

CHAPTER 72B

INSURANCE ADJUSTERS

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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 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 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, 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.

History: 1971 c 704 s 1; 1979 c 141 s 1

72B.02 DEFINITIONS.

Subdivision 1. For the purposes of sections 72B.01 to 72B.14 the terms defined in this section have the meanings ascribed to them unless the context otherwise requires.

Subd. 2. "Person" means a natural person.

Subd. 3. "Commissioner" means the commissioner of insurance or any other person properly acting in his place.

Subd. 4. "Adjuster" means a person who on behalf of an insurer or an insured, for compensation as an independent contractor or as an employee of such independent contractor, or as an employee of an insurer, or for a fee or commission, investigates and evaluates claims arising under insurance contracts and negotiates the settlement of such claims.

Subd. 5. "Independent adjuster" means any person who for another for money, commission or any other thing of value acts as an adjuster on behalf of more than one insurer, or who holds himself out to do so.

Subd. 6. "Public adjuster" means an adjuster who holds himself out for employment by members of the public for a fee, commission or any other thing of value, and who, when so employed, acts solely to represent the interests of an insured named in an insurance policy.

Subd. 7. "Staff adjuster" means an adjuster who is a salaried employee of an insurance company and who is engaged in adjusting insured losses solely for that company or other companies under common control or ownership.

Subd. 8. "Public adjuster solicitor" means any person who for money, commission or any other thing of value solicits in any manner or aids in securing for a public adjuster any contract or agreement for the adjustment of a loss.

Subd. 9. "Appraiser" means any person engaged independently, for hire by the public or on the staff of an insurer, in the process of evaluating motor vehicle physical damage, who does not endeavor to determine liability or negotiate the settlement of claims arising under automobile insurance contracts.

Subd. 10. [Repealed, 1979 c 141 s 9]

Subd. 11. "Catastrophe or emergency situation" means the occurrence of insured losses of such a number or severity that the ordinary staff adjuster personnel complement of the insurer and the available independent adjusters could not adjust all of the losses resulting from a common cause or related causes in a reasonable time.

Subd. 12. "Single loss" means a loss to a single insured, and does not necessarily include all losses resulting from a common cause.

Subd. 13. "Appraiser identification" means a writing including the appraiser's name, place of business, business telephone number, and the name of the insurer or other business entity employing the appraiser, if any.

History: 1971 c 704 s 2; 1980 c 456 s 1

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 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;

(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 three classes of licenses, as follows:

(a) Independent adjuster's license.

(b) Public adjuster's license.

(c) Public adjuster solicitor'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, agent, or other representative of an insurer nor any adjuster shall pay any fee or other compensation to any person for acting as an adjuster, 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, who is not duly licensed, or excluded from the licensing requirement.

History: 1971 c 704 s 3; 1975 c 359 s 23; 1979 c 141 s 2

72B.04 LICENSE PROCEDURE AND REQUIREMENTS; EXAMINATIONS; FEES.

Subdivision 1. **Application.** A license to act as an adjuster, or public adjuster solicitor shall only be granted by the commissioner to a qualified person upon request.

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 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.

Subd. 3. **Application.** The application for any initial or renewal license under sections 72B.01 to 72B.14 or for a temporary permit shall be signed and sworn to by the applicant and accompanied by the appropriate fee. An application for an initial license or temporary permit shall state the applicant's name, age, residence address, business name and address, educational background, previous experience in the field and class in which a license or permit is sought, the class of license applied for, and, in the case of an applicant for an adjuster's license the field in which the license is being sought, and such other information as the commissioner deems appropriate to determine the applicant's trustworthiness and competency. The application for an initial license or permit shall also state whether or not the application is being made on the basis of an examination. If the application is not made on the successful completion of an examination, it shall state the reasons why no examination is required. Renewal of a

license or permit shall be made on the basis of an application for renewal. All applicants for a license as a public adjuster must attach to their application evidence that the bonding requirement has been satisfied.

Subd. 4. **Bonding.** No initial or renewal public adjuster's license shall be issued to any applicant unless there is on file with the commissioner a good and sufficient surety bond, issued by an insurer authorized to do business in this state. The bond shall be in the amount of \$10,000 with the state of Minnesota as obligee, conditioned for the prompt payment to any person entitled thereto, other than a partner or associate of the applicant, of any amounts received by the applicant or to protect any person other than a partner or associate of the applicant from loss resulting from fraud, dishonesty, forgery or theft in connection with the applicant's duties under sections 72B.01 to 72B.14; provided, however, that the aggregate liability of the surety to all persons for all losses shall, in no event, exceed the amount of such bond. The bond shall remain in effect during the term of the license, or until the surety is released from liability by the commissioner, or until cancelled by the surety. The surety may cancel a bond, without prejudice to any liability which occurred prior to the cancellation, by giving at least 30 days written notice to the commissioner. In the event that the required bond is terminated, the public adjuster's license shall automatically be suspended until a new bond is filed with the commissioner.

