

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 439 By: Quinn of the Senate
3 and
4 Grau of the House
5
6

7 [adjusters - application for license adjuster -
8 requirements - contents of certain memorandum -
9 maximum fee - recordkeeping - catastrophes - duration
and applicability of license - codification -
effective date]

10
11 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
12 entire bill and insert
13

14 "An Act relating to insurance adjusters; amending 36
15 O.S. 2011, Sections 6205, 6214, 6216.2, 6218, 6220
16 and 6220.1, which relate to the Insurance Adjusters
17 Licensing Act; modifying nonresident applicant
18 eligibility; increasing amount of certain surety
19 bond; updating references; requiring return of
20 certain things of value after cancellation notice;
21 modifying statement required in contract for
22 services; modifying contents of contract for
23 services; requiring certain information be included
24 in contract for services; providing certain
requirements upon adjuster when an insurer pays
certain policy coverage limits; prohibiting certain
terms in a public adjuster contract; requiring
delivery of a copy of the original executed contract
to the insured; authorizing adjuster be named as a
joint payee; expanding authority of the Insurance
Commissioner to approve nonconforming contracts;
authorizing certain declaration of emergency;
modifying duration of emergency adjuster license;
limiting claims emergency adjuster may adjust;

1 limiting certain compensation public adjuster may
2 receive; providing applicability; adding instances
3 the Insurance Commissioner may suspend, revoke, fail
4 to issue or renew license; authorizing the Insurance
5 Department to impose certain penalties and remedies;
6 prohibiting certain acts; providing penalty;
7 modifying applicability; providing public adjuster
8 requirements; providing for codification; and
9 providing an effective date.

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. AMENDATORY 36 O.S. 2011, Section 6205, is
12 amended to read as follows:

13 Section 6205. A. Application for a license as an adjuster
14 shall be made to the Insurance Commissioner upon forms prescribed
15 and furnished by the Commissioner. As a part of and in connection
16 with the application, the applicant shall furnish such information
17 concerning the applicant's identity, personal history, business
18 experience, business record and such other pertinent information
19 which the Commissioner shall reasonably require.

20 B. Unless denied licensure pursuant to Section 6220 of this
21 title, a nonresident applicant shall receive a nonresident adjuster
22 license if:

23 1. The applicant has passed an examination in the applicant's
24 home state or in another state in which the applicant is currently
licensed and in good standing;

2. The applicant is currently licensed and in good standing in
the home state of the applicant;

1 3. The applicant has submitted the proper request for licensure
2 and has paid the fees required by Section 6212 of this title; and

3 4. The applicant's home state awards nonresident adjuster
4 licenses to residents of this state on the same basis.

5 C. If a nonresident applicant's home state does not license or
6 require an examination for an adjuster license, the adjuster may
7 declare another state which has an examination requirement and in
8 which the adjuster is licensed to be the home state. Should the
9 applicant not hold an active adjuster license in his or her home
10 state or declared home state, the applicant shall pass the adjuster
11 examination of this state prior to receiving a nonresident adjuster
12 license.

13 D. An individual who is a resident of Canada shall not be
14 licensed pursuant to the Insurance Adjusters Licensing Act nor
15 designate this state as the individual's home state, unless the
16 individual has successfully passed the adjuster examination and has
17 complied with all applicable requirements of the Insurance Adjusters
18 Licensing Act; except that any such applicant shall not be required
19 to comply with paragraph 2 of subsection A of Section 6206 of this
20 title or Section 6215 of this title.

21 SECTION 2. AMENDATORY 36 O.S. 2011, Section 6214, is
22 amended to read as follows:

23 Section 6214. A. Prior to the issuance of a license as a
24 public adjuster or any renewal of the license, the applicant shall

1 file with the Commissioner a surety bond in favor of the people of
2 the State of Oklahoma, executed by a surety company authorized to do
3 business in the state, in the amount of ~~Ten Thousand Dollars~~
4 ~~(\$10,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00). The total
5 aggregate liability on the bond may be limited to the payment of ~~Ten~~
6 ~~Thousand Dollars (\$10,000.00)~~ Twenty-five Thousand Dollars
7 (\$25,000.00). The bond shall be conditioned on the accounting by
8 the adjuster to any insured whose claim the adjuster is handling for
9 monies or any other settlement received in connection with the
10 claim.

