SENATE BILL 97

C4 4lr0040

(PRE–FILED)

By: **Chair, Finance Committee (By Request – Departmental – Insurance Administration, Maryland)**

Requested: November 7, 2013
Introduced and read first time: January 8, 2014
Assigned to: Finance

A BILL ENTITLED

AN ACT concerning

Insurance – Public Adjusters – Prohibited Inducements

FOR the purpose of prohibiting a person from paying, allowing, or giving, or offering to pay, allow, or give, directly or indirectly, any valuable consideration to an insured as an inducement to use the services of a public adjuster; and generally relating to insurance and public adjusters.

BY adding to
Article – Insurance
Section 10–409.1
Annotated Code of Maryland
(2011 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, without amendments,
Article – Insurance
Section 10–410
Annotated Code of Maryland
(2011 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Insurance

10–409.1.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED BY LAW, A PERSON MAY NOT PAY, ALLOW, OR GIVE, OR OFFER TO PAY, ALLOW, OR GIVE, DIRECTLY OR

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

INDIRECTLY, ANY VALUABLE CONSIDERATION TO AN INSURED AS AN INDUCEMENT TO USE THE SERVICES OF A PUBLIC ADJUSTER.

10–410.

(a) The Commissioner may deny a license to an applicant or suspend, revoke, or refuse to renew or reinstate a license after notice and opportunity for a hearing under §§ 2–210 through 2–214 of this article if the applicant or licensee:

(1) has violated this article;

(2) has made a material misstatement in the application for the license;

(3) has engaged in fraudulent or dishonest practices;

(4) has demonstrated incompetency or untrustworthiness to act as a public adjuster;

(5) has misappropriated, converted, or unlawfully withheld money that belongs to an insurer, insurance producer, insured, or other person;

(6) has willfully and materially misrepresented the provisions of a policy;

(7) has been convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust;

(8) has willfully failed to comply with or has willfully violated a proper order or regulation of the Commissioner;

(9) has failed or refused to pay on demand money that belongs to an insurer, insurance producer, insured, or other person entitled to the money;

(10) is not carrying on or does not intend to carry on business in good faith while representing to the public that the person is a public adjuster;

(11) has been denied a license or has had a license suspended or revoked in another state; or

(12) has knowingly employed or knowingly continued to employ an individual acting in a fiduciary capacity who has been convicted within the preceding 10 years of a felony or crime of moral turpitude.

(b) (1) The Commissioner may deny a license to a business entity applicant or suspend, revoke, or refuse to renew or reinstate the license of a business

entity after notice and opportunity for a hearing under §§ 2–210 through 2–214 of this article, if an individual listed in paragraph (2) of this subsection:

(i) violates any provision of this article;

(ii) is convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust; or

(iii) has any professional license suspended or revoked for a fraudulent or dishonest practice.

(2) The sanctions provided for under this subsection may be imposed on a business entity if the violation was committed by an individual who:

(i) is a public adjuster employed by the business entity;

(ii) 1. in the case of a limited liability company, is an officer, director, member, or manager;

2. in the case of a partnership, is a partner; and

3. in the case of a corporation, is a director, officer, or controlling owner; or

(iii) has direct control over the fiscal management of the business entity.

(c) Instead of or in addition to suspending or revoking the license of a public adjuster, the Commissioner may impose on the licensee a penalty of not less than $100 but not exceeding $500 for each violation of this article.

(d) Instead of or in addition to suspending or revoking the license, the Commissioner may require that restitution be made to any citizen who has suffered financial injury because of the violation of this article.

(e) If the license is suspended under this section, the Commissioner may require the individual to pass an examination and file a new application before the suspension is lifted.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.