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 given at such time and place as designated by the commissioner and there shall be different examinations for adjusters, 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 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.

Subd. 6. **Exceptions.** A person who on January 1, 1972, meets all of the qualifications specified in subdivision 2 with regard to the class of license applied for and, if experience is one of the requisites, has gained his experience within the three years next preceding January 1, 1972, shall be eligible for the issuance of a license without taking an examination.

A person who has held a license of any given class or in any field or fields within three years prior to his application shall be entitled to a renewal of his license in the same class or in the same fields without taking an examination.

The commissioner may issue a license under sections 72B.01 to 72B.14 without an examination, if the applicant presents sufficient and satisfactory evidence of having passed a similar examination in another state and if the commissioner, with the advice of the advisory board, has determined that the standards of such other state are equivalent to those in Minnesota for the class of license applied for. Any applicant who presents sufficient and satisfactory evidence of having successfully completed all six parts of the insurance institute of America program in adjusting shall be entitled to an adjuster's license without taking the examination prescribed in subdivision 5.

Subd. 7. **License term.** Every adjuster'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.

Subd. 8. **Renewal.** An application for renewal of a license issued under sections 72B.01 to 72B.14 shall be on a form prescribed by the commissioner and shall be filed with the commissioner with payment of the renewal fee prior to the expiration date of the license.

Subd. 9. **Notice of changes.** Each licensee or holder of a temporary permit shall give written notice to the commissioner of any change in his name, or residence address not later than ten days after such change. The commissioner may, upon receipt of such notice, issue an amendment to the license incorporating such changes.

Subd. 10. **Fees.** A fee of \$10 is imposed for each initial license or temporary permit and \$2 for each renewal thereof or amendment thereto. A fee of \$10 is imposed for each examination taken. A fee of \$2 is imposed for the registration of each non-licensed adjuster who is required to register under section 72B.06. All fees shall be transmitted to the commissioner and shall be payable to the state treasurer. If a fee is paid for an examination and if within one year from the date of that payment no written request for a refund is received by the commissioner or the examination for which the fee was paid is not taken, the fee is forfeited to the state of Minnesota.

History: 1971 c 704 s 4; 1973 c 725 s 2; 1975 c 359 s 23; 1979 c 141 s 3-6

72B.05 NONRESIDENTS.

A nonresident person may become licensed under sections 72B.01 to 72B.14, provided that he meets all of the requirements of sections 72B.01 to 72B.14, and complies with their provisions, and, on a form prescribed by the commissioner, appoints the commissioner as his attorney upon whom may be served all legal process issued in connection with any action or proceeding brought or pending in this state against or involving the licensee and relating to transactions under his license; the appointment shall be irrevocable and shall continue so long as any such action or proceeding could arise or exist.

Duplicate copies of process shall be served upon the commissioner, accompanied by payment of the fee specified in section 60A.14, subdivision 1(3) (d). Upon receiving such service, the commissioner shall promptly forward a copy thereof by registered or certified mail, with return receipt requested, to the nonresident licensee at his last known address. Process served upon the commissioner in this manner shall for all purposes constitute personal service thereof upon the licensee.

History: 1971 c 704 s 5

72B.06 CATASTROPHE OR EMERGENCY SITUATIONS.

Any person acting as an independent adjuster in this state in a catastrophe or emergency situation who is not a licensed adjuster, must register with the commissioner within 72 hours of commencing his adjusting assignments. The registration shall be made on such form as the commissioner shall prescribe and shall include the name of the registrant, his permanent home address, his address for the period during which the registration is effective, the categories of losses being adjusted by the registrant, the name of the licensed independent adjuster or staff adjuster who will be supervising him, and the name of the insurer or insurers in whose behalf the adjusting is being done. No person shall register or be allowed to adjust losses under this provision unless he is under the supervision of a staff adjuster or a licensed independent adjuster. The supervising adjuster shall indicate on the registration filing the period of time for which the registration is being made, and no unlicensed person shall undertake to adjust losses after the termination of the registration.

