
SUBSTITUTE HOUSE BILL 1037

State of Washington

67th Legislature

2021 Regular Session

By House Consumer Protection & Business (originally sponsored by Representatives Kirby and Vick; by request of Insurance Commissioner)

READ FIRST TIME 02/01/21.

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 (d) For the purposes of this chapter:

19 (i) "Appraiser" means a person selected by the insurer or the
20 insured to place a value on or estimate the amount of loss under an
21 appraisal clause in an insurance contract.

22 (ii) "Umpire" means a person selected by the appraisers
23 representing the insurer and the insured, or, if the appraisers
24 cannot agree, by the court, who is charged with resolving issues that
25 the appraisers are unable to agree upon during the course of an
26 appraisal.

27 (2) "Business entity" means a corporation, association,
28 partnership, limited liability company, limited liability
29 partnership, or other legal entity.

30 (3) "Crop insurance" means insurance coverage for damage to crops
31 from unfavorable weather conditions, fire or lightning, flood, hail,
32 insect infestation, disease, or other yield-reducing conditions or
33 perils provided by the private insurance market, or multiple peril
34 crop insurance reinsured by the federal crop insurance corporation,
35 including but not limited to revenue insurance.

36 (4) "Home state" means the District of Columbia and any state or
37 territory of the United States or province of Canada in which an
38 insurance producer or adjuster maintains the insurance producer's or
39 adjuster's principal place of residence or principal place of

1 business, and is licensed to act as an insurance producer or
2 adjuster.

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

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

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

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

23 (9) "Limited line credit insurance" includes credit life, credit
24 disability, credit property, credit unemployment, involuntary
25 unemployment, mortgage life, mortgage guaranty, mortgage disability,
26 automobile dealer gap insurance, and any other form of insurance
27 offered in connection with an extension of credit that is limited to
28 partially or wholly extinguishing the credit obligation that the
29 commissioner determines should be designated a form of limited line
30 credit insurance.

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

33 (11) "Negotiate" means the act of conferring directly with, or
34 offering advice directly to, a purchaser or prospective purchaser of
35 a particular contract of insurance concerning any of the substantive
36 benefits, terms, or conditions of the contract, provided that the
37 person engaged in that act either sells insurance or obtains
38 insurance from insurers for purchasers.

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

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

3 (14) "Solicit" means attempting to sell insurance or asking or
4 urging a person to apply for a particular kind of insurance from a
5 particular insurer.

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

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

13 (17) "Uniform application" means the current version of the NAIC
14 uniform application for individual insurance producers for resident
15 and nonresident insurance producer licensing.

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

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

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

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

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

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

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

37 An adjuster shall have authority under an adjuster's license only
38 to either investigate ((or report)) and negotiate settlement relative

1 to insurance claims, or apply the factual circumstances of an
2 insurance claim to the insurance policy provisions, or both, to the
3 adjuster's principal upon claims as limited under RCW 48.17.010(1) on
4 behalf only of the insurers if licensed as an independent adjuster,
5 or on behalf only of insureds if licensed as a public adjuster. An
6 adjuster licensed concurrently as both an independent and a public
7 adjuster shall not represent both the insurer and the insured in the
8 same transaction.

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

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

23 (2) Except for losses arising under crop insurance, a license by
24 this state is not required of a nonresident independent adjuster, for
25 the adjustment in this state of a single loss, or of losses arising
26 out of a catastrophe common to all such losses from which the
27 governor proclaims a state of emergency, if the nonresident
28 independent adjuster registers with the commissioner as an emergency
29 adjuster and includes:

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

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

32 (c) The nonresident independent adjuster's home state and license
33 number;

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

36 (e) The insurers the nonresident independent adjuster is
37 representing.

38 (3) An emergency adjuster:

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

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

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

8 ~~((3))~~ (4) For losses arising under crop insurance, a license by
9 this state is not required of a nonresident crop adjuster, for the
10 adjustment in this state of a single loss, or of losses arising out
11 of a catastrophe common to all such losses, if the nonresident crop
12 adjuster is:

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

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

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

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