

SENATE BILL REPORT

SHB 1037

As Reported by Senate Committee On:
Business, Financial Services & Trade, March 16, 2021

Title: An act relating to insurance adjusters.

Brief Description: Concerning insurance adjusters.

Sponsors: House Committee on Consumer Protection & Business (originally sponsored by Representatives Kirby and Vick; by request of Insurance Commissioner).

Brief History: Passed House: 2/3/21, 96-0.

Committee Activity: Business, Financial Services & Trade: 3/11/21, 3/16/21 [DP].

Brief Summary of Bill

- Modifies the definition of adjuster for property and casualty insurance.
- Allows the Office of the Insurance Commissioner (OIC) to establish minimum continuing education requirements for adjusters.
- Requires nonresident independent insurance adjusters operating in the state to register as emergency adjusters with the OIC.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

Majority Report: Do pass.

Signed by Senators Mullet, Chair; Hasegawa, Vice Chair; Dozier, Ranking Member; Brown, Frockt, Hobbs and Wilson, L.

Staff: Kellee Gunn (786-7429)

Background: Insurance Adjusters. Under current state law, an adjuster is defined as an independent contractor who investigates or reports to either the principal in an insurance contract, the insurer, or the insured for compensation.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Types of adjusters defined in law include:

- an independent adjuster who represents the interest of the insurer;
- a public adjuster who represents the financial interest of the insured; and
- a crop adjuster who acts as an adjuster for claims arising under crop insurance.

To qualify for a resident adjuster license to work in Washington State, adjusters must take an exam, have at least 12 months of experience, complete specific training requirements, be a resident of the state, and meet certain other criteria required in law and by rule. A nonresident adjuster license may be issued to applicants who have a license in good standing in their home state, or have taken an adjuster exam in Washington State if their home state does not issue an adjuster license. The Office of the Insurance Commissioner (OIC) licenses adjusters.

The Appraisal Clause. In a property and casualty insurance contract, an appraisal clause allows either the insurer or the insured to demand a compulsory appraisal of damaged property if there is a dispute as to its value, and establishes the procedure in which the appraisal occurs.

Summary of Bill: Definition of Adjuster, Appraiser, and Umpire. The definition of adjuster is amended to clarify the role of the adjuster in an insurance claim. The amended definition establishes that an adjuster may be the person who investigates and negotiates a settlement for insurance claims or the person who applies the factual circumstances of an insurance claim arising under property and casualty contracts. The definition explicitly excludes an appraiser or umpire functioning under the appraisal clause in an insurance contract.

An appraiser is defined as a person selected by the insurer or the insured to place value or estimate the amount of loss under an appraisal clause.

An umpire is defined as a person selected by the appraiser representing the insurer and the insurers or, if there is a disagreement, by the court to resolve differences between appraisers.

Continuing Education for Adjusters. Minimum continuing education requirements for the renewal or reissuance of an adjuster license may be established by rule for independent adjusters and public adjusters.

Nonresident Independent Adjuster. During a state of emergency as proclaimed by the Governor, a nonresident adjuster may register with the OIC by providing certain information including where their home state is, where they are licensed, and which insurer they are representing, among other information.

An emergency adjuster must not operate longer than 180 days, unless extended by the OIC,

is subject to all disciplinary provisions and penalties under state law and rule, and is subject to the courts concerning civil liability.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: During a state of emergency the supply of local insurance adjusters will be stretched beyond its capabilities. Allowing for nonresident adjusters to register allows for them to work in the state to assist. There is no fee with this registration and is similar to the policies in other states. Having continuing education requirements also aligns with other states. Clarifying the definition of insurance adjuster will help with regulatory enforcement and reciprocity with other states. There is some confusion in Washington State regarding the role of adjusters and the role of appraisers because of an administrative law judge opinion. Appraisers are there to assist, they are not adjusters. This bill clears up ambiguity in current law and will help settle claims.

Persons Testifying: PRO: David Forte, Office of the Insurance Commissioner; Jon Noski, Office of the Insurance Commissioner; Jean Leonard, J.S. Held LLC.

Persons Signed In To Testify But Not Testifying: No one.