

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4823

By Delegate Westfall

[Introduced January 16, 2024; Referred
to the Committee on Banking and Insurance then
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §33-63-1, §33-63-2, §33-63-3, §33-63-4, §33-63-5, §33-63-6, §33-63-7, §33-
 3 63-8, and §33-63-9, all relating to the creation of the "West Virginia Public Adjuster
 4 Professional Standards Reform Act," providing a title; creating application for licensure;
 5 detailing the public adjuster and insured contract requirements; creating an insured's
 6 rights; providing requirements for funds received or held by a public adjuster; creating fees
 7 and commissions for a public adjuster; providing for penalties; creating rules; and
 8 providing for an effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 62. WEST VIRGINIA PUBLIC ADJUSTER PROFESSIONAL STANDARDS
REFORM **ACT.**

§33-63-1. **Short** **title.**

1 This article shall be known and cited as the "West Virginia Public Adjuster Professional
 2 Standards Reform Act."

§33-63-2. **Application** **for** **license.**

1 (a) Except as provided in this section, no person shall in this state act as or hold himself,
 2 herself, or itself out to be an independent, staff, or public adjuster unless then licensed by the
 3 department as an independent, staff, or public adjuster.

4 (b) An individual applying for a resident independent, staff, or public adjuster license shall
 5 make an application to the commissioner on the appropriate uniform individual application and in a
 6 format prescribed by the commissioner.

7 (c) An applicant under paragraph (b) of this subsection shall declare under penalty of
 8 suspension, revocation, or refusal of the license that the statements made in the application are
 9 true, correct, and complete to the best of the individual's knowledge and belief.

10 (d) Before approving an application submitted under paragraph (b) of this subsection, the

11 commissioner shall find that the individual to be licensed:

12 (1) Is at least eighteen years of age;

13 (2) Is eligible to designate West Virginia as the individual's home state;

14 (3) Is trustworthy, reliable, and of good reputation, evidence of which shall be determined
15 through an investigation by the commissioner;

16 (4) Has not committed any act that is a ground for probation, suspension, revocation, or
17 refusal of a license;

18 (5) Has successfully passed the examination for the adjuster license and the applicable
19 line of authority for which the individual has applied;

20 (6) Has paid the fees established by the commissioner; and

21 (7) Is financially responsible to exercise the license.

22 (e) To demonstrate financial responsibility, a person applying for a public adjuster license
23 shall obtain a bond or irrevocable letter of credit prior to issuance of a license and shall maintain
24 the bond or letter of credit for the duration of the license with the following limits:

25 (1) A surety bond executed and issued by an insurer authorized to issue surety bonds in
26 West Virginia, which bond shall:

27 (A) Be in the minimum amount of \$5,000;

28 (B) Be in favor of the state of West Virginia;

29 (C) Specifically authorize recovery of any person in West Virginia who sustained damages
30 as the result of the public adjuster's erroneous acts, failure to act, conviction of fraud, or conviction
31 for unfair trade practices in his or her capacity as a public adjuster; and

32 (D) Not be terminated unless written notice is given to the licensee at least 30 days prior to
33 the termination; or

34 (2) An irrevocable letter of credit issued by a qualified financial institution, which letter of
35 credit shall:

36 (A) Be in the minimum amount of \$50,000;

37 (B) Be subject to lawful levy of execution on behalf of any person to whom the public
38 adjuster has been found to be legally liable as the result of erroneous acts, failure to act, conviction
39 of fraud, or conviction for unfair practices in his or her capacity as a public adjuster; and

40 (C) Not be terminated unless written notice is given to the licensee at least 30 days prior to
41 the termination.

42 (f) The commissioner may ask for evidence of financial responsibility at any time the
43 commissioner deems relevant.

44 (g) If the evidence of financial responsibility terminates or becomes impaired, the public
45 adjuster license shall:

46 (1) Automatically terminate; and

47 (2) Be promptly surrendered to the commissioner without demand.

48 (h) A business entity applying for a resident independent or public adjuster license shall
49 make an application to the commissioner on the appropriate uniform business entity application
50 and in a format prescribed by the commissioner.

51 (i) An applicant under paragraph (b) of this subsection shall declare under penalty of
52 suspension, revocation, or refusal of the license that the statements made in the application are
53 true, correct, and complete to the best of the business entity's knowledge and belief.

54 (j) Before approving an application submitted under this subsection, the commissioner
55 shall find that the business entity:

56 (1) Is eligible to designate West Virginia as its home state;

57 (2) Has designated a licensed independent or public adjuster responsible for the business
58 entity's compliance with the insurance laws and regulations of West Virginia;

59 (3) Has not committed an act that is a ground for probation, suspension, revocation, or
60 refusal of an independent or public adjuster's license; and

61 (4) Has paid the fees established by the commissioner.

62 (k) For applications made under this section, the commissioner may:

63 (1) Require additional information or submissions from applicants; and
64 (2) Obtain any documents or information reasonably necessary to verify the information
65 contained in an application.

66 (l) Unless denied licensure pursuant to this code, a person or business entity who has met
67 the requirements of subsections (b) to (e) of this section shall be issued an independent, staff, or
68 public adjuster license.

69 (m) An independent or staff adjuster may qualify for a license in one or more of the
70 following lines of authority:

71 (1) Property and casualty;

72 (2) Workers' compensation; or

73 (3) Crop.

74 (n) Notwithstanding any other provision of this subtitle, an individual who is employed by an
75 insurer to investigate suspected fraudulent insurance claims, but who does not adjust losses or
76 determine claims payments, shall not be required to be licensed as a staff adjuster.

77 (o) A public adjuster may qualify for a license in one or more of the following lines of
78 authority:

79 (1) Property and casualty; or

80 (2) Crop.

81 (p) Notwithstanding any other provision of this subtitle, a license as an independent
82 adjuster shall not be required of the following:

83 (1) An individual who is sent into West Virginia on behalf of an insurer for the sole purpose
84 of investigating or making adjustment of a particular loss resulting from a catastrophe, or for the
85 adjustment of a series of losses resulting from a catastrophe common to all losses;

86 (2) An attorney licensed to practice law in West Virginia, when acting in his or her
87 professional capacity as an attorney;

88 (3) A person employed solely to obtain facts surrounding a claim or to furnish technical

89 assistance to a licensed independent adjuster;

90 (4) An individual who is employed to investigate suspected fraudulent insurance claims,
91 but who does not adjust losses or determine claims payments;

92 (5) A person who:

93 (A) Solely performs executive, administrative, managerial, or clerical duties, or any
94 combination thereof; and

95 (B) Does not investigate, negotiate, or settle claims with policyholders, claimants, or their
96 legal representatives;

97 (6) A licensed health care provider or its employee who provides managed care services if
98 the services do not include the determination of compensability;

99 (7) A health maintenance organization or any of its employees or an employee of any
100 organization providing managed care services if the services do not include the determination of
101 compensability;

102 (8) A person who settles only reinsurance or subrogation claims;

103 (9) An officer, director, manager, or employee of an authorized insurer, surplus lines
104 insurer, or risk retention group, or an attorney-in-fact of a reciprocal insurer;

105 (10) A United States manager of the United States branch of an alien insurer;

106 (11) A person who investigates, negotiates, or settles claims arising under a life, accident
107 and health, or disability insurance policy or annuity contract;

108 (12) An individual employee, under a self-insured arrangement, who adjusts claims on
109 behalf of the individual's employer;

110 (13) A licensed agent, attorney-in-fact of a reciprocal insurer, or managing general agent of
111 the insurer, to whom claim authority has been granted by an insurer; or

112 (14) A person who:

113 (A) Is an employee of a licensed independent adjuster, is an employee of an affiliate that is
114 a licensed independent adjuster, or is supervised by a licensed independent adjuster, if there are

115 no more than twenty-five persons under the supervision of one licensed individual independent
116 adjuster or licensed agent who is exempt from licensure pursuant to paragraph (13) of this
117 subsection;

118 (B) Collects claim information from insureds or claimants;

119 (C) Enters data into an automated claims adjudication system; and

120 (D) Furnishes claim information to insureds or claimants from the results of the automated
121 claims adjudication system.

122 (15) For purposes of this paragraph, "automated claims adjudication system" means a
123 preprogrammed computer system designed for the collection, data entry, calculation, and system-
124 generated final resolution of consumer electronic products insurance claims that complies with
125 claim settlement practices pursuant to this code.

