

Title 19: Department of Insurance

Part 1: General

Part 1 Chapter 36: Licensure and Regulation of Public Adjusters

Rule 36.01: Purpose

The purpose of this Regulation is to set forth the rules and regulations for the licensure and regulation of public adjusters in the State of Mississippi.

Source: *Miss. Code Ann.* §§ 83-5-1; 83-17-501, *et seq.* (Rev. 2022)

Rule 36.02: Authority

This Regulation is promulgated by the Commissioner of Insurance as required pursuant to the provisions of the Licensure and Regulation of Public Adjusters Act ("Act"), *Miss. Code Ann.* §§83-17-501, *et seq.*; as well as the provisions of 19 Miss. Admin. Code, Part 1, Chapter 15, said regulation being the Rules of Practice and Procedure before the Mississippi Insurance Department and State Fire Marshal's Office.

Source: *Miss. Code Ann.* §§ 83-5-1; 83-17-501, *et seq.* (Rev. 2022)

Rule 36.03: Scope

This Regulation shall apply to individuals who act as a public adjuster in the State of Mississippi as defined in said Act and Rule 36.04(E) of this Regulation.

Source: *Miss. Code Ann.* §§ 83-5-1; 83-17-501, *et seq.* (Rev. 2022)

Rule 36.04: Definitions

As used in this Regulation, the following terms shall be defined as follows:

- A. Commissioner - Commissioner of Insurance.
- B. Department - Mississippi Insurance Department.
- C. Insured - person or business entity who is the policyholder under a real or personal property insurance claim.
- D. Insurer - any insurance company or self-insured person or entity, including surplus lines companies.

- E. Public Adjuster - any person who, direct, indirect, or any other for compensation or any other thing of value on behalf of the insured and subject to the prohibition provided in Section 73-3-55:
1. Acts or aids, solely in relation to first party claims arising under insurance contracts that insure the real or personal property of the insured, on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;
 2. Advertises for employment as a public adjuster of insurance claims or solicits business or represents himself or herself to the public as a public adjuster of first party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or,
 3. Directly or indirectly solicits business, investigates or adjusts losses an insured about first party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy for the insured.

A public adjuster shall not include an attorney at law.

- F. Person – an individual, firm, company, association, organization, partnership, limited liability company or corporation.
- G. Home state - any state or territory of the United States or the District of Columbia in which a public adjuster:
1. Maintains their principal place of residence or business; and
 2. Is licensed to act as a resident public adjuster.

Source: *Miss. Code Ann.* § 83-17-501, *et seq.* (Rev. 2022)

Rule 36.05: Licensing Requirements

The Department shall issue licenses to public adjusters and emergency public adjusters in the State of Mississippi. The licensing procedure and requirements are as follows:

- A. Individual Public Adjuster License - To apply for this license, an applicant must provide the following information and meet the following conditions.
1. Licensing Requirements:
 - a. Applicant is at least twenty-one (21) years of age;

- b. Applicant is a bona fide resident of this state, or is a resident of a state which will permit residents of this state to act as a public adjuster in such other state;
- c. Applicant is a trustworthy person, reliable, and of good reputation, evidence of which shall be determined through an investigation of the commissioner;
- d. Applicant has had experience or special education or training with reference to the handling of loss claims under insurance contracts of sufficient duration and extent to make him competent to fulfill the responsibilities of a public adjuster, as will be discussed further in this Regulation;
- e. Applicant has successfully passed an examination as required by the Commissioner or has been exempted according to the provisions of the Act and this Regulation;
- f. Applicant is financially responsible to exercise the license. To demonstrate financial responsibility, a person applying for a public adjuster license shall:
 - 1. Obtain a bond or irrevocable letter of credit prior to issuance of a license and shall maintain the bond or letter of credit for the duration of the license with the following limits:
 - a. A surety bond executed and issued by an insurer authorized to issue surety bonds in Mississippi, which bond shall:
 - i. Be in the minimum amount of Fifty Thousand Dollars (\$50,000.00);
 - ii. Be in favor of the State of Mississippi;
 - iii. Specifically authorize recovery of any person in Mississippi who sustained damages as the result of the public adjuster's erroneous acts, failure to act, conviction of fraud, or conviction for unfair trade practices in his or her capacity as a public adjuster; and
 - iv. Not be terminated unless written notice is given to the licensee at least thirty (30) days prior to the termination; or
 - b. An irrevocable letter of credit issued by a qualified financial institution, which letter of credit shall:

