

SENATE, No. 3935

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED JUNE 5, 2023

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Requires certain information be included in certain contracts with licensed public adjusters.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning licensed public adjusters and amending and
2 supplementing P.L.1993, c.66.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 13 of P.L.1993, c.66 (C.17:22B-13) is amended to
8 read as follows:

9 13. No individual, firm, association or corporation licensed under
10 **[this act]** P.L.1993, c.66 (C.17:22B-1 et al.) shall:

11 a. solicit the adjustment of a loss or damage occurring in this
12 State from an insured, whether by personal interview, by telephone,
13 or by any other method, between the hours of six p.m. and eight
14 a.m. during the 24 hours after the loss has occurred;

15 b. enter into any agreement, oral or written, with an insured to
16 negotiate or settle claims for loss or damage occurring in this State
17 between the hours of six p.m. and eight a.m. during the 24 hours
18 after the loss has occurred;

19 c. have any right to compensation from any insured for or on
20 account of services rendered to an insured as a public adjuster
21 unless the right to compensation is based upon a written
22 **[memorandum] contract**, signed by the party to be charged and by
23 the adjuster**[, and specifying] and the contract**:

24 (1) states the license number of the public adjuster signing the
25 contract as well as the license number of the company or firm, if the
26 contract is in the name of a public adjusting company or firm;

27 (2) specifies or clearly [defining] defines the services to be
28 rendered, [and] the amount or extent of the compensation, and the
29 insured's right to cancel or terminate the agreement, on a form and
30 with such language as the commissioner may prescribe; and

31 (3) meets with the minimum standards and requirements of
32 section 2 of P.L. , c. (C.) (pending before the Legislature
33 as this bill);

34 d. induce cancellation of a duly executed written
35 **[memorandum] contract** between an insured and a public adjuster;

36 e. make any misrepresentation of facts or advise any person on
37 questions of law in connection with the transaction of business as
38 an adjuster; or

39 f. receive, accept or hold any moneys towards the settlement of
40 a claim for loss or damage on behalf of an insured unless the public
41 adjuster deposits the moneys in an **[interest bearing]** escrow
42 account in a banking institution or savings and loan association in
43 this State insured by an agency of the federal government. Any
44 funds held in escrow together with interest accumulated thereon
45 shall be the property of the insured until disbursement thereof

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 pursuant to a written **【memorandum】** contract, signed by the
2 insured and by the adjuster, **【specifying or clearly defining the**
3 **services rendered and the amount of any compensation to be paid**
4 **therefrom】** as specified above and in section 2 of P.L. _____,
5 c. (C. _____) (pending before the Legislature as this bill). In the
6 event of the insolvency or bankruptcy of a public adjuster, the claim
7 of an insured for any settlement moneys received, accepted or held
8 by the adjuster shall constitute a statutory trust.
9 (cf: P.L.2010, c.116, s.3)

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11 2. (New section) a. A particular form of statement is not
12 required, but the following statements and notice of right to cancel
13 are sufficient with regard to defining the services to be rendered and
14 a description of the right to cancel.

15 “A public adjuster is hereby retained by the above-named
16 insured to advise and assist in the adjustment of a property damage
17 insurance claim, which services may include evaluation,
18 documentation, presentation and negotiation of the insurance claim
19 arising from the loss described herein.”

20 “The insured may cancel this contract within three business days
21 without further obligation by completing the attached notice of right
22 to cancel. After that time if the contract is terminated by the
23 insured, the insured remains obligated to pay from any insurance
24 proceeds recovered, either prior to or after the date of termination, a
25 fee for the reasonable value of services provided by the public
26 adjuster.”

27 b. The following notice of right to cancel is sufficient with
28 regard to defining the right to cancel:

29 “NOTICE OF RIGHT TO CANCEL
30 Date of Contract: _____ / _____ / _____
31 Name of Insured/s: _____

32 **You may cancel this contract, without penalty or obligation,**
33 **prior to midnight of the third business day after the above date.**
34 If you exercise your right to cancel this contract, you will remain
35 liable for reasonable expenses and necessary emergency out-of-
36 pocket expenses or services the public adjuster incurred on your
37 behalf that were necessary to protect your investment between
38 signing of the contract and cancellation.

39 If you cancel, anything of value given by you under the contract
40 will be returned within 10 business days following the receipt by
41 the public adjuster of your cancellation notice, and any security
42 interest arising out of the contract will be canceled.

43 To cancel this contract, mail, fax or personally deliver a signed
44 and dated copy of this notice, or any other written notice, indicating
45 your intent to cancel and date of cancellation, to the address of
46 public adjuster shown at the top of the public adjuster contract, no
47 later than midnight of _____ / _____ / _____.

1 I HEREBY CANCEL THIS CONTRACT

2 Insured:_____

3

4 Insured:_____

5 Adjuster:_____

6 Please Print Name Date: ____ / ____ / ____”

7 c. If a public adjuster is to receive as compensation a
8 percentage of the total amount paid by the insurer to resolve the
9 insured’s claim for property damage to the insured’s primary or
10 secondary dwelling, the contract between a public adjuster and an
11 insured may not contain a contract term that would:

12 (1) allow the public adjuster to collect the public adjuster's
13 entire compensation from the first payment issued by the insurer if
14 the insurer will pay the total amount to resolve the insured's claim
15 in two or more payments;

16 (2) require the insured to authorize an insurer to issue a check
17 only in the name of the public adjuster; and

18 (3) preclude the public adjuster or the insured from pursuing
19 civil remedies.

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21 3. This act shall take effect on the 180th day next following the
22 date of enactment.

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25 STATEMENT

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27 This bill provides that no individual, firm, association, or
28 corporation licensed under the “Public Adjusters’ Licensing Act”
29 has any right to compensation from any insured for or on account of
30 services rendered to an insured as a public adjuster unless the
31 contract stipulates certain information.

32 Under the bill, a contract is required to:

33 (1) state the license number of the public adjuster signing the
34 contract as well and of the company or firm, if the contract is in the
35 name of a public adjusting company or firm,

36 (2) specify or clearly define the services to be rendered, the
37 amount or extent of the compensation, and the insured’s right to
38 cancel or terminate the agreement, on a form and in language
39 prescribed by the Commissioner of Banking and Insurance; and

40 (3) meet the minimum standards set forth in the bill regarding
41 certain descriptions of the services rendered and of the right to
42 cancel.

43 The bill does not require a particular form of statement for the
44 descriptions of services rendered or of the right to cancel, but does
45 provide sample statements. The bill requires a notice of right to
46 cancel be part of the contract between the insured and the public
47 adjuster.

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1 Lastly, the bill amends current law providing that no individual,
2 firm, association, or corporation licensed under the “Public
3 Adjusters’ Licensing Act” is permitted to receive, accept or hold
4 any moneys toward the settlement of a claim for loss or damage on
5 behalf of an insured unless the public adjuster deposits the moneys
6 in a permitted escrow account to remove language stipulating that
7 the escrow account be interest bearing.