126 (q) Notwithstanding any other provision of this subtitle, a license as a public adjuster shall
127 not be required of the following:

128 (1) An attorney licensed to practice law in West Virginia, when acting in his or her
129 professional capacity as an attorney;

130 (2) A person who negotiates or settles claims arising under a life or health insurance policy
131 or an annuity contract;

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

135 (4) A licensed health care provider or its employee who prepares or files a health claim
136 form on behalf of a patient; or

137 (5) An employee or agent of an insurer adjusting claims relating to food spoilage with
138 respect to residential property insurance in which the amount of coverage for the applicable type of
139 loss is contractually limited to \$1,000 or less.

140 (r) Notwithstanding any other provision of this subtitle, a license as a staff adjuster shall not

141 be required of an employee or agent of an insurer adjusting claims relating to food spoilage with
142 respect to residential property insurance in which the amount of coverage for the applicable type of
143 loss is contractually limited to \$1,000 or less.

144 (s) For purposes of this section, except as otherwise provided in subsection (u) of this
145 section, "home state" means any state or territory of the United States or the District of Columbia in
146 which an independent, staff, or public adjuster:

147 (1) Maintains his, her, or its principal place of residence or business; and

148 (2) Is licensed to act as a resident independent, staff, or public adjuster.

149 (t) Temporary registration for emergency independent or staff adjusters shall be issued by
150 the commissioner in the event of a catastrophe declared in West Virginia in the following manner:

151 (1) An insurer shall notify the commissioner by submitting an application for temporary
152 emergency registration of each individual not already licensed in the state where the catastrophe
153 has been declared, who will act as an emergency independent adjuster on behalf of the insurer;

154 (2) A person who is otherwise qualified to adjust claims, but who is not already licensed in
155 the state, may act as an emergency independent or staff adjuster and adjust claims if, within five
156 days of deployment to adjust claims arising from the catastrophe, the insurer notifies the
157 commissioner by providing the following information, in a format prescribed by the commissioner:

158 (A) The name of the individual;

159 (B) The Social Security number of the individual;

160 (C) The name of the insurer that the independent or staff adjuster will represent;

161 (D) The catastrophe or loss control number;

162 (E) The catastrophe event name and date; and

163 (F) Any other information the commissioner deems necessary; and

164 (3) An emergency independent or staff adjuster's registration shall remain in force for a
165 period not to exceed 90 days, unless extended by the commissioner.

166 (u) As used in this subsection, "home state" has the same meaning as in subsection (s) of

167 this section, except that for purposes of this subsection the term includes any state or territory of
168 the United States or the District of Columbia in which an applicant under this subsection is licensed
169 to act as a resident independent, staff, or public adjuster if the state or territory of the applicant's
170 principal place of residence does not issue an independent, staff, or public adjuster license.

171 (v) Unless refused licensure in accordance with other provisions of this code, a
172 nonresident person shall receive a nonresident independent, staff, or public adjuster license if:

173 (1) The person is currently licensed in good standing as an independent, staff, or public
174 adjuster in his, her, or its home state;

175 (2) The person has submitted the proper request for licensure and has paid the fees
176 required by the insurance commissioner;

177 (3) The person has submitted, in a form or format prescribed by the commissioner, the
178 uniform individual application; and

179 (4) The person's designated home state issues nonresident independent, staff, or public
180 adjuster licenses to persons of West Virginia on the same basis.

181 (w) The commissioner may:

182 (1) Verify an applicant's licensing status through any appropriate database, including the
183 database maintained by the National Association of Insurance Commissioners, its affiliates, or
184 subsidiaries; or

185 (2) Request certification of an applicant's good standing.

186 (x) As a condition to the continuation of a nonresident adjuster license, the licensee shall
187 maintain a resident adjuster license in his, her, or its home state.

188 (y) A nonresident adjuster license issued under this subsection shall terminate and be
189 surrendered immediately to the commissioner if the licensee's resident adjuster license terminates
190 for any reason, unless:

191 (1) The termination is due to the licensee being issued a new resident independent, staff,
192 or public adjuster license in his, her, or its new home state; and

193 (2) The new resident state or territory has reciprocity with West Virginia.

§33-63-3. Public adjuster and insured contract requirements.

1 (a) Except as provided in paragraph (b) of this subsection, a public adjuster shall not
2 provide services to an insured until a written contract with the insured has been executed on a
3 form that has been pre-filed with and approved by the commissioner.

