

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 743

FINAL READING

Introduced by Lindstrom, 18.

Read first time January 03, 2018

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to insurance; to amend sections 44-2607,
2 44-2614, 44-3905, 44-3908, 44-4053, 44-4056, and 44-4521, Reissue
3 Revised Statutes of Nebraska, and sections 44-4068, 44-8105,
4 44-8108, 44-8601, and 44-8602, Revised Statutes Cumulative
5 Supplement, 2016; to adopt the Public Adjusters Licensing Act; to
6 change the certification of continuing education activities as
7 prescribed; to redefine terms relating to insurance consultants; to
8 redefine a term and change requirements relating to insurance
9 producers under the Nebraska Protection in Annuity Transactions Act;
10 to redefine a term, to provide contract requirements for assignment
11 of rights and benefits, to require notice as prescribed, and to
12 declare certain contracts void under the Insured Homeowners
13 Protection Act; to eliminate a requirement for rules and
14 regulations; to eliminate prelicensing education requirements; to
15 harmonize provisions; to repeal the original sections; and to
16 outright repeal sections 44-3911, 44-3912, and 44-3913, Reissue
17 Revised Statutes of Nebraska, and sections 44-3909 and 44-3910,
18 Revised Statutes Cumulative Supplement, 2016.
19 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 19 of this act shall be known and may be
2 cited as the Public Adjusters Licensing Act.

3 Sec. 2. The purpose of the Public Adjusters Licensing Act is to
4 govern the qualifications and procedures for licensing public adjusters
5 in this state and to specify the duties of and restrictions on public
6 adjusters, including limitation of such licensure to assisting only
7 insureds with first-party claims.

8 Sec. 3. As used in the Public Adjusters Licensing Act, unless the
9 context otherwise requires:

10 (1) Business entity means a corporation, association, partnership,
11 limited liability company, limited liability partnership, or any other
12 legal entity;

13 (2) Catastrophic disaster means an event declared to be a
14 catastrophic disaster by the President of the United States or the
15 governor of the state in which the disaster occurred that (a) results in
16 large numbers of deaths and injuries, (b) causes extensive damage or
17 destruction of facilities that provide and sustain human needs, (c)
18 produces an overwhelming demand on state and local response resources and
19 mechanisms, (d) causes a severe long-term effect on general economic
20 activity, and (e) severely affects state, local, and private sector
21 capabilities to begin and sustain response activities;

22 (3) Department means the Department of Insurance;

23 (4) Director means the Director of Insurance;

24 (5) Home state means the District of Columbia or any state or
25 territory of the United States in which the principal place of residence
26 or principal place of business of the public adjuster is located;

27 (6) Individual means a natural person;

28 (7) Insured means a person insured under the insurance policy
29 against which the claim is made;

30 (8) Person means an individual or a business entity;

31 (9) Public adjuster means any person who, for compensation, does any

1 of the following:

2 (a) Acts for or aids an insured in negotiating for or effecting the
3 settlement of a first-party claim for loss or damage to real or personal
4 property of the insured;

5 (b) Advertises for employment as a public adjuster of first-party
6 claims or otherwise solicits business or represents to the public that
7 the person is a public adjuster of first-party claims for loss or damage
8 to real or personal property of an insured; or

9 (c) Directly or indirectly solicits the business of investigating or
10 adjusting losses or of advising an insured about first-party claims for
11 loss or damage to real or personal property of the insured;

12 (10) Uniform business entity application means the uniform business
13 entity application prescribed by the director which conforms
14 substantially to the uniform business entity application for resident and
15 nonresident business entities adopted by the National Association of
16 Insurance Commissioners; and

17 (11) Uniform individual application means the uniform individual
18 application prescribed by the director which conforms substantially to
19 the uniform application for individual adjuster licensing adopted by the
20 National Association of Insurance Commissioners.

21 Sec. 4. (1) A person shall not operate as or represent that such
22 person is a public adjuster in this state unless such person is licensed
23 as a public adjuster in accordance with the Public Adjusters Licensing
24 Act.

25 (2) A public adjuster shall not misrepresent to any insured that
26 such public adjuster is an adjuster representing an insurer in any
27 capacity, including acting as an employee of the insurer or acting as an
28 independent adjuster unless so appointed by an insurer in writing to act
29 on behalf of the insurer for that specific claim or purpose. A public
30 adjuster is prohibited from charging any insured a fee when appointed by
31 the insurer and the appointment is accepted by the public adjuster.

1 (3) A public adjuster shall not, directly or indirectly, solicit, or
2 enter into, an agreement for the repair or replacement of damaged
3 property on which such public adjuster has engaged to adjust or settle
4 claims for losses or damages of the insured.

5 (4) Notwithstanding subsection (1) of this section, licensing as a
6 public adjuster shall not be required for:

7 (a) An attorney admitted to practice in this state, when acting in
8 the attorney's professional capacity as an attorney;

9 (b) A person who negotiates or settles claims arising under a life
10 or health insurance policy or an annuity contract;

11 (c) A person employed only for the purpose of obtaining facts
12 surrounding a loss or furnishing technical assistance to a licensed
13 public adjuster, including, but not limited to, a photographer,
14 estimator, private investigator, engineer, or handwriting expert;

15 (d) A licensed health care provider, or an employee of a licensed
16 health care provider, who prepares or files a health claim form on behalf
17 of a patient; or

18 (e) A person who settles subrogation claims between insurers.

19 Sec. 5. An individual applying for a resident public adjuster
20 license shall make application to the director on the uniform individual
21 application and declare under penalty of denial, suspension, or
22 revocation of the license that the statements made in the application are
23 true, correct, and complete to the best of such individual's knowledge
24 and belief. Before approving an application for a resident public
25 adjuster license, the director shall find that such individual:

26 (1) Is at least eighteen years of age. Notwithstanding the
27 provisions of section 43-2101, if an individual is issued a license
28 pursuant to the Public Adjusters Licensing Act, his or her minority ends;

29 (2) Has his or her principal place of residence or principal place
30 of business in this state;

31 (3) Has not committed any act that is a ground for denial,

1 suspension, or revocation set forth in section 11 of this act;

2 (4) Has paid the resident licensing fee, not to exceed one hundred
3 dollars, prescribed by the director;

4 (5) Except as otherwise provided under the act, has passed the
5 examinations required by section 8 of this act;

6 (6) Is trustworthy, reliable, and of good reputation, evidence of
7 which may be determined by the director;

8 (7) Is financially responsible to exercise the license and has
9 provided proof of financial responsibility as required in section 12 of
10 this act; and

11 (8) Maintains an office in this state with public access to such
12 office by reasonable appointment or regular business hours.

13 Sec. 6. (1) An individual applying for a nonresident public
14 adjuster license shall make application to the director in the manner
15 prescribed by the director and declare under penalty of denial,
16 suspension, or revocation of the license that the statements made in the
17 application are true, correct, and complete to the best of such
18 individual's knowledge and belief. Before approving an application for a
19 nonresident public adjuster license, the director shall find that the
20 applicant:

21 (a) Is licensed as a resident public adjuster and in good standing
22 in such individual's home state and that such home state awards
23 nonresident public adjuster licenses to residents of this state on the
24 same basis as provided for in the Public Adjusters Licensing Act; and

25 (b) Has paid the nonresident licensing fee, not to exceed one
26 hundred dollars, prescribed by the director.

