

HOUSE BILL REPORT

HB 1865

As Reported by House Committee On:
Business & Financial Services

Title: An act relating to handling claims associated with products issued under specialty producer licenses.

Brief Description: Addressing the handling of claims associated with products issued under specialty producer licenses.

Sponsors: Representatives Kirby and Bailey.

Brief History:

Committee Activity:

Business & Financial Services: 1/12/12, 1/13/12 [DPS].

Brief Summary of Substitute Bill

- Allows certain persons who meet specific criteria to process specialty producer insurance claims without an adjuster license.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Kirby, Chair; Kelley, Vice Chair; Bailey, Ranking Minority Member; Buys, Assistant Ranking Minority Member; Blake, Condotta, Hudgins, Parker, Pedersen, Rivers, Ryu and Stanford.

Staff: Jon Hedegard (786-7127).

Background:

Adjusters.

An adjuster is a person who is compensated for investigating or reporting on claims arising under insurance contracts on the sole behalf of either the insurer or the insured. An "independent adjuster" is an adjuster who represents the interests of the insurer. A "public adjuster" means an adjuster who represents the financial interests of the insured named in the policy.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A person may not hold themselves out to be an adjuster unless licensed by the Office of the Insurance Commissioner (OIC) or otherwise authorized under law to act as an adjuster. Adjusters have to undergo background checks in the licensing process. Non-resident adjusters who are licensed in another state may receive reciprocity in this state.

Specialty Producers.

A retailer or "vendor" must be licensed by the OIC if the vendor wants to offer or sell insurance products related to communications equipment. "Communications equipment" includes cell phones, pagers, portable computers, and myriad other devices designed to originate or receive communications signals. A specialty producer license allows the vendor and the employees or authorized representatives of the vendor to sell or offer insurance related to the communications equipment. Before a license may be issued to a vendor, the vendor must be appointed as the agent of an authorized insurer. The vendor must affiliate with a licensed insurance agent who must supervise a training program for the vendor's employees. A vendor selling the communications equipment insurance must provide prospective customers with written materials disclosing the terms of the insurance.

The OIC may adopt rules regarding specialty producers including, but not limited to, rules regarding:

- the specialty producer license application process;
- the standards for approval and the required content of written materials;
- the approval and required content of training materials;
- license fees;
- requirements for the remittance of premium funds to the supervising agent under authority from the program insurer; and
- the applicability of other provisions of the Insurance Code.

Summary of Substitute Bill:

An individual who collects claim information from, or furnishes claim information to, insureds or claimants and who enters data is not an "adjuster" if:

- the individual's claims processing activities are limited exclusively to claims originating from policies of insurance issued through a communications equipment program; and
- the individual is employed and supervised by a licensed independent adjuster.

The supervising licensed independent adjuster must:

- maintain complete records of its employees engaged in claims processing activities; and
- annually submit a list of the names of all such employees to the OIC and must keep the list current by reporting all changes within 30 days. A list must be retained by the licensed independent adjuster for three years after submission to the OIC; or
- maintain a system to track and document employees. Upon request of the OIC, an employee who has engaged in processing a specific claim must be identified.

A licensed independent adjuster must provide a training and education program for each employee involved in claims processing activities.

The licensed independent adjuster that supervises the employees engaged in claims processing activities is responsible for their conduct. The OIC may sanction a licensed independent adjuster for the violation of any insurance laws, or any rule, subpoena, or order of the OIC by a person engaged in claims processing who is employed by the licensed independent adjuster.

Substitute Bill Compared to Original Bill:

Language regarding reciprocity with Canadian residents is removed. Language regarding the licensing of an entity as an adjuster is removed. The definition of "adjuster" is not altered. The definition of "automated claims adjudication system" is not used and the criterion to allow for claims processing for certain individuals is altered. The requirements related to licensed independent adjusters are added. The criteria related to the persons who do not need to be licensed are modified.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Not all products that meet the definition of insurance are regulated as insurance. A few years ago, there was an attempt to address this subject in a comprehensive fashion. Over time, new issues arise and statutes need to be changed. If a person breaks their phone and has this type of insurance, the person calls a number and provides the appropriate details. The person answering that call does not value the damage or the property; they just send a new phone. This bill has been worked out between the stakeholders and the OIC. The bill was introduced last year. The underlying bill has a significant fiscal note but the proposed substitute House bill has a fiscal note that has zero dollars in revenues and expenditures. A person who buys this product and breaks their phone is routed to a call center. They talk to a customer representative. The customer representative does simple data entry. There is no individual discretion or judgment by the customer representative. If there is coverage, a replacement phone is sent to the insured. Because the customer representatives are dealing with processing a claim, they fall under the definition of an adjuster. An adjuster that is using their professional judgment to value a home or vehicle needs to be trained, licensed, and regulated. These standards are excessive for the customer representatives that are merely entering data. The proposed substitute House bill continues to provide licensed persons and entities that are accountable for the actions of these customer representatives. These standards have been developed by the stakeholders and the OIC.

(Opposed) None.

Persons Testifying: Representative Kirby, prime sponsor; and Mel Sorensen, Asurion.

Persons Signed In To Testify But Not Testifying: None.