4 (b) The commissioner may approve a form that allows a public adjuster to be compensated
5 for services provided to an insured prior to the execution of a written contract in emergency
6 circumstances.

7 (c) A contract between a public adjuster and an insured in violation of paragraph (a) of this
8 subsection shall not be enforceable in this state.

9 (d) A form pre-filed with the commissioner by a public adjuster for approval under
10 paragraph (a) of this subsection shall be subject to disapproval by the commissioner at any time if
11 the form is found to:

12 (1) Violate any provision of this chapter;

13 (2) Contain or incorporate by reference any inconsistent, ambiguous, or misleading
14 clauses; or

15 (3) Contain any title, heading, or other indication of its provisions which is:

16 (A) Misleading; or

17 (B) Printed in a size of typeface or manner of reproduction so as to be substantially
18 illegible.

19 (e) A contract between a public adjuster and an insured that was executed on a form that
20 was pre-filed with and approved by the commissioner under paragraph (a) of this subsection prior
21 to a disapproval of the form under paragraph (d) of this subsection shall be enforceable to the
22 extent allowed by:

23 (1) Ordinary principles of contract; and

24 (2) Any applicable state or federal laws implicated by the contract.

25 (f) A public adjuster shall ensure that all contracts between the public adjuster and the
26 insured for services are in writing and contain the following terms:

27 (1) The legible full name of the adjuster signing the contract, as specified in the
28 department's licensing records;

29 (2) The adjuster's permanent home state business address and phone number;

30 (3) The license number issued to the adjuster by the department;

31 (4) A title of "Public Adjuster Contract";

32 (5) The insured's full name, street address, insurer name, and policy number, if known or
33 upon notification;

34 (6) A description of the loss or damage and its location, if applicable;

35 (7) A description of services to be provided to the insured;

36 (8) The signatures of the adjuster and the insured;

37 (9) The date the contract was signed by:

38 (A) The adjuster; and

39 (B) The insured;

40 (10) Attestation language stating that the adjuster has a letter of credit or a surety bond as
41 required by this code;

42 (11) The full salary, fee, commission, compensation, or other consideration the adjuster is
43 to receive for services, including but not limited to:

44 (A) If the compensation is based on a percentage of the insurance settlement, the exact
45 percentage, which shall be in accordance with §33-63-6 of this article.

46 (B) The initial expenses to be reimbursed to the adjuster from the proceeds of the claim
47 payment, specified by type, with dollar estimates; and

48 (C) Any additional expenses, if first approved by the insured;

49 (12) A statement that the adjuster shall not give legal advice or act on behalf of or aid any
50 person in negotiating or settling a claim relating to bodily injury, death, or noneconomic damages;

51 (13) The process for rescinding the contract, including the date by which rescission of the
52 contract by the adjuster or the insured may occur; and

53 (14) A statement that clearly states in substance the following: "Complaints regarding this
54 contract or regarding the public adjuster may be filed with the consumer advocate division of the
55 West Virginia Offices of the Insurance Commissioner."

56 (g) Compensation provisions in a contract between a public adjuster and an insured shall
57 not be redacted in any copy of the contract provided to the commissioner.

58 (h) A redaction prohibited under paragraph (a) of this subsection shall constitute an
59 omission of material fact in violation of this section.

60 (i) A contract between a public adjuster and an insured shall not contain any contract term
61 that:

62 (1) Allows the adjuster's percentage fee to be collected when money is due from an
63 insurer, but not paid;

64 (2) Allows the adjuster to collect the entire fee from the first check issued by an insurer,
65 rather than as a percentage of each check issued by an insurer;

66 (3) Requires an insured to authorize an insurer to issue a check only in the name of the
67 adjuster;

68 (4) Imposes collection costs or late fees;

69 (5) Allows the adjuster's rate of compensation to be increased based on the fact that a
70 claim is litigated; or

71 (6) Precludes the adjuster from pursuing civil remedies.

