

SB 231_FAV_MAMIC.pdf

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Position: FAV



191 Main Street, Suite 310 – Annapolis MD 21401 – 410-268-6871

January 23, 2024

The Honorable Pamela Beidle
Chair, Senate Finance Committee
3 East Miller Senate Office Building
Annapolis, Maryland 21401

RE: Senate Bill 231 – Insurance – Protections After Loss or Damage to Property - FAVORABLE

On behalf of the Maryland Association of Maryland Insurance Companies (MAMIC), we support Senate Bill 231.

MAMIC is comprised of 12 mutual insurance companies that are headquartered in Maryland and neighboring states. Approximately one-half of our members are domiciled in Maryland, and are key contributors and employers in our local communities. Together, MAMIC members offer a wide variety of insurance products and services and provide coverage for thousands of Maryland citizens.

The bill addresses a longstanding issue with respect to the role of public adjusters in the adjudication of claims – chiefly weather-related – to homes or other real property. Specifically, our members are all too familiar with a category of individuals known as “storm chasers.” These individuals travel, often across state lines, and approach homeowners after storms advising of damage to roofs or siding, and offering to make immediate repairs. Often, these repairs may be unnecessary. A subset of this group are public adjusters, who are licensed by the State. The bill addresses this subset by placing limitations on public adjusters, or their representatives, when soliciting business within 24 hours after a loss has occurred.

MAMIC believes that the measures included in this Departmental legislation will afford further protection to consumers who might otherwise be confused or misled by persons offering to make repairs to property. For these reasons, MAMIC supports Senate Bill 231.

Thank you for your consideration of our views on this important legislation.

Sincerely,

Jeane A. Peters, President

SB231_NICB_De Campos_FAV.pdf

Uploaded by: Eric De Campos

Position: FAV

January 23, 2024

Hon. Pamela Beidle and Members of the Committee
Senate Finance Committee
Maryland General Assembly

RE: Senate Bill 231 – Protections After Loss or Damage to Property – Support

Dear Chair Beidle and Members of the Committee:

The National Insurance Crime Bureau (NICB) is a national, century-old, not-for-profit organization supported by approximately 1,200 property and casualty insurance companies, including many who write business in Maryland. Working hand-in-hand with our member-companies and Maryland state and local law enforcement, we help to detect, prevent, and deter insurance crimes, including contractor fraud. While NICB provides value to our member companies, we also serve a significant public benefit by helping to stem the estimated billions of dollars in economic harm that insurance crime causes to individual policy holders across the country every year.

Contractors often use the aftermath of major storms or catastrophes to prey upon already vulnerable consumers. Contractor fraud continues to be a widespread problem across the country, including in Maryland. Unscrupulous public adjusters often add to that harm. Public adjusters are sometimes hired by policyholders to assist the policyholder in resolving claims. Most public adjusters, who are paid based on a percentage of the total claim award, assess, and evaluate damage in a professional manner and are often helpful to advance policyholders' interests. However, dishonest public adjusters may artificially inflate claims estimates to line their own pockets. More obvious scams involve charging unnecessary, exorbitant, or fraudulent fees; stealing policyholders' personal information; or fraudulently working with partner contractors in schemes to inflate claims in exchange for kickbacks.

Senate Bill 231 seeks to provide important consumer protections, including prohibitions around soliciting insureds as well as extending the timeframe for an insured who is 65 years or older to rescind or cancel a public adjuster contract from 3 days to 7 days. Furthermore, SB 231 clarifies that contractors are prohibited from paying or promising to pay an insured's deductible when offering home repair or remodeling, regardless of whether the property damage is weather-related.

Accordingly, we respectfully request your support of SB 231 which will help protect insureds against fraud and curtail unscrupulous public adjusters and contractors.

We thank you for considering our views as you deliberate the merits of this bill. We strongly encourage you to utilize NICB as a resource and partner in the fight against insurance fraud. If you have any questions or need additional information, please contact me at edecampos@nicb.org or 847.989.7104.

Sincerely,



Eric M. De Campos
Senior Director
Strategy, Policy and Government Affairs
National Insurance Crime Bureau

Final SB 231 - MIA - FWA.pdf

Uploaded by: Joseph Smith

Position: FWA

WES MOORE
Governor

ARUNA MILLER
Lt. Governor



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Date: January 24, 2024

Bill # / Title: Senate Bill 231 - Insurance – Protections After Loss or Damage to Property

Committee: Senate Finance Committee

Position: Support with Amendments

The Maryland Insurance Administration (MIA) appreciates the opportunity to share its support, with amendments, of Senate Bill 231, which is a Departmental bill.

SB 231 seeks to protect Maryland consumers from predatory business practices that often occur after severe weather or other catastrophic events that give rise to insurance claims. The bill places certain limitations on solicitation by public adjusters (including a prohibition from soliciting an insured during the progress of a loss-producing occurrence); allows additional time for the cancellation or rescission of a public adjuster contract if the consumer entering into the contract is 65 years old or older; and broadens an existing protection against a fraudulent insurance act by contractors offering home repairs for damages to a private residence.

