

2012 Kansas Statutes

40-5514. Contracts for services; requirements; disclosures; prohibitions. (a) Public adjusters shall ensure that all contracts for their services are in writing and contain the following:

- (1) Legible full name of the public adjuster signing the contract;
- (2) permanent home state business address and phone number of the public adjuster;
- (3) the public adjuster's license number;
- (4) title of "public adjuster contract";
- (5) the insured's full name, street address, insurance company name and policy number, if known or upon notification;
- (6) a description of the loss and its location, if applicable;
- (7) description of services to be provided to the insured;
- (8) signatures of the public adjuster and the insured;
- (9) the date the contract was signed by the public adjuster and the date the contract was signed by the insured;
- (10) attestation language stating that the public adjuster is fully bonded pursuant to this act; and
- (11) full salary, fee, commission, compensation or other considerations the public adjuster is to receive for services to be rendered by the public adjuster for or on behalf of the insured.

(b) The public adjuster contract may specify that the public adjuster shall be named as a co-payee on an insurer's payment of a claim. If the compensation is based on a share of the insurance settlement, the exact percentage shall be specified. Compensation provisions in a public adjuster contract shall not be redacted in any copy of the contract provided to the commissioner.

(c) If the insurer, not later than 72 hours after the date on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insurance policy, the public adjuster shall:

- (1) Not receive a commission consisting of a percentage of the total amount paid by an insurer to resolve a claim;
- (2) inform the insured that the loss recovery amount might not be increased by the insurer; and
- (3) be entitled only to reasonable compensation from the insured for services provided by the public adjuster on behalf of the insured, based on the time spent on a claim and expenses incurred by the public adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurer.

(d) A public adjuster shall provide the insured a written disclosure concerning any direct or indirect financial interest that the public adjuster has with any other party who is involved in any aspect of the claim, other than the salary, fee, commission or other consideration established in the written contract with the insured, including, but not limited to, any ownership of, other than as a minority stockholder, or any compensation expected to be received from, any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop or any other firm that provides estimates for work, or that performs any work, in conjunction with damages caused by the insured loss on which the public adjuster is engaged. As used in this subsection, the word "firm" shall include any individual or business entity.

(e) A public adjuster contract may not contain any contract term that:

(1) Allows the public adjuster's percentage fee to be collected when money is due from an insurance company, but not paid, or that allows a public adjuster to collect the entire fee from the first check issued by an insurance company, rather than as percentage of each check issued by an insurance company;

(2) requires the insured to authorize an insurance company to issue a check only in the name of the public adjuster;

(3) imposes collection costs or late fees; or

(4) precludes a public adjuster from pursuing civil remedies.

(f) Prior to the signing of the contract the public adjuster shall provide the insured with a separate disclosure document regarding the claim process that states:

(1) Property insurance policies obligate the insured to present a claim to the insured's insurance company for consideration;

(2) there are three types of adjusters that could be involved in that process, and they are as follows:

(A) A company adjuster who is an employee of an insurance company, represents the interest of the insurance company, is paid by the insurance company and will not charge the insured a fee;

(B) an independent adjuster who is hired on a contract basis by an insurance company to represent the insurance company's interest in the settlement of the claim, who is paid by the insured's insurance company and will not charge the insured a fee; or

(C) a public adjuster who does not work for any insurance company but works for an insured to assist in the preparation, presentation and settlement of a claim. An insured engages a public adjuster by signing a contract agreeing to pay the public adjuster a fee or commission based on a percentage of the settlement, or other method of compensation;

(3) the insured is not required to hire a public adjuster to help the insured meet the insured's obligations under the policy, but has the right to do so;

(4) the insured has the right to initiate direct communications with the insured's attorney, the insurer, the insurer's adjuster and the insurer's attorney, or any other person regarding the settlement of the insured's claim;

(5) the public adjuster is not a representative or employee of the insurer;

(6) the salary, fee, commission or other consideration is the obligation of the insured, not the insurer.

(g) The contracts shall be executed in duplicate to provide an original contract to the public adjuster and an original contract to the insured. The public adjuster's original contract shall be available at all times for inspection without notice by the commissioner.

(h) The public adjuster shall provide the insurer a notification letter, which has been signed by the insured, authorizing the public adjuster to represent the insured's interest.

(i) The insured has the right to rescind the public adjuster contract within three business days after the date the contract was signed. The rescission shall be in writing and mailed or delivered to the public adjuster at the address in the contract within the three business day period.

(j) If the insured exercises the right to rescind the contract, anything of value given by the insured under the contract will be returned to the insured within 15 business days following the receipt by the public adjuster of the rescission notice.

History: L. 2009, ch. 83, § 14; Apr. 23.