conclusion of the trial of the case, even if the
23 prosecution chooses not to pursue the death penalty prior
24 to trial or sentencing.

25 (rr) Information contained in or related to proposals,
26 bids, or negotiations related to electric power

1 procurement under Section 1-75 of the Illinois Power Agency
2 Act and Section 16-111.5 of the Public Utilities Act that
3 is determined to be confidential and proprietary by the
4 Illinois Power Agency or by the Illinois Commerce
5 Commission.

6 (ss) Information that is prohibited from being
7 disclosed under Section 4 of the Illinois Health and
8 Hazardous Substances Registry Act.

9 (tt) Information the disclosure of which is exempted
10 under the Public Adjusters Law of the Illinois Insurance
11 Code.

12 (2) This Section does not authorize withholding of
13 information or limit the availability of records to the public,
14 except as stated in this Section or otherwise provided in this
15 Act.

16 (Source: P.A. 94-280, eff. 1-1-06; 94-508, eff. 1-1-06; 94-664,
17 eff. 1-1-06; 94-931, eff. 6-26-06; 94-953, eff. 6-27-06;
18 94-1055, eff. 1-1-07; 95-331, eff. 8-21-07; 95-481, eff.
19 8-28-07; 95-941, eff. 8-29-08.)

20 (Text of Section after amendment by P.A. 95-988)

21 Sec. 7. Exemptions.

22 (1) The following shall be exempt from inspection and
23 copying:

24 (a) Information specifically prohibited from
25 disclosure by federal or State law or rules and regulations

1 adopted under federal or State law.

2 (b) Information that, if disclosed, would constitute a
3 clearly unwarranted invasion of personal privacy, unless
4 the disclosure is consented to in writing by the individual
5 subjects of the information. The disclosure of information
6 that bears on the public duties of public employees and
7 officials shall not be considered an invasion of personal
8 privacy. Information exempted under this subsection (b)
9 shall include but is not limited to:

10 (i) files and personal information maintained with
11 respect to clients, patients, residents, students or
12 other individuals receiving social, medical,
13 educational, vocational, financial, supervisory or
14 custodial care or services directly or indirectly from
15 federal agencies or public bodies;

16 (ii) personnel files and personal information
17 maintained with respect to employees, appointees or
18 elected officials of any public body or applicants for
19 those positions;

20 (iii) files and personal information maintained
21 with respect to any applicant, registrant or licensee
22 by any public body cooperating with or engaged in
23 professional or occupational registration, licensure
24 or discipline;

25 (iv) information required of any taxpayer in
26 connection with the assessment or collection of any tax

1 unless disclosure is otherwise required by State
2 statute;

3 (v) information revealing the identity of persons
4 who file complaints with or provide information to
5 administrative, investigative, law enforcement or
6 penal agencies; provided, however, that identification
7 of witnesses to traffic accidents, traffic accident
8 reports, and rescue reports may be provided by agencies
9 of local government, except in a case for which a
10 criminal investigation is ongoing, without
11 constituting a clearly unwarranted per se invasion of
12 personal privacy under this subsection;

13 (vi) the names, addresses, or other personal
14 information of participants and registrants in park
15 district, forest preserve district, and conservation
16 district programs; and

17 (vii) the Notarial Record or other medium
18 containing the thumbprint or fingerprint required by
19 Section 3-102(c)(6) of the Illinois Notary Public Act.

20 (c) Records compiled by any public body for
21 administrative enforcement proceedings and any law
22 enforcement or correctional agency for law enforcement
23 purposes or for internal matters of a public body, but only
24 to the extent that disclosure would:

25 (i) interfere with pending or actually and
26 reasonably contemplated law enforcement proceedings

1 conducted by any law enforcement or correctional
2 agency;

3 (ii) interfere with pending administrative
4 enforcement proceedings conducted by any public body;

5 (iii) deprive a person of a fair trial or an
6 impartial hearing;

7 (iv) unavoidably disclose the identity of a
8 confidential source or confidential information
9 furnished only by the confidential source;

10 (v) disclose unique or specialized investigative
11 techniques other than those generally used and known or
12 disclose internal documents of correctional agencies
13 related to detection, observation or investigation of
14 incidents of crime or misconduct;

15 (vi) constitute an invasion of personal privacy
16 under subsection (b) of this Section;

17 (vii) endanger the life or physical safety of law
18 enforcement personnel or any other person; or

19 (viii) obstruct an ongoing criminal investigation.

