



# SOCIETY OF COLLISION REPAIR SPECIALISTS

Toll Free Phone (877) 841-0660 • Toll Free Fax 877-851-0660

Website: www.scrs.com • E-Mail: info@scrs.com • Mailing: P.O. Box 3037, Mechanicsville, VA 23116

## Executive Officers:

**Amber Alley** (415) 994-7913  
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**Michael Bradshaw** (828) 569-1275  
Vice Chairman North Carolina

**Robert Grieve** (303) 761-9219  
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Toyota Motor Sales, U.S.A., Inc.  
Volkswagen of America, Inc.

November 9, 2023

Trinidad Navarro  
Delaware Insurance Commissioner  
1351 West North Street  
Suite 101  
Dover, DE 19904

## **Re: Proposed Revisions to the PUBLIC ADJUSTER LICENSING MODEL ACT**

Dear Commissioner Navarro:

I am writing to you today as Executive Director of the Society of Collision Repair Specialists (SCRS), a national trade association responsible for representing the interests of hardworking collision repair facilities across North America. I am also a resident of the great state of Delaware and appreciate your interest and work in protecting our state's consumers.

It has come to my attention that the National Association of Insurance Commissioners (NAIC) has provided a comment period for feedback on proposed changes to the Public Adjusters Licensing Model Act, adopted by NAIC in 2015.

While we think protecting the consumer through proper licensing of Public Adjusters with clearly defined rules is generally a good thing, there are some elements of the proposal which we believe limit consumer protections where it is most necessary. SCRS would like to caution against outright acceptance of the proposed changes and request a reevaluation of Section(s) 15 and 16.

### Section 15, Contract Between Public Adjuster and Insured:

In the proposed edits, a carrier underwriting a property insurance policy would be allowed to change or alter policy language to explicitly prohibit assignment of benefits or proceeds from a claim to any other person, including a property repair contractor.

This is problematic in that it strips consumers of one of a very limited number of recourses available to them in the event of a dispute about the amount owed for a loss. Creating model language that standardizes the removal of consumer rights creates unnecessary obstacles to obtaining full indemnification for a covered loss.

Assignments, in most states, are viable consumer protections and the model language would nullify their existence.

The proposed language states:



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L. *Subject to its terms relating to assignability, a property insurance policy, whether heretofore or hereafter issued, under the terms of which the policy and its rights and benefits are assignable, may provide that the rights and benefits under the insurance may only be assigned to a person who has the legal authority to represent the named insured and may explicitly prohibit assignment of rights and benefits to any other person, including a property repair contractor. For purposes of this subsection, having "legal authority to represent the named insured" includes the person named by the named insured as having the named insured's power of attorney, the person who is the name insured's licensed public adjuster, or any other comparable person. Property repair contractors operating in this State may not subvert the public adjuster licensing requirements of [insert appropriate reference to state law] through the acquisition of a power of attorney from the named insured.*

The argument could also be made that a Public Adjusters Licensing Model is an unlikely, and perhaps even inappropriate, forum to write off consumer policy rights.

What this provision equates to is requirement for a consumer to assume out-of-pocket expenses, after already facing the hardship of inflated premium costs, to be able to address a disputed difference between the repair professional's bill for services, and the insurance company's assessment of costs.

Does NAIC believe that consumers must face increased financial hardship to seek full indemnification from the insurer, rather than allowing the consumer to assign such hardship to their service provider to advocate on their behalf?

We believe the model act should be about preserving consumer protection through appropriate licensing, rather than a loophole to discard important and valuable policy protection to the policyholder.

## Section 16, Unlicensed Actors:

Section 16 establishes that it is a fraudulent insurance act to:

B. *Conducts business for which a license is required under this Act without a license.*

We are concerned at how this may be interpreted by states adopting the model language, given the common businesses relationships that exist within the collision repair and property insurance claims ecosystem.



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“Company adjusters” and “Independent adjusters” routinely put collision repair facility employees in a position to debate, and some may say “negotiate,” the extent of repairs and repair costs. Does this force a collision repair center into inappropriately performing the task of a “Public adjuster,” potentially opening allegations of fraudulent insurance acts?

Has NAIC additionally evaluated how this section may otherwise be interpreted in an instance where a collision repair center who has entered into a repair agreement with a consumer, and is party to a Direct Repair Program (DRP) Agreement with a property insurance company who is responsible for indemnifying the policyholder? Especially in circumstances where the DRP Agreement specifies concessions to fees, charges, services, or any other aspect that would otherwise affect full indemnification of the loss. We believe the unintended consequences would limit the way repair professionals could communicate on behalf of their client, or potentially open the repair facility to accusations of fraudulent insurance acts.

## Section 19, Standards of Conduct of Public Adjuster:

To the extent that Section 16 potentially compromises a collision repair professional for committing fraudulent insurance acts as a result of common interactions with insurance industry representatives to justify necessary costs of repair, Section 19 actually removes the ability for a collision repair professional from obtaining a license and extending their professional expertise in a more legal and official manner.

- G. *A public adjuster shall not have a direct or indirect financial interest in any aspect of the claim, other than the salary, fee, commission or other consideration established in the written contract with the insured, ~~unless full written disclosure has been made to the insured as set forth in section 15g.~~*

In the existing language that has survived since 2015, the model simply specified that a public adjuster could not have a financial interest in the claim, unless full written disclosure has been made to the insured.

Clearly, a collision repair business operator has a financial interest in the outcome of the claim as it relates to the cost of repair. However, that person has been independently chosen by the consumer and entrusted with their safety and their property because of their professional experience.

If the consumer has been fully disclosed in writing the various roles a repair representative may serve in their capacity of advocating for the consumer’s interest, as the party most familiar with the technical repair demands, it seems to intentionally disadvantage the consumer to remove their repairer as a potential public adjuster.



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Especially when the public adjuster may be working directly with a "Company adjuster" who is an employee of an insurance company who also has a direct financial interest in the outcome of the claim.

This edit seems to protect the policy issuer, to the disadvantage of the policyholder, by removing knowledgeable resources to aid in recovery during a loss.

In conclusion, and on behalf of our members across the United States, SCRS simply asks those responsible for evaluating the new NAIC proposal to consider the unintended consequences that may otherwise limit or remove consumer protections, and consumer advocacy that the motoring public enjoys today. If passed as proposed, we believe consumers will be left further disadvantaged in an economic construct already swayed to the advantage of the bill-payer.

Thank you for your thorough and thoughtful deliberation, and review of our comments. I am more than happy to meet locally if you wish to have further discussion on this matter.

Sincerely,

Aaron Schulenburg  
SCRS Executive Director

CC: Tim Mullen, Director, Market Regulation, National Association of Insurance Commissioners

Erica Eversman, J.D., President, Automotive Education & Policy Institute and Consumer Liaison, National Association of Insurance Commissioners