

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 38.2-1845.1, 38.2-1845.10, 38.2-1845.11, 38.2-1845.12, 38.2-1845.13,*
 3 *38.2-1845.14, 38.2-1845.16, 38.2-1845.18, 38.2-1845.20, 38.2-1845.21, and 38.2-1845.23 of the Code of*
 4 *Virginia and to amend the Code of Virginia by adding in Article 4.1 of Chapter 18 of Title 38.2 a section*
 5 *numbered 38.2-1845.24, relating to insurance; standards of conduct for licensed public adjusters;*
 6 *unauthorized practice of public adjusting.*

7 [H 437]

8 Approved

9 **Be it enacted by the General Assembly of Virginia:**

10 **1. That §§ 38.2-1845.1, 38.2-1845.10, 38.2-1845.11, 38.2-1845.12, 38.2-1845.13, 38.2-1845.14,**
 11 **38.2-1845.16, 38.2-1845.18, 38.2-1845.20, 38.2-1845.21, and 38.2-1845.23 of the Code of Virginia are**
 12 **amended and reenacted and that the Code of Virginia is amended by adding in Article 4.1 of Chapter**
 13 **18 of Title 38.2 a section numbered 38.2-1845.24 as follows:**

14 **§ 38.2-1845.1. Definitions.**15 As used in this article, *unless the context requires a different meaning:*16 "Catastrophic disaster" means an event where the President of the United States or the Governor of the
17 Commonwealth has declared a state of emergency.18 "Home state" means the District of Columbia and any state or territory of the United States, except
19 Virginia, or any province of Canada, in which a public adjuster maintains such person's principal place of
20 residence or principal place of business and is licensed by that jurisdiction to act as a resident public adjuster.21 "License" means ~~a document~~ *an authorization issued by the Commission authorizing to an individual or*
22 *business entity by the Commission to act as a public adjuster. The license itself does not create any authority,*
23 *actual, apparent, or inherent, in the licensee to represent, commit, or bind an insurer.*24 "Negotiate" means ~~the act of conferring directly with or offering advice directly to a purchaser or~~
25 ~~prospective purchaser of a particular contract of public adjusting concerning any of the substantive benefits,~~
26 ~~terms, or conditions of the contract acting solely in relation to a first party claim arising under an insurance~~
27 *contract insuring real or personal property on behalf of a policyholder, including by investigating,*
28 *evaluating, providing advice, preparing a claim, or advocating on behalf of or assisting the policyholder, in*
29 *the settlement of a claim for loss or damage covered by an insurance contract.*30 "Policyholder" means *a person who has contracted with a property and casualty insurer for insurance*
31 *coverage or is a named insured.*32 "Proof of compliance" means all documents, forms, and fees specified by the Commission for filing proof
33 of completion of Commission-approved continuing education courses for the appropriate number of hours
34 and for the appropriate content.35 "Public adjuster" means an individual or business entity who receives, either directly or indirectly, a
36 salary, fee, commission, or other compensation for engaging in public adjusting *services.*37 "Public adjusting" means soliciting, investigating, negotiating, adjusting, or providing advice to ~~an insured~~
38 *a policyholder* in relation to first party claims arising under insurance contracts that insure the real or personal
39 property of ~~an insured~~ *a policyholder* for the purpose of effecting the settlement of a claim on behalf of the
40 ~~insured policyholder~~. Public adjusting includes advertising or representing oneself as a public adjuster;
41 however, public adjusting does not include acting in any manner in relation to liability claims for personal
42 injury or property damage, other third-party claims, or uninsured or underinsured bodily injury liability *motor*
43 *vehicle* claims. A licensed insurance agent who only provides advice to ~~an insured~~ *a policyholder* in relation
44 to first party claims arising under insurance contracts sold, solicited, or negotiated by the agent that insure the
45 real or personal property of ~~an insured~~ *a policyholder* shall not be deemed to be engaged in public adjusting.46 "Public adjusting services" means *performing any act of public adjusting.*47 "Received by the Commission" means delivered into the possession of the Commission or its
48 administrator at the business address of the Commission's administrator.49 "Soliciting" means attempting to persuade or asking or urging ~~an insured~~ *a policyholder* to enter into a
50 public adjusting contract by describing the terms of the contract, including any fees or commissions, and
51 offering to negotiate a claim of loss on behalf of the ~~insured~~ *policyholder* or *initiating contact with any*
52 *person, whether in person, by mail, by telephone, or otherwise, and seeking, causing, urging, advising, or*
53 *attempting to have any person enter into any contract for public adjusting services. "Soliciting" does not*
54 *include simply recommending a public adjuster to a person.*55 "Unauthorized practice of public adjusting" means *providing public adjusting services without a license*
56 *as required in §§ 38.2-1845.2 and 38.2-1845.5.*

