

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 778

6 By: Aldridge

7 COMMITTEE SUBSTITUTE

8 An Act relating to insurance adjusters; creating the
9 Independent Insurance Adjusters Licensing Act;
10 providing short title; defining terms; specifying who
11 can act as an independent insurance adjuster;
12 providing exceptions to licensure; allowing temporary
13 emergency licensure or registration of an independent
14 insurance adjuster under certain conditions;
15 specifying length of emergency licensure or
16 registration; authorizing Insurance Commissioner to
17 determine amount of licensure or registration fee;
18 requiring the Commissioner to make certain findings;
19 allowing resident of Canada to be licensed if certain
20 conditions are met; requiring certain entity applying
21 for certain license to make application on certain
22 form and in certain manner; requiring fingerprints
23 and criminal history record checks; providing
24 procedures related to the collection and transmission
of such fingerprints; requiring certain information
to be treated as confidential; specifying conditions
for issuance of an independent insurance adjusters
license; authorizing an independent adjuster to
qualify for a license in certain lines of authority;
allowing for renewal of such license; specifying
license fees; authorizing waiver of license renewal
requirement under certain circumstances; subjecting
an independent adjuster to certain laws; specifying
content of the license; authorizing the Commissioner
to contract for the performance of certain functions;
requiring written examination; providing exceptions;
providing for nonrefundable examination fee;
exempting persons licensed in another state from
completing certain prelicensing requirements;
providing procedures for licensure of a person

1 licensed in another state; stating conditions for
2 receipt of a nonresident independent adjuster
3 license; requiring nonresident independent adjuster
4 licensee to maintain licensure in home state;
5 allowing a resident of Canada to be licensed as a
6 nonresident independent adjuster under certain
7 conditions; providing for optional apprentice
8 independent adjuster license; providing application
9 process for such license; requiring the Commissioner
10 to make certain findings; subjecting the apprentice
11 independent adjuster license to certain terms and
12 conditions; authorizing the Commissioner to take
13 certain actions in response to certain causes;
14 requiring notification in the case of denial of
15 application or renewal of a license; authorizing
16 certain hearing; allowing certain license to be
17 denied under certain conditions; providing for civil
18 penalty; authorizing the Commissioner to enforce
19 certain provisions; requiring continuing education;
20 providing exceptions; requiring an independent
21 adjuster to maintain copies of certain contracts;
22 specifying professional conduct of an independent
23 adjuster; requiring the independent adjuster to
24 report certain actions; authorizing the Commissioner
to promulgate certain rules; providing for
codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 6250 of Title 36, unless there
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Independent
Insurance Adjusters Licensing Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 6251 of Title 36, unless there
is created a duplication in numbering, reads as follows:

1 As used in the Independent Insurance Adjusters Licensing Act:

2 1. "Apprentice independent adjuster" means one who is qualified
3 in all respects as an independent adjuster except as to experience,
4 education and/or training;

5 2. "Automated claims adjudication system" means a preprogrammed
6 computer system designed for the collection, data entry, calculation
7 and final resolution of consumer electronic products insurance
8 claims which:

- 9 a. may only be utilized by a licensed independent
10 adjuster, licensed agent, or individuals supervised by
11 a licensed independent adjuster or licensed agent,
12 b. shall comply with all claims payment requirements of
13 the Oklahoma Insurance Code, and
14 c. shall be certified as compliant by a licensed
15 independent adjuster.

16 3. "Business entity" means a corporation, association,
17 partnership, limited liability company, limited liability
18 partnership, or other legal entity;

19 4. "Catastrophe" means an event that:

- 20 a. results in large numbers of deaths or injuries,
21 b. causes extensive damage or destruction of facilities
22 that provide and sustain human needs,
23 c. produces an overwhelming demand on state and local
24 response resources and mechanisms,

1 d. causes a severe long-term effect on general economic
2 activity, or

3 e. severely affects state, local and private sector
4 capabilities to begin and sustain response activities.