27 (2) The director may verify the licensing status of a nonresident
28 public adjuster through the producer data base maintained by the National
29 Association of Insurance Commissioners, its affiliates, or subsidiaries.

30 (3) As a condition to continuation of a nonresident public adjuster
31 license, a licensed nonresident public adjuster shall maintain a resident

1 public adjuster license in good standing in his or her home state.

2 (4) A nonresident public adjuster license issued pursuant to this
3 section shall terminate and be surrendered immediately to the director if
4 the home state public adjuster license terminates for any reason, unless
5 the individual has been issued a license as a resident public adjuster in
6 a new home state and such new home state has reciprocity with this state.
7 A licensed nonresident public adjuster shall notify the director of any
8 change to a new home state as soon as possible, but no later than thirty
9 days after receiving a license as a resident public adjuster from the new
10 home state. The nonresident public adjuster shall include both the new
11 and the old addresses in the notice to the director.

12 Sec. 7. (1) A business entity acting as a public adjuster in this
13 state is required to obtain a public adjuster license and shall make
14 application to the director on the uniform business entity application
15 and declare under penalty of denial, suspension, or revocation of the
16 license that the statements made in the application are true, correct,
17 and complete to the best of the knowledge and belief of such entity.
18 Before approving an application for a business entity public adjuster
19 license, the director shall find that the applicant:

20 (a) Has paid the business entity licensing fee, not to exceed one
21 hundred fifty dollars, prescribed by the director; and

22 (b) Has designated a resident public adjuster or a nonresident
23 public adjuster licensed pursuant to the Public Adjusters Licensing Act
24 to be responsible for compliance with the insurance laws, rules, and
25 regulations of this state for such business entity.

26 (2) The director may require any documents reasonably necessary to
27 verify the information contained in any application submitted pursuant to
28 this section.

29 Sec. 8. (1) An individual applying for a resident public adjuster
30 license shall pass a written examination, unless exempt pursuant to
31 section 9 of this act. Such examination shall test the knowledge of the

1 individual concerning the duties and responsibilities of a public
2 adjuster and the insurance laws and regulations of this state and shall
3 be conducted as prescribed by the director.

4 (2) The director may make arrangements, including contracting with
5 an outside testing service, for administering the written examination
6 required pursuant to subsection (1) of this section and collecting a fee
7 prescribed by the director. The fee shall not exceed one hundred dollars.

8 Sec. 9. (1) An individual who moves to this state, was previously
9 licensed as a public adjuster in another state based on a public adjuster
10 examination, and applies for a resident public adjuster license in this
11 state within ninety days of establishing legal residence shall not be
12 required to pass an examination pursuant to section 8 of this act in this
13 state if:

14 (a) Such individual is currently licensed in the other state or if
15 an application for a resident public adjuster license is received within
16 twelve months of the cancellation of his or her previous license; and

17 (b) The other state issues a certification that such individual is
18 licensed and in good standing in that state or was licensed and in good
19 standing at the time of cancellation.

20 (2) An individual who applies for a resident public adjuster license
21 and who was previously licensed as either a resident public adjuster or a
22 nonresident public adjuster in this state shall not be required to
23 complete an examination if the application is received within twelve
24 months of the termination of such previous license in this state and if,
25 at the time of such termination, the applicant was in good standing in
26 this state.

27 Sec. 10. (1)(a) An individual who meets the requirements for a
28 resident public adjuster license shall be issued such license. An
29 individual who meets the requirements for a nonresident public adjuster
30 license shall be issued such license.

31 (b) Each resident public adjuster license and each nonresident

1 public adjuster license shall expire on the last day of the month of such
2 public adjuster's birthday in the first year after issuance of such
3 license in which his or her age is divisible by two.

4 (c) Each resident public adjuster license and each nonresident
5 public adjuster license may be renewed within the ninety-day period
6 immediately preceding the expiration date upon payment of the renewal
7 fee, not to exceed one hundred dollars, prescribed by the director. A
8 resident public adjuster or nonresident public adjuster who allows his or
9 her license to lapse may, within the twelve-month period immediately
10 following the expiration date, reinstate the same license without the
11 necessity of passing a written examination upon payment of a
12 reinstatement fee, not to exceed one hundred twenty-five dollars,
13 prescribed by the director in addition to the renewal fee.

14 (d) The director may grant an individual licensee who is unable to
15 comply with license renewal procedures due to military service or some
16 other extenuating circumstance, including, but not limited to, a long-
17 term medical disability, a waiver of any examination requirement or any
18 other fine, fee, or sanction imposed for failure to comply with renewal
19 procedures.

20 (2)(a) A business entity that has met the requirements of the Public
21 Adjusters Licensing Act shall be issued a business entity public adjuster
22 license.

23 (b) Each business entity public adjuster license shall expire on
24 April 30 of each year.

25 (c) A business entity public adjuster license may be renewed within
26 the ninety-day period immediately preceding the expiration date upon
27 payment of the renewal fee, not to exceed one hundred fifty dollars,
28 prescribed by the director. A business entity public adjuster that allows
29 its license to lapse may, within the thirty-day period immediately
30 following the expiration date, renew the same license upon payment of a
31 late renewal fee, not to exceed one hundred twenty-five dollars,

1 prescribed by the director in addition to the renewal fee.

2 (d) Any business entity public adjuster license renewed within the
3 thirty-day period immediately following the expiration date pursuant to
4 this subsection shall be deemed to have been renewed before the
5 expiration date.

6 (3)(a) Each license issued pursuant to the Public Adjusters
7 Licensing Act shall contain the licensee's name, address, and license
8 number, the date of issuance, the lines of authority, the expiration
9 date, and any other information the director deems necessary.

10 (b) Each licensee shall inform the director, by any means acceptable
11 to the director, of any change of legal name, address, or other
12 information submitted on the application within thirty days after the
13 change. Any licensee failing to provide such notification shall be
14 subject to a fine by the director of not more than five hundred dollars
15 per violation, suspension of the license until the change is reported to
16 the director, or both.

17 (c) Each licensee doing business under any name other than the
18 licensee's legal name shall notify the director prior to using the
19 assumed name.

20 (d) Each licensee shall be subject to the Unfair Insurance Trade
21 Practices Act and the Unfair Insurance Claims Settlement Practices Act.

22 (e) Each licensee shall report to the director any administrative
23 action taken against such licensee in another jurisdiction or by another
24 governmental agency in this state within thirty days of the final
25 disposition of the matter. This report shall include a copy of the order,
26 consent to order, or other relevant legal documents.

27 (f) Each licensee shall report to the director any criminal
28 prosecution of such licensee taken in any jurisdiction within thirty days
29 of arraignment. The report shall include a copy of the initial complaint
30 filed, the order resulting from the hearing, and any other relevant legal
31 documents.

1 (4) The director may contract with nongovernmental entities,
2 including the National Association of Insurance Commissioners or any
3 affiliates or subsidiaries that the National Association of Insurance
4 Commissioners oversees, to perform any ministerial functions, including
5 the collection of fees, related to the administration of the Public
6 Adjusters Licensing Act.

7 (5) The director may establish license renewal procedures by rule
8 and regulation adopted and promulgated pursuant to the Administrative
9 Procedure Act.

