

1 COMMITTEE SUBSTITUTE

2 FOR

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4 FOR

5 **Senate Bill No. 330**

6 (By Senator Minard)

7 _____
8 [Originating in the Committee on Government Organization;
9 reported February 16, 2012.]
10 _____

11
12 A BILL to amend and reenact §33-12B-1 and §33-12B-9 of the Code of
13 West Virginia, 1931, as amended; and to amend said code by
14 adding thereto a new section, designated §33-12B-4a, all
15 relating to insurance and licensure of adjusters; adding a
16 definition of "automated claims adjudication system";
17 exemptions for certain individuals from adjuster licensure in
18 this state; and adjuster licensing of residents of Canada in
19 this state.

20 *Be it enacted by the Legislature of West Virginia:*

21 That §33-12B-1 and §33-12B-9 of the Code of West Virginia,
22 1931, as amended, be amended and reenacted; and that said code be
23 amended by adding thereto a new section, designated §33-12B-4a, all
24 to read as follows:

25 **ARTICLE 12B. ADJUSTERS.**

1 **§33-12B-1. Definitions.**

2 (a) An "adjuster" is any individual who, for compensation, fee
3 or commission, investigates and settles claims arising under
4 property, casualty or surety insurance contracts, on behalf solely
5 of either the insurer or insured. A licensed attorney who is
6 qualified to practice law in this state is deemed not to be an
7 adjuster for the purposes of this article.

8 (b) "Automated claims adjudication system" means a
9 preprogrammed computer system designed for the collection, data
10 entry, calculation and final resolution of portable electronics
11 insurance claims which:

12 (1) May only be utilized by a licensed adjuster, licensed
13 producer or supervised individuals operating pursuant to section
14 four-a of this article;

15 (2) Must comply with all claims payments requirements of the
16 insurance code; and

17 (3) Must be certified as compliant with this section by a
18 licensed adjuster who is an officer of the entity which employs the
19 individuals operating pursuant to section four-a of this article.

20 ~~(b)~~ (c) "Company adjuster" means an adjuster representing the
21 interests of the insurer, including an independent contractor and
22 a salaried employee of the insurer.

23 ~~(c)~~ (d) "Home state" means the District of Columbia or any
24 state or territory of the United States in which an adjuster
25 maintains his or her principal place of residence or business and
26 in which he or she is licensed to act as a resident adjuster. If

1 a person's principal place of residence or business does not
2 license adjusters for the type of adjuster license sought in this
3 state, he or she shall designate as his or her home state any state
4 in which he or she has such a license.

5 ~~(d)~~ (e) "Public adjuster" means an independent contractor
6 representing solely the financial interests of the insured named in
7 the policy.

8 ~~(e)~~ (f) "Crop adjuster" means a person who adjusts crop
9 insurance claims under the federal crop insurance program
10 administered by the United States Department of Agriculture.

11 **§33-12B-4a. Exemptions from license.**

12 Individuals who collect claim information from, or furnish
13 claim information to, insureds or claimants and who conduct data
14 entry including entering data into an automated claims adjudication
15 system are exempted from licensure under this article: *Provided,*
16 That such individuals are under the supervision of a licensed
17 adjuster or licensed producer: *Provided, however,* That no more than
18 twenty-five such individuals are under the supervision of one
19 licensed adjuster or licensed producer.

20 **§33-12B-9. Licensing of nonresident adjusters.**

21 (a) A nonresident applicant for an adjuster license, including
22 a resident of Canada, who holds a similar license in his or her
23 home state may be licensed as a nonresident adjuster in this state
24 if the applicant's home state has established, by law or
25 regulation, like requirements for the licensing of a resident of

1 this state as a nonresident adjuster.

2 (b) As a condition of continuing a nonresident adjuster
3 license, the licensee must maintain a license in his or her home
4 state.

5 (c) If a nonresident adjuster desires to become a resident
6 adjuster he or she must apply to become one within ninety days of
7 establishing legal residency in this state.

8 (d) If a nonresident adjuster has his or her license
9 suspended, terminated or revoked by his or her home state, the
10 adjuster must immediately notify the commissioner of that action.

(NOTE: The purpose of this bill is to create an exemption from licensure as an adjuster or certain individuals who conduct data entry into an automated claims adjudication system for portable electronics insurance claims.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§33-12B-4a is new; therefore, strike-throughs and underscoring have been omitted.)