"Vulnerable adult" means any person 18 years of age or older who is impaired by reason of mental illness, intellectual or developmental disability, physical illness or disability, or other causes, including age, to the extent the adult lacks sufficient understanding or capacity to make, communicate, or carry out reasonable decisions concerning their well-being or has one or more limitations that substantially impair the adult's ability to independently provide for their daily needs or safeguard their person, property, or legal interests.

§ 38.2-1845.10. Grounds for placing on probation, refusal to issue or renew, revocation, or suspension of license.

The Commission may, in addition to or in lieu of a penalty imposed under § 38.2-218, place on probation, suspend, revoke, or refuse to issue or renew any person's license for any one or more of the following causes:

1. Providing materially incorrect, misleading, incomplete, or untrue information in the license application or any other document filed with the Commission;

2. Violating any insurance laws or violating any regulation, subpoena, or order of the Commission or of another state's an insurance regulatory authority of another state, district, or territory;

3. Aiding or abetting any person in violating any insurance law or violating any regulation, subpoena, or order of the Commission or of an insurance regulatory authority of another state, district, or territory;

4. Obtaining or attempting to obtain a license through misrepresentation or fraud;

~~4.~~ 5. Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing business as a while providing public adjuster adjusting services;

6. Financially exploiting a vulnerable adult;

~~5.~~ 7. Having been convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or a breach of trust;

~~6.~~ 8. Having admitted to or been found to have committed any insurance unfair trade practice, as set forth in Chapter 5 (§ 38.2-500 et seq.), or fraud, or having received anything of value as a result of an unfair or deceptive practice or fraud;

~~7.~~ 9. Using fraudulent, coercive, or dishonest practices or demonstrating incompetence or untrustworthiness in the conduct of business in the Commonwealth or elsewhere, or demonstrating financial irresponsibility in the handling of policyholder, agency, or insurance company funds;

~~8.~~ 10. Having public adjuster license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;

~~9.~~ 11. Intentionally misrepresenting the terms of an insurance contract;

~~10.~~ 12. Knowingly accepting public adjusting business services from an individual who unlawfully solicited business and who is not licensed but who is required to be licensed under this article;

13. Engaging in the unauthorized practice of public adjusting;

~~11.~~ 14. Paying or sharing a commission, fee, or other valuable consideration to a person who is required to be licensed under this article and is not so licensed;

~~12.~~ 15. Forging another's name to any document related to an insurance transaction;

~~13.~~ 16. Improperly using notes or any other reference material to complete an examination for a public adjuster license;

~~14.~~ 17. Failing to comply with an administrative or court order imposing a child support obligation;

~~15.~~ 18. Failing to pay Virginia income tax or comply with any administrative or court order directing payment of state income tax; or

~~16.~~ 19. Failing to report to the Commission as required by § 38.2-1845.17.

§ 38.2-1845.11. Termination, suspension, or revocation of license.

A. A license issued to an individual public adjuster shall authorize him to act as a public adjuster until his license is otherwise terminated, suspended, or revoked.

