

112TH CONGRESS
2D SESSION

H. R. 6415

To facilitate prompt and efficient adjusting of insurance claims in the case of natural and other disasters and losses, to encourage licensing of insurance claims adjusters, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2012

Mr. FINCHER introduced the following bill; which was referred to the
Committee on Financial Services

A BILL

To facilitate prompt and efficient adjusting of insurance claims in the case of natural and other disasters and losses, to encourage licensing of insurance claims adjusters, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Claims Licensing Ad-
5 vancement for Interstate Matters Act” or the “CLAIM
6 Act”.

1 **SEC. 2. ACCELERATING CLAIMS ADJUSTING OF LOSSES**
2 **CAUSED BY NATURAL OR OTHER DISASTERS.**

3 (a) **AUTHORITY TO ADJUST.**—An independent claims
4 adjuster meeting the requirements of subsection (b) may
5 adjust claims for losses related to any natural or other
6 disaster, occurring in any jurisdiction, that has been des-
7 ignated by the President as a major disaster pursuant to
8 section 401 of the Robert T. Stafford Disaster Relief and
9 Emergency Assistance Act (42 U.S.C. 5170) notwith-
10 standing the licensure requirements of the State in which
11 the disaster area for the major disaster is located and not-
12 withstanding the requirements under section 6 of this Act
13 for interstate claims licensing.

14 (b) **ADJUSTER REQUIREMENTS.**—The requirements
15 under this subsection with respect to an independent
16 claims adjuster are as follows:

17 (1) **STATE LICENSE.**—The adjuster holds a
18 valid license as an independent claims adjuster in his
19 or her home State (whether actual or designated,
20 pursuant to section 7(1)).

21 (2) **MULTI-STATE EXAMINATION.**—If the Na-
22 tional Association of Insurance Commissioners has
23 established and administers a multi-State examina-
24 tion pursuant to section 4, the adjuster has passed
25 such an examination, as certified by the NAIC.

1 **SEC. 3. MODEL LICENSING ACT.**

2 To promote the policy of robust consumer protection
3 for and more efficient interstate adjusting of property,
4 casualty, disability, or workers' compensation claims, the
5 Congress hereby urges the NAIC to adopt a model inde-
6 pendent claims adjuster licensing Act that—

7 (1) contains basic standards for the integrity,
8 personal qualifications, education, training, and ex-
9 perience required of independent claims adjusters,
10 including continuing education requirements and
11 ethics course requirements; and

12 (2) does not impose any limitation or condition
13 upon any independent claims adjuster to be licensed
14 or otherwise authorized to do business in a State be-
15 cause of his or her status as a non-resident of that
16 State.

17 **SEC. 4. MULTI-STATE EXAMINATION.**

18 (a) **ESTABLISHMENT.**—The Congress hereby urges
19 the NAIC to develop and administer a multi-State exam-
20 ination for an independent claims adjuster seeking to ad-
21 just claims in a jurisdiction other than his or her home
22 State.

23 (b) **EXAMINEE ELIGIBILITY.**—The NAIC may re-
24 quire that, as a condition for taking a multi-State exam-
25 ination administered pursuant to this section, the exam-
26 inee shall—

1 (1) be duly licensed as an independent claims
2 adjuster by his or her home State;

3 (2) meet such integrity, degree, training, and
4 experience requirements as the NAIC considers nec-
5 essary; and,

6 (3) meet any continuing education requirements
7 as established by his or her home State.

8 (c) CROSS-JURISDICTION COMPETENCY.—Any multi-
9 State examination administered pursuant to this section
10 shall require adjusters to demonstrate essential com-
11 petence with cross-jurisdictional legal and regulatory con-
12 cepts, and shall include such ethics and other testing as
13 the NAIC deems necessary.

14 **SEC. 5. INTERSTATE CLAIMS ADJUSTING LICENSING RE-**
15 **FORMS.**

16 (a) IN GENERAL.—A State is in compliance with the
17 requirements of this subsection, and section 6 shall not
18 apply with respect to such State, if before the expiration
19 of the 3-year period beginning on the date of the enact-
20 ment of this Act the State has enacted and has in effect—

21 (1) in the case only of a State that requires and
22 issues licenses for independent claims adjusters, laws
23 and regulations governing individuals and entities
24 authorized to operate as independent claims adjust-
25 ers within the State that are functionally equivalent

1 in meaning and effect to those under any model act
2 developed pursuant to section 3; and

3 (2) laws and regulations governing non-home
4 State individuals and entities operating as inde-
5 pendent claims adjusters within that State that pro-
6 vide for the reciprocity required under subsection (c)
7 with other States.

8 (b) UNIFORMITY REQUIREMENTS.—A State that li-
9 censes independent claims adjusters shall be deemed to
10 have established the uniformity referred to in subsection
11 (a)(1) if it has enacted and adheres to criteria for the li-
12 censing and authorization of adjusters that are function-
13 ally equivalent in meaning and effect to those set forth
14 in a model act established pursuant to section 3.

