

intent and purpose and not as a limitation of powers.

Subd. 2. In the event of any conflict or inconsistency between sections 1 to 12 and any other law or charter provision, the provisions of sections 1 to 12 shall prevail.

Approved May 22, 1979.

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**CHAPTER 141—S.F.No.623**

*An act relating to insurance; removing certain licensing and regulatory controls from appraisers; amending Minnesota Statutes 1978, Sections 72B.01; 72B.03; 72B.04, Subdivisions 1, 2, 5, and 7; 72B.08, Subdivision 1; and 72B.10; repealing Minnesota Statutes 1978, Section 72B.02, Subdivision 10.*

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:**

Section 1. Minnesota Statutes 1978, Section 72B.01, is amended to read:

72B.01 **PURPOSE AND SCOPE.** It is the purpose of sections 72B.01 to 72B.14 to provide high quality service to insureds and insurance claimants in the state of Minnesota by providing for well trained ~~appraisers~~, adjusters and persons engaged in soliciting business for adjusters, who are qualified to deal with the public in the interest of a fair resolution of insurance claims. Sections 72B.01 to 72B.14 shall apply to all ~~appraisers~~, adjusters, and adjusters' solicitors, except as specifically stated to the contrary; but nothing in sections 72B.01 to 72B.14 shall apply to:

- (a) An attorney at law who is licensed or otherwise allowed to practice law in this state and who does not hold himself out to be an adjuster, ~~appraiser~~ or adjuster's solicitor.
- (b) A licensed agent of an authorized insurer who adjusts losses for such insurer solely under policies issued by him or his agency or on which he is the agent of record, provided the agent receives no extra compensation for such services.
- (c) Personnel of township mutual companies.
- (d) Adjusters for crop hail and farm windstorm damage claims who are on the staff of companies covering such risks.
- (e) Persons who process life insurance annuity contract or accident and health insurance claims.
- (f) Persons processing or adjusting wet marine or inland transportation claims or losses.

Sec. 2. Minnesota Statutes 1978, Section 72B.03, is amended to read:

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72B.03 **LICENSES.** Subdivision 1. **REQUIREMENT; EXCEPTIONS.** Except as otherwise provided, no person shall act as an independent adjuster, public adjuster, or public adjuster solicitor ~~or appraiser~~ for money, a commission, or any other thing of value, unless such person shall first obtain from the commissioner a license. No license shall be required for a person:

(a) Undergoing a training or education program under the guidance of a licensed adjuster and who is registered with the commissioner for a one year temporary permit;

(b) Acting in a catastrophe or emergency situation, and who has registered with the commissioner for that purpose;

~~(e) Who is engaged as a staff appraiser;~~

~~(d)~~ (c) A nonresident adjuster who occasionally is in this state to adjust a single loss: provided, however, that if a nonresident adjusts more than six losses in this state in one year he must qualify for and receive a nonresident's license as provided in sections 72B.01 to 72B.14, and provided the adjuster's domiciliary state affords a like privilege.

Subd. 2. **CLASSES OF LICENSES.** There shall be ~~four~~ three classes of licenses, as follows:

(a) Independent adjuster's license.

(b) Public adjuster's license.

(c) Public adjuster solicitor's license.

~~(d) Appraiser's license.~~

The independent adjuster and public adjuster licenses shall be issued in at least three fields each, as follows:

(a) Fire and allied lines, inland marine lines and including all perils under homeowners policies.

(b) All lines written as casualty insurance under section 60A.06, and including workers' compensation.

(c) A combination of the fields described in (a) and (b), above. Separate licenses shall be required for each field, but the same person may obtain licenses in more than one field. No person shall be licensed as both a public and independent adjuster. The license shall state the class for which the person is licensed and, where applicable, the field in which the person is licensed, and shall state the licensee's name and residence address, the date of issuance and the date of expiration of the license and any other information prescribed by the commissioner which is consistent with the purpose of the license.

Subd. 3. **PAYMENT FOR SERVICES; UNLAWFUL PRACTICE.** No insurer,

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agent, or other representative of an insurer nor any adjuster ~~or appraiser~~ shall pay any fee or other compensation to any person for acting as an adjuster, ~~an appraiser,~~ or a public adjuster solicitor, except to a person duly licensed to so act or to a person not required to be licensed by sections 72B.01 to 72B.14; and it shall be unlawful for any person to act as an independent adjuster, a public adjuster, ~~or a public adjuster solicitor of an appraiser,~~ who is not duly licensed, or excluded from the licensing requirement.

Sec. 3. Minnesota Statutes 1978, Section 72B.04, Subdivision 1, is amended to read:

**72B.04 LICENSE PROCEDURE AND REQUIREMENTS; EXAMINATIONS; FEES.** Subdivision 1. **APPLICATION.** A license to act as an adjuster, ~~appraiser,~~ or public adjuster solicitor shall only be granted by the commissioner to a qualified person upon request.

Sec. 4. Minnesota Statutes 1978, Section 72B.04, Subdivision 2, is amended to read:

Subd. 2. **QUALIFICATIONS.** An applicant for licensing as an adjuster under sections 72B.01 to 72B.14 shall be at least 18 years of age, and shall have one year's training and experience in adjusting insurance claims for damage or loss from risks in the field stated in his application. The applicant shall be competent and trustworthy and shall not have been engaged in any practice which would be grounds for suspension or revocation of a license under sections 72B.01 to 72B.14 within the three years next preceding the date of his application.

~~An applicant for licensing as an appraiser under sections 72B.01 to 72B.14 shall be at least 18 years of age and shall have had one year's training and experience in evaluating motor vehicle physical damage. The applicant shall be competent and trustworthy and shall not have been engaged in any practice which would be grounds for suspension or revocation of a license under sections 72B.01 to 72B.14 within the three years next preceding the date of his application.~~

An applicant for licensing as a public adjuster solicitor under sections 72B.01 to 72B.14 shall be at least 18 years of age, shall be competent and trustworthy, and shall not have been engaged in any practice which would be grounds for suspension or revocation of a license under sections 72B.01 to 72B.14 within the three years next preceding the date of his application.

In the case of any applicant who has been convicted of a felony within the ten years next preceding the date of his application, and who in the judgment of the commissioner, meets the other qualifications, the commissioner may impose the additional requirement of the filing of a bond in accordance with the requirements of section 72B.08, subdivision 8.

Sec. 5. Minnesota Statutes 1978, Section 72B.04, Subdivision 5, is amended to read:

Subd. 5. **EXAMINATIONS.** A person applying for a license under sections 72B.01 to 72B.14 must successfully complete an examination prescribed by the commissioner, which examination shall be at least in part a written examination. Examinations shall be

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given at such time and place as designated by the commissioner and there shall be different examinations for adjusters, ~~appraisers~~, public adjuster solicitors, and applicants for temporary permits. Adjusters' examinations shall be given in at least each of three fields: fire and allied lines, inland marine lines and including all perils under homeowners policies; all lines written as casualty insurance under section 60A.06, and including workers' compensation; and a combination of the two foregoing fields. Each examination shall be, in the judgment of the commissioner with the advice of the advisory committee, sufficient to require for a satisfactory score such knowledge of insurance, adjusting practices and appraisal techniques, to the extent that such knowledge is necessary for the class of license applied for and the field in which the applicant is being examined, that the people of Minnesota will receive insurance claim service from persons who are sufficiently trained to make fair and well informed judgments in the evaluation or settlement of insured losses. The examination for an applicant for a temporary permit may be oriented to the specified fields, but shall be less exacting than the examination for a license.

The commissioner may by rule determine the period of time between failure of an examination and re-examination.

A person shall not be eligible to take an examination if his license as an adjuster, ~~appraiser~~, or public adjuster solicitor has been revoked in this or any other state within the three years next preceding the date of his application.

No examination shall be required for the timely renewal of a license, unless the license has been revoked.

Sec. 6. Minnesota Statutes 1978, Section 72B.04, Subdivision 7, is amended to read:

Subd. 7. **LICENSE TERM.** Every adjuster's, ~~appraiser's~~ and public adjuster solicitor's license shall be for a term expiring on December 31 next following the date of its issuance, and may be renewed for the ensuing calendar year upon the timely filing of an application for renewal.

Sec. 7. Minnesota Statutes 1978, Section 72B.08, Subdivision 1, is amended to read:

**72B.08 DENIAL, SUSPENSION AND REVOCATION OF LICENSES.** Subdivision 1. **CAUSES.** The commissioner may suspend, revoke, or refuse to issue an initial or renewal license or temporary permit for any of the following causes:

- (a) Failure to pass a required examination;
- (b) Material misrepresentation or fraud in obtaining or attempting to obtain a license or a temporary permit;
- (c) Willful violation of any insurance law or of any provision of sections 72B.01 to 72B.14;
- (d) Misappropriation, conversion or illegal withholding of moneys required to be held in a fiduciary capacity;

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(e) Materially misrepresenting the terms and effect of any insurance contract, with intent to deceive, or engaging in, or attempting to engage in, any fraudulent transaction with respect to a claim or loss that the licensee or holder of a temporary permit is adjusting or appraising and, in the case of a public adjuster solicitor, misrepresenting the services offered or the fees or commission to be charged.

(f) Conviction of a felony under the laws of this state, any other state, the United States, or any foreign country.

(g) The licensee or holder of a temporary permit has demonstrated his incompetency or untrustworthiness to act as an adjuster, ~~appraiser~~, or public adjuster solicitor:

(h) Refusal to comply with any lawful order of the commissioner.

Sec. 8. Minnesota Statutes 1978, Section 72B.10, is amended to read:

**72B.10 STAFF ADJUSTERS.** A staff adjuster ~~or a staff appraiser~~ who adjusts ~~or appraises~~ losses or claims in this state shall not be subject to the application, licensing, or examination requirements or other qualifications set forth in sections 72B.01 to 72B.14. Such a staff adjuster ~~or appraiser~~ shall not, however, engage in any of the practices forbidden to a licensee under section 72B.08, subdivision 1, clauses (c), (d), (e), (f), (g) or (h). If the commissioner has information, which if true, would establish that a staff adjuster ~~or appraiser~~ has engaged or is engaging in any such prohibited practices, he may issue an order for a hearing to determine the facts involved. ~~The order shall fix the time and place for hearing.~~ The staff adjuster ~~or appraiser~~ and one or more representatives of the insurer or insurers employing the staff adjuster ~~or appraiser~~ shall make an appearance at the hearing unless the commissioner expressly waives the appearance of one or more such parties. If, following the hearing, the commissioner determines that the staff adjuster ~~or appraiser~~ has engaged or is engaging in any prohibited practices, he may impose a fine, not in excess of \$500, on the staff adjuster ~~or appraiser~~ or on the employing insurer or insurers, or on both such parties. In addition, the commissioner may order the employing insurer to suspend the staff adjuster ~~or appraiser~~ from his duties for such period as the commissioner may deem appropriate.

Any final order of the commissioner shall be subject to judicial review. Any hearing or judicial review under this section shall be in accordance with the contested case provisions of chapter 15.

Sec. 9. **REPEALER.** Minnesota Statutes 1978, Section 72B.02, Subdivision 10, is repealed.

Approved May 22, 1979.

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