

113TH CONGRESS
1ST SESSION

H. R. 2156

To encourage uniformity and reciprocity among States that license insurance claims adjusters and to facilitate prompt and efficient adjusting of insurance claims in the case of natural and other disasters and losses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2013

Mr. FINCHER (for himself, Mrs. BLACKBURN, and Mr. TIBERI) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To encourage uniformity and reciprocity among States that license insurance claims adjusters and to facilitate prompt and efficient adjusting of insurance claims in the case of natural and other disasters and losses, 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. 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 National Association of Insur-
6 ance Commissioners to adopt a model independent claims
7 adjuster licensing Act that—

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

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

18 **SEC. 3. MULTI-STATE EXAMINATION.**

19 (a) ESTABLISHMENT.—The Congress hereby urges
20 the NAIC to adopt and administer a multi-State examina-
21 tion for an independent claims adjuster seeking to adjust
22 claims in a jurisdiction other than his or her home 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. 4. STATE AUTHORITIES.**

15 Nothing in this Act shall be construed to—

16 (1) require a State that does not have licensing
17 requirements for independent claims adjusters to
18 adopt any such requirements;

19 (2) subject to section 6, limit the right of a
20 State to establish licensing fees or enforce its laws
21 regarding the adjusting of insurance claims, pro-
22 vided that such fee is uniform regardless of the
23 State of residence of the licensee; or

24 (3) affect the jurisdiction and authority of a
25 State insurance regulator to prescribe and enforce

1 its insurance laws, rules, and regulations regulating
2 independent claims adjuster activity in its jurisdic-
3 tion.

4 **SEC. 5. INTERSTATE CLAIMS ADJUSTING LICENSING RE-**
5 **FORMS.**

6 (a) IN GENERAL.—A State is in compliance with the
7 requirements of this subsection, and section 6 shall not
8 apply with respect to such State, if before the expiration
9 of the 4-year period beginning on the date of the enact-
10 ment of this Act the State has enacted and has in effect—

11 (1) in the case only of a State that requires and
12 issues licenses for independent claims adjusters, laws
13 and regulations governing individuals and entities
14 authorized to operate as independent claims adjust-
15 ers within the State that are functionally equivalent
16 in meaning and effect to those under any model act
17 developed pursuant to section 2; and

18 (2) laws and regulations governing non-home
19 State individuals and entities operating as inde-
20 pendent claims adjusters within that State that pro-
21 vide for the reciprocity required under subsection (c)
22 with other States.

23 (b) UNIFORMITY REQUIREMENTS.—A State that li-
24 censes independent claims adjusters shall be deemed to
25 have established the uniformity referred to in subsection

1 (a)(1) if it has enacted and adheres to criteria for the li-
2 censing and authorization of adjusters that are function-
3 ally equivalent in meaning and effect to those set forth
4 in a model act established pursuant to section 2.

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

9 (1) do not require licensure of independent
10 claims adjusters; or

11 (2) permit any independent claims adjuster who
12 has a license in another State that is the adjuster's
13 home State to obtain authorization to engage in the
14 business of adjusting in such certain State as a non-
15 resident to the same extent that such adjuster is
16 permitted to practice in the adjuster's home State,
17 without satisfying any additional requirements other
18 than, if required under applicable law, to submit—

19 (A) proof of being licensed in good stand-
20 ing in the adjuster's home State; *Provided*,
21 That such home State has enacted laws and
22 regulations governing individuals and entities
23 authorized to operate as independent claims ad-
24 justers within such home State that are func-
25 tionally equivalent in meaning and effect to

1 those under any model act developed pursuant
2 to section 2; and

3 (B) payment of any requisite fee to the ap-
4 propriate authority of the certain State; *Pro-*
5 *vided*, That the amount of such fee does not ex-
6 ceed any fee required to be paid by an adjuster
7 whose home State is such certain State.

8 (d) NAIC DETERMINATION.—

9 (1) DETERMINATION.—A State shall be consid-
10 ered to be in compliance with subsection (a) for pur-
11 poses of this Act if the NAIC determines that, be-
12 fore the expiration of the 4-year period beginning on
13 the date of enactment of this Act, the State is in
14 compliance with the requirements under such sub-
15 section.