11 B. Any bond shall remain in force concurrently with the license
12 or until the surety is released from liability by the Commissioner,
13 or until canceled by the surety. Without prejudice to any liability
14 accrued prior to the cancellation, the surety may cancel a bond upon
15 thirty (30) days' advance notice in writing filed with the
16 Commissioner.

17 C. Effective December 1, 1983, such bond shall be required of
18 all public adjusters.

19 SECTION 3. AMENDATORY 36 O.S. 2011, Section 6216.2, is
20 amended to read as follows:

21 Section 6216.2 A. The ~~owner of damaged property~~ insured has
22 the right to cancel any compensation agreement entered into with a
23 licensed public adjuster until midnight of the third business day
24

1 after the day on which the signed agreement was ~~signed~~ provided to
2 the insured.

3 B. Cancellation occurs when the ~~buyer~~ insured gives written
4 notice of cancellation to the licensed public adjuster at the
5 address stated in the agreement between the parties. Notice of
6 cancellation may be given by mail and is given when deposited in a
7 United States mailbox properly addressed and postage prepaid.
8 Notice of cancellation must contain the written intention of the
9 ~~owner~~ insured to cancel the agreement. No liability accrues to the
10 ~~owner~~ insured when the agreement is canceled within said period,
11 except for reasonable expense incurred by the public adjuster in
12 preserving the damaged premises during the said three-day period.
13 Anything of value given by the insured under the contract shall be
14 returned to the insured within fifteen (15) business days following
15 the receipt by the public adjuster of the cancellation notice.

16 C. Every contract for services to be rendered by a public
17 adjuster shall contain the following statement. It shall be in
18 boldface ten-point or larger type and located conspicuously on the
19 front face of the contract. "THIS CONTRACT MAY BE CANCELED WITHIN
20 THREE (3) DAYS AFTER THE ~~OWNER OF THE DAMAGED PROPERTY~~ INSURED PARTY
21 HAS ~~SIGNED~~ RECEIVED AN ORIGINAL SIGNED COPY OF THIS AGREEMENT".

22 D. Every contract for services to be rendered by a public
23 adjuster shall ~~clearly indicate the time, date, and place of~~
24 ~~execution of the contract. This information shall be part of the~~

1 ~~contract and shall be placed thereon before execution~~ be in writing
2 and contain the following information:

3 1. Legible full name of the public adjuster signing the
4 contract, as specified in Insurance Department records;

5 2. Permanent home state business address and phone number;

6 3. Department license number;

7 4. Title of "Public Adjuster Contract";

8 5. The insured's full name, street address, insurance company
9 name and policy number, if known or upon notification;

10 6. A description of the loss and its location, if applicable;

11 7. Description of services to be provided to the insured;

12 8. Signatures of the public adjuster and the insured;

13 9. Date contract was signed by the public adjuster and date the
14 contract was signed by the insured; and

15 10. Full salary, fee, commission, compensation or other
16 considerations the public adjuster is to receive for services
17 pursuant to the following guidelines:

18 a. if the compensation is based on a share of the
19 insurance settlement, the exact percentage shall be
20 specified,

21 b. initial expenses to be reimbursed to the public
22 adjuster from the proceeds of the claim payment shall
23 be specified by type, with dollar estimates set forth
24

1 in the contract and with any additional expenses first
2 approved by the insured,

3 c. compensation provisions in a public adjusting contract
4 shall not be redacted in any copy of a contract
5 provided to the Department upon request. Such a
6 redaction shall constitute an omission of material
7 fact, and

8 d. the public adjuster and the insured shall both
9 indicate their agreement to the compensation
10 provision(s) of the contract by initialing next to the
11 provision(s) in the contract.