20 (d) Criminal history record information maintained by
21 State or local criminal justice agencies, except the
22 following which shall be open for public inspection and
23 copying:

24 (i) chronologically maintained arrest information,
25 such as traditional arrest logs or blotters;

26 (ii) the name of a person in the custody of a law

1 enforcement agency and the charges for which that
2 person is being held;

3 (iii) court records that are public;

4 (iv) records that are otherwise available under
5 State or local law; or

6 (v) records in which the requesting party is the
7 individual identified, except as provided under part
8 (vii) of paragraph (c) of subsection (1) of this
9 Section.

10 "Criminal history record information" means data
11 identifiable to an individual and consisting of
12 descriptions or notations of arrests, detentions,
13 indictments, informations, pre-trial proceedings, trials,
14 or other formal events in the criminal justice system or
15 descriptions or notations of criminal charges (including
16 criminal violations of local municipal ordinances) and the
17 nature of any disposition arising therefrom, including
18 sentencing, court or correctional supervision,
19 rehabilitation and release. The term does not apply to
20 statistical records and reports in which individuals are
21 not identified and from which their identities are not
22 ascertainable, or to information that is for criminal
23 investigative or intelligence purposes.

24 (e) Records that relate to or affect the security of
25 correctional institutions and detention facilities.

26 (f) Preliminary drafts, notes, recommendations,

1 memoranda and other records in which opinions are
2 expressed, or policies or actions are formulated, except
3 that a specific record or relevant portion of a record
4 shall not be exempt when the record is publicly cited and
5 identified by the head of the public body. The exemption
6 provided in this paragraph (f) extends to all those records
7 of officers and agencies of the General Assembly that
8 pertain to the preparation of legislative documents.

9 (g) Trade secrets and commercial or financial
10 information obtained from a person or business where the
11 trade secrets or information are proprietary, privileged
12 or confidential, or where disclosure of the trade secrets
13 or information may cause competitive harm, including:

14 (i) All information determined to be confidential
15 under Section 4002 of the Technology Advancement and
16 Development Act.

17 (ii) All trade secrets and commercial or financial
18 information obtained by a public body, including a
19 public pension fund, from a private equity fund or a
20 privately held company within the investment portfolio
21 of a private equity fund as a result of either
22 investing or evaluating a potential investment of
23 public funds in a private equity fund. The exemption
24 contained in this item does not apply to the aggregate
25 financial performance information of a private equity
26 fund, nor to the identity of the fund's managers or

1 general partners. The exemption contained in this item
2 does not apply to the identity of a privately held
3 company within the investment portfolio of a private
4 equity fund, unless the disclosure of the identity of a
5 privately held company may cause competitive harm.

6 Nothing contained in this paragraph (g) shall be construed
7 to prevent a person or business from consenting to disclosure.

8 (h) Proposals and bids for any contract, grant, or
9 agreement, including information which if it were
10 disclosed would frustrate procurement or give an advantage
11 to any person proposing to enter into a contractor
12 agreement with the body, until an award or final selection
13 is made. Information prepared by or for the body in
14 preparation of a bid solicitation shall be exempt until an
15 award or final selection is made.

16 (i) Valuable formulae, computer geographic systems,
17 designs, drawings and research data obtained or produced by
18 any public body when disclosure could reasonably be
19 expected to produce private gain or public loss. The
20 exemption for "computer geographic systems" provided in
21 this paragraph (i) does not extend to requests made by news
22 media as defined in Section 2 of this Act when the
23 requested information is not otherwise exempt and the only
24 purpose of the request is to access and disseminate
25 information regarding the health, safety, welfare, or
26 legal rights of the general public.

1 (j) Test questions, scoring keys and other examination
2 data used to administer an academic examination or
3 determined the qualifications of an applicant for a license
4 or employment.

5 (k) Architects' plans, engineers' technical
6 submissions, and other construction related technical
7 documents for projects not constructed or developed in
8 whole or in part with public funds and the same for
9 projects constructed or developed with public funds, but
10 only to the extent that disclosure would compromise
11 security, including but not limited to water treatment
12 facilities, airport facilities, sport stadiums, convention
13 centers, and all government owned, operated, or occupied
14 buildings.

15 (l) Library circulation and order records identifying
16 library users with specific materials.