16 (2) CONTINUED REVIEW.—With respect to any
17 State that the NAIC has determined to be in compli-
18 ance with the requirements of subsection (a), the
19 Congress hereby urges NAIC to continue to review
20 and determine such State’s compliance with the re-
21 quirements of subsection (a) on an annual basis. If
22 the NAIC determines at any time that a State no
23 longer is in compliance with the requirements of
24 subsection (a), section 6 shall apply with respect to
25 such State.

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

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

8 (a) AUTHORITY.—In the case of any State that re-
9 quires and issues licenses for independent claims adjusters
10 but is not in compliance with section 5(a), after the expira-
11 tion of the 4-year period beginning on the date of the en-
12 actment of this Act, an independent claims adjuster and
13 the adjuster’s employer may ascertain, determine, nego-
14 tiate, or settle a claim in such State, but only if the ad-
15 juster meets the following requirements:

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

18 (2) If the NAIC has established and admin-
19 isters a multi-State examination pursuant to section
20 3, the adjuster has passed such examination.

21 (b) PROHIBITION OF ADDITIONAL STATE REQUIRE-
22 MENTS.—An independent claims adjuster authorized
23 under subsection (a) to investigate, evaluate, negotiate the
24 resolution of a claim in a State that is not in compliance
25 with section 5 shall not be subject to any additional licen-

1 sure or other requirements from such State in order to
 2 adjust claims and otherwise act as an independent claims
 3 adjuster in such State.

4 **SEC. 7. ACCELERATING CLAIMS ADJUSTING OF LOSSES**
 5 **CAUSED BY NATURAL OR OTHER DISASTERS.**

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

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

20 (1) **STATE LICENSE.**—The adjuster holds a
 21 valid license as an independent claims adjuster in his
 22 or her home State (whether actual or designated,
 23 pursuant to section 8(a)(1)).

24 (2) **MULTI-STATE EXAMINATION.**—If the NAIC
 25 has adopted and administers a multi-State examina-

1 tion pursuant to section 3, the adjuster has passed
2 such an examination.

3 **SEC. 8. DEFINITIONS.**

4 For purposes of this Act, the following definitions
5 shall apply:

6 (1) HOME STATE.—

7 (A) ACTUAL.—The term “home State”
8 means, with respect to an independent claims
9 adjuster, the State in which the adjuster main-
10 tains his, her, or its principal place of residence
11 or business and is licensed as an independent
12 claims adjuster.

13 (B) DESIGNATED.—If the State in which
14 an independent claims adjuster maintains his or
15 her principal place of residence or business does
16 not issue an independent claims adjuster license
17 for the line or lines of authority sought, such
18 term means any other State in which the inde-
19 pendent claims adjuster is so licensed and that
20 is designated by such adjuster as his or her
21 home State.

22 (2) INDEPENDENT CLAIMS ADJUSTER.—The
23 term “independent claims adjuster” means an indi-
24 vidual, other than a public adjuster, who undertakes
25 on behalf of insurers or self-insurers to investigate,

1 evaluate, and negotiate the resolution of the amount
2 of a property, casualty, disability, or workers' com-
3 pensation claim, loss, or damage on behalf of an in-
4 surance policy or insurer or as a third-party on be-
5 half of a self-insurer. Such term includes company
6 or staff adjusters, who are individuals, other than a
7 public adjuster, employed by property casualty in-
8 surers and undertake to investigate, evaluate, and
9 negotiate the resolution of a property, casualty, dis-
10 ability, or workers' compensation claim, loss, or
11 damage on behalf of an insurance policy or insurer.

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

14 (4) PUBLIC ADJUSTER.—The term “public ad-
15 juster” means any person who, for compensation or
16 any other thing of value, on behalf of the insured
17 acts, aids, advertises, or solicits business to ascer-
18 tain, determine, negotiate, or settle the amount of a
19 claim, loss, or damage, solely in relation to first
20 party claims arising under contracts that insure the
21 real or personal property of the insured.

22 (5) STATE.—The term “State” means the
23 States of the United States, the District of Colum-
24 bia, the Commonwealth of Puerto Rico, the Com-
25 monwealth of the Northern Mariana Islands, Guam,

1 the Virgin Islands, American Samoa, and any other
2 territory or possession of the United States.

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

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