



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4875

Introduced 2/18/2020, by Rep. Thaddeus Jones

SYNOPSIS AS INTRODUCED:

215 ILCS 5/1575
215 ILCS 5/Art. XXXI.75 rep.

Amends the Illinois Insurance Code. Provides that a public adjuster shall provide a written contract between the public adjuster and an insured to the insured's designated property and casualty insurer within one business day after the contract is signed. Provides that the insurer has 5 business days to review the contract. Provides that the written contract between a public adjuster and an insured is deemed executed once the insurer receives the contract and it is on the contract form filed with and approved by the Director of Insurance. Provides that a public adjuster shall not provide services until the 5-business-day period after the insurer has received the contract has elapsed or the public adjuster is notified by the insured to proceed. Removes a provision that provides that a public adjuster shall not provide services until a written contract with the insured is executed, on a form filed with and approved by the Director. Repeals the Public Insurance Adjusters and Registered Firms Article of the Illinois Insurance Code. Effective immediately.

LRB101 18652 BMS 68107 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Section 1575 as follows:

6 (215 ILCS 5/1575)

7 Sec. 1575. Contract between public adjuster and insured.

8 (a) Public adjusters shall ensure that all contracts for
9 their services are in writing and contain the following terms:

10 (1) legible full name of the adjuster signing the
11 contract, as specified in Department records;

12 (2) permanent home state business address and phone
13 number;

14 (3) license number;

15 (4) title of "Public Adjuster Contract";

16 (5) the insured's full name, street address, insurance
17 company name, and policy number, if known or upon
18 notification;

19 (6) a description of the loss and its location, if
20 applicable;

21 (7) description of services to be provided to the
22 insured;

23 (8) signatures of the public adjuster and the insured;

1 (9) date and time the contract was signed by the public
2 adjuster and date and time the contract was signed by the
3 insured;

4 (10) attestation language stating that the public
5 adjuster is fully bonded pursuant to State law; and

6 (11) full salary, fee, commission, compensation, or
7 other considerations the public adjuster is to receive for
8 services.

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

11 (1) If the compensation is based on a share of the
12 insurance settlement, the exact percentage shall be
13 specified.

14 (2) Initial expenses to be reimbursed to the public
15 adjuster from the proceeds of the claim payment shall be
16 specified by type, with dollar estimates set forth in the
17 contract and with any additional expenses first approved by
18 the insured.

19 (3) Compensation provisions in a public adjuster
20 contract shall not be redacted in any copy of the contract
21 provided to the Director.

22 (c) If the insurer, not later than 5 business days after
23 the date on which the loss is reported to the insurer, either
24 pays or commits in writing to pay to the insured the policy
25 limit of the insurance policy, the public adjuster shall:

26 (1) not receive a commission consisting of a percentage

1 of the total amount paid by an insurer to resolve a claim;

2 (2) inform the insured that loss recovery amount might
3 not be increased by insurer; and

4 (3) be entitled only to reasonable compensation from
5 the insured for services provided by the public adjuster on
6 behalf of the insured, based on the time spent on a claim
7 and expenses incurred by the public adjuster, until the
8 claim is paid or the insured receives a written commitment
9 to pay from the insurer.

10 (d) A public adjuster shall provide the insured a written
11 disclosure concerning any direct or indirect financial
12 interest that the public adjuster has with any other party who
13 is involved in any aspect of the claim, other than the salary,
14 fee, commission, or other consideration established in the
15 written contract with the insured, including, but not limited
16 to, any ownership of or any compensation expected to be
17 received from, any construction firm, salvage firm, building
18 appraisal firm, board-up company, or any other firm that
19 provides estimates for work, or that performs any work, in
20 conjunction with damages caused by the insured loss on which
21 the public adjuster is engaged. The word "firm" shall include
22 any corporation, partnership, association, joint-stock
23 company, or person.

