

REQUIRES TWO-THIRDS MAJORITY VOTE

(§ 6 & NRS 680B.010, 680C.110, 684A.130 AND 684A.160)

(Reprinted with amendments adopted on April 7, 2011)

FIRST REPRINT

S.B. 152

SENATE BILL NO. 152—SENATOR SCHNEIDER

FEBRUARY 16, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions governing insurance adjusters.
(BDR 57-939)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to insurance; revising provisions governing insurance adjusters; exempting certain persons from provisions of the Nevada Insurance Adjusters Law governing the licensing and regulation of adjusters; authorizing the Commissioner of Insurance to issue a license as an adjuster to a resident of Canada under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Insurance Adjusters Law governs the licensing of adjusters and the regulation of their conduct. (NRS 684A.010-684A.260) The Nevada Insurance Adjusters Law defines “adjuster,” “independent adjuster,” “public adjuster” and “associate adjuster” for purposes of the Nevada Insurance Code. (NRS 684A.020, 684A.030) The Nevada Insurance Adjusters Law is applicable only to persons who satisfy the statutory definition of adjuster, but not to persons who adjust or settle claims relating to life insurance, health insurance or annuities. (NRS 684A.010)

Section 2 of this bill exempts certain persons from the provisions governing the licensing and regulation of adjusters by specifically providing that such persons are not considered adjusters for purposes of the Code. **Section 2** provides that the following persons are not considered adjusters: (1) certain employees of an independent adjuster or an affiliate of an independent adjuster who collect information relating to a claim and conduct data entry; (2) licensed agents who supervise certain employees of an independent adjuster or an affiliate of an independent adjuster; (3) persons employed only to collect factual information concerning a claim for coverage arising under an insurance contract; (4) persons employed only to provide technical assistance to an independent adjuster; (5) persons employed to investigate suspected fraudulent claims for coverage arising under an insurance contract but who do not adjust losses or determine the payment



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of claims; (6) persons who perform only executive, administrative, managerial or clerical duties, or any combination thereof, but do not investigate or settle claims for coverage arising under an insurance contract; (7) licensed health care providers or any employees thereof who provide managed care services if those services do not include the determination of compensability; (8) managed care organizations or any employees thereof or organizations that provide managed care services or any employees thereof if the services provided do not include the determination of compensability; (9) persons who settle only reinsurance or subrogation claims; (10) brokers, agents or representatives of risk retention groups; (11) attorneys-in-fact of reciprocal insurers; and (12) managers of branch offices of alien insurers that are located in the United States.

Section 5 of this bill authorizes the Commissioner of Insurance to issue a license as an adjuster to a resident of Canada who is otherwise qualified for licensure and who adjusts and pays claims on business written in Nevada. **Sections 6 and 7** of this bill exempt a resident of Canada from certain requirements relating to licensure as an adjuster. A resident of Canada who applies for licensure as an adjuster is required to pay certain fees for the issuance or renewal of such a license. (NRS 680B.010, 680C.110, 684A.090, 684A.130, 684A.160)

Section 6 also revises provisions concerning applications for licensure submitted by an applicant that is a firm or corporation rather than a natural person.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 684A of NRS is hereby amended by adding thereto a new section to read as follows:

As used in this Code, "automated claims adjudication system" means a preprogrammed computer system which:

1. Is designed for the collection, data entry, calculation and final resolution of claims arising under an insurance contract for portable electronic insurance coverage;

2. Is used by a licensed adjuster, licensed agent or person supervised by a licensed adjuster or licensed agent; and

3. Complies with the requirements of this Code concerning the payment of claims.

Sec. 2. NRS 684A.020 is hereby amended to read as follows:

684A.020 1. ~~[As]~~ *Except as otherwise provided in subsection 2, as* used in this Code, "adjuster" means any person who, for compensation as an independent contractor or for a fee or commission, investigates and settles, and reports to his or her principal relative to, claims:

(a) Arising under insurance contracts for property, casualty or surety coverage, on behalf solely of the insurer or the insured; or

(b) Against a self-insurer who is providing similar coverage, unless the coverage provided relates to a claim for industrial insurance.

2. For the purposes of this chapter:

(a) An associate adjuster, as defined in NRS 684A.030;



(b) An attorney at law who adjusts insurance losses from time to time incidental to the practice of his or her profession;

(c) An adjuster of ocean marine losses;

(d) A salaried employee of an insurer; ~~for~~

(e) A salaried employee of a managing general agent maintaining an underwriting office in this state ~~is~~;

(f) An employee of an independent adjuster or an employee of an affiliate of an independent adjuster who is one of not more than 25 such employees under the supervision of an independent adjuster or licensed agent and who:

(1) Collects information relating to a claim for coverage arising under an insurance contract from or furnishes such information to an insured or a claimant; and

(2) Conducts data entry, including, without limitation, entering data into an automated claims adjudication system;

(g) A licensed agent who supervises not more than 25 employees described in paragraph (f);

(h) A person who is employed only to collect factual information concerning a claim for coverage arising under an insurance contract;

(i) A person who is employed only to provide technical assistance to an independent adjuster;

(j) A person who is employed to investigate suspected fraudulent claims for coverage arising under an insurance contract but who does not adjust losses or determine the payment of claims;

(k) A person who performs only executive, administrative, managerial or clerical duties, or any combination thereof, but does not investigate or settle claims for coverage arising under an insurance contract;

(l) A licensed health care provider or any employee thereof who provides managed care services if those services do not include the determination of compensability;

(m) A managed care organization or any employee thereof or an organization that provides managed care services or any employee thereof if the services provided do not include the determination of compensability;

(n) A person who settles only reinsurance or subrogation claims;

(o) A broker, agent or representative of a risk retention group;

(p) An attorney-in-fact of a reciprocal insurer; or

(q) A manager of a branch office of an alien insurer that is located in the United States,

➤ is not considered an adjuster.