5 A catastrophe shall be declared by the Governor of the state,
6 district, or territory in which the catastrophe occurred;

7 5. "Commissioner" means the Insurance Commissioner;

8 6. "Fingerprints" means an impression of the lines on the
9 finger taken for purpose of identification;

10 7. "Home state" means the District of Columbia and any state or
11 territory of the United States in which an independent adjuster
12 maintains his, her or its principal place of residence or business
13 and is licensed to act as a resident independent adjuster. If the
14 resident state does not license independent adjusters for the line
15 of authority sought, the independent adjuster shall designate as
16 his, her or its home state any state in which the independent
17 adjuster is licensed and in good standing;

18 8. "Independent adjuster" means a person who:

19 a. is an individual, a business entity, an independent
20 contractor, or an employee of a contractor, who
21 contracts for compensation with insurers or self-
22 insurers,

23 b. is an individual whom the insurer's or self-insurer's
24 tax treatment of the individual is consistent with

1 that of an independent contractor rather than as an
2 employee, as defined in the Internal Revenue Code,
3 United States Code, Title 26, Subtitle C, and

4 c. investigates, negotiates or settles property, casualty
5 or workers' compensation claims for insurers or for
6 self-insurers;

7 9. "Individual" means a natural person;

8 10. "Insurer" means any authorized insurance company,
9 corporation, reciprocal group, mutual group, underwriting
10 association or bureau, or any combination thereof, writing or
11 underwriting any insurance contracts;

12 11. "Person" means an individual or business entity;

13 12. "Uniform Individual Application" means the current version
14 of the National Association of Insurance Commissioners (NAIC)
15 Uniform Individual Application for resident and nonresident
16 individuals; and

17 13. "Uniform Business Entity Application" means the current
18 version of the National Association of Insurance Commissioners
19 (NAIC) Uniform Business Entity Application for resident and
20 nonresident business entities.

21 SECTION 3. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 6252 of Title 36, unless there
23 is created a duplication in numbering, reads as follows:
24

1 No person shall act or hold himself or herself out as an
2 independent adjuster in this state unless the person is licensed as
3 an independent adjuster pursuant to the Independent Insurance
4 Adjusters Licensing Act, or is exempt from licensure as an
5 independent adjuster pursuant to the provisions of the Independent
6 Insurance Adjusters Licensing Act.

7 SECTION 4. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 6253 of Title 36, unless there
9 is created a duplication in numbering, reads as follows:

10 For the purposes of the Independent Insurance Adjusters
11 Licensing Act, no person or individual shall be deemed to be an
12 adjuster or be required to obtain a license as an adjuster who is:

13 1. A licensed attorney in the State of Oklahoma, when acting in
14 his or her professional capacity as an attorney;

15 2. A person employed solely to obtain facts surrounding a claim
16 or to furnish technical assistance to a licensed independent
17 adjuster;

18 3. An individual who is employed to investigate suspected
19 fraudulent insurance claims but who does not adjust losses or
20 determine claims payments;

21 4. A person who solely performs executive, administrative,
22 managerial or clerical duties or any combination thereof and who
23 does not investigate, negotiate or settle claims with policyholders,
24 claimants or their legal representative;

- 1 5. A licensed health care provider or its employee who provides
2 managed care services so long as the services do not include the
3 determination of compensability;
- 4 6. A managed care organization or any of its employees or an
5 employee of any organization providing managed care services so long
6 as the services do not include the determination of compensability;
- 7 7. A person who settles only reinsurance or subrogation claims;
- 8 8. An officer, director, manager or employee of an authorized
9 insurer, surplus lines insurer, a risk retention group, or an
10 attorney-in-fact of a reciprocal insurer;
- 11 9. A U.S. Manager of the United States branch of an alien
12 insurer;
- 13 10. A person who investigates, negotiates or settles life,
14 accident and health, annuity, or disability insurance claims;
- 15 11. An individual employee, under a self-insured arrangement,
16 who adjusts claims on behalf of his or her employer;
- 17 12. A licensed insurance producer, attorney-in-fact of a
18 reciprocal insurer or managing general agent of the insurer to whom
19 claim authority has been granted by the insurer;
- 20 13. A person authorized to adjust workers' compensation or
21 disability claims pursuant to the provisions of the Third-party
22 Administrator Act; or
- 23 14. An individual who collects claim information from, or
24 furnishes claim information to insureds or claimants, and who