Each registrant under this section shall promptly give written notice to the commissioner of any change in his address while in this state, or any other information stated in his registration statement.

The commissioner may summarily suspend or revoke the right of any person adjusting in this state under the authority of this section to continue to adjust in this state, if the commissioner finds that that person has engaged in any of the practices forbidden to a licensed adjuster under sections 72B.01 to 72B.14. Notice of such suspension or revocation may be given personally or by mail sent to the temporary address stated in the registration. A duplicate copy of such notice shall be given to the supervising adjuster.

History: 1971 c 704 s 6

72B.07 TEMPORARY PERMITS.

A person intending to become an adjuster but who lacks the requisite experience to receive a license, and who is employed by a licensed adjuster and undergoing a training or education program in adjusting, may be authorized to act under the supervision of a licensed adjuster by making application for a temporary permit, paying the requisite fees, successfully completing the examination prescribed for a temporary permit and meeting the other qualifications prescribed in sections 72B.01 to 72B.14 prerequisite to the issuance of an adjuster's license. Such a permit may be renewed once after its initial issuance without further examination.

History: 1971 c 704 s 7

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;
- (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 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 or public adjuster solicitor;

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

Subd. 2. Notice. If an application for a license or temporary permit is rejected by the commissioner, he shall forthwith give written notice to the person concerned, mailed to his last known address. The notice shall state the reason for the action.

Subd. 3. Hearing. Except when an application is rejected for failure to pass a required examination, the person aggrieved by the action of the commissioner shall be entitled to a hearing before the commissioner or his delegate, provided that such person files a written request for such hearing with the commissioner prior to the expiration of 30 days from the date of notice specified in subdivision 2. If no hearing is requested within 30 days from the date of the notice, the action taken by the commissioner shall continue in effect until modified or vacated by him. If a hearing is timely requested, the commissioner shall set a date for such hearing not later than 30 days after the date of receipt of the request for hearing. Pending the hearing or any judicial review of such hearing, the commissioner may modify or vacate the action taken or extend it until final determination.

After the hearing, the commissioner shall enter an order either vacating his prior action, confirming his prior action or otherwise disposing of the matter as the facts require.

Subd. 4. Suspension or revocation of license or permit. When the commissioner has information, which if true, would be grounds for suspension, revocation, or refusal to issue a renewal license or a temporary permit, he may order the licensee or holder of the temporary permit to appear for a hearing pursuant to chapter 15, to determine the facts of the case and to determine whether the license or permit should be suspended or revoked, or whether it should not be renewed. The order shall fix the time and place for the hearing. After the hearing, the commissioner shall enter an order either dismissing the matter or suspending or revoking the license or temporary permit, or otherwise disposing of the matter as the facts require. Pending the results of the hearing, the licensee or permit holder may continue to act under his license or permit.

Subd. 5. Judicial review. Any final order of the commissioner shall be subject to judicial review.

Subd. 6. Procedure. Any hearing or judicial review shall be in accordance with the contested case provisions of chapter 15.

Subd. 7. Voluntary action by licensee or holder of permit. The commissioner may request a voluntary revocation or suspension of a license or temporary permit and may enter into stipulations in accordance with the request whereby the licensee or holder of a temporary permit shall waive all further right to a hearing or judicial review.

Subd. 8. Bond. In the case of any licensee or permit holder who has had his license or permit suspended or revoked or whose license renewal has been prohibited by a lawful order of the commissioner, the commissioner may condition the issuance of a new license on the filing of a surety bond in an amount not to exceed \$10,000, made and conditioned in accordance with the requirements of section 72B.04, subdivision 4, relating to public adjusters' bonds. Noth-

ing in this subdivision shall reduce or alter the bonding requirements for a public adjuster.

Subd. 9. **Civil and criminal liability.** This section shall not relieve a person from civil liability or from criminal prosecution under sections 72B.01 to 72B.14 or any other law of this state.

History: 1971 c 704 s 8; 1979 c 141 s 7

72B.09 [Repealed, 1976 c 149 s 63]

72B.091 DAMAGE APPRAISALS; ADJUSTMENTS; DUTIES OF APPRAISERS, ADJUSTERS, AND INSURERS.

Subdivision 1. Each appraiser while engaged in appraisal duties shall carry appraiser identification and shall display it upon request to an owner whose vehicle is being inspected, to the repair shop representative involved, or to any insurance commissioner's representative.