- i. Be in the minimum amount of Fifty Thousand Dollars (\$50,000.00);
 - ii. Be subject to lawful levy of execution on behalf of any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, failure to act, conviction of fraud, or conviction for unfair practices in his or her capacity as a public adjuster; and
 - iii. Not be terminated unless written notice is given to the licensee at least thirty (30) days prior to the termination.
- 2. The commissioner may ask for evidence of financial responsibility at any time the commissioner deems relevant.
- 3. If the evidence of financial responsibility terminates or becomes impaired, the public adjuster license shall:
 - a. Automatically terminate; and
 - b. Be promptly surrendered to the commissioner without demand.
- g. Submission of the license and application fee as set forth in *Miss. Code Ann.* § 27-15-97; and,
- h. Has not committed any act that is a ground for probation, suspension, revocation, or refusal of a license as set forth in Section 83-17-519.
- B. Nonresident Public Adjuster License – a nonresident applying for a public adjuster license must meet the requirements as provided in Subsection A of this section, and must also:
 - 1. Provided documentation that the person is currently licensed in good standing as a public adjuster in their home state; and,
 - 2. The applicant’s designated home state issues nonresident Public Adjuster licenses to residents of Mississippi on the same basis.
- C. Business Entity Public Adjuster License- A business entity acting as a resident public adjuster is required to obtain a public adjuster license.

1. A business entity applying for a resident public adjuster license shall make an application to the commissioner on the appropriate uniform business entity application, in a form or format prescribed by the commissioner.
 2. An applicant under paragraph (1) of this subsection shall declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the business entity's knowledge and belief.
 3. Before approving an application submitted under paragraph (a) of this subsection, the commissioner shall find that the business entity:
 - a. Is eligible to designate Mississippi as its home state;
 - b. Has designated a licensed adjuster or public adjuster responsible for the business entity's compliance with the insurance laws and regulations of Mississippi;
 - c. Has not committed an act that is a ground for probation, suspension, revocation, or refusal of a public adjuster's license as set forth in Section 83-17-519; and
 - d. Has paid the privilege tax pursuant to Section 27-15-97.
 4. Each public adjuster employed or connected to the business entity adjusting claims in Mississippi must also hold an individual public adjuster license.
- D. Emergency License - The Commissioner may issue Emergency Licenses in the event of a catastrophe or emergency which arises out of a disaster, Act of God, riot, civil commotion, conflagration or other similar occurrence to persons who are residents or nonresidents of this state and who may or may not be licensed as public adjusters.
1. To apply for this emergency license, an applicant must provide the following information and meet the following conditions:
 - a. An applicant must be certified by either a person licensed under the provisions of the Act, or by any other person as approved by the Commissioner. Certification shall mean any written representations addressed to the Commissioner concerning the integrity, competence and qualification of a person, in form and content satisfactory to the Commissioner. Any person who certifies an applicant shall be responsible for the loss or claims practices of the emergency license holder;
 - b. The application and certification must be filed with the Department within five (5) days of the applicant beginning work as a public adjuster; and,

- c. Submission of the license and application fee in the amount of Fifty Dollars (\$50.00), submitted to the Commissioner within thirty (30) days of the issuance of the emergency license.
 2. Emergency licenses shall be in force for ninety (90) days and may be extended for an additional ninety (90) day period by the Commissioner.
 3. Should the public adjuster who certifies the emergency public adjuster either forfeit, surrender, or have his license revoked by the Commissioner, that shall also serve to revoke the emergency license of the emergency public adjuster immediately and without notice or hearing.
- E. Public Adjuster Trainee Registration - An individual who is undergoing education and training as a public adjuster under the direction and supervision of a licensed public adjuster for a period not exceeding twelve (12) months may act as a public adjuster without having a public adjuster's license, upon the following conditions:
1. At the beginning of such training period, the name of such trainee shall be registered as such with the Commissioner along with the information regarding the licensed public adjuster who is training the public adjuster trainee; and,
 2. Submission of a registration fee as set forth in *Miss. Code Ann.* § 27-15-97, shall be submitted to the Commissioner at the time of registration.

Source: *Miss. Code Ann.* §§ 83-5-505; 83-17-507; 83-17-509 (Rev. 2022)

Rule 36.06: Reciprocity

The Commissioner may enter into reciprocal agreements with other states for mutual recognition of individual license holders, education or continuing education courses, provided that the other state will award licenses or recognize education or continuing education courses to residents of this state and as long as that state's requirements are substantially equivalent to those set forth under the Act or this Regulation.

Source: *Miss. Code Ann.* § 83-5-507. (Rev. 2022)

Rule 36.07: Continuing Education Requirements

Every individual seeking to receive a renewal license under the Act or this Regulation shall satisfactorily complete twelve (12) hours of study in approved courses during each twelve - month period.