1 conducts data entry including entering data into an automated claims
2 adjudication system, provided that the individual is an employee of
3 a licensed independent adjuster or an affiliate where no more than
4 twenty-five persons are under the supervision of one licensed
5 independent adjuster or licensed agent who is exempt from licensure
6 pursuant to the requirements of the Independent Insurance Adjuster's
7 Licensing Act.

8 SECTION 5. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 6254 of Title 36, unless there
10 is created a duplication in numbering, reads as follows:

11 A. In the event of a declared catastrophe, an insurer shall
12 notify the Insurance Commissioner via an application for temporary
13 emergency licensure, or registration if temporary emergency
14 licensure is not statutorily required, of each individual not
15 already licensed in the state where the catastrophe has been
16 declared, that will act as an emergency independent adjuster on
17 behalf of the insurer. The Commissioner shall establish standards
18 and procedures to allow for the temporary emergency licensure or
19 registration of an emergency independent adjuster in this state.

20 B. A person who is otherwise qualified to adjust claims, but
21 not already licensed in this state where the catastrophe has been
22 declared, may act as an emergency independent adjuster and adjust
23 claims, if, within five (5) days of deployment to adjust claims
24 arising from the declared catastrophe, the insurer notifies the

1 Commissioner by providing the following information in a format
2 prescribed by the Commissioner:

- 3 1. Name of the individual;
- 4 2. Social Security number of the individual;
- 5 3. Name of the insurer which the independent adjuster will
6 represent;
- 7 4. Effective date of the contract between the insurer and
8 independent adjuster;
- 9 5. Catastrophe or loss control number;
- 10 6. Catastrophe event name; and
- 11 7. Other information the Commissioner deems necessary.

12 C. An emergency independent adjuster's license or registration
13 shall remain in force for a period not to exceed ninety (90) days,
14 unless extended by the Commissioner.

15 D. The fee for emergency independent adjuster application for
16 licensure or registration shall be in the amount specified in
17 subsection C of Section 7 of this act and shall be due and payable
18 at the time of application for licensure or registration.

19 SECTION 6. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 6255 of Title 36, unless there
21 is created a duplication in numbering, reads as follows:

22 A. An individual applying for a resident independent adjuster
23 license shall make application to the Insurance Commissioner on the
24 appropriate NAIC Uniform Individual Application in a format

1 prescribed by the Commissioner and declare under penalty of
2 suspension, revocation or refusal of the license that the statements
3 made in the application are true, correct and complete to the best
4 of the individual's knowledge and belief. Before approving the
5 application, the Commissioner shall find that the individual:

6 1. Is at least eighteen (18) years of age;

7 2. Is eligible to designate this state as his or her home
8 state;

9 3. Is trustworthy, reliable and of good reputation, evidence of
10 which shall be determined by the Commissioner;

11 4. Has not committed any act that is a ground for probation,
12 suspension, revocation or refusal of an independent adjuster's
13 license as provided for in Section 12 of this act;

14 5. Has completed a prelicensing course of study for the line(s)
15 of authority for which the individual has applied, where required by
16 the Commissioner;

17 6. Has successfully passed the examination for the line(s) of
18 authority for which the individual has applied; and

19 7. Has paid the fees set forth in Section 7 of this act.

20 B. An individual who is a resident of Canada shall not be
21 licensed pursuant to the Independent Insurance Adjuster's Licensing
22 Act nor designate this state as the individual's home state, unless
23 the individual has successfully passed the independent adjuster
24 examination and has complied with the other applicable requirements

1 of the Independent Insurance Adjuster's Licensing Act. The
2 individual shall not be required to comply with the provisions of
3 paragraph 2 of subsection A of this section.

