

By Mr. Haley of Weymouth, petition of Paul R. Haley for legislation to further regulate the solicitation of fire and property claims by public adjusters. Insurance.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Three.

### AN ACT FURTHER REGULATING THE SOLICITATION OF FIRE AND PROPERTY CLAIMS BY PUBLIC ADJUSTERS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. The fourth paragraph of section 162 of chap-  
2 ter 175 is hereby deleted, and the following paragraph inserted  
3 in its place:

4 Whoever, for compensation, not being an attorney at law acting  
5 in the usual course of his profession, directly or indirectly solicits  
6 from the insured or his representative an agreement or  
7 undertaking to represent the insured in connection with the  
8 negotiation, settlement, appraisal or reference of a loss under a  
9 fire insurance policy, homeowners insurance policy, business  
10 interruption insurance policy, fidelity or crime insurance policy,  
11 inland or ocean marine insurance policy, or other property  
12 insurance coverage, shall be a public adjuster.

1 SECTION 2. Section 172 of chapter 175 is hereby deleted and  
2 the following paragraph inserted in its place:

3 Section 172. The commissioner may, upon the payment of the  
4 fee prescribed by section fourteen, issue to any suitable person  
5 of full age a license to act as a public adjuster if such person files  
6 with the Commissioner a written application for the license as  
7 prescribed by section one hundred and sixty-six and which is  
8 executed on oath by the applicant. Such application shall be kept  
9 on file by the commissioner. If the commissioner is satisfied that  
10 the applicant is trustworthy and competent, he shall issue the

11 license which shall expire in three years from its date, unless  
12 sooner revoked or suspended as provided herein. The license may,  
13 in the discretion of the commissioner and upon the payment of  
14 the fee prescribed by section fourteen, be renewed for any  
15 succeeding three year period without requiring a licensed public  
16 adjuster to take another written examination. The commissioner  
17 may at any time, for cause shown and after a hearing, revoke the  
18 license or suspend it for a period not exceeding the unexpired term  
19 thereof, and may, for cause shown and after a hearing, revoke  
20 the license while so suspended, and shall notify the licensee in  
21 writing of such revocation or suspension. If the license to act as  
22 an insurance broker pursuant to section one hundred sixty-six that  
23 is issued to a public adjuster is suspended or revoked, the  
24 commissioner shall likewise suspend or revoke the license issued  
25 pursuant to this section.

26 All contracts for a public adjuster to represent an insured in  
27 connection with the negotiation, settlement, appraisal, or  
28 reference of a loss under a fire insurance policy, homeowners  
29 insurance policy, business interruption insurance policy, fidelity  
30 or crime insurance policy, inland or ocean marine insurance  
31 policy, or other property insurance coverage shall be in writing  
32 in a form approved by the commissioner. No such contract in  
33 writing shall be made by a public adjuster until a copy of the form  
34 of such contract has been on file for thirty days with the  
35 commissioner, unless before the expiration of said period the  
36 commissioner shall have approved the form in writing; nor if he  
37 notifies the public adjuster in writing within said period that the  
38 form of such contract has been disapproved by him, specifying  
39 his reasons therefor, provided that such action of the  
40 commissioner shall be subject to review by the superior court. To  
41 be enforceable by a public adjuster, such contract must be signed  
42 by every named insured specified in each policy covering the loss  
43 to which the public adjuster's services relate, and a copy thereof  
44 must be delivered to and received by each named insured. If said  
45 policy contains a mortgagee clause and names a mortgagee, any  
46 mortgagee so named under the policy shall be presumed to be a  
47 beneficiary of the public adjuster's contract with the named  
48 insureds.

49 Every contract by which a public adjuster agrees or undertakes  
50 to represent an insured shall provide clearly and conspicuously  
51 in writing that such contract may be cancelled within three  
52 business days after the date of receipt by each named insured of  
53 a copy of the written contract. Every contract shall contain the  
54 following written notice in at least ten point bold type:

55 **CONSUMER'S RIGHT TO CANCELLATION. YOU**  
56 **MAY CANCEL THIS CONTRACT WITHOUT ANY**  
57 **PENALTY OR FURTHER OBLIGATION BY CAUS-**  
58 **ING A WRITTEN NOTICE OF YOUR CANCELLA-**  
59 **TION TO BE DELIVERED IN PERSON, BY**  
60 **FACSIMILE TRANSMISSION, OR POSTMARKED**  
61 **BY CERTIFIED OR REGISTERED UNITED**  
62 **STATES MAIL, TO THE ADDRESS OF THE**  
63 **PUBLIC ADJUSTER SPECIFIED IN THIS CON-**  
64 **TRACT, WITHIN THREE (3) BUSINESS DAYS OF**  
65 **THE DATE THAT YOU RECEIVE A COPY OF THIS**  
66 **CONTRACT.**

67 Whoever acts as a public adjuster, as defined in section one  
68 hundred and sixty-two, without such license or during a  
69 suspension of his license, or in violation of any provision of this  
70 section, shall be punished by a fine of not more than two thousand  
71 dollars or by imprisonment for not more than six months.

72 The commissioner shall require that any applicant for any  
73 license as a public adjuster take a written examination prepared  
74 and administered by the commissioner or an independent testing  
75 service designated by the commissioner under the direction of the  
76 commissioner, who shall fix a passing grade which in his judgment  
77 indicates the applicant's ability to perform in a satisfactory  
78 manner the duties of a public adjuster. The commissioner shall  
79 determine or approve the charges to be paid by applicants for the  
80 services of any independent testing service designated by the  
81 commissioner.

1 SECTION 3. Section 172A of chapter 175 is hereby amended  
2 by deleting the phrase "adjuster of fire losses" wherever appearing  
3 and inserting in place thereof the phrase "public adjuster".

1 SECTION 4. Section 174 of chapter 175 is hereby amended by  
2 deleting the phrase “adjuster of fire losses” wherever appearing  
3 and inserting in place thereof the phrase “public adjuster”.

1 SECTION 5. Section 47A of chapter 175 is hereby amended  
2 by deleting the phrase “adjuster of fire losses” wherever appearing  
3 and inserting in place thereof the phrase “public adjuster”.