72 (j) Prior to the signing of a contract with an insured, a public adjuster shall provide the
73 insured with a separate disclosure document regarding the claim process that states the following:

74 (1) "Property insurance policies obligate the insured to present a claim to his or her
75 insurance company for consideration. Three types of adjusters may be involved in the claim
76 process as follows:

77 (A) "Staff adjuster" means an insurance adjuster who is an employee of an insurance
78 company, who represents the interest of the insurance company, and who is paid by the insurance
79 company. A staff adjuster shall not charge a fee to the insured;

80 (B) "Independent adjuster" means an insurance adjuster who is hired on a contract basis
81 by an insurance company to represent the insurance company's interest in the settlement of the
82 claims and who is paid by the insurance company. An independent adjuster shall not charge a fee
83 to the insured; and

84 (C) "Public adjuster" means an insurance adjuster who does not work for any insurance
85 company. A public adjuster works for the insured to assist in the preparation, presentation, and
86 settlement of the claim, and the insured hires a public adjuster by signing a contract agreeing to
87 pay him or her a fee or commission based on a percentage of the settlement or another method of
88 payment.

89 (D) The insured is not required to hire a public adjuster to help the insured meet his or her
90 obligations under the policy, but has the right to hire a public adjuster. The insured has the right to
91 initiate direct communications with the insured's attorney, the insurer, the insurer's adjuster, the
92 insurer's attorney, and any other person regarding the settlement of the insured's claim. The public
93 adjuster shall not be a representative or employee of the insurer. The salary, fee, commission, or
94 other consideration paid to the public adjuster is the obligation of the insured, not the insurer."

95 (2) A contract between a public adjuster and an insured shall be executed in duplicate to
96 provide an original contract to:

97 (A) The public adjuster; and

98 (B) The insured.

99 (3) A public adjuster's original contract shall be available at all times for inspection by the
100 commissioner without notice.

101 (k) Within 72 hours of entering into a contract with an insured, a public adjuster shall
102 provide the insurer:

103 (1) A notification letter that:
 104 (A) Has been signed by the insured; and
 105 (B) Authorizes the public adjuster to represent the insured's interest; and
 106 (C) A copy of the contract.
 107 (2) The insured shall have the right to rescind a contract with a public adjuster within three
 108 business days after the date the contract was signed.

109 (3) A rescission of a public adjuster contract shall be:
 110 (A) In writing;
 111 (B) Mailed or delivered to the public adjuster at the address in the contract; and
 112 (C) Postmarked or received within the three business day period.
 113 (3) If an insured exercises the right to rescind a contract under subsection (8) of this
 114 section, anything of value given by the insured under the contract to the public adjuster shall be
 115 returned to the insured within 15 business days following receipt by the public adjuster of the
 116 rescission notice.

§33-63-4. Insured's rights; written notice requirement; duties of public adjuster.

1 (a) A public adjuster shall give an insured written notice of the insured's rights under this
 2 section and sections 2 and 4 of this article.
 3 (b) A public adjuster shall ensure that:
 4 (1) Prompt notice of a claim is provided to the insurer;
 5 (2) The property that is subject to a claim is available for inspection of the loss or damage
 6 by the insurer; and
 7 (3) The insurer is given the opportunity to interview the insured directly about the loss or
 8 damage and claim.
 9 (c) A public adjuster shall not restrict or prevent an insurer or its adjuster, or an attorney,
 10 investigator, or other person acting on behalf of the insurer, from:
 11 (1) Having reasonable access, at reasonable times, to:

- 12 (A) The insured or claimant; or
- 13 (B) The insured property that is the subject of a claim;
- 14 (2) Obtaining necessary information to investigate and respond to a claim; or
- 15 (3) Corresponding directly with the insured regarding the claim, except a public adjuster
16 shall be copied on any correspondence with the insured relating to the claim.
- 17 (d) A public adjuster shall not act or fail to reasonably act in any manner that obstructs or
18 prevents the insurer or its adjuster from timely conducting an inspection of any part of the insured
19 property for which there is a claim for loss or damage.
- 20 (e) Except as provided in paragraph (f) of this subsection, a public adjuster representing an
21 insured may be present for the insurer's inspection.
- 22 (f) If the unavailability of a public adjuster, after a reasonable request by the insurer,
23 otherwise delays the insurer's timely inspection of the property, the insured shall allow the insurer
24 to have access to the property without the participation or presence of the public adjuster in order
25 to facilitate the insurer's prompt inspection of the loss or damage.
- 26 (g) A public adjuster shall provide the insured, the insurer, and the commissioner with a
27 written disclosure concerning any direct or indirect financial interest that the adjuster has with any
28 other party who is involved in any aspect of the claim.
- 29 (h) A public adjuster shall not:
- 30 (1) Participate, directly or indirectly, in the reconstruction, repair, or restoration of damaged
31 property that is the subject of a claim adjusted by the adjuster;
- 32 (2) Engage in any activities that may be reasonably construed as a conflict of interest,
33 including, directly or indirectly, soliciting or accepting any remuneration of any kind or nature;
- 34 (3) Have a financial interest in any salvage, repair, or any other business entity that obtains
35 business in connection with any claim that the public adjuster has a contract to adjust; or
- 36 (4) Use claim information obtained in the course of any claim investigation for commercial
37 purposes.