Public adjusters are hired and paid by policyholders to negotiate insurance claims. Public adjusters are often engaged when the policyholder's claim is large and complex and the policyholder requires specialized and expert assistance in negotiating with the insurer. However, a policyholder may not be able to accurately assess their need for the paid services of a public adjuster at the time of loss and as the loss is occurring.

As such, the NAIC's Public Adjuster Licensing Modeling Act, which was adopted by the National Association of Insurance Commissioners in 2006, limits the times during which public adjusters can solicit business from policyholders by prohibiting solicitation during the course of a loss or by designating time frames during which solicitation is prohibited. Maryland did not alter its public adjuster laws when the model was adopted, but other states have, and in light of investigations undertaken by the agency in response to our experience with consumer complaints, the MIA believes that it is appropriate for the State to adopt protections at this time.

As filed, SB 231 incorporates both forms of moratorium from the NAIC model. However, certain licensees have challenged the constitutionality of a ban on solicitation during the 24 hours immediately following a loss. While the MIA does not concede the merits of the position, in the interest of working to advance this important consumer protection, the MIA is working with the Committee to replace that moratorium with: (1) a provision that prohibits a public adjuster from soliciting during the progress of a loss-producing occurrence, and (2) a requirement that, for each public adjuster contract that is executed within 72 hours of the loss-producing event, the licensed public adjuster must submit a notice of the contract to the MIA within 24 hours of signing on a form to be adopted by the Commissioner. The 72-hour time frame was selected because Maryland law limits the compensation that can be paid to a public adjuster where the insurer has agreed to certain payments within 72 hours of the loss.

During its investigations, the MIA has found that it is not unusual for public adjusters to arrive and solicit business from policyholders/homeowners during and immediately following a catastrophic event, such as a house fire or

severe storm. For example, last year, during a multiple-dwelling fire in Baltimore City, consumers reported to the MIA that a public adjuster was on the scene soliciting business, introducing himself as a “claim handler,” and soliciting business *while the fire department was still actively putting out the fire*. In this particular case, the complainants indicated that, in the moment, they believed that this individual was an adjuster for their insurance company and assumed it was in their best interest to sign with him. They did not realize until after they and their neighbors had already signed with him, that he was not actually an adjuster for the insurance company. This is one of many examples of complaints that the MIA regularly receives from consumers, local fire departments, local governments, and legislators regarding concerns about public adjuster solicitation in the wake of loss-occurring events, which demonstrate the need for additional protections.

During and in the immediate aftermath of disasters such as these, consumers are the most vulnerable and may not have the capacity to think clearly. They may not appreciate the extent of their loss or claim, and may not even have reported the claim or had initial communications with their insurer. Therefore, they are not in a position to accurately assess their need to pay a third-party to assist them with their claim. By requiring public adjusters to wait until after the loss-producing event has concluded and to submit contracts that are executed by consumers within 72 hours immediately following a loss, the MIA will be in a position to assure that consumers have been provided with statutory notices and disclosures and that the contract’s payment terms comport with statutory law.

SB 231 further protects consumers from solicitations between 8 p.m. and 8 a.m., which is outside of normal business hours. Of course, an individual may reach out to a public adjuster during these non-business hours. This provision addresses the time frames within which a licensee may not contact consumers to solicit business. It does not prohibit a consumer from initiating an inquiry. The constitutionality of this provision has not been challenged.

In addition to implementing important consumer protections, it is also important to note that SB 231 will better align Maryland’s law around public adjuster solicitation with measures that have been adopted in other states, including Rhode Island, New Jersey, Virginia, Delaware, and others.

In addition, the MIA has agreed to add a provision to SB 231 to offer qualified immunity from suit to persons who report violations of the Insurance Article by public adjusters or those acting illegally as public adjusters to the MIA. Qualified immunity provisions are authorized in many instances within the Insurance Article, including with respect to the reporting of insurance fraud. The language to be added to SB 231 will incorporate similar language.

In addition, this bill expands the scope of an existing statutory protection against insurance fraud. Maryland 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. Inflating damages inflates claims costs and results in higher insurance costs for everyone. The current prohibition only applies to losses caused by weather. While weather related events and “storm chasing” are circumstances in which this activity occurs, they are not the only circumstances in which it occurs. By expanding this prohibition to include home repairs for damages caused by *any* loss-producing occurrence, the Maryland market is more fully protected against individuals attempting to defraud insurers by inflating claims by the amount of the deductible.

The MIA is confident that Maryland consumers are best served by the protections included in this bill. For these reasons, the MIA urges a favorable committee report on SB 231 and thanks the Committee for the opportunity to share its support.