B. A license issued to a business entity shall authorize such business entity to act as a public adjuster until such license is otherwise terminated, suspended, or revoked. The dissolution or discontinuance of a partnership, whether by intent or by operation of law, shall automatically terminate the public adjuster license issued to such partnership. The Bureau shall automatically terminate all public adjuster licenses within 90 calendar days of receiving notification from the Clerk of the Commission that the certificate of organization or charter of a domestic limited liability company or corporation respectively, whether by intent or by operation of law, has been terminated or that the certificate of registration or certificate of authority of a foreign limited liability company or corporation, respectively, has been revoked.

C. Except as provided in subsection B of § 38.2-1845.5, the license authority of any licensed resident public adjuster shall terminate immediately when such public adjuster has moved his residence from the Commonwealth, whether or not the Commission has been notified of such move.

D. The license authority of any business entity licensed as a public adjuster shall terminate immediately if the sole licensed responsible public adjuster designated pursuant to subdivision F 3 of § 38.2-1845.2 or subdivision E of 38.2-1845.5 for the business entity's compliance with the insurance laws, rules, and regulations of the Commonwealth is removed for any reason and a new responsible public adjuster has not been designated and the Commission notified within 30 calendar days of such removal and of the newly

119 designated responsible public adjuster.

120 E. The Commission shall not revoke or suspend an existing license until the licensee is given an
 121 opportunity to be heard before the Commission. If the Commission proposes to revoke or suspend an existing
 122 license, it shall give the licensee at least 10 calendar days' notice in writing of the time and place of the
 123 hearing, if a hearing is requested. The notice shall contain a statement of the objections to the issuance of the
 124 license or the reason for its proposed revocation or suspension, ~~as the case may be~~. The notice may be given
 125 to the licensee by registered or certified mail, sent to the last known address of record or the last known
 126 business address if the address of record is incorrect, or in any other lawful manner, the Commission
 127 prescribes. The Commission may summon witnesses to testify with respect to the licensee, and the licensee
 128 may introduce evidence in the licensee's behalf. No licensee whose license is revoked shall again apply for a
 129 license until after the expiration of a period of five years from the date of the Commission's order or such
 130 other period as the Commission prescribes in its order.

131 F. The license of a business entity may be suspended or revoked if the Commission finds, after notice and
 132 an opportunity to be heard, that a violation by an individual licensee acting at the direction of, on behalf of, or
 133 with the permission of the business entity was known to be a violation by one or more of the partners,
 134 officers, or managers acting on behalf of the business entity or if it can be demonstrated to the satisfaction of
 135 the Commission that responsibility for such violation by the individual can reasonably be imputed to one or
 136 more of the partners, officers, or managers acting on behalf of the business entity, and neither was the
 137 violation reported to the Commission nor corrective action taken.

138 G. In addition to or in lieu of any applicable denial, suspension, or revocation of a license, a person may,
 139 after notice and an opportunity to be heard, be subject to a penalty pursuant to § 38.2-218.

140 H. The Commission shall retain the authority to enforce the provisions of and impose any penalty or
 141 remedy authorized by this title against any person who is under investigation for or charged with a violation
 142 of this title, even if the person's license or registration has been surrendered, terminated, suspended, revoked,
 143 or has lapsed by operation of law.

144 **§ 38.2-1845.12. Standards of conduct for public adjusters.**

145 A. A public adjuster shall be fair and honest in ~~any and~~ all respects in any communications with ~~an~~
 146 ~~insured~~ *a policyholder* and with an insurer or its representatives.

147 B. No person except a public adjuster duly licensed under this article shall:

- 148 1. Accept a commission, fee, or other compensation for investigating or settling claims;
- 149 2. Prepare, complete, or file an insurance claim on behalf of ~~an insured~~ *a policyholder*;
- 150 3. Aid or act on behalf of ~~an insured~~ *a policyholder* in negotiating for or effecting the settlement of a
 151 claim for loss or damage covered by an insurance contract;
- 152 4. Advertise for employment as a public adjuster; or
- 153 5. Solicit, investigate, or adjust a claim on behalf of a public adjuster or ~~an insured~~ *a policyholder*.

