

112TH CONGRESS
1st SESSION

H.R. _____

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

_____, ____ 2011

M. _____ introduced the following bill; which was referred to the Committee on _____

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 Advancement for
5 Interstate Matters Act” or “CLAIM Act.”

6 SEC. 2. FINDINGS AND PURPOSE.

7 (a) FINDINGS. The Congress finds that—

1 (1) American citizens who suffer insured losses, including
2 as the result of natural and other disasters, should have those losses
3 adjusted promptly.

4 (2) Independent claims adjusters facilitate payments to vic-
5 tims of disasters and for other insured losses by obtaining state-
6 ments from witnesses and victims, identifying and preserving per-
7 tinent physical and testimonial evidence, and discussing settlement
8 terms, whether for property, casualty, disability, or workers' com-
9 pensation claims.

10 (3) Despite the pressing need that victims of disasters and
11 other claimants have in obtaining prompt and qualified adjustment
12 to their claims, and the important role independent claims adjusters
13 play in facilitating such prompt adjustment, a patchwork of incon-
14 gruent state regulations, including in some cases an absence of ba-
15 sic standards for interstate reciprocity, can unnecessarily delay in-
16 terstate claims adjusting and frustrate the ability of adjusters to
17 provide the most timely, efficient, and cost-effective provision of
18 service to claimants.

19 (4) Congress should take steps to facilitate the elimination
20 of unnecessary interstate barriers to prompt adjusting of claims
21 made by claimants, including victims of natural and other disasters.

22 (5) Congress should help assure such claimants that adjust-
23 ers who handle their claims have met basic minimum standards for
24 operating in interstate commerce.

1 **SEC. 3. POLICY REGARDING STANDARDS FOR**
2 **INDEPENDENT CLAIMS ADJUSTERS.**

3 It shall be the policy of the United States that in interstate com-
4 merce, independent claims adjusters shall employ and uphold certain stan-
5 dards of conduct as they adjust the property, casualty, disability, or work-
6 ers' compensation claims before them, namely:

7 (a) Independent adjusters shall display honesty and fairness in all
8 communications with the insurer, the insured, and the public;

9 (b) Independent adjusters shall provide courteous, prompt, and
10 knowledgeable service to policyholders and claimants at all times; and

11 (c) Independent adjusters shall comply with all applicable local,
12 state, and federal privacy and information security laws and regulations.

13 Nothing in this Section is intended to create any private right of ac-
14 tion to enforce any provision of this Section or to mandate the undertak-
15 ing of any particular action pursuant to this Section, nor shall this Section
16 diminish or expand any existing legal right or remedy.

17 **SEC. 4. ACCELERATING CLAIMS ADJUSTING OF LOSSES**
18 **CAUSED BY NATURAL OR OTHER DISASTERS.**

19 (a) An independent adjuster authorized to adjust claims under this
20 section shall be authorized to adjust claims for losses related to any natural
21 or other disaster occurring in any jurisdiction in which the natural or other
22 disaster has led to its designation by the President as a disaster area pursu-
23 ant to Section 401 of 42 U.S.C. 5170.

24 (b) An independent adjuster authorized to adjust claims under this
25 Section may adjust such disaster-related claims notwithstanding the licen-

1 sure requirements of the state in which the disaster area is located and
2 notwithstanding the authorization for interstate claims licensing described
3 in Section 8 of this Act.

4 (c) An independent adjuster shall be deemed authorized to adjust
5 claims under this Section if---

6 (1) the independent adjuster holds a valid license in his or
7 her home state, and,

8 (2) if the National Association of Insurance Commissioners
9 (hereafter referred to as the "NAIC") has established and adminis-
10 ters a multi-state examination pursuant to Section 6, the adjuster
11 has passed such an examination.

12 **SEC. 5. MODEL STATUTE.**

13 To promote the policy of robust consumer protection for and
14 more efficient interstate adjusting of property, casualty, disability, or work-
15 ers' compensation claims set forth in Section 3, the NAIC is urged to
16 adopt a model independent adjuster licensing act which---

17 (a) Seeks to carry out the policy set forth in Section 3;

18 (b) Contains basic standards for the integrity, personal qualifica-
19 tions, education, training, and experience required of independent adjust-
20 ers; including continuing education requirements and ethics course re-
21 quirements; and

22 (c) Does not impose any limitation or condition upon any inde-
23 pendent claims adjuster to be licensed or otherwise authorized to do busi-
24 ness in a state because of his or her status as a non-resident of that state.

25 **SEC. 6. MULTI-STATE EXAMINATION.**

1 (a) To promote the policy set forth in Section 3, the NAIC is urged
2 to develop and administer a multi-state examination for an independent
3 claims adjuster seeking to adjust claims in a jurisdiction other than his or
4 her home state.

5 (b) The NAIC may require that, as a condition for taking a multi-
6 state examination administered pursuant to this section, the examinee –

7 (1) be duly licensed as an independent claims adjuster by
8 his or her home state;

9 (2) meet such integrity, degree, training and experience re-
10 quirements as the NAIC deems necessary to carry out the policy
11 set forth in Section 3; and,

12 (3) meet any continuing education requirements as estab-
13 lished by his or her home state.

14 (c) Any multi-state examination administered pursuant to this sec-
15 tion shall require adjusters to demonstrate essential competence with
16 cross-jurisdictional legal and regulatory concepts, and shall include such
17 ethics and other testing as the NAIC deems necessary to carry out the pol-
18 icy set forth in Section 3.

