

# **NOTICE OF PROPOSED RULEMAKING**

## **STATEMENT OF NEED AND FISCAL IMPACT**

### **NEED FOR RULEMAKING:**

#### **Background and History**

Current Oregon laws do not distinguish between an Independent Adjuster (one who handles claims on behalf of an insurer), and a Public Adjuster (one who handles claims on behalf of the insured). NAIC has model laws that are distinct and separate between Public Adjuster licensure and Independent Adjuster licensure. Each is clearly defined and has different requirements and restrictions.

Several states only license Public Adjusters, several only license Independent Adjusters, and a few offer licenses for both types. These license types are reflected in the NAIC's State Based Systems (SBS) and National Insurance Producer Registry (NIPR). Oregon has been issuing Independent Adjuster Licenses to both resident and non-resident Public Adjusters as it is the only license available currently. This approach is causing confusion and issues with reciprocity in other states.

Additionally, the only way for these licensees to apply or renew is with a paper application as they are unable to apply electronically (SBS/NIPR) because they do not possess an equivalent license in their domicile state.

The current situation poses two problems:

1. Adjusters can be granted a General Adjuster license in Oregon regardless of whether they are an Independent Adjuster or a Public Adjuster. This leaves room for conflicts of interest in the act of adjusting and a lower standard of consumer protection.
2. This lack of distinction creates a manual process for the licensing team as well as the applicants. This increases costs and inefficiencies for all.

#### **What Rulemaking Does:**

By adding/distinguishing a Public Adjuster license type from an Independent Adjuster type through rulemaking, the adjuster licensing process will be dramatically simplified for both the licensing section of the application, and the applying adjusters. Rulemaking will clarify the roles and responsibilities of each adjuster, further reduce potential for conflicts of interest, and add better regulatory oversight and consumer protection for distinctly different Adjuster disciplines.

## STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT EQUITY IN THIS STATE:

*(Who is this going to impact and how might it impact one group of people differently than others?)*

This rulemaking will impact Public Adjusters operating in Oregon. This rule is not anticipated to have any disparate impact on any particular demographic of consumers.

The Fee Cap portion might negatively impact PA availability for low value losses, may hurt individuals with smaller claims (which may be correlated to people with lower incomes, or people who don't speak English)

## FISCAL AND ECONOMIC IMPACT:

*Based on information available to DCBS, briefly discuss the cost of compliance for businesses, generally. State whether there are compliance costs for small businesses (independently owned and operated with fewer than 50 employees).*

Fees required by this rule are the same as the fees currently incurred by Public Adjusters that are being licensed as a General Adjuster in Oregon.

Costs incurred by the DFR should theoretically decrease, as this rulemaking will avert the need for manual paper application and processing.

## COST OF COMPLIANCE FOR SMALL BUSINESSES:

**(1) Identify any state agencies, units of local government, and members of the public (including specific interest groups) likely to be economically affected by the rulemaking.**

State agencies impacted include the DFR Licensing team. Adoption of this rule will eliminate manual application processing and instead enable the team to process using the NAIC's State Based Systems (SBS) and National Insurance Producer Registry (NIPR).

Economic impact to the Public Adjuster group is negligible. The application, exam, and licensing fees will be the same as they are today. Applicants will be able to apply online instead of utilizing a manual paper application.

**(2)(a) Estimate the number and type of small businesses subject to the rule(s).**

Since the DFR does not currently have a specific licensure for Public Adjusters we have no data on the number and type of Public Adjusters operating in Oregon.

**(2)(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s).**

Reporting, recordkeeping and administrative activities costs will remain unchanged with the adoption of this rule. Recordkeeping will be more accurate moving forward, as Public Adjusters will be tracked independently from Independent Adjuster.

**(2)(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).**

No increase in costs anticipated.

**How were small businesses involved in the development of the rule?**

The Rulemaking Advisory Committee includes Representation from the National Association of Public Insurance Adjusters, to represent the perspective of Public Adjusters, which include both large and small businesses.

**Was an administrative rule advisory committee consulted?**

Yes. First RAC meeting is scheduled for October 31, 2024.

**DID MEMBERSHIP OF THE RAC REPRESENT THE INTERESTS OF PERSONS AND COMMUNITIES LIKELY TO BE AFFECTED BY THE RULE?**

*Specify the interested communities (BIPOC, professions, occupations, geographic location, recreational interests, aging/older adults, individuals w/disabilities, LGBTQ+, religion, veterans.*

Yes, the parties invited to the RAC represented the interest of those most likely affected by this rule, including trade organizations, consumer advocacy, carriers, and the National Association of Public Insurance Adjusters.

The proposed rule is not expected to impact any particular community in Oregon.

**RULE NUMBER AND SUMMARY:**

*List each rule number and a short summary of what the rule does.*

AMEND: N/A

RULE SUMMARY: N/A

ADOPT: 836-071-XXXX

RULE SUMMARY:

**STATUTORY REFERENCE:**

STATUTORY/OTHER AUTHORITY: ORS 731.244

STATUTES/OTHER IMPLEMENTED: