

HOUSE BILL REPORT

SHB 1037

As Passed House:
February 3, 2021

Title: An act relating to insurance adjusters.

Brief Description: Concerning insurance adjusters.

Sponsors: House Committee on Consumer Protection & Business (originally sponsored by Representatives Kirby and Vick; by request of Insurance Commissioner).

Brief History:

Committee Activity:

Consumer Protection & Business: 1/13/21, 1/28/21 [DPS].

Floor Activity:

Passed House: 2/3/21, 96-0.

Brief Summary of Substitute Bill

- Modifies the definition of adjuster for property and casualty insurance.
- Allows the Office of the Insurance Commissioner (OIC) to establish minimum continuing education requirements for adjusters.
- Requires nonresident independent insurance adjusters operating in the state to register as emergency adjusters with the OIC.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Kirby, Chair; Walen, Vice Chair; Vick, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Corry, Ryu and Santos.

Staff: Serena Dolly (786-7150).

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

Background:

Adjusters.

An adjuster is a person who is compensated to investigate or report on claims arising under insurance contracts on the sole behalf of either the insurer or the insured. An "independent adjuster" represents the interests of an insurer. A "public adjuster" represents the interests of the insured. The definition of adjuster specifically excludes attorneys who occasionally adjust insurance losses, salaried employees of an insurer, and adjusters of marine losses.

Licensing Requirements.

The Office of the Insurance Commissioner (OIC) licenses adjusters. Licensing requirements include: passing a written examination; undergoing a background check; and having experience, education, or training in handling insurance claims.

Emergency Adjusters.

Nonresident independent adjusters may operate in the state without a license if they are adjusting a single loss or multiple losses from a common catastrophe.

Summary of Substitute Bill:

Adjusters.

The definition of adjuster is modified. An adjuster is a person who either investigates and negotiates an insurance claim settlement, applies the factual circumstances of a claim to an insurance policy, or both. An appraiser or umpire working under the appraisal clause in an insurance contract is added to the persons excluded from the definition of adjuster. An appraiser is defined as a person selected by the insurer or the insured to place a value on or estimate the amount of loss under an appraisal clause in an insurance contract. An umpire is defined as a person selected by the appraisers representing the insurer and the insured, or, if the appraisers cannot agree, by the court, who is charged with resolving issues that the appraisers are unable to agree upon during the course of an appraisal.

Licensing Requirements.

The OIC may establish minimum continuing education requirements for adjusters.

Emergency Adjusters.

Nonresident independent adjusters may only operate in the state without a license if the common catastrophe is the subject of a state of emergency proclamation and the adjuster registers as an emergency adjuster with the OIC. In addition, the emergency adjuster: (1) may not operate in the state longer than 180 days unless approved by the OIC; (2) is subject to the same disciplinary provisions and penalties as a licensed adjuster; and (3) is subject to civil liability for all actions in the state.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) After a disaster, the number of insurance adjusters working in the state is not sufficient. Establishing a registration process will allow out-of-state adjusters to assist with claims during and after emergencies, and the OIC will know who is working in the state. The current definition of "adjuster" exposes noninsurance professionals to the need for an adjuster license. The OIC has attempted to remove these noninsurance professionals from the definition of "adjuster", but a legislative fix is needed. Appraisers working under an appraisal clause do not need to be an expert in insurance. Consulting firms are key to the settlement of insurance claims. These consultants are not insurance professionals. Instead, they are experts in other fields, such as art, engineering, and accounting. Clarifying the definition of "adjuster" will assist in licensing reciprocity with other states.

(Opposed) Auto repairers are on the front line of dealing with auto insurance claims. Insurance companies are underpaying auto claims, and the appraisal clause is used as a tool to drive down settlement. For the insured, the cost of invoking the appraisal clause exceeds the benefit. Appraisal clause language varies by insurance company and insurance policy, and the OIC does not approve appraisal clauses. It is problematic to exclude appraisers and umpires under the appraisal clause from the definition of adjuster. Washington has no licenses or requirements for appraisers of auto damage. Auto damage appraisers need to understand insurance law and regulations. Consumers need to be protected.

Persons Testifying: (In support) Representative Kirby, prime sponsor; David Forte and Rory Paine-Donovan, Office of the Insurance Commissioner; and Jean Leonard and Jonathon Held, J.S. Held Limited Liability Company.

(Opposed) Jeff Butler, Haury's Lake City Collision; and Mike Harber, Harber Appraisal.

Persons Signed In To Testify But Not Testifying: None.