10 Sec. 11. (1) The director may suspend, revoke, or refuse to issue
11 or renew a resident public adjuster license, nonresident public adjuster
12 license, or business entity public adjuster license or may levy an
13 administrative fine in accordance with subsection (4) of this section, or
14 any combination of such actions, for any one or more of the following
15 causes:

16 (a) Providing incorrect, misleading, incomplete, or materially
17 untrue information in the license application;

18 (b) Violating any insurance law or violating any rule, regulation,
19 subpoena, or order of the director or of another state's insurance
20 commissioner or director;

21 (c) Obtaining or attempting to obtain a license through
22 misrepresentation or fraud;

23 (d) Improperly withholding, misappropriating, or converting any
24 money or property received in the course of doing business;

25 (e) Intentionally misrepresenting the terms of an actual or proposed
26 insurance contract or application for insurance;

27 (f) Having been convicted of a felony or a Class I, II, or III
28 misdemeanor;

29 (g) Having admitted or been found to have committed any insurance
30 unfair trade practice, any unfair claims settlement practice, or any
31 fraud;

1 (h) Using fraudulent, coercive, or dishonest practices or
2 demonstrating incompetence, untrustworthiness, or financial
3 irresponsibility in the conduct of business in this state or elsewhere or
4 failing to comply with section 17 of this act;

5 (i) Having an insurance or public adjuster license, or the
6 equivalent thereof, denied, suspended, placed on probation, or revoked in
7 Nebraska or in any other state, province, district, or territory;

8 (j) Forging another's name to an application for insurance or to any
9 document related to an insurance transaction;

10 (k) Improperly using notes or any other reference material to
11 complete an examination for an insurance license;

12 (l) Knowingly accepting insurance business from an individual who is
13 not licensed;

14 (m) Failing to comply with an administrative or court order imposing
15 a child support obligation pursuant to the License Suspension Act;

16 (n) Failing to pay state income tax or comply with any
17 administrative or court order directing payment of state income tax; or

18 (o) Failing to maintain in good standing a resident license in the
19 public adjuster's home state.

20 (2) If the director does not renew or denies an application for a
21 public adjuster license, the director shall notify the applicant or
22 licensee and advise, in writing, the applicant or licensee of the reason
23 for the denial or nonrenewal of the applicant's or licensee's license.
24 The applicant or licensee may make written demand upon the director
25 within thirty days for a hearing before the director to determine the
26 reasonableness of the director's action. The hearing shall be held within
27 thirty days and shall be held pursuant to the Administrative Procedure
28 Act.

29 (3) A business entity public adjuster license may be suspended,
30 revoked, or refused if the director finds, after notice and hearing, that
31 a violation committed by an individual licensee providing services

1 through the business entity was known or should have been known by one or
2 more of the partners, officers, or managers acting on behalf of the
3 business entity and the violation was neither reported to the director
4 nor corrective action taken.

5 (4) In addition to or in lieu of any applicable denial, suspension,
6 or revocation of a license, any person violating the act may, after
7 notice and hearing, be subject to an administrative fine of not more than
8 one thousand dollars per violation. Such fine may be enforced in the same
9 manner as civil judgments. Any person charged with a violation of the
10 Public Adjusters Licensing Act may waive his or her right to a hearing
11 and consent to such discipline as the director determines is appropriate.
12 The Administrative Procedure Act shall govern all hearings held pursuant
13 to this subsection.

14 (5) The director shall retain the authority to enforce the
15 provisions of and impose any penalty or remedy authorized by the Public
16 Adjusters Licensing Act against any person who is under investigation for
17 or charged with a violation of the act even if the person's license or
18 registration has been surrendered or has lapsed by operation of law. No
19 disciplinary proceeding shall be instituted against any licensed person
20 after the expiration of three years from the termination of such license.

21 Sec. 12. (1) Prior to the issuance of a resident public adjuster
22 license or a nonresident public adjuster license and for the duration of
23 such license, an applicant shall secure evidence of financial
24 responsibility in a format prescribed by the director through a surety
25 bond. The surety bond shall be executed and issued by an insurer
26 authorized to issue surety bonds in this state, which bond:

27 (a) Shall be in the minimum amount of twenty thousand dollars; and

28 (b) Shall not be terminated unless written notice has been filed
29 with the director and submitted to such public adjuster at least thirty
30 days prior to such termination.

31 (2) The director may request the evidence of financial

1 responsibility at any time the director deems relevant.

2 (3) A public adjuster shall immediately notify the director if
3 evidence of financial responsibility terminates or becomes impaired. The
4 authority to act as a public adjuster shall automatically terminate if
5 the evidence of financial responsibility terminates or becomes impaired.

6 Sec. 13. (1) Except as otherwise provided in this section, an
7 individual who holds a resident public adjuster license or a nonresident
8 public adjuster license shall satisfactorily complete a minimum of
9 twenty-four credits of continuing education, including three credits of
10 ethics, reported on a biennial basis in conjunction with the license
11 renewal cycle.

12 (2) The requirements of subsection (1) of this section shall not
13 apply to a nonresident public adjuster who has met the continuing
14 education requirements of the adjuster's home state and whose home state
15 gives credit to residents of this state on the same basis.

16 (3) Only continuing education activities approved by the director
17 pursuant to sections 44-3901 to 44-3908 shall be used to satisfy the
18 requirements of this section.

19 Sec. 14. (1) Public adjusters shall ensure that all contracts for
20 their services are in writing and contain the following terms:

21 (a) Legible full name of the public adjuster signing the contract,
22 as specified in director records;

23 (b) Home state, business address, and telephone number;

24 (c) Public adjuster license number;

25 (d) Title of "Public Adjuster Contract";

26 (e) Insured's full name, street address, insurer name, and insurance
27 policy number, if known or upon notification;

28 (f) Description of the loss and its location, if applicable;

29 (g) Description of services to be provided to the insured;

30 (h) Signatures of the public adjuster and the insured;

31 (i) Date contract was signed by the public adjuster and date the

1 contract was signed by the insured;

2 (j) Attestation language stating that the public adjuster is fully
3 bonded pursuant to state law; and

4 (k) The specific amount of compensation, including, but not limited
5 to, the full salary, fee, commission, or other consideration the public
6 adjuster is to receive for services.

7 (2)(a) The contract may specify that the public adjuster shall be
8 named as a co-payee on an insurer's payment of a claim.

9 (b) If the compensation is based on a share of the insurance
10 settlement, the exact percentage shall be specified.

11 (c) Initial expenses to be reimbursed to the public adjuster from
12 the proceeds of the claim payment shall be specified by type and the
13 dollar estimates shall be set forth in the contract. Any additional
14 expenses shall be approved in writing by the insured.

15 (d) Compensation provisions in a public adjuster contract shall not
16 be redacted in any copy of the contract provided to the director.

17 (3) If the insurer, not later than seventy-two hours after the date
18 on which the loss is reported to the insurer, either pays or commits in
19 writing to pay to the insured the policy limit of the insurance policy,
20 the public adjuster shall:

21 (a) Not receive a commission that consists of a percentage of the
22 total amount paid by an insurer to resolve a claim;

23 (b) Inform the insured that the loss recovery amount might not be
24 increased by the insurer; and

25 (c) Be entitled only to reasonable compensation from the insured for
26 services provided by the public adjuster on behalf of the insured, based
27 on the time spent on a claim and expenses incurred by the public
28 adjuster, until the claim is paid or the insured receives a written
29 commitment to pay from the insurer.

