

SUBSTITUTE HOUSE BILL 2514

State of Washington

61st Legislature

2010 Regular Session

By House Financial Institutions & Insurance (originally sponsored by Representatives Bailey, Kirby, and Chandler; by request of Insurance Commissioner)

READ FIRST TIME 01/28/10.

1 AN ACT Relating to crop adjusters; amending RCW 48.17.010,
2 48.17.060, 48.17.110, 48.17.150, 48.17.390, and 48.17.420; reenacting
3 and amending RCW 48.14.010; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 48.14.010 and 2009 c 162 s 2 and 2009 c 119 s 10 are
6 each reenacted and amended to read as follows:

7 (1) The commissioner shall collect in advance the following fees:

8 (a) **For filing charter documents:**

- 9 (i) Original charter documents,
- 10 bylaws or record of organization of
- 11 insurers, or certified copies
- 12 thereof, required to be filed \$250.00
- 13 (ii) Amended charter documents, or
- 14 certified copy thereof, other than
- 15 amendments of bylaws \$ 10.00

1	(iii)	No additional charge or fee shall	
2		be required for filing any of such	
3		documents in the office of the	
4		secretary of state.	
5	(b)	Certificate of authority:	
6	(i)	Issuance	\$ 25.00
7	(ii)	Renewal	\$ 25.00
8	(c)	Annual statement of insurer, filing	\$ 20.00
9	(d)	Organization or financing of domestic insurers and	
10		affiliated corporations:	
11	(i)	Application for solicitation permit,	
12		filing	\$100.00
13	(ii)	Issuance of solicitation permit ...	\$ 25.00
14	(e)	Insurance producer licenses:	
15	(i)	License application	\$ 55.00
16	(ii)	License renewal, every two years	
17		\$ 55.00
18	(iii)	Initial appointment and renewal of	
19		appointment of each insurance	
20		producer, every two years	\$ 20.00
21	(iv)	Limited line insurance producer	
22		license application and renewal,	
23		every two years	\$ 20.00
24	(f)	Title insurance agent licenses:	
25	(i)	License application	\$ 50.00
26	(ii)	License renewal, every two	
27		years	\$ 50.00
28	(g)	Reinsurance intermediary licenses:	
29	(i)	Reinsurance intermediary-broker,	
30		each year	\$ 50.00
31	(ii)	Reinsurance intermediary-	
32		manager, each year	\$100.00
33	(h)	Surplus line broker license application	
34		and renewal, every two years	\$200.00
35	(i)	Adjusters' licenses:	

1	(i)	Independent adjuster((:)): (A)	
2		<u>License application</u>	<u>\$ 50.00</u>
3		(B) <u>License renewal, every two</u>	
4		<u>years</u>	<u>\$ 50.00</u>
5	(ii)	Public adjuster((:)): (A) <u>License</u>	
6		<u>application</u>	<u>\$ 50.00</u>
7		(B) <u>License renewal, every two</u>	
8		<u>years</u>	<u>\$ 50.00</u>
9	(iii)	<u>Crop adjuster: (A) License</u>	
10		<u>application</u>	<u>\$ 50.00</u>
11		(B) <u>License renewal, every two</u>	
12		<u>years</u>	<u>\$50.00</u>
13	(j)	Managing general agent appointment,	
14		every two years	\$200.00
15	(k)	Examination for license, each examination:	
16		All examinations, except examinations	
17		administered by an independent testing	
18		service, the fees for which are to be	
19		approved by the commissioner and	
20		collected directly by and retained by	
21		such independent testing service	
22		<u>\$ 20.00</u>
23	(l)	Miscellaneous services:	
24	(i)	Filing other documents	\$ 5.00
25	(ii)	Commissioner's certificate under	
26		seal	\$ 5.00
27	(iii)	Copy of documents filed in the	
28		commissioner's office, reasonable	
29		charge therefor as determined by	
30		the commissioner.	
31	(m)	Self-service storage specialty insurance producer	
32		license application and renewal:	
33		Every two years, \$130.00 for an owner with	
34		under fifty employees or \$375.00 for an	
35		owner with fifty or more employees;	
36		plus a location fee of \$35.00 for each	
37		additional location of an owner.	