154 C. No public adjuster shall have a financial interest in any aspect of ~~an insured's~~ *a policyholder's* claim
 155 other than the salary, fee, commission, or compensation that may be established in the written contract
 156 between the ~~insured~~ *policyholder* and the public adjuster. For the purposes of this subsection, "financial
 157 interest" includes participation by a public adjuster, directly or indirectly, in the reconstruction, repair, or
 158 restoration of damaged property that is the subject of a claim adjusted by that public adjuster.

159 D. No public adjuster shall refer:

- 160 1. Refer or direct ~~an insured~~ *a policyholder* needing repairs or other services in connection with a loss to
 161 any person in which the public adjuster has an ownership interest nor to any person who will or is reasonably
 162 anticipated to provide the public adjuster with any direct or indirect compensation for the referral of any
 163 resulting business; or
- 164 2. Adjust a claim in which the policyholder has assigned duties, rights, or benefits contrary to § 38.2-2131
 165 to a contractor or other vendor.

166 E. No public adjuster shall prevent or attempt to dissuade ~~an insured~~ *a policyholder* from communicating
 167 with an insurer, the insurer's adjuster, an independent adjuster representing the insurer, an attorney, or any
 168 other person regarding the settlement of the ~~insured's~~ *policyholder's* claim.

169 F. The public adjuster's full consideration for the public adjuster's services shall be stated in the written
 170 contract with the ~~insured~~ *policyholder*. If the consideration is based on a share of the insurance proceeds, the
 171 exact percentage shall be specified.

172 G. Any choice of counsel to represent the ~~insured~~ *policyholder* shall be made solely by the ~~insured~~
 173 *policyholder*.

174 H. No public adjuster shall settle a claim unless the terms and conditions of the settlement are approved
 175 by the ~~insured~~ *policyholder* in writing.

176 I. No public adjuster shall acquire any interest in salvage property except with the express written
 177 permission of the ~~insured~~ *policyholder* after settlement with the insurer.

178 J. No public adjuster shall permit an unlicensed employee or representative of the public adjuster to
 179 conduct business for which a license is required under this article.

180 K. No public adjuster shall ~~represent or~~ act as a company adjuster or independent adjuster on the same

181 claim.

182 L. No public adjuster shall enter into a contract or accept a power of attorney that vests in the public
183 adjuster the effective authority to choose the persons who shall perform repair work.

184 M. No public adjuster shall solicit or attempt to solicit a client during the progress of a loss producing
185 occurrence as covered by the insurance contract.

186 N. No public adjuster shall solicit a client for employment from 8:00 p.m. to 8:00 a.m. daily.

187 O. A public adjuster shall notify, in writing, the ~~insured~~ *policyholder* or claimant in advance of the name
188 and location of any proposed contractor, architect, engineer, or similar professional before any bid or
189 proposal by any of these persons may be used by the public adjuster in estimating the loss. The ~~insured~~
190 *policyholder* or claimant may exercise veto power of any of these persons, in which case that person shall not
191 be used in estimating costs.

192 P. A public adjuster shall ensure that any professional used in formulating estimates, the practice of whose
193 profession in the Commonwealth requires a license issued pursuant to Title 54.1, including any architect or
194 engineer as defined in § 54.1-400 and any contractor as defined in § 54.1-1100, holds a current license from
195 the appropriate licensing authority of the Commonwealth.

