

SENATE BILL 231

C4

(PRE-FILED)

4lr0331
CF HB 36

By: **Chair, Finance Committee (By Request – Departmental – Maryland Insurance Administration)**

Requested: September 15, 2023

Introduced and read first time: January 10, 2024

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 3, 2024

CHAPTER _____

1 AN ACT concerning

2 **Insurance – Protections After Loss or Damage to Property**

3 FOR the purpose of prohibiting a public adjuster, or anyone acting on behalf of a public
4 adjuster, from soliciting or attempting to solicit a client ~~within a certain period of~~
5 ~~time after a loss or damage as covered by an insurance contract~~ during the progress
6 of a loss-producing occurrence or between certain hours; requiring a public adjuster
7 to provide notice to the Maryland Insurance Commissioner if the public adjuster
8 enters into a public adjuster contract within a certain time period after the loss
9 giving rise to an insurance claim; altering the statements that are required to be
10 included in a public adjuster contract; altering the services with respect to which it
11 is a fraudulent insurance act for a contractor to take certain actions; and generally
12 relating to insurance and protections after loss or damage to property.

13 BY repealing and reenacting, without amendments,
14 Article – Insurance
15 Section 10-411(a)
16 Annotated Code of Maryland
17 (2017 Replacement Volume and 2023 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Insurance
20 Section 10-411(h), 10-414, and 27-407.2
21 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2017 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Insurance

10–411.

(a) A contract for public adjuster services shall:

(1) be in writing;

(2) be titled “Public Adjuster Contract”; and

(3) contain the following:

(i) the legible full name of the public adjuster signing the contract,
as specified in the records of the Administration;

(ii) the permanent business address and phone number of the public
adjuster in the public adjuster’s home state;

(iii) the license number issued by the Administration to the public
adjuster;

(iv) the insured’s full name, street address, insurance company
name, and policy number, if known or on notification;

(v) a description of the loss and the location of the loss, if applicable;

(vi) a description of services to be provided to the insured;

(vii) the signatures of the public adjuster and the insured;

(viii) the dates when the contract was signed by the public adjuster
and the insured, respectively;

(ix) notification to the insured that:

1. the public adjuster may incur out-of-pocket expenses on
behalf of the insured; and

2. these expenses incurred by the public adjuster and
approved by the insured will be reimbursed to the public adjuster from the insurance
proceeds; and

(x) the full salary, fee, commission, compensation, or other consideration the public adjuster is to receive for services.

(h) The public adjuster contract shall contain a statement that:

(1) the insured has the right to rescind or cancel the contract:

(I) within 3 business days after the date the contract was signed **IF THE INSURED IS UNDER THE AGE OF 65 YEARS; OR**

(II) **WITHIN 7 BUSINESS DAYS IF THE INSURED IS AT LEAST 65 YEARS OLD;**

(2) the notice of rescission or cancellation shall be in writing and mailed or delivered to the public adjuster at the address stated in the contract within [that 3-business-day] **THE APPLICABLE TIME period SPECIFIED IN ITEM (1) OF THIS SUBSECTION; [and]**

(3) if the insured exercises the right to rescind or cancel the contract, the public adjuster shall, within 15 business days after the public adjuster receives the notice, return anything of value given by the insured under the contract; **AND**

(4) **PROVIDES A NOTICE TO THE INSURED THAT A PUBLIC ADJUSTER, OR ANYONE ACTING ON BEHALF OF A PUBLIC ADJUSTER, MAY NOT SOLICIT OR ATTEMPT TO SOLICIT A CLIENT:**

(I) ~~WITHIN 24 HOURS AFTER A LOSS OR DAMAGE AS COVERED BY AN INSURANCE CONTRACT DURING THE PROGRESS OF A LOSS-PRODUCING OCCURRENCE; OR~~

(II) **BETWEEN THE HOURS OF 8:00 P.M. AND 8:00 A.M.**

10-414.

(a) A public adjuster is obligated to:

(1) serve with objectivity and complete loyalty the interest of the client alone;

(2) render to the insured the information, counsel, and service that will best serve the insured's insurance claim needs and interests, within the knowledge, understanding, and opinion in good faith of the public adjuster; and

(3) disburse insurance settlement payments received on behalf of the insured within 15 business days after the date of the payment from an insurer.

(b) A public adjuster may not allow an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under this subtitle.

(c) Unless full written disclosure has been made to the insured in accordance with § 10–411 of this subtitle, a public adjuster may not have a direct or indirect financial interest in any aspect of a claim, other than the salary, fee, commission, or other consideration established in the written contract with the insured.

(d) A public adjuster may not acquire any interest in salvage of property subject to a public adjuster contract with the insured unless the public adjuster obtains written permission from the insured.

(E) A PUBLIC ADJUSTER, OR ANYONE ACTING ON BEHALF OF A PUBLIC ADJUSTER, MAY NOT SOLICIT OR ATTEMPT TO SOLICIT A CLIENT:

(1) ~~WITHIN 24 HOURS AFTER A LOSS OR DAMAGE AS COVERED BY AN INSURANCE CONTRACT~~ DURING THE PROGRESS OF A LOSS-PRODUCING OCCURRENCE; OR

(2) BETWEEN THE HOURS OF 8:00 P.M. AND 8:00 A.M.

(F) (1) A PUBLIC ADJUSTER THAT ENTERS INTO A PUBLIC ADJUSTER CONTRACT WITHIN 72 HOURS AFTER THE LOSS GIVING RISE TO AN INSURANCE CLAIM SHALL PROVIDE NOTICE TO THE COMMISSIONER THAT THE PUBLIC ADJUSTER HAS ENTERED INTO THE CONTRACT.

(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) BE PROVIDED TO THE COMMISSIONER WITHIN 24 HOURS AFTER THE PUBLIC ADJUSTER ENTERS INTO THE CONTRACT; AND

(II) BE IN A FORM AND MANNER DETERMINED BY THE COMMISSIONER.

27–407.2.

It is a fraudulent insurance act for a contractor offering home repair or remodeling services for damages to a private residence [caused by weather], to directly or indirectly pay or otherwise compensate an insured, or offer or promise to pay or compensate an insured, with the intent to defraud an insurer, for any part of the insured's deductible under the insured's property or casualty insurance policy, if payment for the services will be made from the proceeds of the policy.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.