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HOUSE BILL 1037

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State of Washington

67th Legislature

2021 Regular Session

By Representatives Kirby and Vick; by request of Insurance  
Commissioner

Prefiled 12/18/20.

1 AN ACT Relating to insurance adjusters; and amending RCW  
2 48.17.010, 48.17.150, 48.17.410, and 48.17.420.

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

4 **Sec. 1.** RCW 48.17.010 and 2012 c 211 s 4 are each amended to  
5 read as follows:

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

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

1 crop adjuster. An appraiser or umpire functioning under the appraisal  
2 clause in an insurance contract is not deemed to be an "adjuster" for  
3 the purpose of this chapter.

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  
8 the policy.

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

18 (2) "Business entity" means a corporation, association,  
19 partnership, limited liability company, limited liability  
20 partnership, 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  
25 crop 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 or adjuster maintains the insurance producer's or  
30 adjuster's principal place of residence or principal place of  
31 business, and is licensed to act as an insurance producer or  
32 adjuster.

33 (5) "Insurance education provider" means any insurer, health care  
34 service contractor, health maintenance organization, professional  
35 association, educational institution created by Washington statutes,  
36 or vocational school licensed under Title 28C RCW, or independent  
37 contractor to which the commissioner has granted authority to conduct  
38 and certify completion of a course satisfying the insurance education  
39 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  
3 insurance. "Insurance producer" does not include title insurance  
4 agents as defined in subsection (16) of this section or surplus line  
5 brokers licensed 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  
11 insurance agent for the lines of authority specified in the document.  
12 The license itself does not create any authority, actual, apparent,  
13 or 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  
23 commissioners.

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

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

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

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

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

39 (16) "Title insurance agent" means a business entity licensed  
40 under the laws of this state and appointed by an authorized title

1 insurance company to sell, solicit, or negotiate insurance on behalf  
2 of the title insurance company.

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

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

10 **Sec. 2.** RCW 48.17.150 and 2010 c 67 s 5 are each amended to read  
11 as follows:

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

15 (2) The commissioner may by rule establish minimum continuing  
16 education requirements for the renewal or reissuance of a license to  
17 a crop adjuster, an independent adjuster, and a public adjuster.

18 (3) The commissioner shall require that continuing education  
19 courses will be made available on a statewide basis in order to  
20 ensure that persons residing in all geographical areas of this state  
21 will have a reasonable opportunity to attend such courses.

22 (4) The continuing education requirements must be appropriate to  
23 the license for the lines of authority specified in RCW 48.17.170 or  
24 by rule.

25 **Sec. 3.** RCW 48.17.410 and 2007 c 117 s 20 are each amended to  
26 read as follows:

27 An adjuster shall have authority under an adjuster's license only  
28 to either investigate ((or report)) and negotiate settlement relative  
29 to insurance claims, or apply the factual circumstances of an  
30 insurance claim to the insurance policy provisions, or both, to the  
31 adjuster's principal upon claims as limited under RCW 48.17.010(1) on  
32 behalf only of the insurers if licensed as an independent adjuster,  
33 or on behalf only of insureds if licensed as a public adjuster. An  
34 adjuster licensed concurrently as both an independent and a public  
35 adjuster shall not represent both the insurer and the insured in the  
36 same transaction.

1       **Sec. 4.** RCW 48.17.420 and 2010 c 67 s 7 are each amended to read  
2 as follows:

3       (1) An insurance producer or title insurance agent may from time  
4 to time act as an adjuster on behalf of and as authorized by an  
5 insurer for which an insurance producer or title insurance agent has  
6 been appointed as an agent and investigate and report upon claims  
7 without being required to be licensed as an adjuster. An insurance  
8 producer or title insurance agent must not act as a crop adjuster or  
9 investigate or report upon claims arising under crop insurance  
10 without first obtaining a crop adjuster license or, if a salaried  
11 employee of an insurer or of a managing general agent, without first  
12 being certified by a crop adjuster proficiency program approved by  
13 the risk management agency of the United States department of  
14 agriculture.

15       (2) Except for losses arising under crop insurance, a license by  
16 this state is not required of a nonresident independent adjuster, for  
17 the adjustment in this state of a single loss, or of losses arising  
18 out of a catastrophe common to all such losses from which the  
19 governor proclaims a state of emergency, if the nonresident  
20 independent adjuster registers with the commissioner as an emergency  
21 adjuster and includes:

22       (a) The nonresident independent adjuster's name;

23       (b) The nonresident independent adjuster's contact information;

24       (c) The nonresident independent adjuster's home state and license  
25 number;

26       (d) The single loss or specific proclamation from the governor  
27 that details the emergency; and

28       (e) The insurers the nonresident independent adjuster is  
29 representing.

30       (3) An emergency adjuster:

31       (a) Must not operate longer than one hundred eighty days, unless  
32 extended by the commissioner;

33       (b) Is subject to all the disciplinary provisions and penalties  
34 of this title and Title 284 WAC; and

35       (c) Is subject to the jurisdiction of the courts of the state of  
36 Washington concerning civil liability for all acts in any way related  
37 to the emergency adjuster's actions in Washington state.

38       (~~(3)~~) (4) For losses arising under crop insurance, a license by  
39 this state is not required of a nonresident crop adjuster, for the  
40 adjustment in this state of a single loss, or of losses arising out

1 of a catastrophe common to all such losses, if the nonresident crop  
2 adjuster is:

3 (a) Licensed as a crop adjuster in another state;

4 (b) Certified by the risk management agency of the United States  
5 department of agriculture; or

6 (c) A salaried employee of an insurer or of a managing general  
7 agent who is certified by a crop adjuster proficiency program  
8 approved by the risk management agency of the United States  
9 department of agriculture.

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