30 (4) A public adjuster contract may not contain any contract term
31 that:

1 (a) Allows a percentage fee to be collected by the public adjuster
2 when money is due from an insurer, but not paid, or that allows a public
3 adjuster to collect the entire fee from the first check issued by an
4 insurer, rather than as a percentage of each check issued by an insurer;

5 (b) Requires the insured to authorize an insurer to issue a check
6 only in the name of the public adjuster;

7 (c) Imposes collection costs or late fees; or

8 (d) Precludes a public adjuster from pursuing civil remedies.

9 (5) Prior to the signing of the contract the public adjuster shall
10 provide the insured with a separate disclosure document regarding the
11 claim process that states:

12 (a) Property insurance policies obligate the insured to present a
13 claim to his or her insurer for consideration;

14 (b) There are three types of adjusters that could be involved in the
15 claim process. The definitions of the three types are as follows:

16 (i) Company adjuster means an insurance adjuster who is an employee
17 of an insurer. He or she represents the interest of the insurer, is paid
18 by the insurer, and will not charge the insured a fee;

19 (ii) Independent adjuster means an insurance adjuster who is hired
20 on a contract basis by an insurer to represent the interest of the
21 insurer in the settlement of the claim. He or she is paid by the insurer
22 and will not charge the insured a fee; and

23 (iii) Public adjuster means an insurance adjuster who does not work
24 for any insurer. He or she works for the insured to assist in the
25 preparation, presentation, and settlement of the claim. The insured hires
26 a public adjuster by signing a contract agreeing to pay a fee or
27 commission based on a percentage of the settlement or other method of
28 compensation;

29 (c) The insured is not required to hire a public adjuster to help
30 the insured meet the insured's obligations under the policy, but has the
31 right to do so;

1 (d) The insured has the right to initiate direct communications with
2 the insured's attorney, the insurer, the company adjuster, and the
3 insurer's attorney, or any other person regarding the settlement of the
4 insured's claim;

5 (e) The public adjuster is not a representative or employee of the
6 insurer; and

7 (f) The salary, fee, commission, or other consideration to be paid
8 to a public adjuster is the obligation of the insured, not the insurer.

9 (6) The contract shall be executed in duplicate to provide an
10 original contract to the public adjuster and an original contract to the
11 insured. The original contract retained by the public adjuster shall be
12 available at all times for inspection without notice by the department.

13 (7) The public adjuster shall provide the insurer a notification
14 letter, which has been signed by the insured, authorizing the public
15 adjuster to represent the insured's interest.

16 (8) The public adjuster shall give the insured written notice of the
17 insured's rights as provided in this section.

18 (9) The insured has the right to rescind the contract within three
19 business days after the date the contract was signed. The rescission
20 shall be in writing and mailed or delivered to the public adjuster at the
21 address in the contract within the three-business-day period.

22 (10) If the insured exercises the right to rescind the contract,
23 anything of value given by the insured under the contract will be
24 returned to the insured within fifteen days following the receipt by the
25 public adjuster of the rescission notice.

26 (11) The director may require a public adjuster to file a contract
27 with the department in a manner prescribed by the director.

28 Sec. 15. A public adjuster who receives, accepts, or holds, on
29 behalf of an insured, any funds toward the settlement of a claim for loss
30 or damage shall deposit the funds in a non-interest-bearing escrow
31 account in a financial institution that is insured by an agency of the

1 federal government in the home state of such public adjuster or the state
2 where the loss occurred.

3 Sec. 16. (1) A public adjuster shall maintain a complete record of
4 each transaction as a public adjuster. The records required by this
5 section shall include the following:

6 (a) The name of the insured;

7 (b) The date, location, and amount of the loss;

8 (c) A copy of the contract between the public adjuster and the
9 insured;

10 (d) The name of the insurer, amount, expiration date, and policy
11 number for each policy carried with respect to the loss;

12 (e) An itemized statement of the amount recovered for the insured;

13 (f) An itemized statement of all compensation received by the public
14 adjuster, from any source whatsoever, in connection with the loss;

15 (g) A register of all money received, deposited, disbursed, or
16 withdrawn in connection with a transaction with an insured, including
17 fees, transfers, and disbursements from a trust account and all
18 transactions concerning all interest-bearing accounts;

19 (h) The name of the public adjuster who executed the contract;

20 (i) The name of the attorney representing the insured, if
21 applicable, and the name of the claims representative of the insurer; and

22 (j) Evidence of financial responsibility in a format prescribed by
23 the director.

24 (2) Records shall be maintained for at least five years after the
25 termination of the transaction with an insured and shall be open to
26 examination by the department at all times.

27 (3) Records submitted to the department in accordance with this
28 section that contain information identified in writing as proprietary by
29 the public adjuster shall be treated as confidential by the department.

30 Sec. 17. (1) A public adjuster shall serve with objectivity and
31 complete loyalty to the interest of the insured and shall, in good faith,

1 render to the insured such information, counsel, and service, as within
2 the knowledge, understanding, and opinion of such public adjuster will
3 best serve the insurance claim needs and interest of the insured.

4 (2) A public adjuster shall not solicit, nor attempt to solicit, an
5 insured during the progress of a loss-producing occurrence, as defined in
6 the insured's insurance contract.

7 (3) A public adjuster shall not permit an unlicensed employee or
8 representative of the public adjuster to conduct business for which a
9 license is required under the Public Adjusters Licensing Act.

10 (4) A public adjuster shall not have a direct or indirect financial
11 interest in any aspect of the claim, other than the salary, fee,
12 commission, or other consideration established in the written contract
13 with the insured. Direct or indirect financial interest includes, but is
14 not limited to, ownership of, employment by, or other consideration
15 received from any business entity or individual that performs any work
16 pertaining to damage related to the insured loss.

17 (5) A public adjuster shall not acquire any interest in salvage of
18 property subject to the contract with the insured unless the public
19 adjuster obtains written permission from the insured after settlement of
20 the claim with the insurer.

21 (6) A public adjuster shall abstain from referring or directing the
22 insured to obtain needed repairs or services in connection with a loss
23 from any person:

24 (a) With whom the public adjuster has a direct or indirect financial
25 interest; or

26 (b) From whom the public adjuster may receive direct or indirect
27 compensation or other consideration for the referral.

28 (7) A public adjuster shall not undertake the adjustment of any
29 claim if such public adjuster is not competent and knowledgeable as to
30 the terms and conditions of the insurance coverage or if the loss or
31 coverage otherwise exceeds the current expertise of the public adjuster.

1 (8) A public adjuster shall not knowingly make any false oral or
2 written material statements regarding any person engaged in the business
3 of insurance to any insured client or potential insured client.

4 (9) A public adjuster, while so licensed pursuant to the Public
5 Adjusters Licensing Act, shall not represent or act as a company adjuster
6 or independent adjuster in any circumstance.

7 (10) A public adjuster shall not enter into a contract or accept a
8 power of attorney that vests in such public adjuster the effective
9 authority to choose the persons who shall perform repair work.

10 (11) A public adjuster shall not agree to any loss settlement
11 without the knowledge and consent of the insured.

12 Sec. 18. (1) A public adjuster may charge the insured a reasonable
13 fee for public adjuster services.

14 (2) A person shall not accept a commission, service fee, or other
15 valuable consideration for investigating or settling claims in this state
16 if that person is required to be licensed under the Public Adjusters
17 Licensing Act and is not so licensed.

