

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 330**

4 (By Senator Minard)

5 \_\_\_\_\_  
6 [Originating in the Committee on Banking and Insurance;  
7 reported February 10, 2012.]

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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 and licensure of adjusters; adding a  
14 definition of "automated claims adjudication system";  
15 exemptions for certain individuals from adjuster licensure in  
16 this state; and adjuster licensing of residents of Canada in  
17 this state.

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

19 That §33-12B-1 and §33-12B-9 of the Code of West Virginia,  
20 1931, as amended, be amended and reenacted; and that said code be  
21 amended by adding thereto a new section, designated §33-12B-4a, all  
22 to read as follows:

23 **ARTICLE 12B. ADJUSTERS.**

24 **§33-12B-1. Definitions.**

25 (a) An "adjuster" is any individual who, for compensation, fee

1 or commission, investigates and settles claims arising under  
2 property, casualty or surety insurance contracts, on behalf solely  
3 of either the insurer or insured. A licensed attorney who is  
4 qualified to practice law in this state is deemed not to be an  
5 adjuster for the purposes of this article.

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

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

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

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

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

22 ~~(c)~~ (d) "Home state" means the District of Columbia or any  
23 state or territory of the United States in which an adjuster  
24 maintains his or her principal place of residence or business and  
25 in which he or she is licensed to act as a resident adjuster. If  
26 a person's principal place of residence or business does not

1 license adjusters for the type of adjuster license sought in this  
2 state, he or she shall designate as his or her home state any state  
3 in which he or she has such a license.

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

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

10 **§33-12B-4a. Exemptions from license.**

11 Individuals who collect claim information from, or furnish  
12 claim information to, insureds or claimants and who conduct data  
13 entry including entering data into an automated claims adjudication  
14 system are exempted from licensure under this article: *Provided,*  
15 That no more than 25 such persons are under the supervision of one  
16 licensed adjuster or licensed producer.

17 **§33-12B-9. Licensing of nonresident adjusters.**

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

24 (b) As a condition of continuing a nonresident adjuster  
25 license, the licensee must maintain a license in his or her home  
26 state.

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

4 (d) If a nonresident adjuster has his or her license  
5 suspended, terminated or revoked by his or her home state, the  
6 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.