

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3094 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Mark Tedford

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 3094

By: Tedford

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to insurance; creating the Public Adjuster Regulation Act; providing definitions; limiting certain compensation; prohibiting public adjusters from certain awards; prohibiting construction contractors from certain actions without a license; prohibiting entities from acting as both the public adjuster to and construction contractor; prohibiting construction contractors from hiring public adjusters; prohibiting public adjuster from having certain financial interest; permitting owner's representatives to work a claim in certain circumstances; providing a certain financial penalty; directing monies be deposited into state general revenue fund; amending 36 O.S. 2021, Section 6212, which relates to notification of change in information of licensees; modifying citation; amending 36 O.S. 2021, Section 6220, as amended by Section 5, Chapter 196, O.S.L. 2023 (36 O.S. Supp. 2023, Section 6220), which relates to the suspension, revocation, or refusal to renew license; prohibiting public adjusters from engaging in certain claims related to certain property covered by interlocal entity insurance contract; providing for codification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6224 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Public Adjuster
5 Regulation Act".

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 6225 of Title 36, unless there
8 is created a duplication in numbering, reads as follows:

9 As used in this act:

10 1. "Construction contractor" means an entity that is either a
11 trade contractor or general contractor that actually performs
12 construction trades or collects funds for the performing of
13 construction work. This does not include a consultant or owner's
14 representative;

15 2. "Construction manager" means a person or entity managing a
16 construction project for a fee while not engaging in actual
17 construction;

18 3. "Consultant" means a person or entity giving advice for a
19 fee;

20 4. "Owner's representative" means a person or entity
21 representing a property owner to other parties; and

22 5. "Public adjuster" means a licensed person or entity that
23 negotiates an insurance claim on behalf of the claimant.
24

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6226 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Under any method of compensation, the total commission
5 payable to the public insurance adjuster, including expenses, direct
6 costs, or any other costs accrued by the public insurance adjuster,
7 shall not exceed ten percent (10%) of the amount of the insurance
8 settlement.

9 B. Public adjusters shall not receive judgement awards in
10 addition to their contracted fee percentage on the insurance
11 settlement, not to exceed policy limits, in addition to reasonable
12 fees and expenses.

13 SECTION 4. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 6229 of Title 36, unless there
15 is created a duplication in numbering, reads as follows:

16 A. Construction contractors are prohibited from receiving a
17 claims negotiating fee without first being issued a public adjuster
18 license.

19 B. No person or entity may act as a public adjuster and a
20 construction contractor on the same claim.

21 C. Construction contractors are prohibited from hiring a public
22 adjuster.

23 D. A construction contractor cannot be assigned the rights to a
24 claim.

1 E. Owner's representatives are allowed to work a claim with a
2 related public adjuster as long as neither engages as a construction
3 contractor.

4 F. Any violation of this section shall result in a fine of up
5 to One Thousand Dollars (\$1,000.00) per violation. Fine monies
6 shall be deposited into the State General Revenue Fund.

7 SECTION 5. AMENDATORY 36 O.S. 2021, Section 6212, is
8 amended to read as follows:

9 Section 6212. A. The Insurance Commissioner or an
10 administrator approved by the Insurance Commissioner shall collect a
11 fee of Twenty Dollars (\$20.00) for an examination for an adjuster's
12 license in any of the following single classes of business. The fee
13 for any examination which includes two or more classes of business
14 shall not exceed Forty Dollars (\$40.00). The classes of business
15 are:

- 16 1. Motor vehicle physical damage;
- 17 2. Fire and allied lines (property);
- 18 3. Casualty;
- 19 4. Workers' compensation;
- 20 5. Crime and fidelity bonds; and
- 21 6. Crop/hail.

22 B. The Commissioner shall collect the following fees for an
23 adjuster's license:

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

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

5 3. Public adjuster, every two years, Thirty Dollars (\$30.00);

6 4. Emergency adjuster, as provided for in Section 6218 of this
7 title, each year, Fifteen Dollars (\$15.00); and

8 5. Apprentice adjuster, as provided for in Section 6204.1 of
9 this title, Twenty Dollars (\$20.00).

10 C. The fees prescribed in this section shall accompany the
11 application for an original license or a renewal of a license.

12 D. The fee for the original license or renewal license shall be
13 collected in advance of issuance. Late application for renewal
14 shall require a fee of double the amount of the original license
15 fee.

16 E. The Commissioner may issue a duplicate license for any lost,
17 stolen, or destroyed license issued pursuant to the provisions of
18 the Insurance Adjusters Licensing Act if an affidavit is submitted
19 by the licensee to the Commissioner concerning the facts of such
20 loss, theft, or destruction. The affidavit shall be in a form
21 prescribed by the Commissioner. The fee for a duplicate license
22 shall be one-half (1/2) the fee of the license.

23 F. Licensees shall inform by any means acceptable to the
24 Commissioner of a change of legal name, address or e-mail address

1 within thirty (30) days of the change to permit the Commissioner to
2 give proper notice to licensees. A change in legal name or address
3 submitted more than thirty (30) days after the change shall include
4 an administrative fee of Fifty Dollars (\$50.00). Failure to provide
5 acceptable notification of a change of legal name or address to the
6 Commissioner within forty-five (45) days of the date the
7 administrative fee is assessed shall result in penalties pursuant to
8 subsection ~~B~~ C of Section 6220 of this title.