18 (3) In the event of a catastrophic disaster, there shall be limits
19 on catastrophic fees. No public adjuster shall charge, agree to, or
20 accept as compensation or reimbursement any payment, commission, fee, or
21 other thing of value equal to or more than ten percent of any insurance
22 settlement or proceeds resulting from a catastrophic disaster.

23 (4) No public adjuster shall require, demand, or accept any fee,
24 retainer, compensation, deposit, or other thing of value prior to
25 settlement of a claim unless the loss is being handled by the public
26 adjuster on a time-plus-expense basis.

27 Sec. 19. The director may adopt and promulgate rules and
28 regulations to carry out the Public Adjusters Licensing Act.

29 Sec. 20. Section 44-2607, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 44-2607 Insurance consultant shall mean any person who, for a fee,

1 engages in the business of offering to the public any advice, counsel,
2 opinion, or service with respect to insurable risks, or concerning the
3 benefits, coverages, or provisions under any policy of insurance that
4 could be issued in this state, or involving the advantages or
5 disadvantages of any such policy of insurance, or any formal plan of
6 managing pure risk. Insurance consultant does not include a public
7 adjuster licensed under the Public Adjusters Licensing Act.

8 Sec. 21. Section 44-2614, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 44-2614 No person shall, in or on advertisements, cards, signs,
11 circulars, letterheads, or elsewhere or in any other manner by which
12 public announcements are made, use the title insurance consultant, ~~public~~
13 ~~adjuster~~, or any similar title or any title, word, combination of words,
14 or abbreviation indicating that he or she gives or is engaged in the
15 business of offering to the public any advice, counsel, opinion, or
16 service with respect to insurable risks, concerning the benefits,
17 coverages, or provisions under any policy of insurance that could be
18 issued in this state, or involving the advantages or disadvantages of any
19 such policy of insurance, unless such person holds a license as an
20 insurance consultant under sections 44-2606 to 44-2635.

21 Sec. 22. Section 44-3905, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 44-3905 (1)(a) The director shall certify as approved continuing
24 education activities those courses, lectures, seminars, or other
25 instructional programs which he or she determines would be beneficial in
26 improving the product knowledge or service capability of licensees,
27 except that ~~on and after January 1, 2000~~, the director shall refuse to
28 certify as approved any continuing education activity if the sponsors
29 associated with such continuing education activity are not on the list of
30 approved continuing education sponsors maintained pursuant to subdivision
31 (c) ~~(b)~~ of this subsection. The director may require descriptive

1 information about any continuing education activity and refuse approval
2 of any continuing education activity that does not advance the purposes
3 of sections 44-3901 to 44-3908. The director ~~may shall~~ require a
4 nonrefundable fee as established by the director not to exceed fifty
5 dollars for review of any continuing education activity submitted for
6 approval or renewal.

7 (b) Beginning January 1, 2019, any certification by the director of
8 an approved continuing education activity shall be for a four-year
9 period. Any continuing education activity approved prior to January 1,
10 2019, shall expire on January 1, 2020, or four years after the date of
11 approval, whichever is later. Prior to the expiration of any such
12 certification, the approved continuing education sponsor may seek a
13 renewal of such certification from the director, and the director may
14 recertify such continuing education activity as approved if the director
15 determines the courses, lectures, seminars, or other instructional
16 programs continue to benefit the product knowledge or service
17 capabilities of licensees.

18 (c) ~~(b)~~ The director shall maintain a list of persons or entities
19 that the director has approved as continuing education sponsors. Such
20 persons or entities shall meet the qualifications for continuing
21 education sponsors established by the director. The director may require
22 such information about any continuing education sponsor as is necessary
23 to determine whether the continuing education sponsor has met such
24 qualifications. The director shall require a nonrefundable fee as
25 established by the director not to exceed two hundred dollars for
26 approval of any continuing education sponsor. The director may impose an
27 administrative penalty not to exceed two hundred dollars per violation,
28 and, in addition, may remove a continuing education sponsor from the
29 approved continuing education sponsor list, after notice and hearing, if
30 the director determines that the continuing education sponsor has:

31 (i) Failed to maintain compliance with qualifications established by

1 the director pursuant to this subsection ~~subdivision (1)(b)~~ of this
2 section;

3 (ii) Advertised, prior to approval, that a continuing education
4 activity course is approved;

5 (iii) Advertised a continuing education activity course in a
6 materially misleading manner;

7 (iv) Submitted a continuing education activity course outline with
8 material inaccuracies in topic content;

9 (v) Presented nonapproved material during the time of an approved
10 continuing education activity course;

11 (vi) Failed to notify continuing education activity course
12 registrants of removal or expiration of a continuing education activity
13 course approval;

14 (vii) Changed the program teaching method or program content in a
15 material manner without notice to the director;

16 (viii) Failed to present a continuing education activity course for
17 the total amount of time specified in the certification request for
18 course approval forms submitted to the department for a continuing
19 education activity;

20 (ix) Advertised, after expiration of the certification, that a
21 continuing education activity is approved;

22 (x) Failed to inform the director of an individual's successful
23 completion of an approved continuing education activity in a manner and
24 timeframe prescribed by the director;

25 (xi) Committed other acts which reasonably indicated that the
26 continuing education sponsor is incompetent or fails to use reasonable
27 care;

28 (ix) ~~Failed to issue certificates of completion to all individuals~~
29 ~~who have satisfactorily completed the approved course~~;

30 (x) ~~Issued a certificate of completion to an individual who did not~~
31 ~~complete the approved course~~;

1 ~~(xi) Issued an inaccurate or incomplete certificate of completion;~~

2 (xii) Failed to maintain records of successful completion
3 ~~certificates issued;~~

4 (xiii) Failed to report disciplinary action taken by another state
5 licensing authority;

6 (xiv) Committed improprieties in connection with the classification,
7 application for certification, maintenance of records, teaching method,
8 ~~or program content, or issuance of certificates for a~~ continuing
9 education activity course or program; or

10 (xv) Failed to respond to the department within fifteen working days
11 after receipt of an inquiry from the department.

12 (2) The director shall certify the number of hours to be awarded for
13 participation in an approved continuing education activity based upon
14 contact or classroom hours.

15 (3) The director shall certify the number of hours to be awarded for
16 successful completion of a correspondence course or program of
17 independent study based upon the number of hours which would be awarded
18 in an equivalent classroom course or program.

19 Sec. 23. Section 44-3908, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 44-3908 The director ~~may shall~~ adopt and promulgate such rules and
22 regulations ~~as are necessary~~ for the effective administration of sections
23 44-3901 to 44-3908 pursuant to the Administrative Procedure Act.

24 Sec. 24. Section 44-4053, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 44-4053 (1) A person applying for a resident insurance producer
27 license shall make application to the director on the uniform application
28 and declare under penalty of denial, suspension, or revocation of the
29 license that the statements made in the application are true, correct,
30 and complete to the best of the individual's knowledge and belief. Before
31 approving the application, the director shall find that the individual:

1 (a) Is at least eighteen years of age. Notwithstanding the
2 provisions of section 43-2101, if any person is issued a license pursuant
3 to the Insurance Producers Licensing Act, his or her minority ends;

4 (b) Has not committed any act that is a ground for denial,
5 suspension, or revocation set forth in section 44-4059;

6 ~~(c) Has completed a prelicensing course of study for the lines of~~
7 ~~authority for which the person has applied, as required by sections~~
8 ~~44-3909 to 44-3913;~~

9 (c) ~~(d)~~ Has paid the fees set forth in section 44-4064; and

10 (d) ~~(e)~~ Has successfully passed the examinations for the lines of
11 authority for which the person has applied.