- A. Renewal Period - Continuing education requirements are good for one year. It shall be the responsibility of each individual to maintain records documenting continuing education activity and to submit this documentation upon completion of the course.

B. Approved Courses - Only those courses approved by the Department for individual adjusters or public adjusters shall fulfill the requirements of the Act and this Regulation.

1. Department Approved Courses - To be approved by the Department, the course or program must be one that educates on the aspects of adjusting real or personal property. For any course to be approved as a continuing education class must be submitted to the Department pursuant to *Miss. Code Ann.* § 83-17-253 and the Continuing Education Guidelines set forth by the Commissioner with a course outline and receive approval prior to the actual class being held.
2. Other Credits - The Commissioner may, at his discretion, approve continuing education credits for teaching of classes or for any other class, work or activity performed that the Commissioner approves as satisfaction of the continuing education requirements. It is the responsibility of the individual person to receive such approval from the Commissioner.

C. Failure to Complete Requirements - The failure of any individual to timely complete or submit their continuing education requirements shall result in denial of their renewal license until said continuing education requirements are met. Failure to satisfy the requirements within twelve (12) months of renewal will result in the public adjuster having to reapply for a license and take the pre-licensing examination.

D. Continuing Education Reciprocity - An individual's satisfaction of his or her home state's continuing education requirements for licensure shall constitute satisfaction of this state's continuing education requirements if the individual's home state recognizes the satisfaction of its continuing education requirements imposed upon individuals from this state on the same basis.

Source: *Miss. Code Ann.* § 83-17-513 (Rev. 2022)

Rule 36.08: Pre-Licensing Examination

Each initial applicant shall take and pass an examination given by the Commissioner, or any entity he designates, to verify the applicant's knowledge, qualifications and competence. The failure of an applicant to pass the examination shall constitute denial of their license application. However, an initial applicant who is licensed as a public adjuster in another state with whom the Department has a reciprocity agreement as defined in Section 6 of this Regulation may be exempt from this requirement upon verification of the applicant's completion of the reciprocal state's pre-licensing requirements.

Source: *Miss. Code Ann.* § 83-5-515. (Rev. 2022)

Rule 36.09: Violations and Penalties

The Commissioner shall have the ability to issue penalties due to violations of the Act or Regulation, as more specifically stated in this Section.

A. Violations: The following are violations that will result in administrative actions by the Commissioner:

1. Intentionally making a material misstatement in the application for an initial or renewal license;
2. Obtaining, or attempting to obtain, a license by fraud or misrepresentation;
3. Misappropriating, converting, or withholding money belonging to or entity;
4. Demonstrating a lack of trustworthiness or competence to act as a public adjuster, including ethical violations as set forth in this Regulation;
5. Convicted of fraudulent or dishonest practices or a felony;
6. Materially misrepresented the terms and conditions of insurance policies or contracts or failed to identify himself as a public adjuster;
7. Obtaining or attempting to obtain a license for a purpose other than holding himself out to the general public as a public adjuster;
8. Violating any insurance law, regulation, subpoena, or order of the Commissioner of any other state's commissioner of insurance
9. Failure to notify the Commissioner in writing within thirty (30)days of final disposition of any administrative action or of any criminal action taken against the public adjuster in any jurisdiction; or,
10. Failure to timely respond to any inquiry by the Commissioner.

The Department reserves the right to forward any information concerning a violation of the proper law enforcement entity or the Office of the Attorney General for further investigation or action.

B. Notice and Hearing.

4. Before any license shall be denied, refused, suspended, or revoked, or an administrative penalty of not more than Five Thousand Dollars (\$5000.00) be issued, the Commissioner shall give the applicant or licensee at least twenty (20) days written notice of his intention to hold a hearing on this matter in the manner as prescribed by 19 Miss. Admin. Code., Part 1, Chapter 15, "Rules of Practice and Procedure Before the Mississippi Insurance Department and State Fire Marshal's Office".

2. Once notice is received by a licensee that shall constitute immediate suspension of their license.
3. No licensee whose license was revoked pursuant to this Act or Regulation shall be entitled to file another application for a license within one (1) year from the effective date of final order of revocation.