19 **SEC. 7. INTERSTATE CLAIMS ADJUSTING LICENSING**

20 **REFORMS.**

21 (a) IN GENERAL---A state shall be in compliance with this Sec-
22 tion, and therefore Section 8 shall not go into effect, if, within three years
23 after the date of enactment---

24 (1) a state that licenses independent adjusters has enacted
25 laws and regulations governing individuals and entities authorized

1 to operate as independent adjusters within that state which are
2 functionally equivalent in meaning and effect with any model act
3 developed pursuant to Section 5; and,

4 (2) that state has enacted laws and regulations governing
5 non-home state individuals and entities operating as independent
6 adjusters within that state that are reciprocal with the other states.

7 (b) UNIFORMITY REQUIRED---A state that licenses independ-
8 ent adjusters shall be deemed to have established the uniformity referred to
9 in subsection (a)(1) if it has enacted and adheres to criteria for the licensing
10 and authorization of adjusters that are functionally equivalent in meaning
11 and effect to those set forth in a model act established pursuant to Section
12 5.

13 (c) RECIPROCITY REQUIRED---A state shall be deemed to
14 have established the reciprocity referred to in subsection (a)(2) if---

15 (1) it permits independent adjusters who have a license in
16 their home state to obtain authorization to engage in the business
17 of adjusting in that state as a non-resident to the same extent that
18 such adjusters are permitted to practice in their home state, without
19 satisfying any additional requirements other than, if required under
20 applicable law, to submit---

21 (A) proof of being licensed in good standing in
22 their home state, provided, that state has enacted laws and
23 regulations governing individuals and entities authorized to
24 operate as independent adjusters within that state which are
25 functionally equivalent in meaning and effect with any

1 model act developed pursuant to Section 5; and,

2 (B) payment of any requisite fee to the non-home
3 state's appropriate authority, provided that fee is not any
4 larger than required to be paid by a home-state adjuster, or
5 (2) it does not require licensure of independent claims ad-
6 justers.

7 (d) NAIC DETERMINATION---

8 (1) DETERMINATION---At the end of the three-year pe-
9 riod beginning on the date of enactment of this Act, each state
10 which the NAIC has determined to have achieved the uniformity
11 and reciprocity required by subsections (a), (b), and (c) shall be
12 deemed to be in compliance with this Section.

13 (2) CONTINUED REVIEW---With respect to any state
14 the NAIC has determined to be in compliance with this Section,
15 the NAIC is urged to continue to review and determine that state's
16 compliance with the requirements of subsections (a), (b), and (c) of
17 this Section on an annual basis. If, at any time, such uniformity
18 and reciprocity no longer exists in that state, the provisions of Sec-
19 tion 8 of this Act shall apply.

20 (3) JUDICIAL REVIEW---The appropriate United States
21 District Court shall have exclusive jurisdiction over any challenge
22 under this section. The court shall apply the standards set forth in
23 5 USC 706, when reviewing any such challenge.

24 **SEC. 8. INTERSTATE CLAIMS ADJUSTING AUTHORIZED.**

1 (a) After three years from the date of enactment of this Act in any
2 state that licenses independent adjusters but is not deemed in compliance
3 with Section 7, an independent adjuster is hereby authorized to ascertain,
4 determine, negotiate, or settle a claim in that state, provided that:

5 (1) the independent adjuster holds a valid license in his or
6 her home state, and,

7 (2) if the NAIC has established and administers a multi-
8 state examination pursuant to Section 6, the adjuster has passed
9 such examination.

10 (b) In the event an independent adjuster is authorized under this
11 Section to ascertain, determine, negotiate, or settle a claim in a state not in
12 compliance with Section 7, the independent adjuster shall not be subject to
13 any additional licensure or other requirements from that state in order to
14 adjust claims and otherwise act as an independent adjuster in that state.

15 **SEC. 9. DEFINITIONS.**

16 (a) HOME STATE---For the purposes of this Act, the term
17 “home state” means the state in which an independent claims adjuster
18 maintains his, her, or its principal place of residence or business and is li-
19 censed as an independent adjuster. If the state where the independent ad-
20 juster maintains his or her principal place of residence or business does not
21 issue an independent adjuster license for the line or lines of authority
22 sought, the independent adjuster may designate as his or her “home state”
23 any other state in which the independent adjuster is so licensed.

1 (b) INDEPENDENT CLAIMS ADJUSTER or
2 INDEPENDENT ADJUSTER---The term “independent claims adjuster”
3 or “independent adjuster” means, for purposes of this Act, an individual or
4 entity, other than a public adjuster, who undertakes to ascertain, determine,
5 negotiate, or settle the amount of a property, casualty, disability, or work-
6 ers’ compensation claim, loss, or damage on behalf of an insurance policy
7 or insurer or as a third-party on behalf of a self-insurer.

8 (c) PUBLIC ADJUSTER---The term “public adjuster” means any
9 person who, for compensation or any other thing of value, acts, aids, ad-
10 vertises, or solicits business to ascertain, determine, negotiate, or settle the
11 amount of a claim, loss, or damage, solely in relation to first party claims
12 arising under contracts that insure the real or personal property of the in-
13 sured.

14 (d) STATE---For the purposes of this Act, the term “state” in-
15 cludes any state or territory of the United States.

16 (e) STATE LAW---The term “state law” includes all laws, deci-
17 sions, rules, regulations, or other state action of any state having the effect
18 of law. For the purposes of this Act, a law of the United States applicable
19 only to the District of Columbia shall be treated as a state law rather than
20 as a law of the United States.

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