

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2762**

4 (By Delegates Miley and Manchin)

5
6 (Originating in the House Committee on the Judiciary)

7
8 [March 12, 2013]

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

1 **ARTICLE 12B. ADJUSTERS.**

2 **§33-12B-1. Definitions.**

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

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

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

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

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

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

1 ~~(c)~~ (d) "Home state" means the District of Columbia or any
2 state or territory of the United States in which an adjuster
3 maintains his or her principal place of residence or business and
4 in which he or she is licensed to act as a resident adjuster. If
5 a person's principal place of residence or business does not
6 license adjusters for the type of adjuster license sought in this
7 state, he or she shall designate as his or her home state any state
8 in which he or she has such a license.

9 ~~(d)~~ (e) "Public adjuster" means an independent contractor
10 representing solely the financial interests of the insured named in
11 the policy.

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

15 **§33-12B-4a. Exemptions from license.**

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

24 **§33-12B-9. Licensing of nonresident adjusters.**

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

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

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

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

15 (e) A resident of another country may not be licensed as a
16 nonresident adjuster under this section unless that person has
17 obtained a resident or home state adjuster license in another
18 state.