

operated by such corporation, as determined by the system of accounts prescribed by the Interstate Commerce Commission or the public service commission or public utility commission or other similar federal or state regulatory body having jurisdiction in the matter.

The net earnings of any corporation, for the purpose of this subdivision, shall be the balance obtained by deducting from its gross operating revenues its operating and maintenance expenses, provision for depreciation of the physical assets of the corporation, taxes, other than federal and state income taxes, rentals and miscellaneous charges, and by adding to said balance its income from securities and miscellaneous sources, but not, however, to exceed fifteen per centum of said balance. The term funded debt shall be construed to mean all interest bearing debt maturing more than one year from date of issue.

Section 2. The act of the twenty-sixth day of April, one thousand nine hundred and twenty-nine (Pamphlet Laws, eight hundred twenty-seven), and all acts and parts of acts inconsistent herewith are hereby repealed.

Act of April 26,  
1929 (P. L. 827),  
repealed.

APPROVED—The 22nd day of June, A. D. 1931.

GIFFORD PINCHOT

No. 207

AN ACT

To amend the title and sections one and two, sections three and four as amended, and sections five and six of the act, approved the twenty-fifth day of April, one thousand nine hundred and twenty-one (Pamphlet Laws, two hundred and seventy-six), as amended, entitled "An act requiring persons, partnerships, associations, or corporations advertising for or soliciting business as adjusters of claims within this Commonwealth for loss or damage arising out of policies of insurance, surety, or indemnity on property, persons, or insurable business interests, within this Commonwealth, to be licensed by the Insurance Commissioner; regulating the issuance and revocation of such licenses; prescribing certain conditions for the transaction of such business; and providing penalties," by including within the subject and said sections of the said act qualifications and conditions for the licensing of, and the transaction of business by, public adjuster solicitors; providing for bonds by public adjusters and public adjuster solicitors, and for recovery on such bonds; and providing penalties.

Section 1. Be it enacted, &c., That the title of the act, approved the twenty-fifth day of April, one thousand nine hundred and twenty-one (Pamphlet Laws, two hundred seventy-six), as amended, entitled "An act requiring persons, partnerships, associations, or corpora-

Insurance.  
Public  
adjusters  
and public  
adjuster  
solicitors.

Title of act of April 25, 1921 (P. L. 276), as amended by act of April 26, 1929 (P. L. 807), further amended.

tions advertising for or soliciting business as adjusters of claims within this Commonwealth for loss or damage arising out of policies of insurance, surety, or indemnity on property, persons, or insurable business interests, within this Commonwealth, to be licensed by the Insurance Commissioner; regulating the issuance and revocation of such licenses; prescribing certain conditions for the transaction of such business; and providing penalties," be and the same is hereby amended to read as follows:

#### AN ACT

Title.

Requiring persons, partnerships, associations, or corporations advertising for or soliciting business as adjusters of claims within this Commonwealth for loss or damage arising out of policies of insurance, surety, or indemnity on property, persons, or insurable business interests within this Commonwealth, to be licensed by the Insurance Commissioner; *requiring persons, partnerships, associations, or corporations acting as solicitors for said adjusters to be licensed by the Insurance Commissioner*; regulating the issuance and revocation of such licenses; prescribing certain conditions for the transaction of such business; *providing for the filing of bonds by public adjusters and public adjuster solicitors, and for recovery thereon by parties in interest*; and providing penalties.

Section 1 amended.

Section 2. That section one of the said act be and the same is hereby amended to read as follows:

"Public adjuster," defined.

Section 1. Be it enacted, &c., That the term, "public adjuster," as used in this act, shall include every person, copartnership, association, and corporation advertising, soliciting business, or holding himself or itself out to the public, as an adjuster of claims for losses or damages arising out of policies of insurance, surety or indemnity upon property, persons, or insurable business interests within this Commonwealth, and receiving any compensation or reward for the giving of advice or assistance to the assured in the adjustment of claims for such losses, or who for compensation or reward, whether by way of salary or commission or otherwise, directly or indirectly, solicit business, investigate or adjust losses, or advise the assured with reference to claims for losses, on behalf of any other person, partnership, association, or corporation engaged in the business of adjusting losses.

What term does not include.

The term does not include an agent or employe of an insurance company, association, or exchange, through whom a policy of insurance was written, in adjusting loss or damage under such policy, nor does it include a broker or agent acting as adjuster if the services of the

agent or broker in the adjustment are without compensation.