4 C. A business entity applying for a resident independent
5 adjuster license shall make application to the Commissioner on the
6 appropriate NAIC Uniform Business Entity Application in a format
7 prescribed by the Commissioner and declare under penalty of
8 suspension, revocation or refusal of the license that the statements
9 made in the application are true, correct and complete to the best
10 of the business entity's knowledge and belief. Before approving the
11 application, the Commissioner shall find that the business entity:

12 1. Is eligible to designate this state as its home state;

13 2. Has designated a licensed independent adjuster responsible
14 for the business entity's compliance with the insurance laws, rules
15 and regulations of this state;

16 3. Has not committed an act that is a ground for probation,
17 suspension, revocation or refusal of an independent adjuster's
18 license as set forth in Section 12 of this act;

19 4. Has paid the fees set forth in Section 7 of this act;

20 5. Has submitted the names, addresses, social security numbers,
21 criminal and administrative history, background checks, biographical
22 statements, and fingerprints, of all executive officers and
23 directors of the applicant and of all executive officers and
24 directors of entities owning and any individuals owning, directly or

1 indirectly, fifty-one percent (51%) or more of the outstanding
2 voting securities of the applicant.

3 D. In order to make a determination of license eligibility, the
4 Commissioner is authorized to require fingerprints of applicants and
5 to submit the fingerprints and the fee required to perform the
6 criminal history record checks to the Oklahoma State Bureau of
7 Investigation (OSBI) and the Federal Bureau of Investigation (FBI)
8 for state and national criminal history record checks.

9 E. The Commissioner shall require a criminal history record
10 check on each applicant in accordance with the Independent Insurance
11 Adjusters Licensing Act. The Commissioner shall require each
12 applicant to submit a full set of fingerprints including a scanned
13 file from a hard copy fingerprint in order for the Commissioner to
14 obtain and receive national criminal history records from the FBI
15 Criminal Justice Information Services Division.

16 F. The Commissioner may contract for the collection and
17 transmission of fingerprints authorized under the Independent
18 Insurance Adjusters Licensing Act. If the Commissioner does
19 contract, the Commissioner may order the fee for collecting and
20 transmitting fingerprints to be payable directly to the contractor
21 by the applicant. The Commissioner may agree to a reasonable
22 fingerprinting fee to be charged by the contractor.

23 G. The Commissioner shall treat and maintain an applicant's
24 fingerprints and any criminal history record information obtained

1 pursuant to the Independent Insurance Adjusters Licensing Act as
2 confidential and shall apply security measures consistent with the
3 Criminal Justice Information Services Division of the Federal Bureau
4 of Investigation standards for the electronic storage of
5 fingerprints and necessary identifying information and limit the use
6 of records solely to the purposes authorized in the Independent
7 Insurance Adjusters Licensing Act. The fingerprints and any
8 criminal history record information shall not be subject to
9 subpoena, other than one issued in a criminal action or
10 investigation, and shall be confidential.

11 H. The Commissioner is authorized to receive criminal history
12 record information from another government agency, in lieu of the
13 OSBI, that submitted the fingerprints to the FBI.

14 I. The Commissioner may require any documents reasonably
15 necessary to verify the information contained in the application.

16 SECTION 7. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 6256 of Title 36, unless there
18 is created a duplication in numbering, reads as follows:

19 A. Unless denied licensure pursuant to Section 13 of this act,
20 persons who have met the requirements of Sections 6 and 8 of this
21 act shall be issued an independent adjuster license. An independent
22 adjuster may qualify for a license in one or more of the following
23 lines of authority:

24 1. Property and Casualty; or

1 2. Workers Compensation; or

2 3. Crop.

3 B. Any person holding a license pursuant to this section shall
4 not be required to hold any other independent adjuster, insurance or
5 self-insurance administrator license in this state pursuant to the
6 Third-party Administrator Act or any other provision, provided the
7 licensee does not act as an independent adjuster with respect to
8 life, health or annuity insurance, other than disability insurance.

