

BULLETIN 373

Public Adjusters

An adjuster representing an insured is commonly referred to as a “public adjuster.” Public adjusters are required to be licensed in Maine as adjusters, and are required to comply with certain specific standards under the Maine Insurance Code. Failure to do so can result in enforcement action. This Bulletin summarizes the most significant requirements.

36-Hour Rule

A public adjuster may not solicit or offer an adjustment services contract for at least 36 hours after an accident or occurrence that might result in an insurance claim. Earlier contact violates 24-A M.R.S.A. § 1476(1).

Right to Rescind

The contract with the client must contain a provision prominently printed on the first page of the contract, stating that the client has the option to rescind the contract within 2 business days after the contract is signed. Failure to include this provision violates section 1476(2). An adjuster who attempts to discourage a consumer from exercising this right to rescind will be subject to enforcement action under 24-A M.R.S.A. §§ 1417 and 1420(K)(1)(H) for using coercive practices.

Fees and Services Rendered

Although the Insurance Code does not contain a specific limitation as to the fee amount, adjusters are required to act in the best interests of their clients, and they are required to be “competent, trustworthy, financially responsible, and of good personal and business reputation” under section 1472. Any fee arrangement must be reasonable under the circumstances.

Adjusters should take special care when dealing with total losses in circumstances indicating that there will likely be little controversy concerning the insurer’s need to pay the policy limits. While the client may still decide to use a public adjuster in such a case to represent his or her interests, the adjuster’s fee effectively reduces the insured’s settlement, and the adjuster should be mindful that there must be a reasonable correlation between the fee and the value of the adjuster’s services to the client.

Records

Under 24-A M.R.S.A. § 1474, every adjuster must keep a record of all transactions under the license, at the adjuster’s business address. The record must include a copy of all investigations or

adjustments undertaken or consummated, and a statement of any fee, commission or other compensation received or requested. Records must be available for examination by the Bureau of Insurance at all times, and the adjuster must retain the records for at least three years.

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NOTE: This bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties or privileges nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Bureau of Insurance if additional information is needed.