

By: Eiland

H.B. No. 2699

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the requirements for an insurance adjuster license.

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

4 SECTION 1. Section 4101.001(a), Insurance Code, is amended
5 to read as follows:

6 (a) In this chapter:

7 (1) "Adjuster" [~~,"adjuster"~~] means a person [~~an~~
8 ~~individual~~] who:

9 (A) [~~(1)~~] investigates or adjusts losses on
10 behalf of an insurer as an independent contractor or as an employee
11 of:

12 (i) [~~(A)~~] an adjustment bureau;

13 (ii) [~~(B)~~] an association;

14 (iii) [~~(C)~~] a general property and casualty
15 agent or personal lines property and casualty agent;

16 (iv) [~~(D)~~] an independent contractor;

17 (v) [~~(E)~~] an insurer; or

18 (vi) [~~(F)~~] a managing general agent;

19 (B) [~~(2)~~] supervises the handling of claims; or

20 (C) [~~(3)~~] investigates, adjusts, supervises the
21 handling of, or settles workers' compensation claims, including
22 claims arising from services provided through a certified workers'
23 compensation health care network as authorized under Chapter 1305,
24 on behalf of an administrator, as defined by Chapter 4151, or on

1 behalf of an insurance carrier, as defined by Section 401.011,
2 Labor Code.

3 (2) "Automated claims adjudication system" means a
4 computer program designed for the collection, data entry,
5 calculation, and final resolution of portable consumer electronic
6 insurance claims that a licensed independent adjuster, a licensed
7 agent, an officer of a business entity licensed under this chapter,
8 or a supervised individual uses as described by this chapter.

9 (3) "Business entity" means a corporation,
10 association, partnership, limited liability company, limited
11 liability partnership, or other legal entity.

12 (4) "Home state," with respect to an adjuster, means:

13 (A) the state in which the adjuster maintains the
14 adjuster's principal place of residence or business and is licensed
15 to act as a resident adjuster; or

16 (B) if the state of the adjuster's principal
17 place of residence or business does not license adjusters for the
18 line of authority sought, a state in which the adjuster is licensed
19 and in good standing and that is designated by the adjuster as the
20 adjuster's home state.

21 (5) "Person" means an individual or business entity.

22 SECTION 2. Section 4101.002, Insurance Code, is amended by
23 amending Subsection (a) and adding Subsection (d) to read as
24 follows:

25 (a) This chapter does not apply to:

26 (1) an attorney who:

27 (A) adjusts insurance losses periodically and

1 incidentally to the practice of law; and

2 (B) does not represent that the attorney is an
3 adjuster;

4 (2) a salaried employee of an insurer who is not
5 regularly engaged in the adjustment, investigation, or supervision
6 of insurance claims;

7 (3) a person employed only to furnish technical
8 assistance to a licensed adjuster, including:

9 (A) an attorney;

10 (B) an engineer;

11 (C) an estimator;

12 (D) a handwriting expert;

13 (E) a photographer; and

14 (F) a private detective;

15 (4) an agent or general agent of an authorized insurer
16 who processes an undisputed or uncontested loss for the insurer
17 under a policy issued by the agent or general agent;

18 (5) a person who performs clerical duties and does not
19 negotiate with parties to disputed or contested claims;

20 (6) a person who handles claims arising under life,
21 accident, and health insurance policies;

22 (7) a person:

23 (A) who is employed principally as:

24 (i) a right-of-way agent; or

25 (ii) a right-of-way and claims agent;

26 (B) whose primary responsibility is the
27 acquisition of easements, leases, permits, or other real property

1 rights; and

2 (C) who handles only claims arising out of
3 operations under those easements, leases, permits, or other
4 contracts or contractual obligations;

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

8 (9) a public insurance adjuster licensed under Chapter
9 4102; or

10 (10) an individual who:

11 (A) collects claim information from, or
12 furnishes claim information to, an insured or claimant and enters
13 data into an automated claims adjudication system; and

14 (B) is employed by a licensed independent
15 adjuster or its affiliate under circumstances in which no more than
16 25 individuals performing duties described by Paragraph (A) are
17 supervised by a single licensed independent adjuster or a single
18 licensed agent.

19 (d) A licensed agent acting as a supervisor under Subsection
20 (a)(10) is not required to be licensed as an adjuster.

21 SECTION 3. Section 4101.053, Insurance Code, is amended by
22 amending Subsection (a) and adding Subsections (c) and (d) to read
23 as follows:

24 (a) To qualify for a license under this chapter, an
25 individual ~~[applicant]~~ must:

26 (1) comply with this chapter;

27 (2) present evidence satisfactory to the department

1 that the applicant:

2 (A) is at least 18 years of age;

3 (B) resides in this state or a state or country
4 that permits a resident of this state to act as an adjuster in that
5 state or country;

6 (C) has complied with all federal laws relating
7 to employment or the transaction of business in the United States,
8 if the applicant does not reside in the United States;

9 (D) is trustworthy; and

10 (E) has had experience, special education, or
11 training of sufficient duration and extent regarding the handling
12 of loss claims under insurance contracts to make the applicant
13 competent to fulfill the responsibilities of an adjuster; and

14 (3) pass an examination conducted under this
15 subchapter or present evidence that the applicant has been exempted
16 under Section 4101.056.

17 (c) To qualify for a license under this chapter, a business
18 entity must:

19 (1) comply with this chapter; and

20 (2) present evidence satisfactory to the department
21 that the applicant:

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

24 (B) is trustworthy;

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

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

4 (E) has paid the fees prescribed under Section
5 4101.057.

6 (d) An individual who is a resident of Canada may not be
7 licensed under this chapter or designate this state as the
8 individual's home state unless the individual has successfully
9 passed the adjuster examination and complied with the other
10 applicable portions of this section, except that the individual is
11 not required to comply with Subsection (a)(2)(B) or (C).

12 SECTION 4. Section 4101.053, Insurance Code, as amended by
13 this Act, applies only to an application for a license filed on or
14 after the effective date of this Act. A license application filed
15 before the effective date of this Act is governed by the law
16 applicable to the application immediately before the effective date
17 of this Act, and the former law is continued in effect for that
18 purpose.

19 SECTION 5. This Act takes effect September 1, 2011.