Sec. 3. (Deleted by amendment.)



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1 **Sec. 4.** (Deleted by amendment.)

2 **Sec. 5.** NRS 684A.070 is hereby amended to read as follows:

3 684A.070 1. For the protection of the people of this State, the
4 Commissioner may not issue or continue any license as an adjuster
5 except in compliance with the provisions of this chapter. Any person
6 for whom a license is issued or continued must:

7 (a) Be at least 18 years of age;

8 (b) Except as otherwise provided in subsection 2, be a resident
9 of this State, and have resided therein for at least 90 days before his
10 or her application for the license;

11 (c) Be competent, trustworthy, financially responsible and of
12 good reputation;

13 (d) Never have been convicted of, or entered a plea of guilty,
14 guilty but mentally ill or nolo contendere to, forgery, embezzlement,
15 obtaining money under false pretenses, larceny, extortion,
16 conspiracy to defraud or any crime involving moral turpitude;

17 (e) Have had at least 2 years' recent experience with respect to
18 the handling of loss claims of sufficient character reasonably to
19 enable the person to fulfill the responsibilities of an adjuster;

20 (f) Pass all examinations required under this chapter; and

21 (g) Not be concurrently licensed as a producer of insurance for
22 property, casualty or surety or a surplus lines broker, except as a bail
23 agent.

24 2. The Commissioner may waive the residency requirement set
25 forth in paragraph (b) of subsection 1 if the applicant is:

26 (a) An adjuster licensed under the laws of another state who has
27 been brought to this State by a firm or corporation with whom the
28 adjuster is employed that is licensed as an adjuster in this State to
29 fill a vacancy in the firm or corporation in this State;

30 (b) An adjuster licensed in an adjoining state whose principal
31 place of business is located within 50 miles from the boundary of
32 this State; ~~for~~

33 (c) *A resident of Canada who adjusts and pays claims on*
34 *business written in this State; or*

35 (d) An adjuster who is applying for a limited license pursuant to
36 NRS 684A.155.

37 3. A conviction of, or plea of guilty, guilty but mentally ill or
38 nolo contendere by, an applicant or licensee for any crime listed in
39 paragraph (d) of subsection 1 is a sufficient ground for the
40 Commissioner to deny a license to the applicant, or to suspend,
41 revoke or limit the license of an adjuster pursuant to NRS 684A.210.

42 **Sec. 6.** NRS 684A.090 is hereby amended to read as follows:

43 684A.090 1. The applicant for a license as an adjuster shall
44 file a written application therefor with the Commissioner on forms
45 prescribed and furnished by the Commissioner. As part of, or in



1 connection with, the application, the applicant shall furnish
2 information as to his or her identity, personal history, experience,
3 financial responsibility, business record and other pertinent matters
4 as reasonably required by the Commissioner to determine the
5 applicant's eligibility and qualifications for the license.

6 2. If the applicant is a natural person ~~[]~~ *other than an*
7 *applicant described in paragraph (c) of subsection 2 of NRS*
8 *684A.070*, the application must include the social security number
9 of the applicant.

10 3. If the applicant is a firm or corporation, the application must
11 ~~[also include the names of all firm members, all corporate officers~~
12 ~~and directors, and shall]~~ designate each individual who is to exercise
13 the license powers ~~[]~~ *and must include:*

14 (a) *The name of each member of the firm or each officer and*
15 *director of the corporation;*

16 (b) *The name of each executive officer and director who owns*
17 *more than 10 percent of the outstanding voting securities of the*
18 *applicant; and*

19 (c) *The name of any other individual who owns more than 10*
20 *percent of the outstanding voting securities of the applicant.*

21 ➔ Each such member, officer, director and individual shall furnish
22 information to the Commissioner as though applying for an
23 individual license.

24 4. If the applicant is a nonresident of this state, the application
25 must be accompanied by an appointment of the Commissioner as
26 process agent and agreement to appear pursuant to NRS 684A.200.

27 5. The application must be accompanied by the applicable
28 license fee as specified in NRS 680B.010 and, in addition to any
29 other fee or charge, all applicable fees required pursuant to
30 NRS 680C.110.

31 6. No applicant for such a license may willfully misrepresent
32 or withhold any fact or information called for in the application
33 form or in connection therewith. A violation of this subsection is a
34 gross misdemeanor.

35 **Sec. 7.** NRS 684A.170 is hereby amended to read as follows:

36 684A.170 *Except for an adjuster described in paragraph (c)*
37 *of subsection 2 of NRS 684A.070:*

38 1. Every adjuster shall have and maintain in this state a place
39 of business accessible to the public and from which the licensee
40 principally conducts transactions under his or her license. The
41 address of such place shall appear upon the application for a license
42 and upon the license, when issued, and the licensee shall promptly
43 notify the Commissioner in writing of any change thereof. Nothing
44 in this section shall prohibit the maintenance of such place in the
45 licensee's residence in this state.



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- 1 2. The license of the licensee and those of associate adjusters
- 2 employed by the licensee shall be conspicuously displayed in such
- 3 place of business in a part thereof customarily open to the public.