196 Q. No person shall advertise or promise to pay or rebate all or any portion of any insurance deductible as
197 an inducement to the sale of the services of a public adjuster. As used in this subsection, the term "promise to
198 pay or rebate" includes (i) granting any allowance or offering any discount against the fees to be charged,
199 including, but not limited to, an allowance or discount in return for displaying a sign or other advertisement at
200 the ~~insured's~~ *policyholder's* premises or (ii) paying the ~~insured~~ *policyholder* or any person directly or
201 indirectly associated with the property any form of compensation, gift, prize, bonus, coupon, credit, referral
202 fee, or other item of monetary value for any reason.

203 R. No public adjuster shall engage in any activity that may reasonably be construed as a conflict of
204 interest, including soliciting or accepting any remuneration of any kind or nature, directly or indirectly,
205 except as set forth in a public adjusting contract with ~~an insured~~ *a policyholder*.

206 *S. No public adjuster shall pay or receive, directly or indirectly, any kickback, rebate, commission, thing
207 of value, or other payment pursuant to any agreement or understanding, oral or otherwise, incident to a
208 public adjusting contract. For the purposes of this section, "thing of value" means any payment, advance,
209 funds, loan, service, or other consideration.*

210 *T. No public adjuster may act as an appraiser or umpire pursuant to the appraisal provisions of an
211 insurance policy if that public adjuster or the public adjusters' firm is adjusting or has adjusted all or any
212 part of the claim on property subject to that appraisal provision.*

213 *U. No public adjuster shall advise a policyholder to accept a settlement when the settlement would be
214 disadvantageous to the policyholder or when repairs are not fully completed.*

215 **§ 38.2-1845.13. Contract between public adjuster and policyholder.**

216 A. Public adjusters shall ensure that all contracts for their services are in writing and contain the following
217 terms:

218 1. Legible full name of the public adjuster signing the contract, as specified in the records of the
219 Commission;

220 2. Public adjuster's permanent home state business address and phone number;

221 3. Public adjuster's license number, as specified in the records of the Commission;

222 4. Title "Public Adjuster Contract";

223 5. The ~~insured's~~ *policyholder's* full name and street address and the insurance company's name and policy
224 number;

225 6. A description of the loss and a description of the location of the loss, if applicable;

226 7. A description of services to be provided to the ~~insured~~ *policyholder* by the public adjuster and all terms
227 and conditions of the engagement;

228 8. Signatures of the public adjuster and the ~~insured~~ *policyholder*;

229 9. The date the contract was signed by the public adjuster and the date the contract was signed by the
230 ~~insured~~ *policyholder*;

231 10. Attestation language stating that the public adjuster is fully bonded pursuant to state law;

232 11. The full salary, fee, commission, compensation, or other consideration the public adjuster is to receive
233 for services, subject to the provisions of § 38.2-1845.14; and

234 12. The right to rescind the contract within three business days after the contract has been signed by the
235 ~~insured~~ *policyholder* or, in the event of a catastrophic disaster, the right to rescind the contract within five
236 business days after the contract has been signed by the ~~insured~~ *policyholder*. Such rescission shall be in
237 writing and mailed or delivered to the public adjuster at the address shown in the contract. Within 15 business
238 days following receipt of the notice to rescind, the public adjuster shall return to the ~~insured~~ *policyholder*
239 anything of value given by the ~~insured~~ *policyholder* under the contract.

240 B. The public adjuster shall provide a separate disclosure document to the ~~insured~~ *policyholder* stating (i)
241 the ~~insured~~ *policyholder* is not required to hire a public adjuster but has the right to do so; (ii) the public
242 adjuster is not an employee or representative of the insurer; (iii) the salary, fee, commission, or other

243 consideration is the obligation of the ~~insured~~ *policyholder*, not the insurer; (iv) property insurance policies
 244 obligate the ~~insured~~ *policyholder* to present a claim to the insurer for consideration; (v) the ~~insured~~
 245 *policyholder* has the right to initiate direct communications with the ~~insured's~~ *policyholder's* attorney, the
 246 insurer, the insurer's adjuster, the insurer's attorney, and any other person regarding the settlement of the
 247 ~~insured's~~ *policyholder's* claim; and (vi) the ~~insured~~ *policyholder* may contact the Commission for the
 248 licensing status of the public adjuster.