Subd. 2. The appraiser shall provide one legible copy of the appraisal to the vehicle owner and one legible copy of the appraisal to the repair shop designated by the owner if requested by the repair shop. The motor vehicle repair shop shall provide the vehicle owner and the insurance company or companies involved in the loss one legible copy of the appraisal. This appraisal shall include an itemized listing of those parts to be repaired and those parts to be replaced by new, used, reconditioned or replated parts. The appraisal shall contain the name of the insurance company ordering it, if any, the insurance company's address and telephone number, its file number, the appraiser's name, telephone number, and the proper identification of the vehicle being inspected. The appraisal shall indicate all significant old and unrelated damages and shall include an itemized listing of all damages, specifying those parts to be repaired and those parts to be replaced by new, used, reconditioned, or replated parts.

Subd. 3. No appraiser, adjuster, or his employer shall require that repairs be made in any specified repair facility.

Subd. 4. Each appraiser shall promptly reinspect damaged vehicles when supplementary allowances are requested by the repair shop or when the amount or extent of damages is in dispute. Reinspection of any damage on a damaged vehicle may be waived if authorized by the insurer by any oral or written communication.

Subd. 5. No appraiser or adjuster for personal gain shall receive or trade in auto salvage if the salvage is obtained as a result of his appraisals.

History: 1980 c 456 s 2

72B.092 MOTOR VEHICLE INSURANCE ADJUSTMENTS; PROHIBITIONS.

Subdivision 1. No adjuster or insurer, director, officer, broker, agent, attorney-in-fact, employee, or other representative of an insurer shall in collision cases:

- (a) Limit the freedom of an insured or claimant to choose the shop of his choice;
- (b) Require that an insured or claimant present his claim or his automobile for loss adjustment or inspection at a "drive-in" claim center or any other similar facility solely under the control of the insurer;
- (c) Engage in boycotts, intimidation or coercive tactics in negotiating repairs to damaged motor vehicles which they insure or are liable to claimants to have repaired; or
- (d) Attempt to secure, except in an emergency, the insured's or claimant's signature authorizing the party securing the signature to act in behalf of the insured or claimant in selection of a repair shop facility.

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Subd. 2. No motor vehicle repair shop shall in any way coerce, or intimidate a motor vehicle owner to boycott an insurer's "drive-in" claim center or similar facility.

Subd. 3. No motor vehicle repair shop shall attempt to secure, except in an emergency, the vehicle owner's signature authorizing the party securing the signature to act in behalf of the owner in selection of a repair shop.

Subd. 4. An insurer's representative shall not be unreasonably denied access to a motor vehicle repair shop during normal business hours for the purpose of inspecting or reinspecting damaged vehicles.

Subd. 5. When a damaged vehicle is towed to a motor vehicle repair shop, the storage and towing charges shall not exceed the usual and customary charges for the towing and storage of undamaged vehicles in the area except if the vehicle, due to its damaged condition, requires special handling in the towing or storage, an added charge may be made.

History: 1980 c 456 s 3

72B.10 STAFF ADJUSTERS.

A staff adjuster who adjusts 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 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 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 and one or more representatives of the insurer or insurers employing the staff adjuster 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 has engaged or is engaging in any prohibited practices, he may impose a fine, not in excess of \$500, on the staff adjuster 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 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.

History: 1971 c 704 s 10; 1979 c 141 s 8

72B.11 PRODUCTION OF RECORDS.

The commissioner may, by order, require any licensee or permit holder to produce any records relating to his activities under his license or permit, and may examine persons under oath to determine questions arising under a person's status as a licensee or permit holder.

History: 1971 c 704 s 11

72B.12 RULES AND REGULATIONS.

The commissioner may promulgate rules and regulations to carry out the purpose of sections 72B.01 to 72B.14, pursuant to chapter 15.

History: 1971 c 704 s 12

72B.13 ACTING WITHIN CONTRACT AND LAW.

Every adjuster shall investigate or adjust every claim, damage or loss made or occurring under an insurance contract in accordance with the terms and conditions of the contract and of the applicable laws of this state.

History: 1971 c 704 s 13

72B.14 VIOLATIONS.

A person who violates sections 72B.01 to 72B.14, or the terms of any license or permit under sections 72B.01 to 72B.14, or any lawful order of the commissioner in accordance with sections 72B.01 to 72B.14, shall be subject to a fine imposed by the commissioner, not in excess of \$500, which may be imposed in addition to the penalties prescribed in the provisions dealing with the suspension or revocation of licenses or permits.

History: 1971 c 704 s 14