



Nick Cavey -MDInsurance- <nick.cavey@maryland.gov>

Draft Legislation Regarding Public Adjusters

Alex J. Brown <ajb@shapirosher.com>

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To: Nancy Egan <nancy.egan@maryland.gov>, Nick Cavey <nick.cavey@maryland.gov>

Cc: "Alex J. Brown" <ajb@shapirosher.com>, Chris Logsdon <logsdon500@yahoo.com>

Nancy and Nick:

Thanks very much for extending the time period for interested parties to comment on the proposed legislation regarding public adjusters. We appreciate all that the Administration has done to give small businesses like Maryland Insurance Adjusters, Inc. a voice in this process. My client sent four representatives to the meeting because this legislation may have a significant impact on the successful business. Despite the grumbling you heard from others, my client generally agrees with most of the substance of the proposed bill. As a company that prides itself on doing its very best to do things "the right way," we welcome additional regulation of the industry. In our view, a clearer statute is easier to follow, and more comprehensive regulations only hurt the fringe characters who bring our profession a bad name. As such, we support most of the proposed bill, and have only one comment:

1. Proposed Section 10-415.B. This provision generally prohibits adjusters from soliciting, or attempting to solicit an insured "during the progress of a loss-producing occurrence, as defined in the insured's insurance contract." This language is likely to lead to disputes as to its application, as described below. More importantly, this statute is likely to harm consumers.

I personally have a concern that this will lead to disputes over what is an "occurrence." There are numerous lawsuits that have been filed over what an "occurrence" is, and lawyers and judges often do not agree. I know that this is not the Administration's language, but I think it is unfair to expect an adjuster to determine when the "occurrence" has begun and ended. In the case of a fire, is the occurrence over when everyone is out of the house and safe, when the fire department has arrived, when the embers have finally died down, or at some later point? What if the fire "dies" and the building collapses hours later? What if the building sustains other later damage, either accidental or intentionally caused by vandals or others? In the case of a flood, it may take weeks for mold to develop. I expect that the initial response to these questions is that adjusters would be expected to use common sense as to when the incident is over. As a practical matter, however, if an insured wants to avoid paying the adjuster its fee, the insured can simply claim that certain aspects of the occurrence were not complete when the adjuster solicited the fire, and then the adjuster is then facing a potential statutory violation.

In addition, and perhaps more importantly, the provision will lead to delays in consumers getting the assistance they need when disaster occurs. As things stand, when a family's home burns down in the middle of the night, and the emergency personnel are gone, adjusters are often the only individuals there to provide assistance and guidance to families that are in shock, and in need of direction. It is often calming to know that even before an insured really processes what has happened, a solution is on the way. Adjusters can also often guide people to places to stay that insurance companies will accept - which may be the most critical piece of information to the insured at that moment. Absent public adjusters being financially incentivized to be there, the insureds are left to figure these things out on their own, and they may or may not have been able to salvage their cell phone, wallet and other critical items. The flip side of this argument is that we do not want public adjusters taking advantage of desperate people in their time of need. The three day cancellation requirement takes care of that. After a day or two, reasonable people can decide whether they are grateful for the assistance they have received, and wish to continue, or whether they feel like they would prefer to be on their own. It seems preferable to provide people the assistance in their time of need, and later decide whether to continue, rather than preventing them from getting responsive assistance in the first instance. If this bill passes as is, there will be delay, because the adjusters will feel the need to protect themselves from the issues described in my previous paragraph above.

Thanks again for all of your work on this issue, and for taking the time to consider these comments.

Alex J. Brown
Attorney at Law
Shapiro Sher Guinot & Sandler, P.A.
250 West Pratt Street
Suite 2000
Baltimore, MD 21201
P 410.385.4220

F 410.539.7611
C 443.845.6777

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