249 C. A public adjuster shall provide the insurer with a notification letter, which has been signed by the
 250 ~~insured~~ *policyholder*, authorizing the public adjuster to represent the ~~insured's~~ *policyholder's* interest.

251 D. No public adjuster shall enter into a contract that prevents an ~~insured~~ *a policyholder* from pursuing any
 252 civil remedy after the revocation or cancellation period set forth in subdivision A 12.

253 E. Any contract for public adjusting services that is entered into by an ~~insured~~ *a policyholder* with a
 254 person who is in violation of § 38.2-1845.2 may be voided at the option of the ~~insured~~ *policyholder*.

255 **§ 38.2-1845.14. Fees.**

256 A. No public adjuster shall require, demand, or accept any fee, retainer, compensation, deposit, or thing of
 257 value prior to the settlement of a claim.

258 B. Except as provided in subsection C, no public adjuster shall charge, agree to, or accept as
 259 compensation or reimbursement any payment, commission, fee, or other thing of value that is not fair and
 260 reasonable in relation to the work performed. Any such commission, fee, or other thing of value shall include
 261 any expenses incurred by the public adjuster in the estimating and settlement of any claim.

262 C. In the event of a catastrophic disaster, no public adjuster shall charge, agree to, or accept as
 263 compensation or reimbursement any payment, commission, fee, or other thing of value equal to more than 10
 264 percent of any insurance settlement proceeds. Any such commission, fee, or other thing of value shall include
 265 any expenses incurred by the public adjuster as part of the estimating and settlement of any claim.

266 D. No public adjuster shall charge a fee, commission, or other valuable consideration based, in whole or
 267 in part, on an amount paid to the ~~insured~~ *policyholder* by the insurer prior to the date of the written contract
 268 between the ~~insured~~ *policyholder* and the public adjuster.

269 E. A public adjuster's contract may not contain a provision that allows the public adjuster's percentage fee
 270 to be collected when money is due from an insurer, but not paid, or that allows a public adjuster to collect the
 271 entire fee from the first check issued by an insurer, rather than as a percentage of each check issued by an
 272 insurer.

273 F. A public adjuster's contract may not contain a provision that requires the ~~insured~~ *policyholder* to
 274 authorize an insurer to issue a check only in the name of the public adjuster.

275 G. A public adjuster's contract may not contain a provision that imposes collection costs or late fees.

276 H. The public adjuster's contract may specify that the public adjuster shall be named as a copayee on an
 277 insurer's payment of a claim, provided that (i) if the compensation is based on a share of the insurance
 278 settlement, the exact percentage shall be specified and (ii) initial expenses to be reimbursed to the public
 279 adjuster from the proceeds of the claim payment shall be specified by type, with dollar estimates set forth in
 280 the contract and with any additional expenses first approved by the ~~insured~~ *policyholder*.

281 I. If the insurer, not later than 72 hours after the date on which the loss is reported to the insurer, either
 282 pays or commits in writing to pay to the ~~insured~~ *policyholder* the policy limit of the insurance policy, the
 283 public adjuster shall (i) not receive a commission consisting of a percentage of the total amount paid by an
 284 insurer to resolve a claim, (ii) inform the ~~insured~~ *policyholder* that the loss recovery amount represents the
 285 maximum amount recoverable under the policy, and (iii) be entitled only to reasonable compensation from
 286 the ~~insured~~ *policyholder* for services provided by the public adjuster on behalf of the ~~insured~~ *policyholder*,
 287 based on the time spent on a claim and expenses incurred by the public adjuster.