*A public adjuster solicitor is a person, copartnership, or corporation who or which solicits, directly or indirectly, in any manner or aids in securing for a public adjuster a contract for the adjustment of a loss.*

"Public adjuster solicitor," defined.

Section 3. That section two of said act be and the same is hereby amended to read as follows:

Section 2 amended.

Section 2. No person, partnership, association, or corporation shall, directly or indirectly, act within this Commonwealth as public adjuster or as a public adjuster solicitor without first procuring from the Insurance Commissioner a license as public adjuster or public adjuster solicitor, respectively.

License.

Section 4. That section three of said act as amended by the act, approved the twenty-sixth day of April, one thousand nine hundred and twenty-nine (Pamphlet Laws, eight hundred seven), entitled "An act to amend the title, and sections three, four, seven, and eight of the act, approved the twenty-fifth day of April, one thousand nine hundred and twenty-one (Pamphlet Laws, two hundred seventy-six), entitled 'An act requiring persons, partnerships, associations, or corporations advertising for or soliciting business as adjusters of claims within this Commonwealth for loss or damage arising out of policies of insurance, surety, or indemnity on property, persons, or insurable business interests, within this Commonwealth, to be licensed by the Insurance Commissioner,' by including within the subject and said sections of the said act certain additional qualifications and conditions for the licensing of and the transaction of business by public adjusters; and providing and increasing penalties," is hereby further amended to read as follows:

Section 3, as amended by act of April 26, 1929 (P. L. 807), further amended.

Section 3. The Insurance Commissioner shall issue adjusters' licenses and adjuster solicitors' licenses to persons, partnerships, associations, or corporations applying therefor whom he deems to be trustworthy and competent to transact business as public adjusters and public adjuster solicitors, respectively, in such manner as to safeguard the interests of the public; but no license shall be issued to any person, partnership, association, or corporation engaged or interested in, or receiving any profit from, nor shall the holder of any such license engage or be interested in, or receive any profit from, any salvage or similar business.

Adjusters' and adjuster solicitors' licenses.

Licenses not to be interested in salvage.

No licensed public adjuster shall, directly or indirectly, act within this Commonwealth as a public adjuster without having first entered into a contract, in writing, in a form approved by the Insurance Commissioner, and executed in duplicate by the public adjuster and the assured, or his duly authorized representative, one copy of which contract shall be kept on file

Contract between adjuster and insured.

by the public adjuster, open at all times to inspection, without notice, by the Insurance Commissioner, his deputy or his examiners.

**Contract of public adjuster solicitor.**

*No public adjuster solicitor shall use any form of contract other than that approved for the public adjuster for whom he is soliciting, nor shall he make any contracts or agreements for himself or for the public adjuster other than such as are specified in the approved contract.*

**Record to be kept by adjuster.**

Every licensed public adjuster shall keep a full record of his transactions as public adjuster, open at all times, without notice, to the inspection of the Insurance Commissioner, his deputy or his examiners, showing: (1) the name of the assured; (2) the date, location and amount of the loss; (3) the name of the insurer, amount, expiration, date and number of each policy of insurance carried with respect to such loss; (4) an itemized statement of all recoveries by the assured from all sources; (5) the name or names and addresses of any person or persons soliciting the adjustment and the date when solicited; (6) the total compensation received for adjustment and the amount of commission, salary or compensation paid to each employe and solicitor; and (7) such other information as the Insurance Commissioner may require.

**Record by adjuster solicitor.**

*Every public adjuster solicitor shall keep a full record of his transactions as such, open at all times, without notice, to the inspection of the Insurance Commissioner, his deputy or his examiners, showing: (1) the name of the assured; (2) the date and location of the loss; (3) the name or names and addresses of any person or persons soliciting the adjustment for or with him, and the date or dates when solicited; and (4) such other information as the Insurance Commissioner may require.*

**Fees for adjusters' licenses.**

A license issued to a corporation, partnership, or association shall authorize only the officers and directors of the corporation or the members of the partnership or association specified in the license. The fee to be paid to the Insurance Commissioner by the applicant for [such] a public adjusters' license at the time the application is made, and annually thereafter for the renewal thereof, shall be one hundred dollars. If the applicant is a corporation, partnership, or association, such fee shall be paid for each person specified in the license.