12 E. If the insurer, not later than seventy-two (72) hours after
13 the date on which the loss is reported to the insurer, either pays
14 or commits in writing to pay to the insured a policy coverage
15 limit(s), the public adjuster shall, with respect to that coverage:

16 1. Not receive a commission consisting of a percentage of the
17 total amount paid by an insurer to resolve a claim;

18 2. Inform the insured that loss recovery amount might not be
19 increased by insurer; and

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

1 F. A public adjuster contract may not contain any contract term
2 that:

3 1. Allows the public adjuster's percentage fee to be collected
4 when money is due from an insurance company but not paid, or that
5 allows a public adjuster to collect the entire fee from the first
6 check issued by an insurance company, rather than as a percentage of
7 each check issued by an insurance company;

8 2. Requires the insured to authorize an insurance company to
9 issue a check only in the name of the public adjuster;

10 3. Imposes collection costs or late fees; or

11 4. Precludes any party from pursuing civil remedies.

12 G. At the time of signing, a public adjuster shall deliver to
13 the insured, in any manner acceptable to the insured and approved by
14 the Insurance Commissioner, a copy of the original executed
15 contract.

16 H. A public adjuster contract may specify that the public
17 adjuster shall be named as a joint payee on an insurer's payment of
18 a claim.

19 I. The Insurance Commissioner reserves the right to approve
20 forms of contracts containing language other than that specified in
21 subsection A of this section if such:

22 1. Such language reasonably discloses to the insured the
23 statutory rights under this section and is otherwise consistent with
24 all other provisions of law and regulations promulgated; or

1 2. The Commissioner finds that the requirements of this section
2 are, in the Commissioner's opinion, unnecessary due to the nature
3 and scope of the business of the insured party to which the contract
4 will apply.

5 SECTION 4. AMENDATORY 36 O.S. 2011, Section 6218, is
6 amended to read as follows:

7 Section 6218. A. In the event of a catastrophe, the Insurance
8 Commission may declare an emergency to exist, and in the event of
9 such a declaration, the Commissioner may issue a license as an
10 emergency adjuster to any resident or nonresident applicant. Such
11 declaration of emergency may be made per zip code or on a county-by-
12 county basis, or any combination thereof. An individual licensed as
13 an emergency adjuster pursuant to this section may only adjust
14 claims related to the catastrophe. ~~Said~~ The applicant shall not
15 have to be a licensed adjuster. An applicant for this license shall
16 be certified in the manner prescribed by the Commissioner by an
17 adjuster licensed in this state or by an insurer who maintains an
18 office in this state and is licensed to do business in this state.
19 A licensed adjuster or insurer who certifies an applicant for this
20 license shall be responsible for any losses caused by the applicant
21 or for any improper claim handling practices committed by the
22 applicant. The employer of this applicant shall certify the
23 application for license as an emergency adjuster to the Commissioner
24 within five (5) days after the applicant begins working as an

1 emergency adjuster for ~~said~~ the employer. The license as an
2 emergency adjuster shall remain in force for not more than ninety
3 (90) days from the date ~~of issue, unless extended for an additional~~
4 ~~ninety (90) days by~~ the Commissioner issues an emergency declaration
5 order. The emergency declaration order may be extended an
6 additional ninety (90) days at the Commissioner's discretion. An
7 emergency adjuster may only adjust claims resulting from the
8 particular catastrophe for which the emergency declaration order is
9 issued.

10 B. The Commissioner may suspend or revoke the right of any
11 person acting as an adjuster or an emergency adjuster in this state
12 pursuant to the authority derived from the provisions of the
13 Insurance Adjusters Licensing Act to continue to adjust claims in
14 this state after a hearing on the suspension or revocation if the
15 Commissioner finds that said person has engaged in any of the
16 practices forbidden to a licensed adjuster. Notice of the hearing
17 on said suspension or revocation shall be given personally or shall
18 be sent by mail to the address stated in the registration. A
19 duplicate copy of the notice shall be given to the insurer.

