



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5471

Introduced 1/31/2022, by Rep. Dagmara Avelar

SYNOPSIS AS INTRODUCED:

215 ILCS 5/1510
215 ILCS 5/1575
215 ILCS 5/Art. XXXI.75 rep.

Amends the Illinois Insurance Code. In provisions concerning a contract between public adjuster and insured, provides that: a public adjuster shall ensure that the contract contains the email address of the public adjuster; a public adjuster may also provide an exact copy of the contract to the insurer's authorized representative for receiving notice of loss or damage in specified circumstances; a public adjuster may provide emergency services before a written contract with the insured has been executed; a public adjuster shall not provide services until a written contract with the insured has been executed and an exact copy of the contract has been provided to the insurer; at the option of an insured, any contract between a public adjuster and the insured shall be voidable for 5 business days after the copy of the contract has been received by the insurer, except as provided in the Fire Damage Representation Agreement Act; the insured may void the contract by notifying the public adjuster in writing by sending an email to the email address shown on the contract. been received by the insurer, except as provided in the Fire Damage Representation Agreement Act. Defines "adjusting insurance claims" and "compensation". Changes a definition of "public adjuster". Removes a definition of "adjusting a claim for loss or damage covered by an insurance contract". Repeals the Public Insurance Adjusters and Registered Firms Article of the Illinois Insurance Code. Effective immediately.

LRB102 24372 BMS 33606 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 Sections 1510 and 1575 as follows:

6 (215 ILCS 5/1510)

7 Sec. 1510. Definitions. In this Article:

8 ~~"Adjusting a claim for loss or damage covered by an~~
9 ~~insurance contract" means negotiating values, damages, or~~
10 ~~depreciation or applying the loss circumstances to insurance~~
11 ~~policy provisions.~~

12 "Adjusting insurance claims" means representing an insured
13 with an insurer for compensation, and while representing that
14 insured either negotiating values, damages, or depreciation,
15 or applying the loss circumstances to insurance policy
16 provisions.

17 "Business entity" means a corporation, association,
18 partnership, limited liability company, limited liability
19 partnership, or other legal entity.

20 "Compensation" includes, but is not limited to, the
21 following:

22 (1) any assignment of insurance proceeds or a
23 percentage of the insurance proceeds;

1 (2) any agreement to make repairs for the amount of
2 the insurance proceeds payable; or

3 (3) assertion of any lien against insurance proceeds
4 payable.

5 "Department" means the Department of Insurance.

6 "Director" means the Director of Insurance.

7 "Fingerprints" means an impression of the lines on the
8 finger taken for the purpose of identification. The impression
9 may be electronic or in ink converted to electronic format.

10 "Home state" means the District of Columbia and any state
11 or territory of the United States where the public adjuster's
12 principal place of residence or principal place of business is
13 located. If neither the state in which the public adjuster
14 maintains the principal place of residence nor the state in
15 which the public adjuster maintains the principal place of
16 business has a substantially similar law governing public
17 adjusters, the public adjuster may declare another state in
18 which it becomes licensed and acts as a public adjuster to be
19 the home state.

20 "Individual" means a natural person.

21 "Person" means an individual or a business entity.

22 "Public adjuster" means any person who, for compensation
23 or any other thing of value on behalf of the insured:

24 (i) acts, ~~or~~ aids, or represents the insured solely in
25 relation to first party claims arising under insurance
26 contracts that insure the real or personal property of the

1 insured, ~~on behalf of an insured~~ in adjusting an insurance
2 a claim for loss or damage covered by an insurance
3 contract;

4 (ii) advertises for employment as a public adjuster of
5 insurance claims or solicits business or represents
6 himself or herself to the public as a public adjuster of
7 first party insurance claims for losses or damages arising
8 out of policies of insurance that insure real or personal
9 property; or

10 (iii) directly or indirectly solicits business,
11 investigates or adjusts losses, or advises an insured
12 about first party claims for losses or damages arising out
13 of policies of insurance that insure real or personal
14 property for another person engaged in the business of
15 adjusting losses or damages covered by an insurance policy
16 for the insured.

17 "Uniform individual application" means the current version
18 of the National Association of Directors (NAIC) Uniform
19 Individual Application for resident and nonresident
20 individuals.

21 "Uniform business entity application" means the current
22 version of the National Association of Insurance Commissioners
23 (NAIC) Uniform Business Entity Application for resident and
24 nonresident business entities.

25 "Webinar" means an online educational presentation during
26 which a live and participating instructor and participating

1 viewers, whose attendance is periodically verified throughout
2 the presentation, actively engage in discussion and in the
3 submission and answering of questions.

4 (Source: P.A. 102-135, eff. 7-23-21.)

5 (215 ILCS 5/1575)

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

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

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

11 (2) permanent home state business address, email
12 address, and phone number;

13 (3) license number;

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

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

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

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

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

23 (9) date and time the contract was signed by the
24 public adjuster and date and time the contract was signed
25 by the insured;

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

3 (11) full salary, fee, commission, compensation, or
4 other considerations the public adjuster is to receive for
5 services.

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

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

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

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

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

24 (1) not receive a commission consisting of a
25 percentage of the total amount paid by an insurer to
26 resolve a claim;

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

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

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

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

25 (1) allows the public adjuster's percentage fee to be
26 collected when money is due from an insurance company, but

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

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

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

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

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

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

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

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

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

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

12 (C) "Public adjuster" means the insurance
13 adjusters who do not work for any insurance company.
14 They represent ~~work for~~ the insured to assist in the
15 preparation, presentation, and settlement of the
16 claim. The insured hires them by signing a contract
17 agreeing to pay them a fee or commission based on a
18 percentage of the settlement, or other method of
19 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
4 provide an original contract to the public adjuster, and an
5 original contract to the insured. The public adjuster's
6 original contract shall be available at all times for
7 inspection without notice by the Director.

8 (h) The public adjuster shall provide the insurer, or its
9 authorized representative for receiving notice of loss or
10 damage, with an exact copy of the contract with ~~by~~ the insured
11 by email after execution of the contract, authorizing the
12 public adjuster to represent the insured's interest.

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

16 (j) A public adjuster shall not provide services, other
17 than emergency services, until a written contract with the
18 insured has been executed, on a form filed with and approved by
19 the Director, and an exact copy of the contract has been
20 provided to the insurer, or its authorized representative for
21 receiving notice of loss or damage. Except as provided in the
22 Fire Damage Representation Agreement Act, at ~~At~~ the option of
23 the insured, any such contract shall be voidable for 5
24 business days after the copy has been received by the insurer
25 ~~execution~~. The insured may void the contract by notifying the
26 public adjuster in writing by (i) registered or certified

1 mail, return receipt requested, to the address shown on the
2 contract, ~~or~~ (ii) personally serving the notice on the public
3 adjuster, or (iii) sending an email to the email address shown
4 on the contract.

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

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

11 (215 ILCS 5/Art. XXXI.75 rep.)

12 Section 10. The Illinois Insurance Code is amended by
13 repealing Article XXXI 3/4.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.