

SECTION 2: REGULATION with

- STATEMENT OF PURPOSE
- SIGNED AND PROPERLY COMPLETED
CERTIFICATION PAGE

R-39 Rev. 03/2012
(Title page)

IMPORTANT: Read instructions on back of last page (Certification Page) before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations

State of Connecticut
REGULATION
of

NAME OF AGENCY

INSURANCE DEPARTMENT

Concerning

SUBJECT MATTER OF REGULATION

REQUIREMENTS APPLICABLE TO PUBLIC ADJUSTERS

Section 1. Section 38a-788-5 of the Regulations of Connecticut State Agencies is amended to read as follows:

§ 38a-788-5. Settlement offers

(a) Any [written] offer to settle a loss received by a public adjuster shall be transmitted to the client IN WRITING NOT LATER THAN TEN (10) DAYS AFTER RECEIPT OF THE OFFER FROM THE INSURER and, if rejected by the client, such [offer] REJECTION AND ANY COUNTEROFFER THEREOF shall be TRANSMITTED, WITHIN FORTY-FIVE (45) DAYS FROM THE RECEIPT OF THE OFFER, BY THE PUBLIC ADJUSTER TO THE INSURER IN WRITTEN FORM, acknowledged by an appropriate endorsement [thereto] SIGNED BY THE CLIENT.

(b) IF THE INSURER AND THE CLAIMANT FAIL TO REACH AN AGREEMENT ABOUT THE VALUE OF THE PROPERTY OR THE AMOUNT OF THE LOSS WITHIN ONE HUNDRED AND TWENTY (120) DAYS FROM THE DATE OF EXECUTION OF THE CONTRACT BETWEEN THE CLAIMANT AND THE PUBLIC ADJUSTER, THE PUBLIC ADJUSTER SHALL REQUEST IN WRITING THAT THE MATTER BE REFERRED FOR APPRAISAL IN ACCORDANCE WITH THE PERTINENT PROVISIONS OF THE INSURANCE CONTRACT UNDER WHICH PAYMENTS ARE CLAIMED, UNLESS THE CLAIMANT AGREES IN WRITING TO EXTEND SUCH TIME PERIOD.

(c) AN AGREEMENT TO WAIVE THE TIME PERIOD REQUIRED BY SUBSECTION (b) OF THIS SECTION MUST BE EXECUTED BY THE CLAIMANT NOT EARLIER THAN FOURTEEN (14) DAYS PRIOR TO THE EXPIRATION OF SUCH TIME PERIOD.

(d) THE PROVISIONS OF SUBSECTION (b) OF THIS SECTION DO NOT APPLY TO CLAIMS IN WHICH THERE IS A COVERAGE DISPUTE BETWEEN THE INSURER AND THE CLAIMANT.

Section 2. Section 38a-788-6 of the Regulations of Connecticut State Agencies is amended to read as follows:

§ 38a-788-6. Form of contract

No public adjuster shall enter into an employment contract except in conformity with this regulation. There shall be a true copy of the employment contract which shall be given to the client at the time

the contract is signed. The contract and copy(ies) of the contract shall (1) be printed on white or cream paper in dark or black ink; (2) have section titles captioned in bold face type which otherwise stands out significantly from the text; (3) have statements on contract which read "read both sides before signing" and "I have read the information on both sides of this contract" printed in 18 point bookman type; (4) use layout and spacing which separates the paragraphs from each other and from the border of the paper; (5) be on one piece of paper measuring 8 1/2" x 11" to be printed on both sides and which shall state:

(1) On side one:

**INFORMATION ABOUT YOUR
PUBLIC ADJUSTER EMPLOYMENT CONTRACT**

YOUR LEGAL RIGHTS:

Cancellation: YOU MAY CANCEL THIS CONTRACT FOR NON-PERFORMANCE BY US OF ANY CONTRACTUAL OBLIGATION BY MAILING OR DELIVERING TO US WRITTEN NOTICE OF YOUR INTENTION TO CANCEL NOT LESS THAN SEVENTY-TWO (72) HOURS BEFORE CANCELLATION TAKES EFFECT. You may ALSO cancel this contract by notifying us at the address shown on the other side of this page, in writing, by certified mail, return receipt, postmarked not later than midnight two (2) days following the day this contract is signed. If the contract is signed on a Friday, Saturday or Sunday, you will have until midnight on the following Tuesday to mail the notice of cancellation to us as described above.

Settlement offer: We shall forward to you any written settlement offer from the insurance company.

Fee: Our services are available for a fee to be paid by you. We cannot charge you a fee greater than ten percent (10%) of the actual or final settlement of the loss covered by this contract nor can we rebate any part of the fee specified in this Employment Contract.

Copy of the contract: We must give you a true copy of this Employment Contract at the time you sign it.

