

CHAPTER 95—H.F.No. 1405

An act relating to insurance; regulating claims processing for insurance on portable electronics products; permitting use of an automated claims processing system subject to certain requirements and safeguards; amending Minnesota Statutes 2010, sections 72B.02, by adding a subdivision; 72B.03, subdivision 1; 72B.041, subdivisions 1, 2, by adding a subdivision; 72B.05.

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

Section 1. Minnesota Statutes 2010, section 72B.02, is amended by adding a subdivision to read:

Subd. 23. **Automated claims adjudication system.** "Automated claims adjudication system" means a preprogrammed computer system designed for the collection, data entry, calculation, and final resolution of portable electronics insurance claims relating to coverage regulated by section 60K.381, which:

(1) may be utilized only by a licensed independent adjuster; licensed insurance producer as defined in section 60K.31, subdivision 6; or a supervised individual operating under section 72B.03, subdivision 1, paragraph (a), clause (14); and

(2) must comply with all claims payment requirements of the insurance laws of this state.

EFFECTIVE DATE. This section is effective January 1, 2012.

Sec. 2. Minnesota Statutes 2010, section 72B.03, subdivision 1, is amended to read:

Subdivision 1. **Requirement; exceptions.** (a) A person shall not act or hold out as an independent adjuster, public adjuster, or public adjuster solicitor unless the person is licensed as an independent adjuster, public adjuster, or public adjuster solicitor in accordance with this chapter, or is exempt from licensure as an independent adjuster, public adjuster, or public adjuster solicitor under this chapter.

(b) The definition of adjuster does not include, and a license as an adjuster is not required of, the following:

(1) attorneys-at-law admitted to practice in this state, when acting in the attorney's professional capacity as an attorney;

(2) a person employed solely to obtain facts surrounding a claim or to furnish technical assistance to a licensed adjuster;

(3) an individual who is employed to investigate suspected fraudulent insurance claims but who does not adjust losses or determine claims payments;

(4) a person who solely performs executive, administrative, managerial, or clerical duties or any combination of these duties and who does not investigate, negotiate, or settle claims with policyholders, claimants, or their legal representative;

(5) a licensed health care provider or its employee who provides managed care services so long as the services do not include the determination of compensability;

(6) a managed care organization or any of its employees or an employee of any organization providing managed care services so long as the services do not include the determination of compensability;

(7) a person who settles only reinsurance or subrogation claims;

(8) an officer, director, manager, or employee of an authorized insurer, a surplus lines insurer, a risk retention group, or an attorney-in-fact of a reciprocal insurer;

(9) a United States manager of the United States branch of an alien insurer;

(10) a person who investigates, negotiates, or settles life, accident and health, annuity, or disability insurance claims;

(11) an individual employee, under a self-insured arrangement, who adjusts claims on behalf of the employer's employer;

(12) a licensed insurance producer, attorney-in-fact of a reciprocal insurer, or managing general agent of the insurer to whom claim authority has been granted by the insurer;

(13) a person authorized to adjust workers' compensation or disability claims under the authority of a third-party administrator license pursuant to section 60A.23, subdivision 8; or

(14) an individual who:

(i) collects claim information from, or furnishes claim information to, insureds or claimants; and

(ii) conducts data entry including entering data into an automated claims adjudication system, provided that the individual is an employee of a licensed independent adjuster or its affiliate where no more than 25 such persons are under the supervision of one licensed independent adjuster or licensed insurance producer who is exempt from licensure under clause (12).

EFFECTIVE DATE. This section is effective January 1, 2012.

Sec. 3. Minnesota Statutes 2010, section 72B.041, subdivision 1, is amended to read:

Subdivision 1. **Application.** (a) An individual applying for a resident adjuster license must make application to the commissioner on the appropriate National Association of Insurance Commissioners (NAIC) Uniform Individual Application in a format prescribed by the commissioner and declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner must find that the individual:

(1) is at least 18 years of age;

(2) is eligible to designate this state as the individual's home state;

(3) is trustworthy, reliable, and of good reputation, evidence of which must be determined by the commissioner;

(4) has not committed any act that is a ground for probation, suspension, revocation, or refusal of an adjuster's license as set forth in section 72B.08;

(5) has successfully passed the examination for the lines of authority for which the individual has applied; and

(6) has paid the fees set forth in subdivision 9.

An applicant for licensing as a public adjuster solicitor under sections 72B.01 to 72B.14 must be at least 18 years of age, must be competent and trustworthy, and must 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 the application.

In the case of any applicant who has been convicted of a felony within the ten years next preceding the date of the 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.

(b) A business entity applying for a resident adjuster license must make application to the commissioner on the appropriate NAIC Uniform Business Entity Application in a format prescribed by the commissioner and declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the business entity's knowledge and belief. Before approving the application, the commissioner shall find that the business entity:

(1) is eligible to designate this state as its home state;

(2) has designated a licensed independent or public adjuster responsible for the business entity's compliance with the insurance laws, rules, and regulations of this state;

(3) has not committed an act that is a ground for probation, suspension, revocation, or refusal of an adjuster's license as set forth in section 72B.08; and

(4) has paid the fees set forth in subdivision 9.