1 (2) All fees so collected shall be remitted by the commissioner to
2 the state treasurer not later than the first business day following,
3 and shall be placed to the credit of the general fund.

4 (a) Fees for examinations administered by an independent testing
5 service that are approved by the commissioner under subsection (1)(k)
6 of this section shall be collected directly by the independent testing
7 service and retained by it.

8 (b) Fees for copies of documents filed in the commissioner's office
9 shall be remitted by the commissioner to the state treasurer not later
10 than the first business day following, and shall be placed to the
11 credit of the insurance commissioner's regulatory account.

12 **Sec. 2.** RCW 48.17.010 and 2009 c 162 s 13 are each amended to read
13 as follows:

14 The definitions in this section apply throughout this title unless
15 the context clearly requires otherwise.

16 (1) "Adjuster" means any person who, for compensation as an
17 independent contractor or as an employee of an independent contractor,
18 or for fee or commission, investigates or reports to the adjuster's
19 principal relative to claims arising under insurance contracts, on
20 behalf solely of either the insurer or the insured. An attorney-at-law
21 who adjusts insurance losses from time to time incidental to the
22 practice of his or her profession(~~(7)~~) or an adjuster of marine
23 losses(~~(7 or a salaried employee of an insurer or of a managing general~~
24 ~~agent,7)~~) is not deemed to be an "adjuster" for the purpose of this
25 chapter. A salaried employee of an insurer or of a managing general
26 agent is not deemed to be an "adjuster" for the purpose of this
27 chapter, except when acting as a crop adjuster.

28 (a) "Independent adjuster" means an adjuster representing the
29 interests of the insurer.

30 (b) "Public adjuster" means an adjuster employed by and
31 representing solely the financial interests of the insured named in the
32 policy.

33 (c) "Crop adjuster" means an adjuster, including (i) an independent
34 adjuster, (ii) a public adjuster, and (iii) an employee of an insurer
35 or managing general agent, who acts as an adjuster for claims arising
36 under crop insurance. Salaried employees of an insurer or of a
37 managing general agent who are certified by a crop adjuster program

1 approved by the risk management agency of the United States department
2 of agriculture are not deemed to be a crop adjuster for the purpose of
3 this chapter. Proof of certification must be provided to the
4 commissioner upon request.

5 (2) "Business entity" means a corporation, association,
6 partnership, limited liability company, limited liability partnership,
7 or other legal entity.

8 (3) "Crop insurance" means insurance coverage for damage to crops
9 from unfavorable weather conditions, fire or lightning, flood, hail,
10 insect infestation, disease, or other yield-reducing conditions or
11 perils provided by the private insurance market, or multiple peril crop
12 insurance that is reinsured by the federal crop insurance corporation,
13 including but not limited to revenue insurance.

14 (4) "Home state" means the District of Columbia and any state or
15 territory of the United States or province of Canada in which an
16 insurance producer maintains the insurance producer's principal place
17 of residence or principal place of business, and is licensed to act as
18 an insurance producer.

19 ~~((4))~~ (5) "Insurance education provider" means any insurer,
20 health care service contractor, health maintenance organization,
21 professional association, educational institution created by Washington
22 statutes, or vocational school licensed under Title 28C RCW, or
23 independent contractor to which the commissioner has granted authority
24 to conduct and certify completion of a course satisfying the insurance
25 education requirements of RCW 48.17.150.

26 ~~((5))~~ (6) "Insurance producer" means a person required to be
27 licensed under the laws of this state to sell, solicit, or negotiate
28 insurance. "Insurance producer" does not include title insurance agents
29 as defined in subsection ~~((15))~~ (16) of this section or surplus line
30 brokers licensed under chapter 48.15 RCW.

31 ~~((6))~~ (7) "Insurer" has the same meaning as in RCW 48.01.050, and
32 includes a health care service contractor as defined in RCW 48.44.010
33 and a health maintenance organization as defined in RCW 48.46.020.

34 ~~((7))~~ (8) "License" means a document issued by the commissioner
35 authorizing a person to act as an insurance producer or title insurance
36 agent for the lines of authority specified in the document. The
37 license itself does not create any authority, actual, apparent, or
38 inherent, in the holder to represent or commit to an insurer.