288 **§ 38.2-1845.16. Escrow or trust accounts.**

289 A. All funds received by, accepted by, or held by a public adjuster on behalf of an ~~insured~~ *a policyholder*
 290 toward the settlement of a claim shall be handled in a fiduciary capacity and submitted for collection to or
 291 deposited in a separate noninterest-bearing fiduciary trust account or accounts in a financial institution
 292 licensed to do business in the Commonwealth no later than the close of the second business day from the
 293 receipt or acceptance of such funds. Such funds shall be held separately from any personal or nonbusiness
 294 funds, shall not be commingled or combined with other funds, and shall be reasonably ascertainable from the
 295 books of accounts and records of the public adjuster. The public adjuster shall maintain an accurate record
 296 and itemization of the funds deposited into this account. Any such funds held by such public adjuster shall be
 297 disbursed within 30 calendar days of any invoice received by such public adjuster upon approval of the
 298 ~~insured~~ *policyholder* or claimant that the work has been satisfactorily completed.

299 B. *The Commission may inform the attorney for the Commonwealth of the appropriate county or*
 300 *independent city if the Commission's investigation reveals that a person has misappropriated or diverted*
 301 *funds held in a fiduciary capacity.*

302 **§ 38.2-1845.18. Information security program.**

303 A. Each public adjuster shall implement a comprehensive written information security program that
 304 includes administrative, technical, and physical safeguards for the protection of policyholder information.

305 The administrative, technical, and physical safeguards included in the information security program shall be
 306 appropriate to the size and complexity of the public adjuster's business and the nature and scope of its
 307 activities.

308 B. The information security program shall be designed to:

309 1. ~~Ensure the security and confidentiality of policyholder information;~~

310 2. ~~Protect against any anticipated threats or hazards to the security or integrity of the information; and~~

311 3. ~~Protect against unauthorized access to or use of the information that could result in substantial harm or~~
 312 ~~inconvenience to any policyholder.~~ *comply with Article 2 (§§ 38.2-621 et seq.) of Chapter 6.*

313 **§ 38.2-1845.20. Immunities; confidentiality.**

314 A. Any documents, materials, or other information in the control or possession of the Commission that is
 315 furnished by an insurer, agent, or public adjuster or by an employee thereof acting on behalf of the insurer,
 316 agent, or public adjuster or obtained by the Commission in an investigation pursuant to this article shall be
 317 confidential by law and privileged, shall not be subject to inspection or review by the general public, shall not
 318 be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil
 319 action. However, the Commission is authorized to use the documents, materials, or other information in the
 320 furtherance of any regulatory or legal action brought as a part of the Commission's duties.

321 B. Neither the Commission nor any person who received documents, materials, or other information while
 322 acting under the authority of the Commission shall be permitted or required to testify in any private civil
 323 action concerning any confidential documents, materials, or information subject to subsection A.

324 C. *Any person providing documents, materials, or other information to the Commission pursuant to*
 325 *subsection A without malice, fraud, or bad faith shall be immune from civil liability.*

326 D. In order to assist in the performance of the Commission's duties under this chapter, the Commission:

327 1. May share documents, material, or other information, including the confidential and privileged
 328 documents, materials, or information subject to subsection A, with other state, federal, and international
 329 regulatory agencies; the NAIC, its affiliates, or subsidiaries; and with local, state, federal, and international
 330 law-enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged
 331 status of the document, material, or other information.

332 2. May receive documents, materials, or information, including otherwise confidential and privileged
 333 documents, materials, or information, from the NAIC, its affiliates, or subsidiaries and from regulatory and
 334 law-enforcement officials of other foreign or domestic jurisdictions and shall maintain as confidential or
 335 privileged any document, material, or information received with notice or the understanding that it is
 336 confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or
 337 information.

338 ~~D. E.~~ No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or
 339 information shall occur as a result of disclosure to the Commission under this section or as a result of sharing
 340 as authorized in subsection ~~E~~ D.

341 ~~E. Nothing in this chapter shall prohibit the~~ F. The Commission ~~from releasing~~ may release final,
 342 adjudicated actions including for cause terminations that are open to public inspection pursuant to Chapter 4
 343 ~~(§ 12.1-18 et seq.) of Title 12.1~~ § 12.1-19 to a database or other clearinghouse service maintained by the
 344 NAIC, its affiliates, or subsidiaries.