Source: *Miss. Code Ann.* §83-17-519 (Rev. 2022)

Rule 36.10: Written Contracts and Ethical Requirements

- A. Written Contracts - all contracts shall be in writing, signed by the insured and the public adjuster who solicits the contract, and a copy of the contract shall be provided to the insured upon execution. Furthermore, all contracts must meet the written and ethical requirements as provided in *Miss. Code Ann.* Section 83-17-523 (1) and (2).
- B. A violation of any provision of *Miss. Code Ann.* § 83-17-523 may result in administrative action being taken by the Department against the public adjuster
- C. A copy of the written contract shall be kept for at least five (5) years after the termination of the transaction and shall be open to examination by the Commissioner at all times; and,
- D. A contract may be revoked or cancelled. A revocation or cancellation of a public adjuster contract shall be:
 1. In writing;
 2. Mailed or delivered to the public adjuster at the address in the contract; and
 3. Postmarked or received within the five-business-day period.
- E. If an insured exercises the right to revoke or cancel a contract, anything of value given by the insured under the contract to the public adjuster shall be returned to the insured within fifteen (15) business days following receipt by the public adjuster of the contract revocation or cancellation.

Source: *Miss. Code Ann.* § 83-5-523. (Rev. 2022)

Rule 36.11: Severability

If any section or portion of a section of this Regulation or the application thereof is held by a court to be invalid, such invalidity shall not affect any other provision of that section or application of the Regulation which can be given effect without the invalid provision or application, and to this end the provisions of the Regulation are declared to be severable.

Source: *Miss. Code Ann.* § 83-5-1 (Rev. 2022)

Rule 36.12: Effective Date

The Effective Date of this Regulation shall be July 1, 2007.

Source: *Miss. Code Ann.* § 25-43-3.113 (Rev. 2018)

Rule 36.13: Exhibit A- Surety Bond for Public Adjuster Filed with the Mississippi Insurance Department

SURETY BOND FOR PUBLIC ADJUSTER FILED WITH
THE MISSISSIPPI INSURANCE DEPARTMENT

STATE OF _____

COUNTY OF _____

This form shall not be altered in any way.

Part 1: Bond, Surety and Principal.

Bond #:	Original Bond Date of Issuance:	If a Continuation Bond, Effective Date:
Name of the Surety Company:	NAIC # of Surety Company:	MID License Number of Surety Company:
Name of Principal (Public Adjuster)	MID License Number of Public Adjuster:	Amount of Bond: \$50,000.00

Part 2: Type and Bond Amount.

The type and amount of the bond for one year commencing on the original date of issuance or continuation stated hereinabove at Part 1 is as follows:

Public Adjuster, Bond Equal to Fifty Thousand current U.S. Dollars (\$50,000.00)

Part 3: KNOW ALL MEN BY THESE PRESENTS THAT, the Principal and Surety, who, after being duly sworn, deposed and said:

THAT they are firmly bound unto the Commissioner of Insurance , State of Mississippi, or his successor in office, under the surety bond, delivered in lieu of errors and omissions liability insurance coverage, conditioned only for and dedicated exclusively to the prompt payment of all claims arising and accruing to any persons who sustained damages as a result of the Principals erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices in his capacity as a public adjuster for which the Principal and Surety bind themselves, their heirs, administrators, executors, successors and assigns, jointly and severally, by this agreement;

THAT the Commissioner of Insurance shall be authorized to recover on behalf of any person in the State of Mississippi who sustained damages described herein;

THAT the condition of this obligation is such that if the above named Principal shall well and faithfully discharge and perform the duties incumbent on him under the provisions of all applicable laws, including but not limited to Title 83 of the Mississippi Code and Mississippi Insurance Department Regulation 2007-4, then in such case the above obligation is to become null and void, else to remain in full force, effect and virtue;

THAT the provisions of all applicable laws, including but not limited to Title 83 of the Mississippi Code and Mississippi Insurance Department Regulation 2007-4, for principals and sureties are applicable;

THAT this surety bond shall not be terminated unless at least thirty days' prior written notice will have been filed with the Commissioner of Insurance, State of Mississippi, and given to the principal;

THAT this obligation may be continued for any subsequent year by a continuation certificate duly signed and sealed by the Principal and Surety, subject to the terms and conditions of the original bond, and filed with the Commissioner of Insurance, State of Mississippi;

IN WITNESS THEREOF, Principal and Surety have executed this bond on the dates stated hereinbelow.

Part 4. Signatures and Notary. Complete all information.

BY:

Principal	Date	Surety's Authorized Representative	Date
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Print Name	Print Name/Title of Surety's Authorized Representative
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Physical Address of Principal	Physical Address of Surety
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Subscribed and sworn to before me this the _____ day of _____, 20__.

{Seal of Notary Public}

Notary Public

If a power of attorney is used, a copy of the power of attorney or the authorized agent of the surety company must accompany the bond.

Source: *Miss. Code Ann.* §§ 83-5-1; 83-17-505. (Rev. 2022)