

1-1 By: Eiland (Senate Sponsor - Carona) H.B. No. 2699  
1-2 (In the Senate - Received from the House May 6, 2011;  
1-3 May 9, 2011, read first time and referred to Committee on Business  
1-4 and Commerce; May 11, 2011, reported favorably by the following  
1-5 vote: Yeas 9, Nays 0; May 11, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the requirements for an insurance adjuster license.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 4101.001(a), Insurance Code, is amended  
1-11 to read as follows:

1-12 (a) In this chapter:

1-13 (1) "Adjuster" [~~,"adjuster"~~] means a person [~~an~~  
1-14 ~~individual~~] who:

1-15 (A) [~~(1)~~] investigates or adjusts losses on  
1-16 behalf of an insurer as an independent contractor or as an employee  
1-17 of:

1-18 (i) [~~(A)~~] an adjustment bureau;

1-19 (ii) [~~(B)~~] an association;

1-20 (iii) [~~(C)~~] a general property and casualty  
1-21 agent or personal lines property and casualty agent;

1-22 (iv) [~~(D)~~] an independent contractor;

1-23 (v) [~~(E)~~] an insurer; or

1-24 (vi) [~~(F)~~] a managing general agent;

1-25 (B) [~~(2)~~] supervises the handling of claims; or

1-26 (C) [~~(3)~~] investigates, adjusts, supervises the  
1-27 handling of, or settles workers' compensation claims, including  
1-28 claims arising from services provided through a certified workers'  
1-29 compensation health care network as authorized under Chapter 1305,  
1-30 on behalf of an administrator, as defined by Chapter 4151, or on  
1-31 behalf of an insurance carrier, as defined by Section 401.011,  
1-32 Labor Code.

1-33 (2) "Automated claims adjudication system" means a  
1-34 computer program designed for the collection, data entry,  
1-35 calculation, and final resolution of portable consumer electronic  
1-36 insurance claims that a licensed independent adjuster, a licensed  
1-37 agent, an officer of a business entity licensed under this chapter,  
1-38 or a supervised individual uses as described by this chapter.

1-39 (3) "Business entity" means a corporation,  
1-40 association, partnership, limited liability company, limited  
1-41 liability partnership, or other legal entity.

1-42 (4) "Home state," with respect to an adjuster, means:

1-43 (A) the state in which the adjuster maintains the  
1-44 adjuster's principal place of residence or business and is licensed  
1-45 to act as a resident adjuster; or

1-46 (B) if the state of the adjuster's principal  
1-47 place of residence or business does not license adjusters for the  
1-48 line of authority sought, a state in which the adjuster is licensed  
1-49 and in good standing and that is designated by the adjuster as the  
1-50 adjuster's home state.

1-51 (5) "Person" means an individual or business entity.

1-52 SECTION 2. Section 4101.002, Insurance Code, is amended by  
1-53 amending Subsection (a) and adding Subsection (d) to read as  
1-54 follows:

1-55 (a) This chapter does not apply to:

1-56 (1) an attorney who:

1-57 (A) adjusts insurance losses periodically and  
1-58 incidentally to the practice of law; and

1-59 (B) does not represent that the attorney is an  
1-60 adjuster;

1-61 (2) a salaried employee of an insurer who is not  
1-62 regularly engaged in the adjustment, investigation, or supervision  
1-63 of insurance claims;

1-64 (3) a person employed only to furnish technical

2-1 assistance to a licensed adjuster, including:

2-2 (A) an attorney;

2-3 (B) an engineer;

2-4 (C) an estimator;

2-5 (D) a handwriting expert;

2-6 (E) a photographer; and

2-7 (F) a private detective;

2-8 (4) an agent or general agent of an authorized insurer

2-9 who processes an undisputed or uncontested loss for the insurer

2-10 under a policy issued by the agent or general agent;

2-11 (5) a person who performs clerical duties and does not

2-12 negotiate with parties to disputed or contested claims;