9 SECTION 6. AMENDATORY 36 O.S. 2021, Section 6220, as
10 amended by Section 5, Chapter 196, O.S.L. 2023 (36 O.S. Supp. 2023,
11 Section 6220), is amended to read as follows:

12 Section 6220. A. The Insurance Commissioner may censure,
13 suspend, revoke, or refuse to issue or renew a license pursuant to
14 the Insurance Adjusters Licensing Act, levy a civil penalty in
15 accordance with subsection ~~B~~ C of this section, or any combination
16 of actions for any of the following causes:

17 1. Material misrepresentation or fraud in obtaining an
18 adjuster's license;

19 2. Any cause for which original issuance of a license could
20 have been refused;

21 3. Misappropriation, conversion to the personal use of the
22 licensee, or illegal withholding of monies required to be held by
23 the licensee in a fiduciary capacity;

24

1 4. Material misrepresentation of the terms and effect of any
2 insurance contract, with intent to deceive, or engaging in, or
3 attempting to engage in, any fraudulent transaction with respect to
4 a claim or loss that the licensee or the trainee is adjusting and,
5 in the case of a public adjuster, misrepresentation of the services
6 offered or the fees or commission to be charged;

7 5. Conviction of or pleading guilty or nolo contendere to a
8 felony pursuant to the laws of this state, any other state, the
9 United States, or any foreign country;

10 6. If in the conduct of business affairs, the licensee or
11 trainee has shown ~~himself~~ themselves to be, and is so deemed by the
12 Commissioner, incompetent, untrustworthy or a source of injury to
13 the public;

14 7. Refusal to comply with any lawful order of the Commissioner;

15 8. Violation of any provision of the Insurance Adjusters
16 Licensing Act;

17 9. Adjusting losses or negotiating claim settlements arising
18 pursuant to provisions of insurance contracts on behalf of an
19 insurer or insured without proper licensing from the Commissioner
20 and authority from the licensed insurer or the insured party;

21 10. Failing to respond to any inquiry (including electronic
22 communications) from the Department within thirty (30) calendar days
23 of receipt of such inquiry;

24 11. Forging another's name to any document;

1 12. Improperly using notes or any other reference material to
2 complete an examination for an insurance license;

3 13. Having admitted or been found to have committed any
4 insurance unfair trade practice or insurance fraud;

5 14. Having an insurance adjuster license or its equivalent
6 denied, suspended, censured, placed on probation or revoked in any
7 other state, province, district or territory;

8 15. Failing to inform the Department, by any means acceptable
9 to the Department, of a change of address, change of legal name or
10 change of information submitted on the application within thirty
11 (30) days of the change; or

12 16. Providing services as a public adjuster, company adjuster
13 or independent adjuster on the same claim.

14 B. 1. Notwithstanding any provision of law to the contrary, it
15 is hereby expressly prohibited for a public adjuster, or for any
16 individual acting for a licensed public adjuster firm, association,
17 company, or corporation, to engage in claims adjustment activities
18 on behalf of any school district or other Oklahoma educational
19 institution with respect to property losses either covered or
20 potentially covered under an insurance contract issued by an
21 interlocal entity;

22 2. In the event the prohibition set forth in this subsection is
23 violated, the Commissioner shall:
24

- 1 a. for the first offense, immediately revoke the public
2 adjuster's license and, for a period of time not less
3 than five (5) years, refuse to renew, reinstate, or
4 otherwise grant a license to the public adjuster, and
5 b. for the second offense, immediately revoke the public
6 adjuster's license and permanently refuse to renew,
7 reinstate, or otherwise grant a license to the public
8 adjuster; and

9 3. As used in this subsection:

- 10 a. "Claims adjustment activities" means the
11 investigation, evaluation, negotiation, or settling of
12 insurance claims related to property losses, and
13 b. "Interlocal entity" means an entity organized pursuant
14 to the Interlocal Cooperation Act for the purpose of
15 transacting insurance that insures a school district
16 or other Oklahoma educational institution.

17 C. In addition to or in lieu of any applicable denial,
18 suspension, or revocation of a license, any person violating the
19 provisions of the Insurance Adjusters Licensing Act may be subject
20 to a civil fine of not more than One Thousand Dollars (\$1,000.00)
21 for each violation. This fine may be enforced in the same manner in
22 which civil judgment may be enforced.

23 ~~C.~~ D. The Commissioner shall not reinstate a license to any
24 person whose license has been suspended, revoked, or refused renewal

1 until the Commissioner determines that the cause or causes for the
2 suspension, revocation, or nonrenewal of the license no longer
3 exist.

4 ~~D.~~ E. The Department shall retain the authority to enforce the
5 provisions of and impose any penalty or remedy authorized by this
6 title against any person who is under investigation for or charged
7 with a violation even if the person's license or registration has
8 been surrendered or has lapsed by operation of law.

9 ~~E.~~ F. It shall be unlawful for any person, firm, association,
10 company or corporation to act as an adjuster without first obtaining
11 a license pursuant to the Insurance Adjusters Licensing Act. Any
12 person convicted of violating the provisions of this subsection
13 shall be guilty of a misdemeanor and shall be punished as set forth
14 in Section 10 of Title 21 of the Oklahoma Statutes. The restriction
15 set forth in this subsection shall apply regardless of whether the
16 person, firm, association, company or corporation has obtained power
17 of attorney from an insurance claimant or has entered into any other
18 agreement with an insurance claimant to act on the behalf of the
19 claimant.

20 SECTION 7. This act shall become effective November 1, 2024.
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