
HOUSE BILL 1865

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Kirby and Bailey

Read first time 02/07/11. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to handling claims associated with products issued
2 under specialty producer licenses; amending RCW 48.17.010 and
3 48.17.380; and adding a new section to chapter 48.120 RCW.

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

5 **Sec. 1.** RCW 48.17.010 and 2010 c 67 s 2 are each amended to read
6 as follows:

7 The definitions in this section apply throughout this title unless
8 the context clearly requires otherwise.

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

1 products sold by a person or entity licensed under chapter 48.120 RCW,
2 a person qualified under section 3 of this act is not deemed to be an
3 "adjuster."

4 (a) "Independent adjuster" means an adjuster representing the
5 interests of the insurer.

6 (b) "Public adjuster" means an adjuster employed by and
7 representing solely the financial interests of the insured named in the
8 policy.

9 (c) "Crop adjuster" means an adjuster, including (i) an independent
10 adjuster, (ii) a public adjuster, and (iii) an employee of an insurer
11 or managing general agent, who acts as an adjuster for claims arising
12 under crop insurance. A salaried employee of an insurer or of a
13 managing general agent who is certified by a crop adjuster program
14 approved by the risk management agency of the United States department
15 of agriculture is not a "crop adjuster" for the purposes of this
16 chapter. Proof of certification must be provided to the commissioner
17 upon request.

18 (2) "Business entity" means a corporation, association,
19 partnership, limited liability company, limited liability partnership,
20 or other legal entity.

21 (3) "Crop insurance" means insurance coverage for damage to crops
22 from unfavorable weather conditions, fire or lightning, flood, hail,
23 insect infestation, disease, or other yield-reducing conditions or
24 perils provided by the private insurance market, or multiple peril crop
25 insurance reinsured by the federal crop insurance corporation,
26 including but not limited to revenue insurance.

27 (4) "Home state" means the District of Columbia and any state or
28 territory of the United States or province of Canada in which an
29 insurance producer maintains the insurance producer's principal place
30 of residence or principal place of business, and is licensed to act as
31 an insurance producer.

32 (5) "Insurance education provider" means any insurer, health care
33 service contractor, health maintenance organization, professional
34 association, educational institution created by Washington statutes, or
35 vocational school licensed under Title 28C RCW, or independent
36 contractor to which the commissioner has granted authority to conduct
37 and certify completion of a course satisfying the insurance education
38 requirements of RCW 48.17.150.

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

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

9 (8) "License" means a document issued by the commissioner
10 authorizing a person to act as an insurance producer or title insurance
11 agent for the lines of authority specified in the document. The
12 license itself does not create any authority, actual, apparent, or
13 inherent, in the holder to represent or commit to an insurer.

14 (9) "Limited line credit insurance" includes credit life, credit
15 disability, credit property, credit unemployment, involuntary
16 unemployment, mortgage life, mortgage guaranty, mortgage disability,
17 automobile dealer gap insurance, and any other form of insurance
18 offered in connection with an extension of credit that is limited to
19 partially or wholly extinguishing the credit obligation that the
20 commissioner determines should be designated a form of limited line
21 credit insurance.

22 (10) "NAIC" means national association of insurance commissioners.

23 (11) "Negotiate" means the act of conferring directly with, or
24 offering advice directly to, a purchaser or prospective purchaser of a
25 particular contract of insurance concerning any of the substantive
26 benefits, terms, or conditions of the contract, provided that the
27 person engaged in that act either sells insurance or obtains insurance
28 from insurers for purchasers.

29 (12) "Person" means an individual or a business entity.

30 (13) "Sell" means to exchange a contract of insurance by any means,
31 for money or its equivalent, on behalf of an insurer.

32 (14) "Solicit" means attempting to sell insurance or asking or
33 urging a person to apply for a particular kind of insurance from a
34 particular insurer.

35 (15) "Terminate" means the cancellation of the relationship between
36 an insurance producer and the insurer or the termination of an
37 insurance producer's authority to transact insurance.

1 (16) "Title insurance agent" means a business entity licensed under
2 the laws of this state and appointed by an authorized title insurance
3 company to sell, solicit, or negotiate insurance on behalf of the title
4 insurance company.

