

COMMITTEE SUBSTITUTE

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Senate Bill No. 330

(By Senator Minard)

[Originating in the Committee on Government Organization;
reported February 16, 2012.]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 12B. ADJUSTERS.

§33-12B-1. Definitions.

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

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

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

15 (2) Must comply with all claims payments requirements
16 of the 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
19 employs the individuals operating pursuant to section four-a
20 of this article.

21 ~~(b)~~ (c) “Company adjuster” means an adjuster represent-
22 ing the interests of the insurer, including an independent
23 contractor and a salaried employee of the insurer.

24 ~~(c)~~ (d) “Home state” means the District of Columbia or
25 any state or territory of the United States in which an
26 adjuster maintains his or her principal place of residence or
27 business and in which he or she is licensed to act as a
28 resident adjuster. If a person’s principal place of residence or
29 business does not license adjusters for the type of adjuster
30 license sought in this state, he or she shall designate as his or
31 her home state any state in which he or she has such a
32 license.

33 ~~(d)~~ (e) “Public adjuster” means an independent contrac-
34 tor representing solely the financial interests of the insured
35 named in the policy.

36 ~~(e)~~ (f) “Crop adjuster” means a person who adjusts crop
37 insurance claims under the federal crop insurance program

38 administered by the United States Department of Agricul-
39 ture.

§33-12B-4a. Exemptions from license.

1 Individuals who collect claim information from, or
2 furnish claim information to, insureds or claimants and who
3 conduct data entry including entering data into an auto-
4 mated claims adjudication system are exempted from
5 licensure under this article: *Provided*, That such individuals
6 are under the supervision of a licensed adjuster or licensed
7 producer: *Provided further*, That no more than twenty-five
8 such individuals are under the supervision of one licensed
9 adjuster or licensed producer.

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

1 (a) A nonresident applicant for an adjuster license,
2 including a resident of Canada, who holds a similar license
3 in his or her home state may be licensed as a nonresident
4 adjuster in this state if the applicant's home state has
5 established, by law or regulation, like requirements for the
6 licensing of a resident of this state as a nonresident adjuster.

7 (b) As a condition of continuing a nonresident adjuster
8 license, the licensee must maintain a license in his or her
9 home state.

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

13 (d) If a nonresident adjuster has his or her license
14 suspended, terminated or revoked by his or her home state,
15 the adjuster must immediately notify the commissioner of
16 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.)