17 (m) Minutes of meetings of public bodies closed to the
18 public as provided in the Open Meetings Act until the
19 public body makes the minutes available to the public under
20 Section 2.06 of the Open Meetings Act.

21 (n) Communications between a public body and an
22 attorney or auditor representing the public body that would
23 not be subject to discovery in litigation, and materials
24 prepared or compiled by or for a public body in
25 anticipation of a criminal, civil or administrative
26 proceeding upon the request of an attorney advising the

1 public body, and materials prepared or compiled with
2 respect to internal audits of public bodies.

3 (o) Information received by a primary or secondary
4 school, college or university under its procedures for the
5 evaluation of faculty members by their academic peers.

6 (p) Administrative or technical information associated
7 with automated data processing operations, including but
8 not limited to software, operating protocols, computer
9 program abstracts, file layouts, source listings, object
10 modules, load modules, user guides, documentation
11 pertaining to all logical and physical design of
12 computerized systems, employee manuals, and any other
13 information that, if disclosed, would jeopardize the
14 security of the system or its data or the security of
15 materials exempt under this Section.

16 (q) Documents or materials relating to collective
17 negotiating matters between public bodies and their
18 employees or representatives, except that any final
19 contract or agreement shall be subject to inspection and
20 copying.

21 (r) Drafts, notes, recommendations and memoranda
22 pertaining to the financing and marketing transactions of
23 the public body. The records of ownership, registration,
24 transfer, and exchange of municipal debt obligations, and
25 of persons to whom payment with respect to these
26 obligations is made.

1 (s) The records, documents and information relating to
2 real estate purchase negotiations until those negotiations
3 have been completed or otherwise terminated. With regard to
4 a parcel involved in a pending or actually and reasonably
5 contemplated eminent domain proceeding under the Eminent
6 Domain Act, records, documents and information relating to
7 that parcel shall be exempt except as may be allowed under
8 discovery rules adopted by the Illinois Supreme Court. The
9 records, documents and information relating to a real
10 estate sale shall be exempt until a sale is consummated.

11 (t) Any and all proprietary information and records
12 related to the operation of an intergovernmental risk
13 management association or self-insurance pool or jointly
14 self-administered health and accident cooperative or pool.

15 (u) Information concerning a university's adjudication
16 of student or employee grievance or disciplinary cases, to
17 the extent that disclosure would reveal the identity of the
18 student or employee and information concerning any public
19 body's adjudication of student or employee grievances or
20 disciplinary cases, except for the final outcome of the
21 cases.

22 (v) Course materials or research materials used by
23 faculty members.

24 (w) Information related solely to the internal
25 personnel rules and practices of a public body.

26 (x) Information contained in or related to

1 examination, operating, or condition reports prepared by,
2 on behalf of, or for the use of a public body responsible
3 for the regulation or supervision of financial
4 institutions or insurance companies, unless disclosure is
5 otherwise required by State law.

6 (y) Information the disclosure of which is restricted
7 under Section 5-108 of the Public Utilities Act.

8 (z) Manuals or instruction to staff that relate to
9 establishment or collection of liability for any State tax
10 or that relate to investigations by a public body to
11 determine violation of any criminal law.

12 (aa) Applications, related documents, and medical
13 records received by the Experimental Organ Transplantation
14 Procedures Board and any and all documents or other records
15 prepared by the Experimental Organ Transplantation
16 Procedures Board or its staff relating to applications it
17 has received.

18 (bb) Insurance or self insurance (including any
19 intergovernmental risk management association or self
20 insurance pool) claims, loss or risk management
21 information, records, data, advice or communications.

22 (cc) Information and records held by the Department of
23 Public Health and its authorized representatives relating
24 to known or suspected cases of sexually transmissible
25 disease or any information the disclosure of which is
26 restricted under the Illinois Sexually Transmissible

1 Disease Control Act.

2 (dd) Information the disclosure of which is exempted
3 under Section 30 of the Radon Industry Licensing Act.

4 (ee) Firm performance evaluations under Section 55 of
5 the Architectural, Engineering, and Land Surveying
6 Qualifications Based Selection Act.

7 (ff) Security portions of system safety program plans,
8 investigation reports, surveys, schedules, lists, data, or
9 information compiled, collected, or prepared by or for the
10 Regional Transportation Authority under Section 2.11 of
11 the Regional Transportation Authority Act or the St. Clair
12 County Transit District under the Bi-State Transit Safety
13 Act.

