
Wisconsin Legislative Council

AMENDMENT MEMO



Memo published: January 21, 2020

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2019 Senate Bill 329

**Senate
Amendments 1 and 2**

2019 SENATE BILL 329

2019 Senate Bill 329 creates a new chapter of the statutes to regulate public adjusters. With certain exceptions, the bill requires a person to register as a “public adjuster” if the person performs, offers to perform, represents himself as performing, or provides certain services to assist a person performing, an act to assist an insured with filing an insurance claim, in exchange for compensation.

The bill requires a person seeking to be registered as a public adjuster to complete a form requiring all documentation that the Office of the Commissioner of Insurance (OCI) determines is necessary and appropriate, and to satisfy certain conditions, including passing a successful background check and character examination, maintaining an office, supplying a bond, passing an exam approved by OCI, and paying a fee determined by OCI by rule. The bill specifies that a public adjuster’s registration must be renewed every two years, and requires the completion of a minimum of 15 hours of continuing education in each two-year period.

The bill generally requires a public adjuster to enter into a written contract with an insured claimant before performing acts to assist the insured with an insurance claim, and specifies certain required and prohibited terms in such contracts. The bill authorizes an insured person to void a contract with a public adjuster within five business days, or within 10 business days in some circumstances.

The bill limits the amount of compensation a public adjuster may receive to no more than a reasonable hourly rate in circumstances where an insurer agrees to pay the policy limit within five days of the loss, and to not more than 10 percent of the actual recovery in cases involving a “catastrophic disaster.” The bill defines “catastrophic disaster” to mean an event that results in large numbers of deaths and injuries, causes extensive damage or destruction of facilities that provide and sustain human needs, produces an overwhelming demand on state and local response resources, causes a severe long-term effect on general economic activity, and severely affects state, local, and private-sector capabilities to begin and sustain response activities.

In addition, the bill prescribes certain requirements regarding the handling of funds and prohibits a public adjuster from taking certain actions, including, for example, requiring an insured to use a particular contractor or vendor or simultaneously acting as an insurance or independent adjuster. Relevant to the amendments, the bill prohibits a public adjuster from soliciting business between 6:00 p.m. and 9:00 a.m. or during the progress of a loss-producing occurrence.

The bill also generally prohibits a public adjuster from directly or indirectly accepting compensation or anything else of value from both an insured and a person who provides estimates for work or performs work in conjunction with damage or loss under a claim. However, the bill provides an exception to that

conflict of interest prohibition if the public adjuster has provided an insured with a prior written notice that clearly discloses the conflict of interest.

Finally, the bill authorizes OCI to take certain enforcement actions specific to public adjuster registration, in addition to more general enforcement options under current law.

SENATE AMENDMENT 1

Senate Amendment 1 retains the mandatory registration requirement for nonresident public adjusters but makes registration optional for public adjusters who are Wisconsin residents. Under the amendment, the examination, continuing education, and fee requirements apply only to registered public adjusters. However, under the amendment, many of the bill's other requirements and prohibitions, including those relating to contracts, compensation, conflicts of interest, and bonding, continue to apply to all public adjusters, not only registered public adjusters.

SENATE AMENDMENT 2

Senate Amendment 2 modifies the bill as follows:

- Replaces OCI's authority to set fees for registration, renewal, and examination by rule with a statutory fee of \$50 for each of those actions.
- Retains an insured's option under the bill to void a contract with a public adjuster within five days, but removes the option to void a contract within 10 days in certain circumstances.
- For purposes of the provisions relating to public adjuster compensation, replaces the definition of "catastrophic disaster" with a definition of "catastrophic disaster" as an event for which either the Governor of Wisconsin or the President of the United States has declared a state of emergency.
- Removes the exception to the general prohibition regarding conflicts of interest.
- Modifies the prohibition on the time period during which a public adjuster may not solicit clients, from all hours outside of 9:00 p.m. and 6:00 p.m., to hours outside of 9:00 a.m. and 8:00 p.m. within the 24 hours following a loss.

BILL HISTORY

Senator Feyen offered Senate Amendments 1 and 2 on January 14, 2020. On January 16, 2020, the Senate Committee on Insurance, Financial Institutions, Government Oversight and Courts voted to recommend adoption of both amendments and to recommend passage of the bill, as amended, all on unanimous votes.

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