RIGHT OF APPRAISAL: PURSUANT TO YOUR INSURANCE POLICY, YOU HAVE THE RIGHT TO DEMAND AN APPRAISAL OF THE LOSS IF YOU AND THE INSURER FAIL TO AGREE AS TO THE VALUE OR THE AMOUNT OF THE LOSS SUBJECT TO YOUR CLAIM.

LIMITATIONS OF PUBLIC ADJUSTERS:

We are not allowed:

- to solicit your employment between 8:00 p.m. and 8:00 a.m.
- to solicit your employment if you have already hired or contracted with another public adjuster.
- to have any interest whatsoever in any construction, salvage, or appraisal business.
- to represent both an insurer and an insured at the same time.

- to pay anything of value to any person as an inducement to refer business to us.
- to share our fee, except with another licensed Public Adjuster.
- to advise you on any question of law.
- to advance any monies to you before settlement of the loss, where such amount would be included in the final settlement.
- to make false statements about an insurance company or its representatives.

We must:

- sign this Contract.
- inform you that we do not represent any insurance company or any insurance company adjusting firm.

(2) On side two:

*** NAME OF LICENSED PUBLIC ADJUSTER**

ADDRESS

TELEPHONE NUMBER

Names of individual public

Adjuster licensee(s) to appear

here

READ BOTH SIDES BEFORE SIGNING (18 point bookman type)

PUBLIC ADJUSTER EMPLOYMENT CONTRACT

To the Interested Insurance Companies and Others Whom it May Concern:

I/we retain _____ (name of public adjuster) to act as my/our public adjuster(s) and to advise and assist in the adjustment and settlement of my/our _____ (type) loss at _____ (address) which occurred on or about _____ (date). In consideration for these services, I/we hereby assign out of the monies due or to become due from said Insurance Companies on account of the said loss a sum equivalent to _____ percent of the amount of the loss when adjusted with the Insurance Companies or otherwise recovered.

I HAVE READ THE INFORMATION ON BOTH SIDES OF THIS CONTRACT (18 point bookman type)

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

The purpose of this amendment is to ensure that public adjusters follow a more formal process in negotiating and settling their clients' claims and that they receive compensation based only on the proceeds actually paid by the insurer to the claimant. In addition, the mandated contract form to be used by adjusters has been amended to provide that a client has the right to rescind the contract if the public adjuster fails to perform her or his contractual obligations.

A. The problems, issues or circumstances that the regulation proposes to address.

A lack of mandated time limits in the adjusting of property claims results in a significant amount of delays and substantial inconvenience to claimants. Some public adjusters may even contract with claimants to adjust a claim on their behalf and then do very little work, or no work at all, to resolve the claim and wait until the insurer makes an offer, close the claim with as little inconvenience as possible and collect substantial payments from the settlement. This amendment seeks to provide an incentive to the prompt settlement of property claims. In addition, many times adjusters insist in receiving full payment from the settlement even if the claimant does not receive the full amount, such as, for example, when the insurer retains the amount of depreciation until such time as the property is repaired.

B. Summary of the main provisions of the regulation.

The amendment provides (1) a time limit for the adjusting process and that, after such time has elapsed, the claimant may request that the claim be submitted to appraisal; (2) that clients of the public adjuster have the right to cancel the contract, after providing proper notice, for non performance by the adjuster; and (3) that the adjuster's compensation can only be based on the amount of the proceeds actually received by the claimant.

C. The legal effect of the regulation, including all ways that the regulation would change existing regulations or other laws.

The amendment will have no effect on other laws or regulations.

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(Certification page—see Instructions on back)

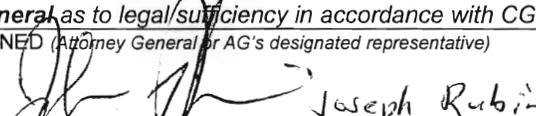
CERTIFICATION

This certification statement must be completed in full, including items 3 and 4, if they are applicable.

- 1) I hereby certify that the above (check one) Regulations Emergency Regulations
- 2) are (check all that apply) adopted amended repealed by this agency pursuant to the following authority(ies): (complete all that apply)
 - a. Connecticut General Statutes section(s) 38a-788.
 - b. Public Act Number(s) _____.
(Provide public act number(s) if the act has not yet been codified in the Connecticut General Statutes.)
- 3) And I further certify that notice of intent to adopt, amend or repeal said regulations was published in the **Connecticut Law Journal** on 7/26/2011;
(Insert date of notice publication if publication was required by CGS Section 4-168.)
- 4) And that a public hearing regarding the proposed regulations was held on _____;
(Insert date(s) of public hearing(s) held pursuant to CGS Section 4-168(a)(7), if any, or pursuant to other applicable statute.)
- 5) And that said regulations are **EFFECTIVE** (check one, and complete as applicable)
 - When filed with the Secretary of the State
 - OR on (insert date) _____