12 (2) A business entity acting as an insurance producer is required to
13 obtain an insurance producer license. Application shall be made using the
14 uniform business entity application. Before approving the application,
15 the director shall find that:

16 (a) The business entity has paid the fees set forth in section
17 44-4064; and

18 (b) The business entity has designated a licensed producer
19 responsible for the business entity's compliance with the insurance laws,
20 rules, and regulations of this state.

21 (3) The director may require any documents reasonably necessary to
22 verify the information contained in an application.

23 (4) Each insurer that sells, solicits, or negotiates any form of
24 limited line credit insurance shall provide to each individual whose
25 duties will include selling, soliciting, or negotiating limited line
26 credit insurance a program of instruction that may be approved by the
27 director.

28 Sec. 25. Section 44-4056, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 44-4056 (1) An individual who applies for an insurance producer
31 license in this state who was previously licensed for the same lines of

1 authority in another state shall not be required to complete any
2 ~~prelicensing education or~~ examination. This exemption is only available
3 if the person is currently licensed in that state or if the application
4 is received within ninety days of the cancellation of the applicant's
5 previous license and if the prior state issues a certification that, at
6 the time of cancellation, the applicant was in good standing in that
7 state or that state's producer data base records, maintained by the
8 National Association of Insurance Commissioners or its affiliates or
9 subsidiaries, indicate that the producer is or was licensed in good
10 standing for the line of authority requested.

11 (2) A person licensed as an insurance producer in another state who
12 moves to this state shall make application within ninety days of
13 establishing legal residence to become a resident licensee pursuant to
14 section 44-4053. No ~~prelicensing education or~~ examination shall be
15 required of that person to obtain any line of authority previously held
16 in the prior state except if the director determines otherwise by rule
17 and regulation.

18 Sec. 26. Section 44-4068, Revised Statutes Cumulative Supplement,
19 2016, is amended to read:

20 44-4068 (1) For purposes of this section:

21 (a) Limited lines travel insurance producer means a licensed
22 insurance producer, including a limited lines producer, who is designated
23 by an insurer as the travel insurance supervising entity;

24 (b) Offer and disseminate means to provide general information about
25 travel insurance, including a description of the coverage and price, as
26 well as processing the application, collecting premiums, and performing
27 other nonlicensable activities permitted by the state;

28 (c) Travel insurance means insurance coverage for personal risks
29 incident to planned travel, including interruption or cancellation of a
30 trip or event, loss of baggage or personal effects, damages to
31 accommodations or rental vehicles, and sickness, accident, disability, or

1 death occurring during travel. Travel insurance does not include major
2 medical plans that provide comprehensive medical protection for travelers
3 with trips lasting six months or longer, including those working overseas
4 as an expatriate or as deployed military personnel; and

5 (d) Travel retailer means a business entity that makes, arranges, or
6 offers travel services and that offers and disseminates travel insurance
7 as a service to its customers on behalf of and under the direction of a
8 limited lines travel insurance producer.

9 (2)(a) The director may issue a limited lines travel insurance
10 producer license to an individual or business entity that authorizes the
11 limited lines travel insurance producer to sell, solicit, or negotiate
12 travel insurance through a licensed insurer in a form and manner
13 prescribed by the director.

14 (b) A travel retailer, its employees, and its authorized
15 representatives may offer and disseminate travel insurance as a service
16 to the travel retailer's customers, on behalf of and under the direction
17 of an individual or a business entity that holds a limited lines travel
18 insurance producer license. In doing so, the travel retailer must provide
19 to prospective purchasers of travel insurance:

20 (i) A description of the material terms or the actual material terms
21 of the insurance coverage;

22 (ii) A description of the process for filing a claim;

23 (iii) A description of the review or cancellation process for the
24 travel insurance policy; and

25 (iv) The identity and contact information of the insurer and limited
26 lines travel insurance producer.

27 (c) At the time of licensure, the limited lines travel insurance
28 producer shall establish and maintain a register of each travel retailer
29 that offers travel insurance on the limited lines travel insurance
30 producer's behalf on a form prescribed by the director. The limited lines
31 travel insurance producer must maintain and update the register annually

1 and include: The name, address, and contact information of each travel
2 retailer; the name, address, and contact information of an officer or
3 person who directs or controls the travel retailer's operations; and the
4 travel retailer's federal tax identification number. The limited lines
5 travel insurance producer must submit the register to the director upon
6 request. The limited lines travel insurance producer must also certify
7 that the travel retailer registered is not in violation of 18 U.S.C.
8 1033.

9 (d) The limited lines travel insurance producer must designate one
10 of its employees who is a licensed individual producer as the person
11 responsible for the limited lines travel insurance producer's compliance
12 with the travel insurance laws, rules, and regulations of the state.

13 (e) The limited lines travel insurance producer shall require each
14 employee and authorized representative of the travel retailer whose
15 duties include offering and disseminating travel insurance to receive a
16 program of instruction or training, which may be subject to review by the
17 director. The training material must include, at minimum, instructions on
18 the types of insurance offered, ethical sales practices, and required
19 disclosures to prospective customers.

20 (3) A limited lines travel insurance producer and those registered
21 under its license are exempt from the examination requirements in section
22 ~~44-4052, the prelicensing education requirements in sections 44-3909 to~~
23 ~~44-3913,~~ and the continuing education requirements in sections 44-3901 to
24 44-3908.

25 (4) Any travel retailer offering or disseminating travel insurance
26 shall make brochures or other written materials available to prospective
27 purchasers that:

28 (a) Provide the identity and contact information of the insurer and
29 the limited lines travel insurance producer;

30 (b) Explain that the purchase of travel insurance is not required in
31 order to purchase any other product or service from the travel retailer;

1 and

2 (c) Explain that an unlicensed travel retailer is permitted to
3 provide general information about the insurance offered by the travel
4 retailer, including a description of the coverage and price, but is not
5 qualified or authorized to answer technical questions about the terms and
6 conditions of the insurance offered by the travel retailer or to evaluate
7 the adequacy of the customer's existing insurance coverage.

8 (5) A travel retailer's employee or authorized representative who is
9 not licensed as an insurance producer may not:

10 (a) Evaluate or interpret the technical terms, benefits, or
11 conditions of the offered travel insurance coverage;

12 (b) Evaluate or provide advice concerning a prospective purchaser's
13 existing insurance coverage; or

14 (c) Hold himself or herself out as a licensed insurer, licensed
15 producer, or insurance expert.

16 (6) A travel retailer whose insurance-related activities, and those
17 of its employees and authorized representatives, are limited to offering
18 and disseminating travel insurance on behalf of and under the direction
19 of a limited lines travel insurance producer meeting the conditions
20 stated in this section is authorized to receive related compensation for
21 the services upon registration by the limited lines travel insurance
22 producer.

23 (7) Travel insurance may be provided under an individual policy or
24 under a group or master policy.