2-13 (6) a person who handles claims arising under life,

2-14 accident, and health insurance policies;

2-15 (7) a person:

2-16 (A) who is employed principally as:

2-17 (i) a right-of-way agent; or

2-18 (ii) a right-of-way and claims agent;

2-19 (B) whose primary responsibility is the

2-20 acquisition of easements, leases, permits, or other real property

2-21 rights; and

2-22 (C) who handles only claims arising out of

2-23 operations under those easements, leases, permits, or other

2-24 contracts or contractual obligations;

2-25 (8) an individual who is employed to investigate

2-26 suspected fraudulent insurance claims but who does not adjust

2-27 losses or determine claims payments; ~~or~~

2-28 (9) a public insurance adjuster licensed under Chapter

2-29 4102; or

2-30 (10) an individual who:

2-31 (A) collects claim information from, or

2-32 furnishes claim information to, an insured or claimant and enters

2-33 data into an automated claims adjudication system; and

2-34 (B) is employed by a licensed independent

2-35 adjuster or its affiliate under circumstances in which no more than

2-36 25 individuals performing duties described by Paragraph (A) are

2-37 supervised by a single licensed independent adjuster or a single

2-38 licensed agent.

2-39 (d) A licensed agent acting as a supervisor under Subsection

2-40 (a) (10) is not required to be licensed as an adjuster.

2-41 SECTION 3. Section 4101.053, Insurance Code, is amended by

2-42 amending Subsection (a) and adding Subsections (c) and (d) to read

2-43 as follows:

2-44 (a) To qualify for a license under this chapter, an

2-45 individual ~~[applicant]~~ must:

2-46 (1) comply with this chapter;

2-47 (2) present evidence satisfactory to the department

2-48 that the applicant:

2-49 (A) is at least 18 years of age;

2-50 (B) resides in this state or a state or country

2-51 that permits a resident of this state to act as an adjuster in that

2-52 state or country;

2-53 (C) has complied with all federal laws relating

2-54 to employment or the transaction of business in the United States,

2-55 if the applicant does not reside in the United States;

2-56 (D) is trustworthy; and

2-57 (E) has had experience, special education, or

2-58 training of sufficient duration and extent regarding the handling

2-59 of loss claims under insurance contracts to make the applicant

2-60 competent to fulfill the responsibilities of an adjuster; and

2-61 (3) pass an examination conducted under this

2-62 subchapter or present evidence that the applicant has been exempted

2-63 under Section 4101.056.

2-64 (c) To qualify for a license under this chapter, a business

2-65 entity must:

2-66 (1) comply with this chapter; and

2-67 (2) present evidence satisfactory to the department

2-68 that the applicant:

2-69 (A) is eligible to designate this state as its

3-1 home state;  
3-2 (B) is trustworthy;  
3-3 (C) has designated a licensed adjuster  
3-4 responsible for the business entity's compliance with the insurance  
3-5 laws of this state;  
3-6 (D) has not committed an act that is a ground for  
3-7 probation, suspension, revocation, or refusal of an adjuster's  
3-8 license under Section 4101.201; and  
3-9 (E) has paid the fees prescribed under Section  
3-10 4101.057.

3-11 (d) An individual who is a resident of Canada may not be  
3-12 licensed under this chapter or designate this state as the  
3-13 individual's home state unless the individual has successfully  
3-14 passed the adjuster examination and complied with the other  
3-15 applicable portions of this section, except that the individual is  
3-16 not required to comply with Subsection (a)(2)(B) or (C).

3-17 SECTION 4. Section 4101.053, Insurance Code, as amended by  
3-18 this Act, applies only to an application for a license filed on or  
3-19 after the effective date of this Act. A license application filed  
3-20 before the effective date of this Act is governed by the law  
3-21 applicable to the application immediately before the effective date  
3-22 of this Act, and the former law is continued in effect for that  
3-23 purpose.

3-24 SECTION 5. This Act takes effect September 1, 2011.

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