

COMMITTEE SUBSTITUTE

FOR

H. B. 2762

(BY DELEGATES MILEY AND MANCHIN)

(Originating in the House Committee on the Judiciary)

[March 12, 2013]

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; licensure of insurance adjusters; definitions, including a definition of “automated claims adjudication system”; providing exemptions for certain individuals from producer or adjuster licensure in this state; and providing exemptions for certain individuals from adjuster licensure in this state and licensing residents of other countries 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 compensation,
2 fee 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,
9 data entry, calculation and final resolution of portable electronics
10 insurance claims which:

11 (1) May only be used 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
15 the 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
21 the interests of the insurer, including an independent contractor
22 and 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
25 maintains his or her principal place of residence or business and
26 in which he or she is licensed to act as a resident adjuster. If a
27 person’s principal place of residence or business does not license
28 adjusters for the type of adjuster license sought in this state, he
29 or she shall designate as his or her home state any state in which
30 he or she has such a license.

31 ~~(d)~~ (e) “Public adjuster” means an independent contractor
32 representing solely the financial interests of the insured named
33 in the policy.

34 ~~(e)~~ (f) “Crop adjuster” means a person who adjusts crop
35 insurance claims under the federal crop insurance program
36 administered by the United States Department of Agriculture.

§33-12B-4a. Exemptions from license.

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

§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 has
4 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
11 of establishing legal residency in this state.

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