25 (8) The limited lines travel insurance producer is responsible for
26 the acts of the travel retailer and shall use reasonable means to ensure
27 that the travel retailer complies with this section.

28 (9) The director may take disciplinary action against a limited
29 lines travel insurance producer pursuant to section 44-4059.

30 Sec. 27. Section 44-4521, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 44-4521 (1) On or after August 1, 2008, an individual may not sell,
2 solicit, or negotiate long-term care insurance unless the individual is
3 licensed as an insurance producer for health or sickness and accident
4 insurance and has completed a one-time training course and ongoing
5 training every twenty-four months thereafter. All training shall meet the
6 requirements of subsection (2) of this section.

7 (2) The one-time training course required by subsection (1) of this
8 section shall be no less than eight hours in length, and the required
9 ongoing training shall be no less than four hours in length. All training
10 required under subsection (1) of this section shall consist of topics
11 related to long-term care insurance, long-term care services, and, if
12 applicable, qualified state long-term insurance partnership programs,
13 including, but not limited to:

14 (a) State and federal regulations and requirements and the
15 relationship between qualified state long-term care insurance partnership
16 programs and other public and private coverage of long-term care
17 services, including medicaid;

18 (b) Available long-term care services and providers;

19 (c) Changes or improvements in long-term care services or providers;

20 (d) Alternatives to the purchase of private long-term care
21 insurance;

22 (e) The effect of inflation on benefits and the importance of
23 inflation protection; and

24 (f) Consumer suitability standards and guidelines.

25 Training required by subsection (1) of this section shall not
26 include any sales or marketing information, materials, or training other
27 than those required by state or federal law.

28 (3)(a) Insurers subject to the Long-Term Care Insurance Act shall
29 obtain verification that the insurance producer receives training
30 required by subsection (1) of this section before a producer is permitted
31 to sell, solicit, or negotiate the insurer's long-term care insurance

1 products. Records shall be maintained in accordance with section 44-5905
2 and shall be made available to the director upon request.

3 (b) Insurers subject to the act shall maintain records with respect
4 to the training of its producers concerning the distribution of its
5 partnership policies that will allow the director to provide assurance to
6 the Department of Health and Human Services that producers have received
7 the training required by subsection (1) of this section and that
8 producers have demonstrated an understanding of the partnership policies
9 and their relationship to public and private coverage of long-term care,
10 including medicaid, in this state. These records shall be maintained in
11 accordance with section 44-5905 and shall be made available to the
12 director upon request.

13 (4) The satisfaction of the training requirements in any state shall
14 be deemed to satisfy the training requirements of the State of Nebraska.

15 (5) The training requirements of subsection (1) of this section may
16 be approved as continuing education activities ~~courses~~ pursuant to
17 sections 44-3901 to 44-3908 ~~44-3913~~.

18 Sec. 28. Section 44-8105, Revised Statutes Cumulative Supplement,
19 2016, is amended to read:

20 44-8105 For purposes of the Nebraska Protection in Annuity
21 Transactions Act:

22 (1) Annuity means an annuity that is an insurance product under
23 state law and is individually solicited, whether the product is
24 classified as an individual or group annuity;

25 (2) Continuing education provider means an individual or entity that
26 is approved to offer continuing education activities ~~courses~~ pursuant to
27 subsection (1) ~~subdivision (1)(b)~~ of section 44-3905;

28 (3) Insurer means a company required to be licensed under the laws
29 of this state to provide insurance products, including annuities;

30 (4) Insurance producer means a person required to be licensed under
31 the laws of this state to sell, solicit, or negotiate insurance,

1 including annuities;

2 (5) Recommendation means advice provided by an insurance producer,
3 or an insurer if an insurance producer is not involved, to a consumer
4 that results in a purchase or exchange of an annuity in accordance with
5 that advice;

6 (6) Replacement means a transaction in which a new policy or
7 contract is to be purchased, and it is known or should be known to the
8 proposing producer, or the proposing insurer if there is no producer,
9 that by reason of the transaction, an existing policy or contract has
10 been or is to be:

11 (a) Lapsed, forfeited, surrendered, or partially surrendered,
12 assigned to the replacing insurer, or otherwise terminated;

13 (b) Converted to reduced paid-up insurance, continued as extended
14 term insurance, or otherwise reduced in value by the use of nonforfeiture
15 benefits or other policy values;

16 (c) Amended so as to effect either a reduction in benefits or in the
17 term for which coverage would otherwise remain in force or for which
18 benefits would be paid;

19 (d) Reissued with any reduction in cash value; or

20 (e) Used in a financed purchase; and

21 (7) Suitability information means information that is reasonably
22 appropriate to determine the suitability of a recommendation, including
23 the following:

24 (a) Age;

25 (b) Annual income;

26 (c) Financial situation and need, including the financial resources
27 used for the funding of the annuity;

28 (d) Financial experience;

29 (e) Financial objectives;

30 (f) Intended use of the annuity;

31 (g) Financial time horizon;

- 1 (h) Existing assets, including investment and life insurance
- 2 holdings;
- 3 (i) Liquidity needs;
- 4 (j) Liquid net worth;
- 5 (k) Risk tolerance; and
- 6 (l) Tax status.

7 Sec. 29. Section 44-8108, Revised Statutes Cumulative Supplement,
8 2016, is amended to read:

9 44-8108 (1) An insurance producer shall not solicit the sale of an
10 annuity product unless the insurance producer has adequate knowledge of
11 the product to recommend the annuity and the insurance producer is in
12 compliance with the insurer's standards for product training. An
13 insurance producer may rely on insurer-provided product-specific training
14 standards and materials to comply with this subsection.

15 (2)(a)(i) An insurance producer who engages in the sale of annuity
16 products shall complete a one-time four-credit training course approved
17 by the Department of Insurance and provided by a department-approved
18 education provider.

19 (ii) Insurance producers who hold a life insurance line of authority
20 on July 19, 2012, and who desire to sell annuities shall complete the
21 requirements of this subsection within six months after July 19, 2012.
22 Individuals who obtain a life insurance line of authority on or after
23 July 19, 2012, shall not engage in the sale of annuities until the
24 annuity training course required under this subsection has been
25 completed.

26 (b) The minimum length of the training required under this
27 subsection shall be sufficient to qualify for at least four continuing
28 education credits, but may be longer.

29 (c) The training required under this subsection shall include
30 information on the following topics:

- 31 (i) The types of annuities and various classifications of annuities;

- 1 (ii) Identification of the parties to an annuity;
- 2 (iii) How fixed, variable, and indexed annuity contract provisions
3 affect consumers;
- 4 (iv) The application of income taxation of qualified and
5 nonqualified annuities;
- 6 (v) The primary uses of annuities; and
- 7 (vi) Appropriate sales practices and replacement and disclosure
8 requirements.
- 9 (d) Providers of courses intended to comply with this subsection
10 shall cover all topics listed in the prescribed outline and shall not
11 present any marketing information or provide training on sales techniques
12 or specific information about a particular insurer's products. Additional
13 topics may be offered in conjunction with and in addition to the required
14 outline.
- 15 (e) A provider of an annuity training course intended to comply with
16 this subsection shall register as a continuing education provider in this
17 state and comply with the requirements applicable to insurance producer
18 continuing education activities ~~courses~~ as set forth in section 44-3905.
- 19 (f) Annuity training courses may be conducted and completed by
20 classroom or self-study methods in accordance with sections 44-3901 to
21 44-3908.
- 22 (g) Providers of annuity training shall comply with the reporting
23 requirements and shall issue certificates of completion in accordance
24 with sections 44-3901 to 44-3908.
- 25 (h) The satisfaction of training requirements of another state that
26 are substantially similar to the provisions of this subsection shall be
27 deemed to satisfy the training requirements of this subsection.
- 28 (i) An insurer shall verify that an insurance producer has completed
29 the annuity training course required under this subsection before
30 allowing the producer to sell an annuity product for that insurer. An
31 insurer may satisfy its responsibility under this subsection by obtaining

1 certificates of completion of the training course or obtaining reports
2 provided by National Association of Insurance Commissioners-sponsored
3 data base systems or vendors or from a reasonably reliable commercial
4 data base vendor that has a reporting arrangement with approved insurance
5 education providers.