20 C. No public adjuster shall charge, agree to or accept as
21 compensation or reimbursement any payment, commission, fee or other
22 thing of value equal to more than ten percent (10%) of the amount of
23 the insurance settlement claim paid by the insurer on any claim
24 resulting from a catastrophe declared by the Commissioner to be an

1 emergency pursuant to subsection A of this section. The provisions
2 of this subsection shall not apply to a public adjuster providing
3 public adjuster services on behalf of a for-profit commercial
4 entity.

5 SECTION 5. AMENDATORY 36 O.S. 2011, Section 6220, is
6 amended to read as follows:

7 Section 6220. A. The Commissioner may censure, suspend,
8 revoke, or refuse to issue ~~a renewal~~ or renew a license after
9 hearing for any of the following causes:

- 10 1. Material misrepresentation or fraud in obtaining an
11 adjuster's license; ~~or~~
- 12 2. Any cause for which original issuance of a license could
13 have been refused; ~~or~~
- 14 3. Misappropriation, conversion to the personal use of the
15 licensee, or illegal withholding of monies required to be held by
16 the licensee in a fiduciary capacity; ~~or~~
- 17 4. Material misrepresentation of the terms and effect of any
18 insurance contract, with intent to deceive, or engaging in, or
19 attempting to engage in, any fraudulent transaction with respect to
20 a claim or loss that the licensee or the trainee is adjusting and,
21 in the case of a public adjuster, misrepresentation of the services
22 offered or the fees or commission to be charged; ~~or~~

1 5. Conviction of or pleading guilty or nolo contendere to a
2 felony pursuant to the laws of this state, any other state, the
3 United States, or any foreign country; ~~or~~

4 6. If in the conduct of business affairs, the licensee or
5 trainee has shown himself to be, and is so deemed by the
6 Commissioner, incompetent, untrustworthy or a source of injury to
7 the public; ~~or~~

8 7. Refusal to comply with any lawful order of the Commissioner;
9 ~~or~~

10 8. Violation of any provision of the Insurance Adjusters
11 Licensing Act; ~~or~~

12 9. Adjusting losses or negotiating claim settlements arising
13 pursuant to provisions of insurance contracts on behalf of an
14 insurer without proper licensing or authority from the licensed
15 insurer;

16 10. Failing to respond to any inquiry (including electronic
17 communications) from the Department within thirty (30) calendar days
18 of receipt of such inquiry;

19 11. Forging another's name to any document;

20 12. Obtaining or attempting to obtain a license through
21 misrepresentation or fraud;

22 13. Having admitted or been found to have committed any
23 insurance unfair trade practice or insurance fraud;

24

1 14. Having an insurance adjuster license or its equivalent
2 denied, suspended, censured, placed on probation or revoked in any
3 other state, province, district or territory;

4 15. Failing to inform the Department, by any means acceptable
5 to the Department, of a change of address, change of legal name or
6 change of information submitted on the application within thirty
7 (30) days of the change; or

8 16. Providing services as a public adjuster, company adjuster
9 or independent adjuster on the same claim.

10 B. In addition to or in lieu of any applicable denial,
11 suspension, or revocation of a license, any person violating the
12 provisions of ~~this section~~ the Insurance Adjusters Licensing Act may
13 be subject to a civil fine of not more than One Thousand Dollars
14 (\$1,000.00) for each violation. This fine may be enforced in the
15 same manner in which civil judgment may be enforced.

16 C. If the license of an adjuster is suspended, revoked, or not
17 renewed, the licensee shall surrender said license to the
18 Commissioner.

19 D. The Commissioner shall not reinstate a license to any person
20 whose license has been suspended, revoked, or refused renewal until
21 the Commissioner determines that the cause or causes for the
22 suspension, revocation, or nonrenewal of said license no longer
23 exist.