9 C. The Insurance Commissioner shall collect the following fees
10 for an independent adjuster's license:

11 1. For a license in any single class of business, every two (2)
12 years, Thirty Dollars (\$30.00);

13 2. For a license in any combination of two or more classes of
14 business, every two (2) years, Fifty Dollars (\$50.00); and

15 3. Emergency adjuster, as provided for in Section 5 of this
16 act, each year, Fifteen Dollars (\$15.00).

17 D. The fee for the original license or renewal license shall be
18 collected in advance of issuance.

19 E. An independent adjuster license shall remain in effect
20 unless probated, suspended, revoked or refused, as long as the
21 request for renewal and fee set forth in subsection C of this
22 section is paid and all other requirements for license renewal are
23 met by the due date, otherwise the license expires.

1 F. An independent adjuster whose license expires may, within
2 twelve (12) months of the renewal date, be reissued an independent
3 adjuster license upon receipt of the renewal request, as prescribed
4 by the Commissioner. However, a penalty in the amount of double the
5 unpaid renewal fee shall be required to reissue the expired license.

6 G. An independent adjuster who is unable to comply with license
7 renewal procedures and requirements due to military service, long-
8 term medical disability or some other extenuating circumstance may
9 request a waiver of same and a waiver of any examination
10 requirement, fine or other sanction imposed for failure to comply
11 with renewal procedures.

12 H. An independent adjuster shall be subject to the Unfair
13 Claims Settlement Practices Act and Sections 1201 through 1213 of
14 Title 36 of the Oklahoma Statutes.

15 I. The independent adjuster shall inform the Commissioner by
16 any means acceptable of any change in resident or business
17 address(es) for the home state or in legal name, within thirty (30)
18 days of the change.

19 J. The license shall contain the licensee's name, address,
20 personal identification number, the date of issuance and expiration
21 and any other information the Commissioner deems necessary.

22 K. In order to assist in the performance of the Commissioner's
23 duties, the Commissioner may contract with nongovernmental entities,
24 including the NAIC, its affiliates or subsidiaries, to perform any

1 ministerial functions, including the collection of fees and data,
2 related to licensing that the Commissioner may deem appropriate.

3 SECTION 8. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6257 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 A. An individual applying for an independent adjuster license
7 pursuant to the Independent Insurance Adjusters Licensing Act shall
8 pass a written examination unless exempt pursuant to Section 9 of
9 this act. The examination shall test the knowledge of the
10 individual concerning the lines of authority for which application
11 is made, the duties and responsibilities of an independent adjuster
12 and the insurance laws and regulations of this state. Examinations
13 required by this section shall be developed and conducted under
14 rules promulgated by the Insurance Commissioner.

15 B. The Commissioner may make arrangements, including
16 contracting with an outside testing service, for administering
17 examinations and collecting the nonrefundable fee set forth in
18 subsection C of this section.

19 C. Each individual applying for an examination shall remit a
20 nonrefundable fee of Twenty Dollars (\$20.00).

21 D. An individual who fails to appear for the examination as
22 scheduled or fails to pass the examination shall reapply for an
23 examination and remit all required fees and forms before being
24 rescheduled for another examination.

1 SECTION 9. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6258 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 A. An individual who applies for an independent adjuster
5 license in this state who is or was licensed in another state for
6 the same line(s) of authority based on an independent adjuster
7 examination shall not be required to complete any prelicensing
8 education or examination. This exemption is only available if the
9 individual is currently licensed in another state or if that state
10 license has expired and the application is received by this state
11 within ninety (90) days of expiration. The applicant must provide
12 certification from the other state that the applicant's license is
13 currently in good standing or was in good standing at the time of
14 expiration or certification from the other state that its Producer
15 Database records, maintained by the NAIC, its affiliates or
16 subsidiaries, indicate that the applicant or the applicant's company
17 is or was licensed in good standing. The certification must be of a
18 license with the same line of authority for which the individual has
19 applied.