6 Sec. 30. Section 44-8601, Revised Statutes Cumulative Supplement,
7 2016, is amended to read:

8 44-8601 Sections 44-8601 to 44-8604 and sections 32 to 35 of this
9 act shall be known and may be cited as the Insured Homeowners Protection
10 Act.

11 Sec. 31. Section 44-8602, Revised Statutes Cumulative Supplement,
12 2016, is amended to read:

13 44-8602 For purposes of the Insured Homeowners Protection Act:

14 (1) Residential contractor means a person in the business of
15 contracting or offering to contract with an owner or possessor of
16 residential real estate to:

17 (a) Repair ~~repair~~ or replace a roof system or perform any other
18 exterior repair, replacement, construction, or reconstruction work on
19 residential real estate; ~~or~~

20 (b) Perform ~~perform~~ interior or exterior cleanup services on
21 residential real estate;

22 (c) Arrange for, manage, or process the work referred to in
23 subdivision (1)(a) or (b) of this section; or

24 (d) Serve as a representative, agent, or assignee of the owner or
25 possessor of residential real estate;

26 (2) Residential real estate means a new or existing building,
27 including a detached garage, constructed for habitation by at least one
28 but no more than four families; and

29 (3) Roof system means and includes roof coverings, roof sheathing,
30 roof weatherproofing, and insulation.

31 Sec. 32. (1) A post-loss assignment of rights or benefits to a

1 residential contractor under a property and casualty insurance policy
2 insuring residential real estate shall comply with the following:

3 (a) The assignment may authorize a residential contractor to be
4 named as a copayee for the payment of benefits under a property and
5 casualty insurance policy covering residential real estate;

6 (b) The assignment shall be provided to the insurer of the
7 residential real estate within five business days after execution;

8 (c) The assignment shall include a statement that the residential
9 contractor has made no assurances that the claimed loss will be fully
10 covered by an insurance contract and shall include the following notice
11 in capitalized fourteen-point type:

12 YOU ARE AGREEING TO ASSIGN CERTAIN RIGHTS YOU HAVE UNDER YOUR
13 INSURANCE POLICY. WITH AN ASSIGNMENT, THE RESIDENTIAL CONTRACTOR SHALL BE
14 ENTITLED TO PURSUE ANY RIGHTS OR REMEDIES THAT YOU, THE INSURED
15 HOMEOWNER, HAVE UNDER YOUR INSURANCE POLICY. PLEASE READ AND UNDERSTAND
16 THIS DOCUMENT BEFORE SIGNING.

17 THE INSURER MAY ONLY PAY FOR THE COST TO REPAIR OR REPLACE DAMAGED
18 PROPERTY CAUSED BY A COVERED PERIL, SUBJECT TO THE TERMS OF THE POLICY.

19 (d) The assignment shall not impair the interest of a mortgagee
20 listed on the declarations page of the property and casualty insurance
21 policy which is the subject of the assignment; and

22 (e) The assignment shall not prevent or inhibit an insurer from
23 communicating with the named insured or mortgagee listed on the
24 declarations page of the property and casualty insurance policy that is
25 the subject of the assignment.

26 (2) The Department of Insurance shall strictly enforce the
27 provisions of subdivision (13) of section 44-1540, which requires
28 insurers to provide a named insured a reasonable and accurate explanation
29 of the basis for the denial of a claim or an offer of a compromise
30 settlement.

31 Sec. 33. Prior to commencement of repair or replacement work, a

1 residential contractor shall furnish the insured and insurer with an
2 itemized description of the work to be done and the materials, labor, and
3 fees for repair or replacement of the damaged residential real estate and
4 the total itemized amount agreed to be paid for the work to be performed,
5 except that the description shall not limit the insured or residential
6 contractor from identifying other goods and services necessary to
7 complete repairs or replacement associated with a covered loss.

8 Sec. 34. Any written contract, repair estimate, or work order
9 prepared by a residential contractor to provide goods or services to be
10 paid from the proceeds of a property and casualty insurance policy shall
11 include the following notice of the prohibition contained in section
12 44-8604 in capitalized fourteen-point type which shall be signed by the
13 named insured and sent to the named insured's insurer prior to payment of
14 proceeds under the applicable insurance policy:

15 IT IS A VIOLATION OF THE INSURANCE LAWS OF NEBRASKA TO REBATE ANY
16 PORTION OF AN INSURANCE DEDUCTIBLE AS AN INDUCEMENT TO THE INSURED TO
17 ACCEPT A RESIDENTIAL CONTRACTOR'S PROPOSAL TO REPAIR DAMAGED PROPERTY.
18 REBATE OF A DEDUCTIBLE INCLUDES GRANTING ANY ALLOWANCE OR OFFERING ANY
19 DISCOUNT AGAINST THE FEES TO BE CHARGED FOR WORK TO BE PERFORMED OR
20 PAYING THE INSURED HOMEOWNER THE DEDUCTIBLE AMOUNT SET FORTH IN THE
21 INSURANCE POLICY.

22 THE INSURED HOMEOWNER IS PERSONALLY RESPONSIBLE FOR PAYMENT OF THE
23 DEDUCTIBLE. THE INSURANCE FRAUD ACT AND NEBRASKA CRIMINAL STATUTES
24 PROHIBIT THE INSURED HOMEOWNER FROM ACCEPTING FROM A RESIDENTIAL
25 CONTRACTOR A REBATE OF THE DEDUCTIBLE OR OTHERWISE ACCEPTING ANY
26 ALLOWANCE OR DISCOUNT FROM THE RESIDENTIAL CONTRACTOR TO COVER THE COST
27 OF THE DEDUCTIBLE. VIOLATIONS MAY BE PUNISHABLE BY CIVIL OR CRIMINAL
28 PENALTIES.

29 Sec. 35. A contract entered into with a residential contractor is
30 void if the residential contractor violates any provision of the Insured
31 Homeowners Protection Act.

1 Sec. 36. Original sections 44-2607, 44-2614, 44-3905, 44-3908,
2 44-4053, 44-4056, and 44-4521, Reissue Revised Statutes of Nebraska, and
3 sections 44-4068, 44-8105, 44-8108, 44-8601, and 44-8602, Revised
4 Statutes Cumulative Supplement, 2016, are repealed.

5 Sec. 37. The following sections are outright repealed: Sections
6 44-3911, 44-3912, and 44-3913, Reissue Revised Statutes of Nebraska, and
7 sections 44-3909 and 44-3910, Revised Statutes Cumulative Supplement,
8 2016.