1 E. The Department shall retain the authority to enforce the
2 provisions of and impose any penalty or remedy authorized by this
3 title against any person who is under investigation for or charged
4 with a violation even if the person's license or registration has
5 been surrendered or has lapsed by operation of law.

6 F. It shall be unlawful for any person, firm, association,
7 company or corporation to act as an adjuster without first obtaining
8 a license pursuant to the Insurance Adjusters Licensing Act. Any
9 person convicted of violating the provisions of this subsection
10 shall be guilty of a misdemeanor and shall be punished as set forth
11 in Section 10 of Title 21 of the Oklahoma Statutes.

12 SECTION 6. AMENDATORY 36 O.S. 2011, Section 6220.1, is
13 amended to read as follows:

14 Section 6220.1 A. No adjuster may, directly or indirectly, own
15 or have a pecuniary interest in any business entity which provides
16 construction or reconstruction related services on behalf of an
17 insurance claimant or insured for which the adjuster is providing
18 services, nor may the adjuster, directly or indirectly, own or have
19 a pecuniary interest in any other business entity which furnishes
20 any supplies, material, services, or equipment purchased by or on
21 behalf of the claimant or insured in settlement of the claim, other
22 than usual and customary supplies, materials, services, or equipment
23 utilized in the adjusting process.

1 B. Any person who violates the provisions of this section shall
2 be subject to disciplinary action or a civil fine, or both, as set
3 forth in Section 6220 of ~~Title 36 of the Oklahoma Statutes~~ this
4 title.

5 C. This section shall not apply to an adjuster providing
6 services on a claim which is located ~~in the county in which the~~
7 ~~adjuster maintains their principal place of business, or~~ in a
8 municipality having a population of less than six thousand (6,000)
9 persons; provided, however, the adjuster shall give written
10 disclosure of the potential conflict of interest to both the insured
11 and insurer prior to the performance of any adjuster services.

12 SECTION 7. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 6223 of Title 36, unless there
14 is created a duplication in numbering, reads as follows:

15 A. A public adjuster shall not misrepresent to a claimant that
16 the public adjuster is an adjuster representing an insurer in any
17 capacity, including acting as an employee of the insurer or acting
18 as an independent adjuster.

19 B. No public adjuster shall split any commission, service fee
20 or other valuable consideration for performing adjusting services
21 with any person or entity unless that person or entity is required
22 to be licensed as a public adjuster under this title and is so
23 licensed.

24

1 C. Prior to the signing of the contract the public adjuster
2 shall provide the insured with a separate disclosure document
3 regarding the claim process that states:

4 1. Property insurance policies obligate the insured to present
5 a claim to his or her insurance company for consideration. There
6 are three types of adjusters that could be involved in that process.
7 The definitions of the three types are as follows:

8 a. "company adjuster" means the insurance adjusters who
9 are employees of an insurance company. They represent
10 the interest of the insurance company and are paid by
11 the insurance company. They will not charge you a
12 fee,

13 b. "independent adjuster" means the insurance adjusters
14 who are hired on a contract basis by an insurance
15 company to represent the insurance company's interest
16 in the settlement of the claim. They are paid by your
17 insurance company. They will not charge you a fee,
18 and

19 c. "public adjuster" means the insurance adjusters who do
20 not work for any insurance company. They work for the
21 insured to assist in the preparation, presentation and
22 settlement of the claim. The insured hires them by
23 signing a contract agreeing to pay them a fee or
24

1 commission based on a percentage of the settlement, or
2 other method of compensation;

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

6 3. The public adjuster is not a representative or employee of
7 the insured; and

8 4. The salary, fee, commission or other consideration is the
9 obligation of the insured, not the insurer.

10 D. The public adjuster shall provide the insurer a notification
11 letter which has been signed by the insured authorizing the public
12 adjuster to represent the insured's interest.