38 (5) As used in subparagraph 4 of this paragraph, "commercial purposes" includes
39 marketing or advertising used for the benefit of the public adjuster.

40 (i) File a complaint with the commissioner on behalf of an insured alleging an unfair claim
41 settlement practice unless the insured has given written consent for the public adjuster to file the
42 complaint on the insured's behalf.

§33-63-5. Requirements for funds received or held by public adjuster.

1 (a) All funds received or held by a public adjuster on behalf of an insured toward the
2 settlement of a claim shall be:

3 (1) Handled in a fiduciary capacity; and

4 (2) Deposited into one or more separate noninterest-bearing fiduciary trust accounts in a
5 financial institution licensed to do business in this state no later than the close of the second
6 business day from the receipt of the funds.

7 (b) The funds referenced in subsection (a) of this section shall:

8 (1) Be held separately from any personal or nonbusiness funds;

9 (2) Not be commingled or combined with other funds;

10 (3) Be reasonably ascertainable from the books of accounts and records of the public
11 adjuster; and

12 (4) Be disbursed within 30 calendar days of any invoice received by the public adjuster
13 upon approval of the insured or the claimant that the work has been satisfactorily completed.

14 (c) A public adjuster shall maintain an accurate record and itemization of any funds
15 deposited into an account under subsection (a) of this section.

§33-63-6. Fees and commissions for public adjuster.

1 (a) Except as provided in subsection (b) of this section:

2 (1) Any fee charged to an insured by a public adjuster shall be:

3 (A) Based only on the amount of the insurance settlement proceeds actually received by
4 the insured; and

5 (B) Collected by the public adjuster after the insured has received the insurance settlement
6 proceeds from the insurer;

7 (2) A public adjuster may receive a commission for services provided under this subtitle
8 consisting of:

9 (A) An hourly fee;

10 (B) A flat rate;

11 (C) A percentage of the total amount paid by the insurer to resolve a claim; or

12 (D) Another method of compensation.

13 (3) A public adjuster:

14 (A) Shall not charge an unreasonable fee; and

15 (B) May charge a reasonable fee that does not exceed:

16 (i) For non-catastrophic claims, 10% of the total insurance recovery of the insured; and

17 (ii) For catastrophic claims, 5% of the total insurance recovery of the insured.

18 (b) If an insurer, not later than 72 hours after the date on which a loss or damage is reported
19 to the insurer, either pays or commits in writing to pay the policy limit of the insurance policy to the
20 insured, a public adjuster shall:

21 (1) Not receive a commission consisting of a percentage of the total amount paid by the
22 insurer to resolve a claim;

23 (2) Inform the insured that the claim settlement amount may not be increased by the
24 insurer; and

25 (3) Be entitled only to reasonable compensation from the insured for services provided by
26 the adjuster on behalf of the insured, based on the time spent on the claim and expenses incurred
27 by the adjuster prior to when the claim was paid or the insured received a written commitment to
28 pay from the insurer.

§33-63-7. Penalties.

1 (a) The commissioner may place on probation, suspend, or may impose conditions upon

2 the continuance of a license for not more than 24 months, revoke, or refuse to issue or renew any
3 license issued under this article, or may levy a civil penalty, or any combination of actions for any
4 one or more of the following causes:

5 (1) Providing incorrect, misleading, incomplete, or materially untrue information in a
6 license application;

7 (2) Violating any insurance laws, or violating any administrative regulations, subpoena, or
8 order of the commissioner or of another state's insurance commissioner;

9 (3) Obtaining or attempting to obtain a license through misrepresentation or fraud;

10 (4) Improperly withholding, misappropriating, or converting any moneys or properties
11 received in the course of doing insurance or the business of life settlements;

12 (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract, life
13 settlement contract, or application for insurance;

14 (6) Having been convicted of or having pled guilty or nolo contendere to any felony;

