

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 231

(Chair, Finance Committee)(By Request - Departmental -
Maryland Insurance Administration)

Finance

Economic Matters

Insurance – Protections After Loss or Damage to Property

This departmental bill (1) prohibits a public adjuster (or anyone acting on behalf of a public adjuster) from soliciting or attempting to solicit a client during the progress of a loss-producing occurrence; (2) limits the hours during which a public adjuster may solicit business; and (3) requires a public adjuster contract to include specified statements. A public adjuster that enters into a public adjuster contract within 72 hours after the loss giving rise to an insurance claim must provide notice to the Insurance Commissioner, as specified. Additionally, the bill removes an existing limitation on protections against a fraudulent insurance act by contractors offering home repairs for damages to a private residence.

Fiscal Summary

State Effect: The Maryland Insurance Administration (MIA) can implement the bill’s changes using existing budgeted resources.

Local Effect: The bill does not affect local government revenues or expenditures.

Small Business Effect: MIA has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary/Current Law: A “public adjuster” is a person who, for compensation, (1) acts or aids, solely in relation to first-party claims arising under a policy of real or

personal property, on behalf of the insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance policy; (2) unless marketing on behalf of a public adjuster, solicits for employment as a public adjuster for insurance claims; or (3) investigates or adjusts losses, or advises an insured about first-party claims arising out of an insurance policy that insures real or personal property for another person engaged as a public adjuster for the insured.

Public Adjuster Contracts

Under current law, among other requirements, a public adjuster contract must contain a statement that (1) the insured has the right to rescind or cancel the contract within three business days after the date the contract was signed; (2) the notice of rescission or cancellation must be in writing and mailed or delivered to the public adjuster at the address stated in the contract within that three-business-day period; and (3) if the insured exercises the right to rescind or cancel the contract, the public adjuster must, within 15 business days after the public adjuster receives the notice, return anything of value given by the insured under the contract.

The bill extends the cancellation period from three business days to seven business days *if the policyholder is at least 65 years old* and requires that a contract include a statement regarding the extended cancellation period. The bill also requires that a contract provide a notice to the insured that a public adjuster (or anyone acting on behalf of a public adjuster) may not solicit or attempt to solicit a client during the process of a loss-producing occurrence or between the hours of 8:00 p.m. and 8:00 a.m.

Under the bill, a public adjuster that enters into a public adjuster contract within 72 hours after the loss giving rise to an insurance claim must provide notice to the Commissioner that the public adjuster has entered into the contract. This notice must be provided, in a form and manner determined by the Commissioner, within 24 hours after the public adjuster enters into the contract.

Fraudulent Insurance Act

It is a fraudulent insurance act for a contractor offering home repair or remodeling services for damages to a private residence caused by weather, to directly or indirectly pay or otherwise compensate an insured, or offer or promise to pay or compensate an insured, with the intent to defraud an insurer, for any part of the insured's deductible under the insured's property or casualty insurance policy, if payment for the services will be made from the proceeds of the policy.

The bill removes the limitation for damages caused by weather. Thus, a fraudulent act includes damages caused by any loss-producing event.

Background: The Public Adjuster Licensing Model Act (#228), developed by National Association of Insurance Commissioners (NAIC), governs the qualifications and operation of public adjusters. The NAIC model includes the concept of a “cooling off period” during which public adjusters cannot solicit business from policyholders. However, this concept was not included in Maryland law when the NAIC model was adopted.

MIA reports that it is not unusual for public adjusters to arrive and solicit business from policyholders during and immediately following a catastrophic event, such as a house fire or severe storm. The bill is intended to prohibit a public adjuster from soliciting business during the 24-hour period immediately following a loss in order to provide consumers with time to assess their loss, make initial contact with their insurer and other responders, and make an informed decision about whether to engage a public adjuster to assist them. This provision also better aligns State law with measures that have been adopted in other states, including Delaware, New Jersey, Rhode Island, and Virginia.

MIA also advises that the State has long prohibited contractors from fraudulently inflating the costs of post-storm repair or restoration services to cover the amount that an insured would otherwise have to pay as part of any deductible under their insurance policy. The current prohibition only applies to losses caused by weather. Expanding this prohibition to include home repairs for damages caused by any loss-producing occurrence more fully protects consumers against individuals attempting to defraud insurers by inflating claims by the amount of the deductible.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 36 (Chair, Economic Matters Committee)(By Request - Departmental - Maryland Insurance Administration) - Economic Matters.

Information Source(s): Maryland Insurance Administration; Department of Legislative Services

Fiscal Note History: First Reader - January 22, 2024
km/jc Third Reader - March 19, 2024
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Insurance – Protections After Loss or Damage to Property

BILL NUMBER: SB0231

PREPARED BY: Jamie Sexton

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

**_X_ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL
BUSINESS**

OR

**___ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES**

PART B. ECONOMIC IMPACT ANALYSIS

There is minimal economic impact on small businesses associated with this proposal.