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

19 F. A public adjuster shall maintain a complete record of each
20 transaction as a public adjuster for at least five (5) years after
21 the termination of the transaction and the record shall be open to
22 examination by the Department at all times. The records required by
23 this subsection shall include the following:

24 1. Name of the insured;

- 1 2. Date, location and amount of the loss;
- 2 3. Copy of the signed contract between the public adjuster and
- 3 insured;
- 4 4. Name of the insurer, amount, expiration date and number of
- 5 each policy carried with respect to the loss;
- 6 5. Itemized statement of the insured's recoveries;
- 7 6. Itemized statement of all compensation received by the
- 8 public adjuster, from any source whatsoever, in connection with the
- 9 loss;
- 10 7. A register of all monies received, deposited, disbursed or
- 11 withdrawn in connection with a transaction with an insured,
- 12 including fees, transfers and disbursements from a trust account,
- 13 and all transactions concerning all interest-bearing accounts;
- 14 8. Name of the public adjuster who executed the contract; and
- 15 9. Name of the attorney representing the insured, if
- 16 applicable, and the name of the claims representatives of the
- 17 insurance company.
- 18 G. A public adjuster is obligated under his or her license to
- 19 serve with objectivity and complete loyalty to the interest of his
- 20 or her client alone; and to render to the insured such information,
- 21 counsel and service as within the knowledge, understanding and
- 22 opinion in good faith of the licensee will best serve the insured's
- 23 insurance claim needs and interest.

24

1 H. A public adjuster shall not solicit or attempt to solicit an
2 insured during the progress of a loss-producing occurrence.

3 I. A public adjuster shall not permit an unlicensed employee or
4 representative of the public adjuster to conduct business for which
5 a license is required.

6 J. A public adjuster shall not acquire any interest in salvage
7 of property subject to the contract with the insured unless the
8 public adjuster obtains written permission from the insured after
9 settlement of the claim with the insurer.

10 K. The public adjuster shall not refer or direct the insured to
11 obtain needed repairs or services in connection with a loss from any
12 person or entity with whom the public adjuster has a financial
13 interest or from whom the public adjuster may receive direct or
14 indirect compensation for the referral.

15 L. Any compensation or anything of value in connection with an
16 insured's specific loss that will be received by a public adjuster
17 from any third party shall be disclosed by the public adjuster to
18 the insured in writing including the source and amount of any such
19 compensation.

20 M. A public adjuster shall not enter into a contract or accept
21 a power of attorney that vests in the public adjuster the effective
22 authority to choose the persons who shall perform repair work.

23 N. A public adjuster may not agree to any loss settlement
24 without the insured's knowledge and consent.

1 ENGROSSED SENATE
BILL NO. 439

By: Quinn of the Senate

2
3 and

4 Grau of the House

5
6 [adjusters - application for license adjuster -
7 requirements - contents of certain memorandum -
8 maximum fee - recordkeeping - catastrophes - duration
and applicability of license - codification -
effective date]

9

10

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 9. AMENDATORY 36 O.S. 2011, Section 6205, is
13 amended to read as follows:

14 Section 6205. A. Application for a license as an adjuster
15 shall be made to the Insurance Commissioner upon forms prescribed
16 and furnished by the Commissioner. As a part of and in connection
17 with the application, the applicant shall furnish such information
18 concerning the applicant's identity, personal history, business
19 experience, business record, and such other pertinent information
20 which the Commissioner shall reasonably require.

21 B. Unless denied licensure pursuant to Section 6220 of this
22 title, a nonresident applicant shall receive a nonresident adjuster
23 license if:

24

1 1. The applicant has passed an examination in the applicant's
2 home state or in another state in which the applicant is currently
3 licensed and in good standing;

4 2. The applicant is currently licensed and in good standing in
5 the home state of the applicant;

6 3. The applicant has submitted the proper request for licensure
7 and has paid the fees required by Section 6212 of this title; and

8 4. The applicant's home state awards nonresident adjuster
9 licenses to residents of this state on the same basis.