(c) No resident of Canada may be licensed under this section or may designate Minnesota as the applicant's home state, unless the applicant has successfully passed the adjuster examination and has complied with the other applicable provisions of this section, except that such applicant shall not be subject to paragraph (a), clause (2), and section 270C.72, subdivision 4.

EFFECTIVE DATE. This section is effective January 1, 2012.

Sec. 4. Minnesota Statutes 2010, section 72B.041, subdivision 2, is amended to read:

Subd. 2. **Criminal history record check; fingerprints.** (a) An individual applying for a resident independent or public adjuster license must:

(1) consent to a criminal history record check;

(2) submit a fingerprint card in a form acceptable to the commissioner; and

(3) pay the fee required to perform criminal history record checks with the Minnesota Bureau of Criminal Apprehension and the Federal Bureau of Investigation.

(b) The commissioner may contract for the collection and transmission of fingerprints required under this chapter and may order the fee for collecting and transmitting fingerprints to be payable directly to the contractor by the applicant. The commissioner may agree to a reasonable fingerprinting fee to be charged by the contractor.

(c) The commissioner must treat and maintain an applicant's fingerprints and any criminal history record information obtained under this chapter as confidential and must apply security measures consistent with the standards specified by the Criminal Justice Information Services Division of the Federal Bureau of Investigation for the electronic storage of fingerprints and necessary identifying information. The commissioner must limit the use of records solely to the purposes authorized in this chapter. The fingerprints and any criminal history record information must not be subject to subpoena, other than one issued in a criminal action or investigation.

(d) The commissioner may receive criminal history record information from another government agency in lieu of the Minnesota Bureau of Criminal Apprehension.

(e) The commissioner may require any documents reasonably necessary to verify the information contained in the application.

(f) All applicants for a license as a public adjuster must attach to their application evidence that the bonding requirement in subdivision 3 has been satisfied.

(g) All executive officers and directors of a business entity applying for a resident independent adjuster license to adjust claims relating to portable electronics insurance claims relating to coverage regulated by section 60K.381 and all executive officers and directors of entities and any individuals owning, directly or indirectly, more than 50 percent of the outstanding voting securities of that applicant, are subject to the requirements of this subdivision, paragraphs (a) to (e).

EFFECTIVE DATE. This section is effective January 1, 2012.

Sec. 5. Minnesota Statutes 2010, section 72B.041, is amended by adding a subdivision to read:

Subd. 10. **Business entity.** All executive officers and directors of a business entity applying for a nonresident independent adjuster license to adjust claims relating to portable electronics insurance claims relating to coverage regulated by section 60K.381 and all executive officers and directors of entities and any individuals owning, directly or indirectly, more than 50 percent of the outstanding voting securities of that applicant, are subject to the requirements of subdivision 2, paragraphs (a) to (e). A nonresident business entity whose home state subjects the applicant to requirements substantially similar to those under subdivision 2 is not required to comply with subdivision 2.

EFFECTIVE DATE. This section is effective January 1, 2012.

Sec. 6. Minnesota Statutes 2010, section 72B.05, is amended to read:

72B.05 NONRESIDENTS.

(a) Unless refused licensure pursuant to section 72B.08, a nonresident person shall receive a nonresident adjuster license if:

(1) the person is currently licensed in good standing as an adjuster in the person's resident or home state;

(2) the person has submitted the proper request for licensure and has paid the fees required by section 72B.041, subdivision 9;

(3) the person has submitted or transmitted to the commissioner the appropriate completed application for licensure; and

(4) the person's designated home state awards nonresident adjuster licenses to persons of this state on the same basis.

(b) The commissioner may verify the adjuster's licensing status through any appropriate database, including the producer database maintained by the National Association of Insurance Commissioners, its affiliates, or its subsidiaries, or may request certification of good standing as described in section 72B.041, subdivision 5.

(c) As a condition to the continuation of a nonresident adjuster license, the licensee must maintain a resident adjuster license in the licensee's home state. The nonresident adjuster license issued under this chapter must terminate and be surrendered immediately to the commissioner if the resident adjuster license terminates for any reason, unless the termination is due to the adjuster being issued a new resident adjuster license in the adjuster's new home state. The new state resident adjuster license must have reciprocity with the licensing nonresident states, otherwise, the nonresident adjuster license must terminate. Notice of resident adjuster license termination must be given to any state that issued a nonresident adjuster license. Notice must be given within 30 days of the termination date; if terminated for change in the resident home state, then the notice must include both the previous and current address. Maintaining a resident adjuster license is required for the nonresident adjuster license to remain valid.

(d) No resident of Canada may be licensed under this section, unless the applicant is licensed as a resident adjuster under the laws of another state, except that such applicant shall not be subject to section 270C.72, subdivision 4.

EFFECTIVE DATE. This section is effective January 1, 2012.

Presented to the governor May 24, 2011

Signed by the governor May 27, 2011, 10:33 a.m.