20 B. A person licensed as an independent adjuster in another
21 state based on an independent adjuster examination, who establishes
22 legal residency in this state, shall make application within ninety
23 (90) days to become a resident independent adjuster licensee
24 pursuant to Section 6 of this act, with the exception that no

1 prelicensing education or examination shall be required of this
2 person.

3 C. An individual who applies for an apprentice independent
4 adjuster license, pursuant to Section 11 of this act, and who
5 adjusts claims in that capacity, shall not be required to take and
6 successfully complete the independent adjuster examination.

7 SECTION 10. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 6259 of Title 36, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Unless refused licensure pursuant to Section 12 of this act,
11 a nonresident person shall receive a nonresident independent
12 adjuster license if:

13 1. The person is currently licensed in good standing as an
14 independent adjuster in his, her, or its resident or home state;

15 2. The person has submitted the proper request for licensure,
16 has paid the fees required by Section 7 of this act;

17 3. The person has submitted or transmitted to the Insurance
18 Commissioner the appropriate completed application for licensure;

19 4. The person's designated home state awards nonresident
20 independent adjuster licenses to persons of this state on the same
21 basis; and

22 5. As to nonresident business entities, the names, addresses,
23 fingerprints, social security numbers, criminal and administrative
24 history, background checks, and biographical statement, of all

1 executive officers and directors of the applicant and of all
2 executive officers and directors of entities owning and any
3 individuals owning, directly or indirectly, fifty-one percent (51%)
4 or more of the outstanding voting securities of the applicant. Any
5 nonresident business entity applicant whose state of domicile
6 complies with all of the provisions of this paragraph shall not be
7 required to submit a criminal history, background check, and
8 biographical statement for its executive officers, directors and
9 owners of outstanding voting securities.

10 B. The Commissioner may verify the independent adjuster's
11 licensing status through any appropriate database, including the
12 Producer Database maintained by the NAIC, its affiliates or
13 subsidiaries, or may request certification of good standing as
14 described in Section 9 of this act.

15 C. As a condition to the continuation of a nonresident
16 independent adjuster license, the licensee shall maintain a resident
17 independent adjuster license in his, her or its home state. The
18 nonresident independent adjuster license issued under this section
19 shall terminate and be surrendered immediately to the Commissioner
20 if the resident independent adjuster license terminates for any
21 reason, unless the termination is due to the independent adjuster
22 being issued a new resident independent adjuster license in his, her
23 or its new home state. The new state resident independent adjuster
24 license must have reciprocity with the licensing nonresident

1 state(s), otherwise the nonresident independent adjuster license(s)
2 will terminate. Notice of resident independent adjuster license
3 termination must be given to any state(s) that issued a nonresident
4 independent adjuster license. Notice must be given within thirty
5 (30) days of the termination date; if terminated for change in
6 resident home state, then the notice must include both the previous
7 and current address. Maintaining a resident independent adjuster
8 license is required for the nonresident independent adjuster
9 license(s) to remain valid.

10 D. A resident of Canada may be licensed as a nonresident
11 independent adjuster if such person has obtained a resident or home
12 state independent adjuster license.

13 SECTION 11. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 6260 of Title 36, unless there
15 is created a duplication in numbering, reads as follows:

16 A. The apprentice independent adjuster license is an optional
17 license to facilitate the experience, education and/or training
18 necessary to ensure reasonable competency of the responsibilities
19 and duties of an independent adjuster as defined in the Independent
20 Insurance Adjusters Licensing Act.

21 B. An individual applying for an apprentice independent
22 adjuster license shall make application to the Insurance
23 Commissioner on the appropriate NAIC Uniform Individual Application
24 in a format prescribed by the Commissioner and declare under penalty

1 of suspension, revocation or refusal of the license that the
2 statements made in the application are true, correct and complete to
3 the best of the individual's knowledge and belief. Before approving
4 the application, the Commissioner shall find that the individual:

- 5 1. Is at least eighteen (18) years of age;
- 6 2. Is a resident of this state and has designated this state as
7 his or her home state;
- 8 3. Has a business or mailing address in this state for
9 acceptance of service of process;
- 10 4. Has not committed any act that is a ground for probation,
11 suspension, revocation or denial of licensure as set forth in
12 Section 12 of this act;
- 13 5. Is trustworthy, reliable and of good reputation, evidence of
14 which may be determined by the Commissioner; and
- 15 6. Has paid the fees set forth in Section 7 of this act.