**Fees for solicitors' licenses.**

*The fee to be paid to the Insurance Commissioner by the applicant for a public adjuster solicitor's license at the time the application is made, and annually thereafter for the renewal thereof, shall be fifty dollars. If the applicant is a corporation, partnership, or associa-*

tion, such fee shall be paid for each person specified in the license.

Section 5. That section four of said act as amended by the act, approved the twenty-sixth day of April, one thousand nine hundred and twenty-nine (Pamphlet Laws, eight hundred and seven), is hereby further amended to read as follows:

Section 4  
as amended  
by act of  
April 26,  
1929  
(P. L. 807),  
further  
amended.

Section 4. Before any adjuster's license or *public adjuster solicitor's license* is issued by the Insurance Commissioner, there shall be filed, in the Insurance Department, a written application therefor. Such application shall be on form or forms and supplements thereof prescribed by the commissioner, and must set forth: (a) The name and address of the applicant, and, if the applicant is a partnership or association, the name and address of each member, and, if the application is a corporation, the name and address of each of its officers and directors; (b) whether any license as agent, broker, or adjuster has been issued heretofore by the commissioner to the applicant, and, if the applicant is an individual, whether any such license has been heretofore issued to any partnership or association of which he was or is a member or to any corporation of which he was or is an officer or director, and, if the applicant is a partnership or association, whether any such license has been issued heretofore to any member thereof, and, if the applicant is a corporation, whether any such license has been issued heretofore to any officer or director of such corporation; (c) the business in which the applicant has been engaged for the year next preceding the date of the application, and, if employed by another, the name or names and address or addresses of such employer or employers; (d) such other information as the commissioner may require to enable him to determine their trustworthiness and competency to transact the business of public adjusters or *public adjuster solicitors* in such manner as to safeguard the interests of the public.

Application  
of license.

Contents.

An application for [an] *a public adjuster's or public adjuster solicitor's license* must be signed and sworn to by the applicant, if an individual; and, if made by a partnership or association, by each member thereof; and, if made by a corporation, by each officer and director thereof. [who is authorized thereby to act as an adjuster.]

Signature  
and oath.

Each person, partnership, association, or corporation, receiving [such] *a public adjuster's license*, shall, before transacting any business thereunder, execute and deliver to the Insurance Commissioner a bond, in the penal sum of five thousand dollars (\$5,000), with such sureties as the Insurance Commissioner may approve.

Bond for  
adjuster's  
license.

[conditioned that said public adjuster will faithfully comply with all the requirements of this act.]

Bond  
for  
adjuster  
solicitor's  
license.

*Each person, partnership, association, or corporation, receiving a public adjuster solicitor's license, shall, before transacting any business thereunder, execute and deliver to the Insurance Commissioner a bond, in the penal sum of one thousand dollars (\$1,000) with such sureties as the Insurance Commissioner may approve.*

Conditions  
of bonds.

*The bond of the public adjuster and the public adjuster solicitor shall be conditioned that said public adjuster or public adjuster solicitor will faithfully comply with all the requirements of this act, and shall not embezzle or fraudulently convert to his own use, or, with intent to use or embezzle, take, secrete, or otherwise dispose of, or fraudulently withhold, appropriate, lend, invest, or otherwise use or apply, any money or substitutes for money or any salvage, goods, or property received by him as such public adjuster or public adjuster solicitor or employe of a public adjuster, contrary to the instructions or without the consent of the assured or his legal representative; and any person, firm, or corporation who has entered into a contract with a public adjuster, as provided in section three as amended of this act, and who shall suffer loss by reason of the failure of the public adjuster to comply with this act and faithfully perform his duties, shall have the right to intervene and be made a party to any action instituted by the Commonwealth of Pennsylvania on the bond of the public adjuster, and to have his, her, or its rights and claims adjudicated in such action and judgment rendered thereon, subject, however, to the priority of the claim and judgment of the Commonwealth of Pennsylvania. If the amount of the liability of the surety on said bond is sufficient to pay the full amount of said claims and demands, then, after paying the full amount due the Commonwealth of Pennsylvania, the remainder shall be distributed pro rata among said interveners. If no suit should be brought by the Commonwealth of Pennsylvania, upon application therefor and furnishing affidavit to the Insurance Department that loss has been suffered by reason of failure of the public adjuster to comply with this act or faithfully perform his duties, such assured shall be furnished with a certified copy of said bond, upon which he, she, or it shall have a right of action, and shall be and are hereby authorized to bring suit, in the name of the Commonwealth of Pennsylvania, for his, her, or its use and benefit against said public adjuster and his sureties and to prosecute the same to final judgment and execution. Where suit is instituted by any of such assureds on the bond of the public adjuster, it shall be commenced within one year after the performance and said final settlement*

Right to  
intervene.