24 (e) A public adjuster contract may not contain any contract
25 term that:

26 (1) allows the public adjuster's percentage fee to be

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

6 (2) requires the insured to authorize an insurance
7 company to issue a check only in the name of the public
8 adjuster;

9 (3) precludes a public adjuster or an insured from
10 pursuing civil remedies;

11 (4) includes any hold harmless agreement that provides
12 indemnification to the public adjuster by the insured for
13 liability resulting from the public adjuster's negligence;
14 or

15 (5) provides power of attorney by which the public
16 adjuster can act in the place and instead of the insured.

17 (f) The following provisions apply to a contract between a
18 public adjuster and an insured:

19 (1) Prior to the signing of the contract, the public
20 adjuster shall provide the insured with a separate signed
21 and dated disclosure document regarding the claim process
22 that states:

23 "Property insurance policies obligate the insured to
24 present a claim to his or her insurance company for
25 consideration. There are 3 types of adjusters that could be
26 involved in that process. The definitions of the 3 types

1 are as follows:

2 (A) "Company adjuster" means the insurance
3 adjusters who are employees of an insurance company.
4 They represent the interest of the insurance company
5 and are paid by the insurance company. They will not
6 charge you a fee.

7 (B) "Independent adjuster" means the insurance
8 adjusters who are hired on a contract basis by an
9 insurance company to represent the insurance company's
10 interest in the settlement of the claim. They are paid
11 by your insurance company. They will not charge you a
12 fee.

13 (C) "Public adjuster" means the insurance
14 adjusters who do not work for any insurance company.
15 They work for the insured to assist in the preparation,
16 presentation and settlement of the claim. The insured
17 hires them by signing a contract agreeing to pay them a
18 fee or commission based on a percentage of the
19 settlement, or other method of compensation."

20 (2) The insured is not required to hire a public
21 adjuster to help the insured meet his or her obligations
22 under the policy, but has the right to do so.

23 (3) The public adjuster is not a representative or
24 employee of the insurer.

25 (4) The salary, fee, commission, or other
26 consideration is the obligation of the insured, not the

1 insurer, except when rights have been assigned to the
2 public adjuster by the insured.

3 (g) The contracts shall be executed in duplicate to provide
4 an original contract to the public adjuster, and an original
5 contract to the insured. The public adjuster's original
6 contract shall be available at all times for inspection without
7 notice by the Director.

8 (h) The public adjuster shall provide the insurer with an
9 exact copy of the contract by the insured, authorizing the
10 public adjuster to represent the insured's interest.

11 (i) The public adjuster shall give the insured written
12 notice of the insured's rights as a consumer under the law of
13 this State.

14 (j) The public adjuster shall provide the written contract
15 to the insured's designated property and casualty insurer as
16 defined in Section 35A-5 within one business day after the
17 contract is signed. The insurer has 5 business days to review
18 the contract. A written contract with the insured is deemed
19 executed once the insurer receives the contract and it is on a
20 contract form filed with and approved by the Director. A public
21 adjuster shall not provide services until the 5-business-day
22 period after the insurer has received the contract has elapsed
23 or the public adjuster is notified by the insured to proceed. A
24 ~~public adjuster shall not provide services until a written~~
25 ~~contract with the insured has been executed, on a form filed~~
26 ~~with and approved by the Director.~~ At the option of the

1 insured, any such contract shall be voidable for 5 business
2 days after execution. The insured may void the contract by
3 notifying the public adjuster in writing by (i) registered or
4 certified mail, return receipt requested, to the address shown
5 on the contract or (ii) personally serving the notice on the
6 public adjuster.

7 (k) If the insured exercises the right to rescind the
8 contract, anything of value given by the insured under the
9 contract will be returned to the insured within 15 business
10 days following the receipt by the public adjuster of the
11 cancellation notice.

12 (Source: P.A. 96-1332, eff. 1-1-11; 97-333, eff. 8-12-11.)

13 (215 ILCS 5/Art. XXXI.75 rep.)

14 Section 10. The Illinois Insurance Code is amended by
15 repealing Article XXXI.75.

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.