16 C. The apprentice independent adjuster license shall be subject
17 to the following terms and conditions:

- 18 1. Accompanying the apprentice independent adjuster application
19 shall be an attestation, from a licensed independent adjuster with
20 the same line(s) of authority for which the apprentice has applied,
21 certifying that the apprentice will be subject to training,
22 direction and control by the licensed independent adjuster and
23 further certifying that the licensed independent adjuster assumes

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1 responsibility for the actions of the apprentice in the apprentice's
2 capacity as an independent adjuster;

3 2. The apprentice independent adjuster is only authorized to
4 adjust claims in the state that has issued the apprentice
5 independent adjuster license;

6 3. The apprentice independent adjuster licensee is restricted
7 to participation in the investigation, settlement and negotiation of
8 claims subject to the review and final determination of the claim by
9 the supervising licensed independent adjuster;

10 4. Compensation of an apprentice independent adjuster shall be
11 on a salaried or hourly basis only;

12 5. The apprentice independent adjuster shall not be required to
13 take and successfully complete the independent adjuster examination
14 pursuant to Section 9 of this act to adjust claims as an apprentice
15 independent adjuster. However, at any time during the
16 apprenticeship the apprentice independent adjuster may choose to
17 take the examination required by Section 8 of this act. If the
18 individual takes and successfully completes the independent adjuster
19 exam the apprentice independent adjuster license shall automatically
20 terminate and an independent adjuster license shall be issued to
21 that individual in place thereof;

22 6. The apprentice independent adjuster license is for a period
23 not to exceed twelve (12) months and is nonrenewable; and
24

1 7. The licensee shall be subject to probation, suspension,
2 revocation, or refusal pursuant to Section 12 of this act.

3 SECTION 12. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6261 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The Insurance Commissioner may place on probation, suspend,
7 revoke, or refuse to issue or renew an independent adjuster's
8 license or may levy a civil penalty or any combination of the above
9 actions for any one or more of the following causes:

10 1. Providing incorrect, misleading, incomplete or materially
11 untrue information in the license application;

12 2. Violating any insurance laws, regulations, subpoena or order
13 of the Commissioner or of another state's Insurance Commissioner;

14 3. Obtaining or attempting to obtain a license through
15 misrepresentation or fraud;

16 4. Improperly withholding, misappropriating, or converting any
17 monies or properties received in the course of doing insurance
18 business;

19 5. Intentionally misrepresenting the terms of an actual or
20 proposed insurance contract or application for insurance;

21 6. Having been convicted of a felony;

22 7. Having admitted or been found to have committed any
23 insurance unfair trade practice or fraud;

24

1 8. Using fraudulent, coercive or dishonest practices, or
2 demonstrating incompetence, untrustworthiness or financial
3 irresponsibility, in the conduct of insurance business in this state
4 or elsewhere;

5 9. Having an insurance license, or its equivalent, probated,
6 suspended, revoked or refused in any other state, province,
7 district, or territory;

8 10. Forging another's name to any document related to an
9 insurance transaction;

10 11. Cheating, including improperly using notes or any other
11 reference material, to complete an examination for an insurance
12 license;

13 12. Failing to comply with an administrative or court order
14 imposing a child support obligation; or

15 13. Failing to pay state income tax or comply with any
16 administrative or court order directing payment of state income tax
17 which remains unpaid.

18 B. In the event that the action by the Commissioner is to
19 refuse application for licensure or renewal of an existing license,
20 the Commissioner shall notify the applicant or licensee in writing,
21 advising of the reason for the refusal. The applicant or licensee
22 may make written demand upon the Commissioner for a hearing before
23 the Commissioner to determine the reasonableness of the refusal.
24 The hearing shall be pursuant to the Administrative Procedures Act.