5 (17) "Uniform application" means the current version of the NAIC
6 uniform application for individual insurance producers for resident and
7 nonresident insurance producer licensing.

8 (18) "Uniform business entity application" means the current
9 version of the NAIC uniform application for business entity insurance
10 license or registration for resident and nonresident business entities.

11 **Sec. 2.** RCW 48.17.380 and 2009 c 162 s 23 are each amended to read
12 as follows:

13 (1) Application for a license to be an adjuster shall be made to
14 the commissioner upon forms furnished by the commissioner. As a part
15 of or in connection with the application, an individual applicant or
16 all executive officers and directors of an entity shall furnish
17 information concerning his or her identity, including fingerprints for
18 submission to the Washington state patrol, the federal bureau of
19 investigation, and any governmental agency or entity authorized to
20 receive this information for a state and national criminal history
21 background check, personal history, experience, business record,
22 purposes, and other pertinent facts, as the commissioner may reasonably
23 require. If, in the process of verifying fingerprints, business
24 records, or other information, the commissioner's office incurs fees or
25 charges from another governmental agency or from a business firm, the
26 amount of the fees or charges must be paid to the commissioner's office
27 by the applicant.

28 (2) Any person willfully misrepresenting any fact required to be
29 disclosed in any application shall be liable to penalties as provided
30 by this code.

31 (3) The commissioner shall license as an adjuster only an
32 individual or business entity which has otherwise complied with this
33 code therefor and the individual or responsible officer of the business
34 entity has furnished evidence satisfactory to the commissioner that the
35 individual or responsible officer of the business entity is qualified
36 as follows:

37 (a) Is eighteen or more years of age;

1 (b) Is a bona fide resident of this state, or is a resident of a
2 state which will permit residents of this state to act as adjusters in
3 such other state. No resident of Canada may be licensed as a
4 nonresident independent adjuster unless the Canadian resident has
5 obtained a resident or home state independent adjuster license. A
6 Canadian resident may be licensed under this section or may designate
7 this state as their home state if the Canadian resident has
8 successfully passed the adjuster examination and has complied with
9 other applicable portions of this section;

10 (c) Is a trustworthy person;

11 (d) Has had experience or special education or training with
12 reference to the handling of loss claims under insurance contracts, of
13 sufficient duration and extent reasonably to make the individual or
14 responsible officer of the business entity competent to fulfill the
15 responsibilities of an adjuster;

16 (e) Has successfully passed any examination as required under this
17 chapter;

18 (f) If for a public adjuster's license, has filed the bond required
19 by RCW 48.17.430.

20 (4) The commissioner may require any documents reasonably necessary
21 to verify the information contained in an application and may, from
22 time to time, require any licensed adjuster to produce the information
23 called for in an application for a license.

24 NEW SECTION. Sec. 3. A new section is added to chapter 48.120 RCW
25 to read as follows:

26 (1) An employee of a licensed independent adjuster or its affiliate
27 is not an "adjuster" as defined in chapter 48.17 RCW if:

28 (a) There are no more than twenty-five such employees under the
29 supervision of a licensed independent adjuster or its affiliate; and

30 (b) An employee only:

31 (i) Collects claim information from insureds or claimants;

32 (ii) Furnishes claim information to insureds or claimants;

33 (iii) Conducts data entry, including entering data into an
34 automated claims adjudication system as defined in subsection (2) of
35 this section; and

36 (iv) Meets the requirements in subsection (2)(a) through (c) of

1 this section regarding products sold by a person or entity licensed
2 under this chapter.

3 (2) For the purposes of this section "automated claims adjudication
4 system" means a preprogrammed computer system designed for the
5 collection data entry, calculation, and final resolution of property
6 insurance claims which:

7 (a) Is only utilized by a licensed independent adjuster, licensed
8 agent, or an employee meeting the criteria in subsection (1) of this
9 section;

10 (b) Complies with all claims payment requirements of chapter 48.30
11 RCW; and

12 (c) Is certified as compliant by a licensed independent adjuster
13 that is an officer of a licensed business entity under RCW 48.17.380.

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