ENGROSSED SENATE
BILL NO. 439 By: Quinn of the Senate

and

Grau of the House

[adjusters - application for license adjuster - requirements - contents of certain memorandum - maximum fee - recordkeeping - catastrophes - duration and applicability of license - codification - effective date]

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

SECTION 1. AMENDATORY 36 O.S. 2011, Section 6205, is amended to read as follows:

Section 6205. A. Application for a license as an adjuster shall be made to the Insurance Commissioner upon forms prescribed and furnished by the Commissioner. As a part of and in connection with the application, the applicant shall furnish such information concerning the applicant's identity, personal history, business experience, business record, and such other pertinent information which the Commissioner shall reasonably require.

B. Unless denied licensure pursuant to Section 6220 of this title, a nonresident applicant shall receive a nonresident adjuster license if:

1. The applicant has passed an examination in the applicant's home state <u>or in another state in which the applicant is currently licensed and in good standing</u>;

2. The applicant is currently licensed and in good standing in the home state of the applicant;

3. The applicant has submitted the proper request for licensure and has paid the fees required by Section 6212 of this title; and

4. The applicant's home state awards nonresident adjuster licenses to residents of this state on the same basis.

C. If a nonresident applicant's home state does not license or require an examination for an adjuster license, the adjuster may declare another state which has an examination requirement and in which the adjuster is licensed to be the home state. Should the applicant not hold an active adjuster license in his or her home state or declared home state, the applicant shall pass the adjuster examination of this state prior to receiving a nonresident adjuster license.

D. An individual who is a resident of Canada shall not be licensed pursuant to the Insurance Adjusters Licensing Act nor designate this state as the individual's home state, unless the individual has successfully passed the adjuster examination and has complied with all applicable requirements of the Insurance Adjusters Licensing Act; except that any such applicant shall not be required

to comply with paragraph 2 of subsection A of Section 6206 of this title or Section 6215 of this title.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6216.3 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. No public adjuster shall have any right to compensation from any insured for or on account of services rendered to an insured as a public adjuster unless the right to compensation is based upon a written memorandum, signed by the party to be charged and by the adjuster. The written and signed memorandum shall specify or clearly define at least the following:

1. The services to be rendered;

2. The amount or extent of the compensation to be paid to the adjuster, including any information regarding a possible lien placed on the insured's insurance claim or property; and

3. The amount or extent of the compensation to be paid to any third party.

B. A public adjuster may not recover any fees unless the insurer makes a written claim settlement offer to an insured and that offer is rejected, and a public adjuster may not recover any fees in excess of ten percent (10%) of the difference between the amount of any final claim payment and the rejected claim settlement offer.

C. A public adjuster shall maintain a copy of every written memorandum required by subsection A of this Section for at least three (3) years after the date the memorandum is signed by the insured. A public adjuster shall submit a copy of any such memorandum to the Commissioner upon request.

SECTION 3. AMENDATORY 36 O.S. 2011, Section 6218, is amended to read as follows:

Section 6218. A. In the event of a catastrophe, the Insurance Commission may declare an emergency to exist, and in the event of such a declaration, the Commissioner may issue a license as an emergency adjuster to any resident or nonresident applicant. An individual licensed as an emergency adjuster pursuant to this section may only adjust claims related to the catastrophe. ~~Said~~ The applicant shall not have to be a licensed adjuster. An applicant for this license shall be certified in the manner prescribed by the Commissioner by an adjuster licensed in this state or by an insurer who maintains an office in this state and is licensed to do business in this state. A licensed adjuster or insurer who certifies an applicant for this license shall be responsible for any losses caused by the applicant or for any improper claim handling practices committed by the applicant. The employer of this applicant shall certify the application for license as an emergency adjuster to the Commissioner within five (5) days after the applicant begins working as an emergency adjuster for ~~said~~ the employer. The license as an

emergency adjuster shall remain in force for not more than ninety (90) days from the date ~~of issue, unless extended for an additional ninety (90) days by~~ the Commissioner issues an emergency declaration order, and each license only applies to the particular catastrophe for which the emergency declaration order is issued.

B. The Commissioner may suspend or revoke the right of any person acting as an adjuster or an emergency adjuster in this state pursuant to the authority derived from the provisions of the Insurance Adjusters Licensing Act to continue to adjust claims in this state after a hearing on the suspension or revocation if the Commissioner finds that ~~said~~ the person has engaged in any of the practices forbidden to a licensed adjuster. Notice of the hearing on ~~said~~ the suspension or revocation shall be given personally or shall be sent by mail to the address stated in the registration. A duplicate copy of the notice shall be given to the insurer.

SECTION 4. This act shall become effective November 1, 2015.

Passed the Senate the 10th day of March, 2015.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2015.

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Presiding Officer of the House
of Representatives