1 ~~((+8))~~ (9) "Limited line credit insurance" includes credit life,
2 credit disability, credit property, credit unemployment, involuntary
3 unemployment, mortgage life, mortgage guaranty, mortgage disability,
4 automobile dealer gap insurance, and any other form of insurance
5 offered in connection with an extension of credit that is limited to
6 partially or wholly extinguishing the credit obligation that the
7 commissioner determines should be designated a form of limited line
8 credit insurance.

9 ~~((+9))~~ (10) "NAIC" means national association of insurance
10 commissioners.

11 ~~((+10))~~ (11) "Negotiate" means the act of conferring directly
12 with, or offering advice directly to, a purchaser or prospective
13 purchaser of a particular contract of insurance concerning any of the
14 substantive benefits, terms, or conditions of the contract, provided
15 that the person engaged in that act either sells insurance or obtains
16 insurance from insurers for purchasers.

17 ~~((+11))~~ (12) "Person" means an individual or a business entity.

18 ~~((+12))~~ (13) "Sell" means to exchange a contract of insurance by
19 any means, for money or its equivalent, on behalf of an insurer.

20 ~~((+13))~~ (14) "Solicit" means attempting to sell insurance or
21 asking or urging a person to apply for a particular kind of insurance
22 from a particular insurer.

23 ~~((+14))~~ (15) "Terminate" means the cancellation of the
24 relationship between an insurance producer and the insurer or the
25 termination of an insurance producer's authority to transact insurance.

26 ~~((+15))~~ (16) "Title insurance agent" means a business entity
27 licensed under the laws of this state and appointed by an authorized
28 title insurance company to sell, solicit, or negotiate insurance on
29 behalf of the title insurance company.

30 ~~((+16))~~ (17) "Uniform application" means the current version of
31 the NAIC uniform application for individual insurance producers for
32 resident and nonresident insurance producer licensing.

33 ~~((+17))~~ (18) "Uniform business entity application" means the
34 current version of the NAIC uniform application for business entity
35 insurance license or registration for resident and nonresident business
36 entities.

1 **Sec. 3.** RCW 48.17.060 and 2009 c 162 s 14 are each amended to read
2 as follows:

3 (1) A person shall not sell, solicit, or negotiate insurance in
4 this state for any line or lines of insurance unless the person is
5 licensed for that line of authority in accordance with this chapter.

6 (2) A person may not act as or hold himself or herself out to be an
7 adjuster or crop adjuster in this state unless licensed by the
8 commissioner or otherwise authorized to act as an adjuster or a crop
9 adjuster under this chapter.

10 **Sec. 4.** RCW 48.17.110 and 2009 c 162 s 16 are each amended to read
11 as follows:

12 (1) A resident individual applying for an insurance producer
13 license or an individual applying for an adjuster, including crop
14 adjuster, license shall pass a written examination unless exempt under
15 this section or RCW 48.17.175. The examination shall test the
16 knowledge of the individual concerning the lines of authority for which
17 application is made, the duties and responsibilities of an insurance
18 producer or adjuster, and the insurance laws and rules of this state.
19 Examinations required by this section shall be developed and conducted
20 under the rules prescribed by the commissioner. (~~The commissioner~~
21 ~~shall prepare, or approve, and make available a manual specifying in~~
22 ~~general terms the subjects which may be covered in any examination for~~
23 ~~a particular license.))~~

24 (2) The following are exempt from the examination requirement:

25 (a) Applicants for licenses under RCW 48.17.170(1) (g), (h), and
26 (i), at the discretion of the commissioner;

27 (b) With the exception of crop adjusters, applicants for an
28 adjuster's license who for a period of one year, a portion of which was
29 in the year next preceding the date of application, have been a full-
30 time salaried employee of an insurer or of a managing general agent to
31 adjust, investigate, or report claims arising under insurance
32 contracts;

33 (c) With the exception of crop adjusters, applicants for a license
34 as a nonresident adjuster who are duly licensed in another state and
35 who are deemed by the commissioner to be fully qualified and competent
36 for a similar license in this state; and

1 (d) Applicants for a license as a nonresident crop adjuster, who
2 must:

3 (i) Be duly licensed as a crop adjuster, or hold a valid
4 substantially similar license in another state; and

5 (ii) Have completed prelicensing education and passed an
6 examination substantially similar to the prelicensing education and
7 examination required for licensure as a resident crop adjuster in this
8 state; or

9 (iii) If their state of residence does not license crop adjusters,
10 complete prelicensing education and pass an examination that are
11 substantially similar to the prelicensing education and examination
12 required to be licensed as a resident crop adjuster in this state.