14 (gg) Information the disclosure of which is restricted
15 and exempted under Section 50 of the Illinois Prepaid
16 Tuition Act.

17 (hh) Information the disclosure of which is exempted
18 under the State Officials and Employees Ethics Act.

19 (ii) Beginning July 1, 1999, information that would
20 disclose or might lead to the disclosure of secret or
21 confidential information, codes, algorithms, programs, or
22 private keys intended to be used to create electronic or
23 digital signatures under the Electronic Commerce Security
24 Act.

25 (jj) Information contained in a local emergency energy
26 plan submitted to a municipality in accordance with a local

1 emergency energy plan ordinance that is adopted under
2 Section 11-21.5-5 of the Illinois Municipal Code.

3 (kk) Information and data concerning the distribution
4 of surcharge moneys collected and remitted by wireless
5 carriers under the Wireless Emergency Telephone Safety
6 Act.

7 (ll) Vulnerability assessments, security measures, and
8 response policies or plans that are designed to identify,
9 prevent, or respond to potential attacks upon a community's
10 population or systems, facilities, or installations, the
11 destruction or contamination of which would constitute a
12 clear and present danger to the health or safety of the
13 community, but only to the extent that disclosure could
14 reasonably be expected to jeopardize the effectiveness of
15 the measures or the safety of the personnel who implement
16 them or the public. Information exempt under this item may
17 include such things as details pertaining to the
18 mobilization or deployment of personnel or equipment, to
19 the operation of communication systems or protocols, or to
20 tactical operations.

21 (mm) Maps and other records regarding the location or
22 security of generation, transmission, distribution,
23 storage, gathering, treatment, or switching facilities
24 owned by a utility or by the Illinois Power Agency.

25 (nn) Law enforcement officer identification
26 information or driver identification information compiled

1 by a law enforcement agency or the Department of
2 Transportation under Section 11-212 of the Illinois
3 Vehicle Code.

4 (oo) Records and information provided to a residential
5 health care facility resident sexual assault and death
6 review team or the Executive Council under the Abuse
7 Prevention Review Team Act.

8 (pp) Information provided to the predatory lending
9 database created pursuant to Article 3 of the Residential
10 Real Property Disclosure Act, except to the extent
11 authorized under that Article.

12 (qq) Defense budgets and petitions for certification
13 of compensation and expenses for court appointed trial
14 counsel as provided under Sections 10 and 15 of the Capital
15 Crimes Litigation Act. This subsection (qq) shall apply
16 until the conclusion of the trial of the case, even if the
17 prosecution chooses not to pursue the death penalty prior
18 to trial or sentencing.

19 (rr) Information contained in or related to proposals,
20 bids, or negotiations related to electric power
21 procurement under Section 1-75 of the Illinois Power Agency
22 Act and Section 16-111.5 of the Public Utilities Act that
23 is determined to be confidential and proprietary by the
24 Illinois Power Agency or by the Illinois Commerce
25 Commission.

26 (ss) Information that is prohibited from being

1 disclosed under Section 4 of the Illinois Health and
2 Hazardous Substances Registry Act.

3 (tt) Information the disclosure of which is exempted
4 under the Public Adjusters Law of the Illinois Insurance
5 Code.

6 (2) This Section does not authorize withholding of
7 information or limit the availability of records to the public,
8 except as stated in this Section or otherwise provided in this
9 Act.

10 (Source: P.A. 94-280, eff. 1-1-06; 94-508, eff. 1-1-06; 94-664,
11 eff. 1-1-06; 94-931, eff. 6-26-06; 94-953, eff. 6-27-06;
12 94-1055, eff. 1-1-07; 95-331, eff. 8-21-07; 95-481, eff.
13 8-28-07; 95-941, eff. 8-29-08; 95-988, eff. 6-1-09; revised
14 10-20-08.)

15 (215 ILCS 5/Art. XXXI.75 rep.)

16 Section 910. The Illinois Insurance Code is amended by
17 repealing Article XXXI.75.

18 Section 997. Severability. The provisions of this Act are
19 severable under Section 1.31 of the Statute on Statutes.

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2	Statutes amended in order of appearance
3	215 ILCS 5/Art. XLV
4	heading new
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25	215 ILCS 5/1600 new

1 5 ILCS 140/7 from Ch. 116, par. 207
2 215 ILCS 5/Art. XXXI.75
3 rep.