

By: Smithee

H.B. No. 1404

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of insurance adjusters.

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

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

(1) "Adjuster" means a person who:

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

(i) an adjustment bureau;

(ii) an association;

(iii) a general property and casualty agent or personal lines property and casualty agent;

(iv) an independent contractor;

(v) an insurer; or

(vi) a managing general agent;

(B) supervises the handling of claims; or

(C) investigates, adjusts, supervises the handling of, or settles workers' compensation claims, including claims arising from services provided through a certified workers' compensation health care network as authorized under Chapter 1305, on behalf of an administrator, as defined by Chapter 4151, or on behalf of an insurance carrier, as defined by Section 401.011, Labor Code.

SECTION 2. Section 4101.002(a), Insurance Code, is amended

1 to read as follows:

2 (a) This chapter does not apply to:

3 (1) an attorney who:

4 (A) adjusts insurance losses periodically and
5 incidentally to the practice of law; and

6 (B) does not represent that the attorney is an
7 adjuster;

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

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

13 (A) an attorney;

14 (B) an engineer;

15 (C) an estimator;

16 (D) a handwriting expert;

17 (E) a photographer; and

18 (F) a private detective;

19 (4) an agent or general agent of an authorized insurer
20 who processes an undisputed or uncontested loss for the insurer
21 under a policy issued by the agent or general agent;

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

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

26 (7) a person:

27 (A) who is employed principally as:

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

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

3 (B) whose primary responsibility is the
4 acquisition of easements, leases, permits, or other real property
5 rights; and

6 (C) who handles only claims arising out of
7 operations under those easements, leases, permits, or other
8 contracts or contractual obligations;

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

12 (9) a public insurance adjuster licensed under Chapter
13 4102; ~~or~~

14 (10) an individual who:

15 (A) collects claim information from, or
16 furnishes claim information to, an insured or claimant and enters
17 data into an automated claims adjudication system; and

18 (B) is employed by a licensed independent
19 adjuster or its affiliate under circumstances in which no more than
20 25 individuals performing duties described by Paragraph (A) are
21 supervised by a single licensed independent adjuster or a single
22 licensed agent; or

23 (11) an individual who is employed by an insurer to
24 investigate or adjust losses on behalf of the insurer, including
25 entering into subrogation agreements or arrangements with other
26 parties on behalf of the insurer.

27 SECTION 3. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2013.