10 C. If a nonresident applicant's home state does not license or
11 require an examination for an adjuster license, the adjuster may
12 declare another state which has an examination requirement and in
13 which the adjuster is licensed to be the home state. Should the
14 applicant not hold an active adjuster license in his or her home
15 state or declared home state, the applicant shall pass the adjuster
16 examination of this state prior to receiving a nonresident adjuster
17 license.

18 D. An individual who is a resident of Canada shall not be
19 licensed pursuant to the Insurance Adjusters Licensing Act nor
20 designate this state as the individual's home state, unless the
21 individual has successfully passed the adjuster examination and has
22 complied with all applicable requirements of the Insurance Adjusters
23 Licensing Act; except that any such applicant shall not be required
24

1 to comply with paragraph 2 of subsection A of Section 6206 of this
2 title or Section 6215 of this title.

3 SECTION 10. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6216.3 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 A. No public adjuster shall have any right to compensation from
7 any insured for or on account of services rendered to an insured as
8 a public adjuster unless the right to compensation is based upon a
9 written memorandum, signed by the party to be charged and by the
10 adjuster. The written and signed memorandum shall specify or
11 clearly define at least the following:

12 1. The services to be rendered;

13 2. The amount or extent of the compensation to be paid to the
14 adjuster, including any information regarding a possible lien placed
15 on the insured's insurance claim or property; and

16 3. The amount or extent of the compensation to be paid to any
17 third party.

18 B. A public adjuster may not recover any fees unless the
19 insurer makes a written claim settlement offer to an insured and
20 that offer is rejected, and a public adjuster may not recover any
21 fees in excess of ten percent (10%) of the difference between the
22 amount of any final claim payment and the rejected claim settlement
23 offer.

24

1 C. A public adjuster shall maintain a copy of every written
2 memorandum required by subsection A of this Section for at least
3 three (3) years after the date the memorandum is signed by the
4 insured. A public adjuster shall submit a copy of any such
5 memorandum to the Commissioner upon request.

6 SECTION 11. AMENDATORY 36 O.S. 2011, Section 6218, is
7 amended to read as follows:

8 Section 6218. A. In the event of a catastrophe, the Insurance
9 Commission may declare an emergency to exist, and in the event of
10 such a declaration, the Commissioner may issue a license as an
11 emergency adjuster to any resident or nonresident applicant. An
12 individual licensed as an emergency adjuster pursuant to this
13 section may only adjust claims related to the catastrophe. ~~Said~~ The
14 applicant shall not have to be a licensed adjuster. An applicant
15 for this license shall be certified in the manner prescribed by the
16 Commissioner by an adjuster licensed in this state or by an insurer
17 who maintains an office in this state and is licensed to do business
18 in this state. A licensed adjuster or insurer who certifies an
19 applicant for this license shall be responsible for any losses
20 caused by the applicant or for any improper claim handling practices
21 committed by the applicant. The employer of this applicant shall
22 certify the application for license as an emergency adjuster to the
23 Commissioner within five (5) days after the applicant begins working
24 as an emergency adjuster for ~~said~~ the employer. The license as an

1 emergency adjuster shall remain in force for not more than ninety
2 (90) days from the date ~~of issue, unless extended for an additional~~
3 ~~ninety (90) days by~~ the Commissioner issues an emergency declaration
4 order, and each license only applies to the particular catastrophe
5 for which the emergency declaration order is issued.

6 B. The Commissioner may suspend or revoke the right of any
7 person acting as an adjuster or an emergency adjuster in this state
8 pursuant to the authority derived from the provisions of the
9 Insurance Adjusters Licensing Act to continue to adjust claims in
10 this state after a hearing on the suspension or revocation if the
11 Commissioner finds that ~~said~~ the person has engaged in any of the
12 practices forbidden to a licensed adjuster. Notice of the hearing
13 on ~~said~~ the suspension or revocation shall be given personally or
14 shall be sent by mail to the address stated in the registration. A
15 duplicate copy of the notice shall be given to the insurer.

16 SECTION 12. This act shall become effective November 1, 2015.

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