345 **§ 38.2-1845.21. Authority of Commission to delegate certain functions.**

346 ~~In order to~~ To assist in the performance of its duties, the Commission may contract with nongovernmental
 347 entities, including the NAIC, any affiliates, or subsidiaries that the NAIC oversees, to perform any ministerial
 348 functions, including licensing examination administration, the collection of fees related to public adjuster
 349 licensing, and such other functions as the Commission may deem appropriate.

350 **§ 38.2-1845.23. False information and advertising generally.**

351 A. No person shall knowingly make, publish, disseminate, circulate, or place before the public, or cause or
 352 knowingly allow, directly or indirectly, to be made, published, disseminated, circulated, or placed before the
 353 public in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or
 354 poster, or over any radio or television station, or in any other way, an advertisement, announcement, or
 355 statement containing any assertion, representation, or statement relating to (i) the business of public adjusting
 356 or (ii) any person in the conduct of his business of public adjusting which is untrue, deceptive, or misleading.

357 B. *No person shall advertise their services as a public adjuster unless such person is licensed as a public*
 358 *adjuster or a public adjusting firm.*

359 C. *Any advertisement by a public adjuster shall include the full name and license number, as specified in*
 360 *Commission records, of the public adjuster who has caused the advertisement to appear. Where an entity*
 361 *containing multiple licensed public adjusters is causing the advertisement to appear, the full name and*
 362 *license number of the designated public adjuster, as specified in Commission records, shall appear in the*
 363 *advertisement.*

364 D. *If an unlicensed spokesperson is used as part of a written or electronic advertisement, such*
 365 *advertisement shall disclose that the person is a paid or unpaid spokesperson, is not licensed, and is*
 366 *endorsing the services of a public adjuster. The advertisement shall also disclose if a computer-generated*

367 digital avatar is used.

368 E. The licensed public adjuster whose name and Virginia license number appears in the advertisement
369 shall be responsible for personally reviewing the content of the advertisement and assuring that the
370 advertisement complies with this section and is in all regards fair, accurate, and in no way untruthful,
371 deceptive, or misleading.

372 F. An advertisement does not include:

373 1. Communications or materials used within a public adjuster's firm, not used as promotional aids, and
374 not disseminated to the public.

375 2. Communications with policyholders other than materials soliciting policyholders to enter, renew,
376 extend, or reinstate a contract for public adjusting services.

377 3. Material used solely for the recruitment, training, and education of a public adjuster's staff, provided it
378 is not also used to induce the public to enter, renew, extend, or reinstate a contract for public adjuster
379 services.

380 **§ 38.2-1845.24. Unauthorized practice of public adjusting.**

381 A. It is unlawful for any person to engage in public adjusting or to offer or advertise public adjusting
382 services in the Commonwealth unless the person is licensed by the Commission as a public adjuster.

383 B. It is unlawful for any person licensed as a public adjuster to knowingly aid or abet another person
384 engaged in the unauthorized practice of public adjusting in the Commonwealth.

385 C. No person shall negotiate or effectuate the settlement of a claim arising from a loss or damage covered
386 by an insurance contract with an individual engaged in the unauthorized practice of public adjusting.

387 D. No person may evade the public adjuster licensing requirements as defined in §§ 38.2-1845.2 and
388 38.2-1845.5 through the acquisition of a power of attorney from the policyholder or a beneficiary named or
389 similarly identified in an insurance policy.

390 E. This section shall not apply to:

391 1. Persons exempt pursuant to § 38.2-1845.3; or

392 2. Persons who perform administrative tasks that do not interpret, analyze, or explain insurance, an
393 insurance contract, or a public adjuster contract or cause, urge, or advise another person to enter into a
394 contract for public adjusting services.