DATE 4/30/2012	SIGNED (Head of Board, Agency or Commission) 	OFFICIAL TITLE, DULY AUTHORIZED INSURANCE COMMISSIONER
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APPROVED by the **Attorney General** as to legal/sufficiency in accordance with CGS Section 4-169, as amended

DATE 5/11/12	SIGNED (Attorney General or AG's designated representative)  Joseph Rubin	OFFICIAL TITLE, DULY AUTHORIZED ASSOC. ATTY. GENERAL
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Proposed regulations are **DEEMED/APPROVED** by the Attorney General in accordance with CGS Section 4-169, as amended, if the attorney General fails to give notice to the agency of any legal insufficiency within thirty (30) days of the receipt of the proposed regulation.

(For Regulation Review Committee Use ONLY)

- Approved Rejected without prejudice
- Approved with technical corrections Disapproved in part, (Indicate Section Numbers disapproved only)
- Deemed approved pursuant to CGS Section 4-170(c)

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended	DATE	SIGNED (Administrator, Legislative Regulation Review Committee)
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Two certified copies received and filed and one such copy forwarded to the Commission on Official Legal Publications in accordance with CGS Section 4-172, as amended.

DATE	SIGNED (Secretary of the State)	BY
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(For Secretary of the State Use ONLY)

GENERAL INSTRUCTIONS

1. All regulations proposed for adoption, amendment or repeal, *except* emergency regulations, must be presented to the Attorney General for his/her determination of legal sufficiency. (See CGS Section 4-169.)
2. After approval by the Attorney General, the original and one electronic copy (in Word format) of all regulations proposed for adoption, amendment or repeal must be presented to the Legislative Regulation Review Committee for its action. (See CGS Sections 4-168 and 4-170 as amended by Public Act 11-150, Sections 18 and 19.)
3. Each proposed regulation section must include the appropriate regulation section number and a section heading. (See CGS Section 4-172.)
4. New language added to an existing regulation must be in underlining or CAPITAL LETTERS, as determined by the Regulation Review Committee. (See CGS 4-170(b).)
5. Existing language to be deleted must be enclosed in brackets []. (See CGS 4-170(b).)
6. A completely new regulation or a new section of an existing regulation must be preceded by the word "(NEW)" in capital letters. (See CGS Section 4-170(b).)
7. The proposed regulation must have a statement of its purpose following the final section of the regulation. (See CGS Section 4-170(b).)
8. The Certification Statement portion of the form must be completed, including all applicable information regarding *Connecticut Law Journal* notice publication date(s) and public hearing(s). (See more specific instructions below.)
9. Additional information regarding rules and procedures of the Legislative Regulation Review Committee can be found on the Committee's web site: <http://www.cga.ct.gov/rr/> .
10. A copy of the Legislative Commissioners' Regulations Drafting Manual is located on the LCO website at http://www.cga.ct.gov/lco/pdfs/Regulations_Drafting_Manual.pdf.

CERTIFICATION STATEMENT INSTRUCTIONS

(Numbers below correspond to the numbered sections of the statement)

1. Indicate whether the regulation is a regular or an emergency regulation adopted under the provisions of CGS Section 4-168(f).
2.
 - a) Indicate whether the regulations contains newly adopted sections, amendments to existing sections, and/or repeals existing sections. Check all cases that apply.
 - b) Indicate the specific legal authority that authorizes or requires adoption, amendment or repeal of the regulation. If the relevant public act has been codified in the most current biennial edition of the *Connecticut General Statutes*, indicate the relevant statute number(s) instead of the public act number. If the public act has not yet been codified, indicate the relevant public act number.
3. Except for emergency regulations adopted under CGS 4-168(f), and technical amendments to an existing regulation adopted under CGS 4-168(g), an agency must publish notice of its intent to adopt a regulation in the *Connecticut Law Journal*. Enter the date of notice publication.
4. CGS Section 4-168(a)(7) prescribes requirements for the holding of an agency public hearing regarding proposed regulations. Enter the date(s) of the hearing(s) held under that section, if any; also enter the date(s) of any hearing(s) the agency was required to hold under the provisions of any other law.
5. As applicable, enter the effective date of the regulation here, or indicate that it is effective upon filing with the Secretary of the State. Please note the information below.

Regulations are effective upon filing with the Secretary of the State or at a later specified date. See CGS Section 4-172(b) which provides that each regulation is effective upon filing, or, if a later date is required by statute or specified in the regulation, the later date is the effective date. An effective date may not precede the effective date of the public act requiring or permitting the regulation. Emergency regulations are effective immediately upon filing with the Secretary of the State, or at a stated date less than twenty days thereafter.