



Sen. William R. Haine

Filed: 4/9/2013

09800SB1411sam001

LRB098 02750 RPM 44106 a

1 AMENDMENT TO SENATE BILL 1411

2 AMENDMENT NO. _____. Amend Senate Bill 1411 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by
5 changing Sections 1510, 1570, 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 "Business entity" means a corporation, association,
13 partnership, limited liability company, limited liability
14 partnership, or other legal entity.

15 "Department" means the Department of Insurance.

16 "Director" means the Director of Insurance.

1 "Catastrophic event" means an event for which the Governor
2 of this State has declared a state of emergency.

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

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

16 "Individual" means a natural person.

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

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

20 (i) acts or aids, solely in relation to first party
21 claims arising under insurance contracts that insure the
22 real or personal property of the insured, on behalf of an
23 insured in adjusting a claim for loss or damage covered by
24 an insurance contract;

25 (ii) advertises for employment as a public adjuster of
26 insurance claims or solicits business or represents

1 himself or herself to the public as a public adjuster of
2 first party insurance claims for losses or damages arising
3 out of policies of insurance that insure real or personal
4 property; or

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

12 "Uniform individual application" means the current version
13 of the National Association of Directors (NAIC) Uniform
14 Individual Application for resident and nonresident
15 individuals.

16 "Uniform business entity application" means the current
17 version of the National Association of Insurance Commissioners
18 (NAIC) Uniform Business Entity Application for resident and
19 nonresident business entities.

20 (Source: P.A. 96-1332, eff. 1-1-11.)

21 (215 ILCS 5/1570)

22 Sec. 1570. Public adjuster fees.

23 (a) A public adjuster shall not pay a commission, service
24 fee, or other valuable consideration to a person for
25 investigating or settling claims in this State if that person

1 is required to be licensed under this Article and is not so
2 licensed.

3 (b) A person shall not accept a commission, service fee, or
4 other valuable consideration for investigating or settling
5 claims in this State if that person is required to be licensed
6 under this Article and is not so licensed.

7 (c) A public adjuster may pay or assign commission, service
8 fees, or other valuable consideration to persons who do not
9 investigate or settle claims in this State, unless the payment
10 would violate State law.

11 (d) A public adjuster may not charge, agree to, or accept
12 any compensation, payment, commission, fee, or other valuable
13 consideration in excess of 10% of the amount of the insurance
14 settlement claim paid by the insurer on any claim involving
15 personal lines coverage as defined by subsection (b) of Section
16 143.13 of this Code or any claim resulting from a catastrophic
17 event.

18 (Source: P.A. 96-1332, eff. 1-1-11.)

19 (215 ILCS 5/1575)

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

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

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

25 (2) permanent home state business address and phone

1 number;

2 (3) license number;

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

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

7 (6) a description of the loss and its location, if
8 applicable;

9 (7) description of services to be provided to the
10 insured;

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

12 (9) date and time the contract was signed by the public
13 adjuster and date and time the contract was signed by the
14 insured;

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

17 (11) full salary, fee, commission, compensation, or
18 other considerations the public adjuster is to receive for
19 services.

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

22 (1) If the compensation is based on a share of the
23 insurance settlement, the exact percentage shall be
24 specified.

25 (2) Initial expenses to be reimbursed to the public
26 adjuster from the proceeds of the claim payment shall be

1 specified by type, with dollar estimates set forth in the
2 contract and with any additional expenses first approved by
3 the insured.

4 (3) Compensation provisions in a public adjuster
5 contract shall not be redacted in any copy of the contract
6 provided to the Director.

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

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

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

15 (3) be entitled only to reasonable compensation from
16 the insured for services provided by the public adjuster on
17 behalf of the insured, based on the time spent on a claim
18 and expenses incurred by the public adjuster, until the
19 claim is paid or the insured receives a written commitment
20 to pay from the insurer.

21 (d) A public adjuster shall provide the insured a written
22 disclosure concerning any direct or indirect financial
23 interest that the public adjuster has with any other party who
24 is involved in any aspect of the claim, other than the salary,
25 fee, commission, or other consideration established in the
26 written contract with the insured, including, but not limited

1 to, any ownership of or any compensation expected to be
2 received from, any construction firm, salvage firm, building
3 appraisal firm, board-up company, or any other firm that
4 provides estimates for work, or that performs any work, in
5 conjunction with damages caused by the insured loss on which
6 the public adjuster is engaged. The word "firm" shall include
7 any corporation, partnership, association, joint-stock
8 company, or person.

9 (e) A public adjuster contract may not contain any contract
10 term that:

11 (1) allows the public adjuster's percentage fee to be
12 collected when money is due from an insurance company, but
13 not paid, or that allows a public adjuster to collect the
14 entire fee from the first check issued by an insurance
15 company, rather than as a percentage of each check issued
16 by an insurance company;

17 (2) requires the insured to authorize an insurance
18 company to issue a check only in the name of the public
19 adjuster;

20 (3) precludes a public adjuster or an insured from
21 pursuing civil remedies;

22 (4) includes any hold harmless agreement that provides
23 indemnification to the public adjuster by the insured for
24 liability resulting from the public adjuster's negligence;
25 or

26 (5) provides power of attorney by which the public

1 adjuster can act in the place and instead of the insured.

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

4 (1) Prior to the signing of the contract, the public
5 adjuster shall provide the insured with a separate signed
6 and dated disclosure document regarding the claim process
7 that states:

8 "Property insurance policies obligate the insured to
9 present a claim to his or her insurance company for
10 consideration. There are 3 types of adjusters that could be
11 involved in that process. The definitions of the 3 types
12 are as follows:

13 (A) "Company adjuster" means the insurance
14 adjusters who are employees of an insurance company.
15 They represent the interest of the insurance company
16 and are paid by the insurance company. They will not
17 charge you a fee.

18 (B) "Independent adjuster" means the insurance
19 adjusters who are hired on a contract basis by an
20 insurance company to represent the insurance company's
21 interest in the settlement of the claim. They are paid
22 by your insurance company. They will not charge you a
23 fee.

24 (C) "Public adjuster" means the insurance
25 adjusters who do not work for any insurance company.
26 They work for the insured to assist in the preparation,

1 presentation and settlement of the claim. The insured
2 hires them by signing a contract agreeing to pay them a
3 fee or commission based on a percentage of the
4 settlement, or other method of compensation.".

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

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

10 (4) The salary, fee, commission, or other
11 consideration is the obligation of the insured, not the
12 insurer, except when rights have been assigned to the
13 public adjuster by the insured.

14 (g) The contracts shall be executed in duplicate to provide
15 an original contract to the public adjuster, and an original
16 contract to the insured. The public adjuster's original
17 contract shall be available at all times for inspection without
18 notice by the Director.

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

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

25 (j) A public adjuster shall not provide services until a
26 written contract with the insured has been executed, on a form

1 filed with and approved by the Director. At the option of the
2 insured, any such contract shall be voidable for 10 ~~5~~ business
3 days after execution. The insured may void the contract by
4 notifying the public adjuster in writing by (i) registered or
5 certified mail, return receipt requested, to the address shown
6 on the contract or (ii) personally serving the notice on the
7 public adjuster. The contract must indicate the rescission
8 period in clearly visible, bold type and in not less than
9 10-point font.

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

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