15 (c) RECIPROCITY REQUIREMENTS.—The laws and
16 regulations of a certain State shall be considered to pro-
17 vide for the reciprocity required under this subsection only
18 if such laws and regulations—

19 (1) permit any independent claims adjuster who
20 has a license in another State that is the adjuster's
21 home State to obtain authorization to engage in the
22 business of adjusting in such certain State as a non-
23 resident to the same extent that such adjuster is
24 permitted to practice in the adjuster's home State,

without satisfying any additional requirements other than, if required under applicable law, to submit—

(A) proof of being licensed in good standing in the adjuster’s home State; *Provided*, That such home State has enacted laws and regulations governing individuals and entities authorized to operate as independent claims adjusters within such home State that are functionally equivalent in meaning and effect to those under any model act developed pursuant to section 3; and,

(B) payment of any requisite fee to the appropriate authority of the certain State; *Provided*, That the amount of such fee does not exceed any fee required to be paid by an adjuster whose home State is such certain State; or

(2) do not require licensure of independent claims adjusters.

(d) NAIC DETERMINATION.—

(1) DETERMINATION.—A State shall be considered to be in compliance with subsection (a) for purposes of this Act if the NAIC determines that, before the expiration of the 3-year period beginning on the date of enactment of this Act, the State is in

1 compliance with the requirements under such sub-
2 section.

3 (2) CONTINUED REVIEW.—With respect to any
4 State that the NAIC has determined to be in compli-
5 ance with the requirements of subsection (a), the
6 Congress hereby urges NAIC to continue to review
7 and determine such State’s compliance with the re-
8 quirements of subsection (a) on an annual basis. If
9 the NAIC determines at any time that a State no
10 longer is in compliance with the requirements of
11 subsection (a), section 6 shall apply with respect to
12 such State.

13 (3) JUDICIAL REVIEW.—The appropriate
14 United States District Court shall have exclusive ju-
15 risdiction over any challenge arising under this sec-
16 tion. The court shall apply the standards set forth
17 in section 706 of title 5, United States Code, in re-
18 viewing any such challenge.

19 **SEC. 6. AUTHORITY FOR INTERSTATE CLAIMS ADJUSTING.**

20 (a) AUTHORITY.—In the case of any State that re-
21 quires and issues licenses for independent claims adjusters
22 but is not in compliance with section 5(a), after the expira-
23 tion of the 3-year period beginning on the date of the en-
24 actment of this Act, an independent claims adjuster may
25 ascertain, determine, negotiate, or settle a claim in such

1 State, but only if the adjuster meets the following require-
2 ments:

3 (1) The independent claims adjuster holds a
4 valid such license in his or her home State.

5 (2) If the NAIC has established and admin-
6 isters a multi-State examination pursuant to section
7 4, the adjuster has passed such examination.

8 (b) PROHIBITION OF ADDITIONAL STATE REQUIRE-
9 MENTS.—An independent claims adjuster authorized
10 under subsection (a) to ascertain, determine, negotiate, or
11 settle a claim in a State that is not in compliance with
12 section 5 shall not be subject to any additional licensure
13 or other requirements from such State in order to adjust
14 claims and otherwise act as an independent claims ad-
15 juster in such State.

16 **SEC. 7. DEFINITIONS.**

17 For purposes of this Act, the following definitions
18 shall apply:

19 (1) HOME STATE.—

20 (A) ACTUAL.—The term “home State”
21 means, with respect to an independent claims
22 adjuster, the State in which the adjuster main-
23 tains his, her, or its principal place of residence
24 or business and is licensed as an independent
25 claims adjuster.

1 (B) DESIGNATED.—If the State in which
2 an independent claims adjuster maintains his or
3 her principal place of residence or business does
4 not issue an independent claims adjuster license
5 for the line or lines of authority sought, such
6 term means any other State in which the inde-
7 pendent claims adjuster is so licensed and that
8 is designated by such adjuster as his or her
9 home State.

10 (2) INDEPENDENT CLAIMS ADJUSTER.—The
11 term “independent claims adjuster” means an indi-
12 vidual or entity, other than a public adjuster, who
13 undertakes to ascertain, determine, negotiate, or set-
14 tle the amount of a property, casualty, disability, or
15 workers’ compensation claim, loss, or damage on be-
16 half of an insurance policy or insurer or as a third-
17 party on behalf of a self-insurer.

18 (3) NAIC.—The term “NAIC” means the Na-
19 tional Association of Insurance Commissioners.

20 (4) PUBLIC ADJUSTER.—The term “public ad-
21 juster” means any person who, for compensation or
22 any other thing of value, acts, aids, advertises, or so-
23 licits business to ascertain, determine, negotiate, or
24 settle the amount of a claim, loss, or damage, solely
25 in relation to first party claims arising under con-

1 tracts that insure the real or personal property of
2 the insured.

3 (5) STATE.—The term “State” means the
4 States of the United States, the District of Colum-
5 bia, the Commonwealth of Puerto Rico, the Com-
6 monwealth of the Northern Mariana Islands, Guam,
7 the Virgin Islands, American Samoa, and any other
8 territory or possession of the United States.

9 (6) STATE LAW.—The term “State law” in-
10 cludes all laws, decisions, rules, regulations, or other
11 State action of any State having the effect of law;
12 and a law of the United States applicable only to the
13 District of Columbia shall be treated as a State law
14 rather than as a law of the United States.

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