Right of  
action by  
assured.

Time.

of said contract, and not later. Where suit is so instituted by an assured or assureds, no other action shall be brought by any other claimant, but any other claimant may file his claim in the action first brought and be made party thereto within one year from the completion of the work under said contract, and not later. If two or more actions be brought on the same day, the action in which the largest claim is demanded shall be regarded as the first action. Any creditor who has brought an action within one year as aforesaid, but after suit brought by another creditor or on the same day, may intervene in the suit first brought within the year, notwithstanding the fact that the intervention in such case be after the expiration of the year, provided said intervention be made within thirty days after the expiration of the year. If the recovery on the bond should be inadequate to pay the amounts found due to all of said creditors, judgment shall be given to each creditor pro rata of the amount of the recovery. The surety on said bond may pay into court, for distribution among said claimants and creditors, the full amount of the surety's liability, to wit, the penalty named in the bond, less any amount which said surety may have had to pay to the Commonwealth of Pennsylvania by reason of the execution of said bond, and, upon so doing, the surety will be relieved from further liability. In all suits instituted under the provisions of this act, such personal notice of the pendency of such suits, informing them of their right to intervene, as the court may order shall be given to all known creditors, and, in addition thereto, notice shall be given by publication in some newspaper of general circulation, published in the county or municipality where the contract was performed, once a week for at least three successive weeks: Provided, however, That when such suit has been begun within three weeks of the end of the year within which suit may be brought, said notice by publication shall be only for the period intervening between the time of instituting such suit and the end of the year.

Actions brought on same day.

Payment into court.

Notice to creditors.

Publication.

Proviso

Section 6. That section five of said act be and the same is hereby amended to read as follows:

Section 5 amended.

Section 5. A corporation, association, or partnership to which a license has been issued may at any time make an application to the commissioner for the issuance of a supplemental license authorizing additional officers or directors of the corporation or additional members of the partnership or association to act [as adjusters.] in the same capacity. The commissioner may thereupon issue to such corporation, association, or partnership a supplemental license accordingly, upon the payment of an additional fee for each member, officer, or director

Supplemental licenses.

thereby authorized to act as [an] *a public adjuster or a public adjuster solicitor.*

Section 6 amended.

Section 7. That section six of said act be and the same is hereby amended to read as follows:

Revocation of licenses.

Section 6. A license issued under this act shall be revoked by the commissioner if, after due investigation, he determines that the holder of such license: (a) has violated any provisions of this act; or (b) has made a material mis-statement in the application for such license; or (c) has been guilty of fraudulent practices; or (d) has, in the judgment of the Insurance Commissioner, demonstrated his incompetency or untrustworthiness to transact the business of a public adjuster: *Provided, The Insurance Commissioner may, in his discretion, in cases warranting such action, impose a fine of not more than one thousand dollars (\$1,000) for each and every act of violation of this act. Before the Insurance Commissioner shall take any action as above set forth, he shall give written notice to the person, company, association, or exchange accused of violating the law, stating specifically the nature of such alleged violation, and fixing a time and place, at least ten (10) days thereafter, when a hearing of the matter shall be held. After such hearing or upon failure of the accused to appear at such hearing, the Insurance Commissioner shall impose such of the above penalties as he deems advisable. When the Insurance Commissioner shall have taken any action as above set forth, the party aggrieved may appeal therefrom to the court of common pleas of Dauphin County.*

Fine.

Notice.

Time of hearing.

Appeal.

Constitutionality.

Section 8. Constitutionality.—The provisions of this act are severable, and if any of the provisions thereof are held to be unconstitutional, the decision shall not be construed to impair any other provision of this act. It is hereby declared as a legislative intent that this act would have been adopted had such unconstitutional provision not been included therein.

APPROVED—The 22d day of June, A. D. 1931.

GIFFORD PINCHOT