~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 18, 2012

**S. 1229**

Introduced by Senators O’Dell and Ford

S. Printed 4/18/12--S.

Read the first time February 16, 2012.

**THE COMMITTEE ON BANKING AND INSURANCE**

To whom was referred a Bill (S. 1229) to amend Section 38‑47‑10, Code of Laws of South Carolina, 1976, relating to licenses required for adjusters, so as to add exemptions from licensure, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Section 38‑47‑10 of the 1976 Code is amended to read:

“Section 38‑47‑10. (A) ~~Every~~ An individual commonly called an adjuster, adjusting losses for an insurer licensed to do business in this State, must be licensed by the director or his designee. These individuals shall apply for a license on a form prescribed by the director or his designee. The director or his designee shall satisfy himself that each applicant for an adjuster’s license is an individual of good moral character, has not been convicted of a felony, has not been convicted of a crime of moral turpitude, has not had an adjuster’s license revoked by this State or another state within the past ten years, has sufficient knowledge of the insurance business and his duties as an adjuster, has not violated the insurance laws of the state, and is a fit and proper individual for the position. No license may be issued to a nonresident adjuster ~~who resides in a state refusing to license South Carolina adjusters~~ whose resident or designated home state refuses to license South Carolina adjusters.

(B) The following individuals are exempt from licensure as an adjuster:

(1) ~~Agents~~ A producer licensed under Chapter 43 ~~are~~ is not required to comply with this section.

(2) An individual who collects claim information from, or furnishes claim information to, insureds or claimants and who conducts data entry, including entering data into an automated claims adjudication system, provided that the individual is an employee of a licensed independent adjuster or its affiliate where no more than twenty‑five such persons are under the supervision of a licensed adjuster or a licensed producer who has met the requirements of subsection (C).

(C)(1) Notwithstanding another provision of law, a licensed producer may supervise up to twenty‑five individuals as provided in subsection (B)(2) if he is licensed as an insurance producer for property and casualty insurance and has completed a one‑time training course before supervision. The producer must also complete ongoing training every twenty‑four months after that time. The training must meet the requirements provided in this section.

(2) The training requirements of this section may be approved as continuing education courses under Section 38‑43‑106.

(3) The one‑time training required by this section must be no less than six hours and the ongoing training required by this section must be no less than three hours every biennial reporting period and must both consist of topics related to property and casualty insurance coverages, claims adjusting, and unfair claims practices including, but not limited to, state regulations and requirements on adjusting and claims practices.

(4) The training required by this section must be approved by the South Carolina Continuing Education Advisory Committee.

(D) An insurer subject to the provisions of this chapter must obtain verification that a producer receives training required by subsection (C) before a producer is permitted to supervise non‑licensed individuals entering claim data into an automated claims adjudication system pursuant to this chapter. Insurers must maintain records subject to the state’s record retention requirements, and make that verification available to the director upon request. An insurer, producer, or entity that employs a producer who violates the requirements of this section is subject to the penalties provided in Section 38‑2‑10.

(E) For purposes of this section, ‘automated claims resolutions system’ means a preprogrammed computer system designed for the collection, data entry, calculation, and final resolution of portable electronics insurance claims that:

(1) only may be used by a licensed adjuster, licensed producer, or supervised individuals operating pursuant to this paragraph;

(2) must comply with all claims payment requirements of the insurance code; and

(3) must be certified as compliant with this section by a licensed independent adjuster who is an officer of the entity or an affiliate of the entity that employs an individual operating pursuant to this section.

(F) If the insured’s claim is denied and the insured contests the denial, an individual licensed to adjust claims under this section must review the denial with the insured.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

DAVID L. THOMAS for Committee.

**A** **BILL**

TO AMEND SECTION 38‑47‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LICENSES REQUIRED FOR ADJUSTERS, SO AS TO ADD EXEMPTIONS FROM LICENSURE; AND TO AMEND SECTION 38‑47‑20, RELATING TO RECIPROCAL AGREEMENTS FOR LICENSING NONRESIDENT ADJUSTERS, SO AS TO PROVIDE WHERE A NONRECIPROCAL AGREEMENT EXISTS BETWEEN THIS STATE AND ANOTHER STATE, AN APPLICANT FOR A NONRESIDENT ADJUSTER’S LICENSE WHO HOLDS A LICENSE IN ANOTHER STATE MAY RESIDE IN THE UNITED STATES OR CANADA WITHOUT LOSING THE BENEFITS OF THE RECIPROCAL AGREEMENT IF HE COMPLIES WITH OTHER APPLICABLE LICENSURE REQUIREMENTS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 38‑47‑10 of the 1976 Code is amended to read:

“Section 38‑47‑10. (A) ~~Every~~ An individual commonly called an adjuster, adjusting losses for an insurer licensed to do business in this State, must be licensed by the director or his designee. These individuals shall apply for a license on a form prescribed by the director or his designee. The director or his designee shall satisfy himself that each applicant for an adjuster’s license is an individual of good moral character, has sufficient knowledge of the insurance business and his duties as an adjuster, has not violated the insurance laws of the state, and is a fit and proper individual for the position. No license may be issued to a nonresident adjuster ~~who resides in a state refusing to license South Carolina adjusters~~ whose resident or designated home state refuses to license South Carolina adjusters.

(B) The following individuals are exempt from licensure as an adjuster:

(1) ~~Agents~~ An agent licensed under Chapter 43 ~~are~~ is not required to comply with this section.

(2) An individual who collects claim information from, or furnishes claim information to, insureds or claimants and who conducts data entry, including entering data into an automated claims adjudication system, provided that the individual is an employee of a licensed independent adjuster or its affiliate where no more than twenty‑five such persons are under the supervision of one licensed independent adjuster or licensed producer who is exempt from licensure pursuant to subitem (1).

(C) For purposes of this section, ‘automated claims resolutions system’ means a preprogrammed computer system designed for the collection, data entry, calculation, and final resolution of portable electronics insurance claims that:

(1) only may be used by a licensed adjuster, licensed producer, or supervised individuals operating pursuant to this paragraph;

(2) must comply with all claims payment requirements of the insurance code; and

(3) must be certified as compliant with this section by a licensed independent adjuster who is an officer of the entity or an affiliate of the entity that employs an individual operating pursuant to this section.”

SECTION 2. Section 38‑47‑20 of the 1976 Code is amended to read:

“Section 38‑47‑20. The director or his designee may enter into reciprocal agreements with the insurance commissioners of other states in regard to licensing of nonresident adjusters if in his judgment such arrangements or agreements are in the best interest of the state and if the applicant for an adjuster’s license meets the minimum statutory requirements of this State for the issuance of a license. However, the director or his designee may not enter into or continue any reciprocal agreement unless the other state is just as liberal as this State in licensing nonresident adjusters. Where a reciprocal agreement exists between this State and another state, an applicant for a nonresident adjuster’s license who holds a license in another state may reside in the United States or Canada without losing the benefits of the reciprocal agreement if the nonresident adjuster complies with other applicable requirements for licensure.”

SECTION 3. This act takes effect upon approval by the Governor.

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