

1 **H. B. 4401**

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3 (By Delegates Perry, Ashley, Hall and Hartman)  
4 [Introduced February 2, 2012; referred to the  
5 Committee on Banking and Insurance then Finance.]  
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10 A BILL to amend and reenact §33-12B-1, §33-12B-5 and §33-12B-9 of  
11 the Code of West Virginia, 1931, as amended; and to amend said  
12 code by adding thereto a new section, designated §33-12B-4a,  
13 all relating to insurance; licensure of adjusters;  
14 definitions, including a definition of "automated claims  
15 adjudication system"; and exemptions for certain individuals  
16 from adjuster licensure in this state and licensing of  
17 residents of Canada in this state.

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

19 That §33-12B-1, §33-12B-5 and §33-12B-9 of the Code of West  
20 Virginia, 1931, as amended, be amended and reenacted; and that said  
21 code be amended by adding thereto a new section, designated §33-  
22 12B-4a, all to read as follows:

23 **ARTICLE 12B. ADJUSTERS.**

24 **§33-12B-1. Definitions.**

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

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

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

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

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

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

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

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

13 **§33-12B-4a. Exemptions from license.**

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

20 **§33-12B-5. Qualifications for adjuster's license; examinations;**  
21 **exemptions.**

22 (a) For the protection of the people of West Virginia, the  
23 commissioner shall not issue, renew or permit to exist any

1 adjuster's license, except to an individual who:

2       (1) Is eighteen years of age or more.

3       (2) Is a resident of West Virginia, except for nonresident  
4 adjusters as provided in section nine of this article.

5       (3) Satisfies the commissioner that he or she is trustworthy  
6 and competent.

7       (b) (1) The commissioner may, at his or her discretion, test  
8 the competency of an applicant for a license under this section by  
9 examination. However, in order to qualify for a crop adjuster  
10 license, an applicant must pass a written examination that tests  
11 the knowledge of the individual concerning the insurance laws of  
12 this state and the duties and responsibilities of a multiperil crop  
13 adjuster. In lieu of such an examination, the commissioner may  
14 accept certification that the individual has passed a proficiency  
15 examination approved by the federal Risk Management Agency.

16       (2) If such an examination is required, each examinee shall  
17 pay a \$25 examination fee for each examination to the commissioner,  
18 which fees shall be used for the purposes set forth in section  
19 thirteen, article three of this chapter. The commissioner may, at  
20 his or her discretion, designate an independent testing service to  
21 prepare and administer such examination subject to direction and  
22 approval by the commissioner, and examination fees charged by such  
23 service shall be paid by the applicant.

24       (c) The requirements of this section do not apply to licenses

1 issued to emergency adjusters.

2 (d) A resident of Canada may not be licensed pursuant to this  
3 article, nor designate this state as his or her home state, unless  
4 that person has successfully passed the adjuster examination and  
5 has complied with the other applicable portions of this section,  
6 except that the applicant is not required to comply with the  
7 provisions of subdivision(a) (2) of this section.

8 **§33-12B-9. Licensing of nonresident adjusters.**

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

14 (b) As a condition of continuing a nonresident adjuster  
15 license, the licensee must maintain a license in his or her home  
16 state.

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

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

23 (e) A resident of Canada may not be licensed as a nonresident  
24 adjuster under this section unless that person has obtained a

1 resident or home state adjuster license in another state.

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, it has been completely underscored.