

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1599  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

There are programs that provide portable consumer electronics insurance coverage to individuals purchasing portable electronic devices and related services. When the insured calls the insurer to report the claim, a customer service representative (CSR) inputs the customer's information in a database to make sure that the phone that was stolen/damaged is covered, then sends the insured a new phone. If a discrepancy arises, the CSR transfers the phone call to a licensed insurance adjuster/supervisor. Because of current statutory language, that CSR can technically also be considered an adjuster and therefore would need to be licensed as such.

S.B. 1599 will bring certainty to adjuster licensing law with respect to licensing exemptions for individuals who input claims relating data into automated claims adjudication system for simplified claims that do not require discretionary functions.

This bill also proposes a 25:1 ratio of licensed adjusters with no more than 25 non-licensed CSRs under the supervision of a licensed adjuster.

S.B. 1599 additionally sets out the authority of the Texas Department of Insurance to license business entities engaged in insurance adjusting. This bill also authorizes residents of Canada to obtain licensure as an adjuster in Texas and declare Texas as their home state for purposes of obtaining reciprocity with additional jurisdictions.

As proposed, S.B. 1599 amends current law relating to the requirements for an insurance adjuster license.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 4101.001(a), Insurance Code, to redefine, in this chapter, "adjuster" and define "automated claims adjudication system," "business entity," "catastrophe" "home state," and "person."

SECTION 2. Amends Section 4101.002(a), Insurance Code, as follows:

(a) Provides that this chapter does not apply to:

(1)-(3) Makes no changes to these subdivisions;

(4) a licensed insurance producer, attorney-in-fact of a reciprocal or interinsurance exchange, or managing general agent of an insurer to whom an insurer grants claim authority;

(5)-(7) Makes no changes to these subdivisions;

(8) an individual who is employed to investigate suspected fraudulent insurance claims but who does not adjust losses or determine claims payments;

(9) a public insurance adjuster licensed under Chapter 4102 (Public Insurance Adjusters);

(10) an individual who collects claim information from, or furnishes claim information to, an insured or claimant and enters data into an automated claims adjudication system; and is employed by a licensed independent adjuster or its affiliate under circumstances in which no more than 25 individuals performing duties described by Paragraph (A) are supervised by a single licensed independent adjuster or a single licensed agent who is exempt from this chapter under Subdivision (4);

(11) a person who only settles reinsurance or subrogation claims; or

(12) an officer or director of an authorized insurer, surplus lines insurer, or risk retention group, or an attorney-in-fact of a reciprocal or interinsurance exchange.

Deletes existing text providing that this chapter does not apply to an agent or general agent of an authorized insurer who processes an undisputed or contested loss for the insurer under a policy issued by the agent or general agent.

SECTION 3. Amends Subchapter B, Chapter 4101, Insurance Code, by adding Section 4101.0521, as follows:

Sec. 4101.0521. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF INSURANCE. (a) Requires an applicant for a license under this chapter, in addition to the requirements of Section 4101.052(a) (relating to requiring an applicant to submit a form prescribed and provided by the Texas Department of Insurance (TDI)), to submit information to TDI about the applicant's administrative and criminal history.

(b) Requires the applicant to submit to TDI a full set of fingerprints to allow TDI to obtain criminal history record information under Section 411.106 (Access to Criminal History Record Information: Texas Department of Insurance), Government Code, and from the Federal Bureau of Investigation under Section 411.087 (Access to Criminal History Record Information Maintained by Federal Bureau of Investigation or Local Criminal Justice Agency), Government Code. Authorizes TDI to contract for the collection and transmission of fingerprints under this section and to order a reasonable fee for the collection and transmission of fingerprints to be paid directly to the contractor.

(c) Requires TDI to treat fingerprints and any personal information under this section as confidential and to apply security measures consistent with the Federal Bureau of Investigation's standards for the electronic storage of fingerprints and identifying information. Provides that any fingerprints and personal information obtained under this section are not subject to a subpoena, other than a subpoena issued in a criminal action or investigation.

(d) Requires a nonresident business entity that submits an application under this section to submit the name, address, social security number, criminal and administrative history, background check, biographical statement, and fingerprints for:

(1) each of the applicant's executive officers and directors; and

(2) each executive officer and director of an entity that owns, and each individual that owns, directly or indirectly, 51 percent or more of the outstanding voting securities of the applicant.

(e) Provides that a nonresident business entity applicant whose home state requires compliance with provisions that are substantially similar to this section is not required to submit the items and information otherwise required by Subsection (d).

SECTION 4. Amends Section 4101.053, Insurance Code, by amending Subsection (a) and adding Subsection (c) and (d), as follows:

(a) Requires, an individual, rather than an applicant, to qualify for a license under this chapter to meet certain conditions set forth under this subsection.

(c) Requires a business entity, to qualify for a license under this chapter, to:

(1) comply with this chapter; and

(2) present evidence satisfactory to TDI that the applicant:

(A) is eligible to designate this state as its home state;

(B) is trustworthy;

(C) has designated a licensed adjuster responsible for the business entity's compliance with the insurance laws of this state;

(D) has not committed an act that is a ground for probation, suspension, revocation, or refusal of an adjuster's license under Section 4101.201 (Grounds for Disciplinary Action); and

(E) and has paid the fees prescribed under Section 4101.057 (Fees).

(d) Prohibits an individual who is not a resident of this state from being licensed under this chapter and from designating this state as the individual's home state unless the individual has successfully passed the adjuster examination and complied with the other applicable portions of this section, except that the individual may not be required to comply with Subsection (a)(2)(B) or (C).

SECTION 5. Makes application of Section 4101.0521, Insurance Code, as added by this Act, and Section 4101.053, Insurance Code, as amended by this Act, prospective.

SECTION 6. Effective date: September 1, 2011.