1 C. The license of a business entity may be probated, suspended,
2 revoked, or refused if the Commissioner finds, after a hearing, that
3 its designated individual licensee's violation occurred while acting
4 on behalf of or representing the business entity and that the
5 violation was known or should have been known by one or more of the
6 business entity's partners, officers or managers and that the
7 violation was neither reported to the Commissioner nor was
8 corrective action taken.

9 D. In addition to or in lieu of any applicable probation,
10 suspension, revocation or refusal, a person may, after a hearing,
11 additionally be subject to a civil fine.

12 E. The Commissioner shall retain the authority to enforce the
13 provisions of and impose any penalty or remedy authorized by the
14 Independent Insurance Adjusters Licensing Act and Title 36 of the
15 Oklahoma Statutes, against any person who is under investigation for
16 or charged with a violation of the Independent Insurance Adjusters
17 Licensing Act or Title 36 of the Oklahoma Statutes, even if the
18 person's license or registration has been surrendered or has expired
19 by operation of law.

20 SECTION 13. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 6262 of Title 36, unless there
22 is created a duplication in numbering, reads as follows:

23 A. An individual who holds an independent adjuster license and
24 who is not exempt under subsection B of this section, shall

1 satisfactorily complete a minimum of twenty-four (24) hours of
2 continuing education courses, of which three (3) hours must be in
3 ethics, reported to the Insurance Commissioner on a biennial basis
4 in conjunction with his or her license renewal cycle.

5 B. The provisions of subsection A of this section shall not
6 apply to:

7 1. Licensees not licensed for one (1) full year prior to the
8 end of the applicable continuing education biennium; or

9 2. Licensees holding nonresident independent adjuster licenses
10 who have met the continuing education requirements of their
11 designated home state.

12 SECTION 14. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 6263 of Title 36, unless there
14 is created a duplication in numbering, reads as follows:

15 An independent adjuster shall maintain a copy of each contract
16 between the independent adjuster and the insurer or self-insurer and
17 comply with the record retention policy as agreed to in that
18 contract.

19 SECTION 15. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 6264 of Title 36, unless there
21 is created a duplication in numbering, reads as follows:

22 A. An independent adjuster shall:

23 1. Be honest and fair in all communications with the insured,
24 the insurer and the public;

1 2. Give policyholders and claimants prompt, knowledgeable
2 service and courteous, fair and objective treatment at all times;

3 3. Comply with all local, state and federal privacy and
4 information security laws, if applicable; and

5 4. Identify himself or herself as an independent adjuster and,
6 if applicable, identify his or her employer when dealing with any
7 policyholder or claimant.

8 B. An independent adjuster shall not:

9 1. Give legal advice, and shall not deal directly with any
10 policyholder or claimant who is represented by legal counsel without
11 the consent of the legal counsel involved; and

12 2. Have any financial interest in any adjustment or acquire for
13 himself or herself or any person any interest or title in salvage,
14 without first receiving written authority from the principal.

15 SECTION 16. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 6265 of Title 36, unless there
17 is created a duplication in numbering, reads as follows:

18 A. The independent adjuster shall report to the Insurance
19 Commissioner any administrative action taken against the independent
20 adjuster in another jurisdiction or by another governmental agency
21 in this state within thirty (30) days of the final disposition of
22 the matter. This report shall include a copy of the order, consent
23 order and any other relevant legal documents.

24

1 B. The independent adjuster shall report to the Commissioner
2 any criminal action taken against the independent adjuster in this
3 or any jurisdiction within thirty (30) days of the final disposition
4 of the criminal matter. The report shall include a copy of the
5 initial complaint filed, the final order issued by the court, and
6 any other relevant legal documents.

7 SECTION 17. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 6266 of Title 36, unless there
9 is created a duplication in numbering, reads as follows:

10 The Insurance Commissioner may promulgate rules as are necessary
11 or proper to carry out the purposes of the Independent Insurance
12 Adjusters Licensing Act.

13 SECTION 18. This act shall become effective January 1, 2012.

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