13 (3) The commissioner may make arrangements, including contracting
14 with an outside testing service, for administering examinations.

15 (4) The commissioner may, at any time, require any licensed
16 insurance producer, adjuster or crop adjuster to take and successfully
17 pass an examination testing the licensee's competence and
18 qualifications as a condition to the continuance or renewal of a
19 license, if the licensee has been guilty of violating this title, or
20 has so conducted affairs under an insurance license as to cause the
21 commissioner to reasonably desire further evidence of the licensee's
22 qualifications.

23 (5) The commissioner may by rule establish requirements for crop
24 adjusters to:

25 (a) Successfully complete prelicensing education;

26 (b) Pass a written examination to obtain a license; and

27 (c) Renew their license.

28 **Sec. 5.** RCW 48.17.150 and 2009 c 162 s 17 are each amended to read
29 as follows:

30 (1) The commissioner shall by rule establish minimum continuing
31 education requirements for the renewal or reissuance of a license to an
32 insurance producer.

33 (2) The commissioner may by rule establish minimum continuing
34 education requirements for the renewal or reissuance of a license to a
35 crop adjuster.

36 (3) The commissioner shall require that continuing education

1 courses will be made available on a statewide basis in order to ensure
2 that persons residing in all geographical areas of this state will have
3 a reasonable opportunity to attend such courses.

4 ~~((3))~~ (4) The continuing education requirements must be
5 appropriate to the license for the lines of authority specified in RCW
6 48.17.170 or by rule.

7 **Sec. 6.** RCW 48.17.390 and 2007 c 117 s 19 are each amended to read
8 as follows:

- 9 (1)(a) The commissioner may license:
 - 10 (i) An individual or business entity as an independent adjuster or
11 as a public adjuster~~((, and))~~;
 - 12 (ii) An individual as a crop adjuster; and
- 13 (b) Separate licenses shall be required for each type of adjuster.
- 14 (2) An individual or business entity may be concurrently licensed
15 under separate licenses as an independent adjuster and as a public
16 adjuster.
- 17 (3) An individual may be concurrently licensed under separate
18 licenses as an independent adjuster, a public adjuster, or a crop
19 adjuster.
- 20 (4) The full license fee shall be paid for each such license.

21 **Sec. 7.** RCW 48.17.420 and 2007 c 117 s 21 are each amended to read
22 as follows:

23 ~~(1) ((On behalf of and as authorized by an insurer for which an
24 insurance producer or title insurance agent has been appointed as an
25 agent,))~~ An insurance producer or title insurance agent may from time
26 to time act as an adjuster on behalf of and as authorized by an insurer
27 for which an insurance producer or title insurance agent has been
28 appointed as an agent and investigate and report upon claims without
29 being required to be licensed as an adjuster. An insurance producer or
30 title insurance agent must not act as a crop adjuster or investigate or
31 report upon claims arising under crop insurance without first obtaining
32 a crop adjuster license or, if a salaried employee of an insurer or of
33 a managing general agent, without first being certified by a crop
34 adjuster proficiency program approved by the risk management agency of
35 the United States department of agriculture.

1 (2) (~~No~~) Except for losses arising under crop insurance, a
2 license by this state (~~shall be~~) is not required of a nonresident
3 independent adjuster, for the adjustment in this state of a single
4 loss, or of losses arising out of a catastrophe common to all such
5 losses.

6 (3) For losses arising under crop insurance, a license by this
7 state is not required of a nonresident crop adjuster for the adjustment
8 in this state of a single loss or of losses arising out of a
9 catastrophe common to all such losses, if the nonresident crop adjuster
10 is:

- 11 (a) Duly licensed as a crop adjuster in another state;
- 12 (b) Duly certified by the risk management agency of the United
13 States department of agriculture; or
- 14 (c) A salaried employee of an insurer or of a managing general
15 agent who is certified by a crop adjuster proficiency program approved
16 by the risk management agency of the United States department of
17 agriculture.

18 NEW SECTION. Sec. 8. This act takes effect June 27, 2011.

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