15 (7) Having admitted or been found to have committed any unfair insurance trade practice,
16 insurance fraud, or fraudulent life settlement act;

17 (8) Using fraudulent, coercive, or dishonest practices; or demonstrating incompetence,
18 untrustworthiness, or financial irresponsibility; or being a source of injury or loss to the public in the
19 conduct of business in this state or elsewhere;

20 (9) Having an insurance license, life settlement license, or its equivalent, denied,
21 suspended, or revoked in any other state, province, district, or territory;

22 (10) Surrendering or otherwise terminating any license issued by this state or by any other
23 jurisdiction, under threat of disciplinary action, denial, or refusal of the issuance of or renewal of
24 any other license issued by this state or by any other jurisdiction; or revocation or suspension of
25 any other license held by the licensee issued by this state or by any other jurisdiction;

26 (11) Forging another's name to an application for insurance, to any other document related
27 to an insurance transaction, or to any document related to the business of life settlements;

28 (12) Cheating, including improperly using notes or any other reference material to
29 complete an examination for license;

30 (13) Knowingly accepting insurance from an individual or business entity who is not
31 licensed, but who is required to be licensed under this subtitle;

32 (14) Failing to comply with an administrative or court order imposing a child support
33 obligation;

34 (15) Failing to pay state income tax or to comply with any administrative or court order
35 directing payment of state income tax;

36 (16) Having been convicted of a misdemeanor for which restitution is ordered in excess of
37 \$300, or of any misdemeanor involving dishonesty, breach of trust, or moral turpitude;

38 (17) Failing to no longer meet the requirements for initial licensure; or

39 (18) Any other cause for which issuance of the license could have been refused, had it then
40 existed and been known to the commissioner.

41 (b) For any public adjuster or apprentice adjuster supervised by a public adjuster under the
42 West Virginia Offices of the Insurance Commissioner, the commissioner may deny, suspend, or
43 revoke the adjuster's license or impose a fine not to exceed \$5,000 per act against the adjuster, or
44 both, for any of the following causes:

45 (1) Violating any provision of this chapter;

46 (2) Violating any administrative regulation or order of the commissioner;

47 (3) Receiving payment or anything of value as a result of an unfair or deceptive practice;

48 (4) Receiving or accepting any fee, kickback, or other thing of value pursuant to any
49 agreement or understanding, oral or otherwise, from anyone other than an insured;

50 (5) Entering into a split-fee arrangement with another person who is not a public adjuster;

51 or

52 (6) Being otherwise paid or accepting payment for public adjuster services that have not
53 been performed.

54 (c) The sanctions and penalties under this subsection shall be in addition to any other
55 remedies, penalties, or sanctions available to the commissioner against a public adjuster or an
56 apprentice adjuster supervised by a public adjuster under this section or any other law.

57 (d) The license of a business entity may be suspended, revoked, or refused for any cause
58 relating to an individual designated in or registered under the license if the commissioner finds
59 that:

60 (1) An individual licensee's violation was known or should have been known by one or
61 more of the partners, officers, or managers acting on behalf of the business entity; and

62 (2) The violation was not reported to the department nor corrective action taken.

63 (e) The applicant or licensee may make written request for a hearing in accordance with
64 this article.

65 (f) The commissioner shall retain the authority to enforce the provisions and penalties of
66 this chapter against any individual or business entity who is under investigation for or charged with
67 a violation of this article, even if the individual's or business entity's license has been surrendered
68 or has lapsed by operation of law.

69 (g) The sanctions and penalties applicable to licenses and licensees under this section
70 shall also be applicable to registrations and registrants under this code.

§33-63-8. Rules.

1 The commissioner of the West Virginia Offices of the Insurance Commissioner may
2 promulgate administrative regulations necessary for or as an aid to the effectuation of any
3 provision of this article.

§33-63-9. Effective Date.

1 This article shall take effect on July 1, 2024.

NOTE: The purpose of this bill is to create the "West Virginia Public Adjuster Professional Standards Reform Act." The bill providing a title. The bill creates the application for licensure. The bill details the public adjuster and insured contract requirements. The bill creates an insured's rights. The bill provides requirements for funds received or held by a public adjuster. The bill creates fees and commissions for a public adjuster. The bill

provides for penalties. The bill creates rules. Finally, the bill provides for an effective date.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.