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UPDATED – BULLETIN 20-34
(Bulletin 20-34 issued on August 14, 2020 has been updated to correct citations contained in the document.)

Date: August 17, 2020

To: All Resident and Non-Resident Public Adjusters

Re: Disaster and Emergency Response Requirements

In response to recent public safety emergencies and the threat of natural disasters occurring in the State, the Maryland Insurance Administration (“the Administration”) reminds all resident and non-resident public adjusters of the requirements of the Maryland Insurance Article that pertain to their conduct within the State, particularly with respect to licensing and to contracting with policyholders.

Each person who acts as a public adjuster as defined in §10-401(g) of the Insurance Article, must be individually licensed in order to perform those services in the State.

In addition, pursuant to §10-411 of the Insurance Article, all engagements for the performance of public adjusting services **must** be set out in a contract that meets each of the following requirements:

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.

§ 10-411(h). The contract **must also contain** a statement that:

- (1) the insured has the right to rescind or cancel the contract within 3 business days after the date the contract was signed;
- (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 period; 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.

§ 10-411(e). A public adjuster contract may **not** contain any provision that:

- (1) allows the public adjuster's percentage fee to be collected when money is due from, but not yet paid by, an insurance company;
- (2) allows a public adjuster to collect the entire fee from the first check issued by an insurance company, rather than as a percentage of each check issued by an insurance company;
- (3) requires the insured to authorize an insurance company to issue a check only in the name of the public adjuster; or
- (4) precludes either party from pursuing any civil remedy.

§ 10-411(f)

Before a public adjuster contract is signed by a policyholder, the public adjuster must provide the insured with a separate written disclosure document which is signed by the policyholder that includes the following disclosures:

- (1) Property insurance policies obligate the insured to present a claim to the insurance company for consideration. There are three types of adjusters that could be involved in that process. The definitions of the three types are:
 - (i) "Company adjuster" means an insurance adjuster who is an employee of an insurance company. A company adjuster represents the interest of the insurance company and is paid by the insurance company. A company adjuster will not charge you a fee.
 - (ii) "Independent adjuster" means an insurance adjuster who is hired on a contractual basis by an insurance company to represent the insurance company's interest in the settlement of the claim. An independent adjuster is paid by your insurance company. An independent adjuster will not charge you a fee.

(iii) "Public adjuster" means an insurance adjuster who does not work for any insurance company. A public adjuster works for the insured to assist in the preparation, presentation, and settlement of a claim. The insured hires a public adjuster by signing a contract agreeing to pay the public adjuster a fee or commission based on a percentage of the settlement, or another method of compensation.

(2) The insured is not required to hire a public adjuster to help the insured meet the insured's obligations under the policy but has the right to do so.

(3) The insured has the right to initiate direct communications with the insured's attorney, the insurer, the insurer's adjuster, the insurer's attorney, or any other person regarding the settlement of the insured's claim.

(4) A public adjuster is not a representative or an employee of the insurer.

(5) The salary, fee, commission, or other consideration of a public adjuster is the obligation of the insured, not the insurer.

§ 10-411(d). In addition,

(1) A public adjuster shall provide to the insured a written disclosure signed by the public adjuster and the insured concerning any direct or indirect financial interest that the public adjuster or any immediate family member of the public adjuster has with any other party that is involved in any aspect of the claim, other than the salary, fee, commission, or other consideration established in the written contract with the insured.

(2) The disclosure shall include any ownership of, or any compensation expected to be received from, any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop, or any other firm that provides estimates for work, or that performs any work, in conjunction with damages caused by the insured loss on which the public adjuster is engaged.

§ 10-411(i). The public adjuster must also give the insured written notice of the insured's right under the Maryland Consumer Protection Act.

Further, public adjusters are required by § 10-413 of the Insurance Article to maintain a complete record of each transaction entered into as a public adjuster. That includes maintaining complete and accurate records of:

(i) the name of the insured;

(ii) the date, location, and amount of the loss;

(iii) a copy of the contract between the public adjuster and the insured;

(iv) the name of the insurer and the amount, expiration date, and number of each policy carried with respect to the loss;

(v) an itemized statement of the insured's recoveries;

(vi) an itemized statement of all compensation received by the public adjuster, from any source, in connection with the loss;

(vii) a register of all money received, deposited, disbursed, or withdrawn in connection with a transaction with an insured, including:

1. fees, transfers, and disbursements from a trust account; and

2. all transactions concerning all interest-bearing accounts;

(viii) the name of the public adjuster who executed the public adjuster contract;

(ix) the name of the attorney representing the insured, if applicable; and

(x) the name of the claims representative of the insurance company.

Finally, effective October 1, 2020, §10-414 (a)(3), of the Insurance Article requires public adjusters to disburse insurance settlement payments received on behalf of the insured within 15 business days after the date of the payment from an insurer.

For any questions concerning this Bulletin, please contact Jeff Gross, jeff.gross@maryland.gov, or Erica Bailey, erica.bailey@maryland.gov, at (410) 468-2113.

KATHLEEN A. BIRRANE
Commissioner

Signature on file with original

By: _____
Erica J. Bailey
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