

1 **H. B. 2762**

2
3 (By Delegates Miley and Manchin)

4 [Introduced February 28, 2013; referred to the
5 Committee on Banking and Insurance then the Judiciary.]

6
7
8
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"; 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 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.**

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 used by a licensed adjuster, licensed producer
12 or supervised individuals operating pursuant to section four-a of
13 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 exempt from licensure under this article: *Provided, That*
18 the individuals are under the supervision of a licensed adjuster or
19 licensed producer: *Provided however, That no more than twenty-five*
20 persons are under the supervision of one licensed adjuster or
21 licensed producer.

22 **§33-12B-9. Licensing of nonresident adjusters.**

23 (a) A nonresident applicant for an adjuster license who holds
24 a similar license in his or her home state may be licensed as a

1 nonresident adjuster in this state if the applicant's home state
2 has established, by law or regulation like requirements for the
3 licensing of a resident of this state as a nonresident adjuster.

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

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

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

13 (e) A resident of Canada may not be licensed as a nonresident
14 adjuster under this section unless that person has obtained a
15 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 for 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.