

INSURANCE CODE

TITLE 13. REGULATION OF PROFESSIONALS

SUBTITLE C. ADJUSTERS

CHAPTER 4101. INSURANCE ADJUSTERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 4101.001. DEFINITIONS. (a) In this chapter:

(1) "Adjuster" means a person who:

(A) investigates or adjusts losses on behalf of an insurer as an independent contractor or as an employee of:

(i) an adjustment bureau;

(ii) an association;

(iii) a general property and casualty agent or personal lines property and casualty agent;

(iv) an independent contractor;

(v) an insurer; or

(vi) a managing general agent;

(B) supervises the handling of claims; or

(C) investigates, adjusts, supervises the handling of, or settles workers' compensation claims, including claims arising from services provided through a certified workers' compensation health care network as authorized under Chapter 1305, on behalf of an administrator, as defined by Chapter 4151, or on behalf of an insurance carrier, as defined by Section 401.011, Labor Code.

(2) "Automated claims adjudication system" means a computer program designed for the collection, data entry, calculation, and final resolution of portable consumer electronic insurance claims that a licensed independent adjuster, a licensed agent, an officer of a business entity licensed under this chapter, or a supervised individual uses as described by this chapter.

(3) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(4) "Home state," with respect to an adjuster, means:

(A) the state in which the adjuster maintains the

adjuster's principal place of residence or business and is licensed to act as a resident adjuster; or

(B) if the state of the adjuster's principal place of residence or business does not license adjusters for the line of authority sought, a state in which the adjuster is licensed and in good standing and that is designated by the adjuster as the adjuster's home state.

(5) "Person" means an individual or business entity.

(b) For purposes of this chapter, "insurer" includes a self-insured.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 548 (S.B. 1263), Sec. 2.30, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 2.04, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 544 (H.B. 2699), Sec. 1, eff. September 1, 2011.

Sec. 4101.002. GENERAL EXEMPTIONS. (a) This chapter does not apply to:

(1) an attorney who:

(A) adjusts insurance losses periodically and incidentally to the practice of law; and

(B) does not represent that the attorney is an adjuster;

(2) a salaried employee of an insurer who is not regularly engaged in the adjustment, investigation, or supervision of insurance claims;

(3) a person employed only to furnish technical assistance to a licensed adjuster, including:

(A) an attorney;

(B) an engineer;

(C) an estimator;

(D) a handwriting expert;

(E) a photographer; and

(F) a private detective;

(4) an agent or general agent of an authorized insurer who processes an undisputed or uncontested loss for the insurer under a policy issued by the agent or general agent;

(5) a person who performs clerical duties and does not negotiate with parties to disputed or contested claims;

(6) a person who handles claims arising under life, accident, and health insurance policies;

(7) a person:

(A) who is employed principally as:

(i) a right-of-way agent; or

(ii) a right-of-way and claims agent;

(B) whose primary responsibility is the acquisition of easements, leases, permits, or other real property rights; and

(C) who handles only claims arising out of operations under those easements, leases, permits, or other contracts or contractual obligations;

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

(9) a public insurance adjuster licensed under Chapter [4102](#);

(10) an individual who:

(A) collects claim information from, or furnishes claim information to, an insured or claimant and enters data into an automated claims adjudication system; and

(B) is employed by a licensed independent adjuster or its affiliate under circumstances in which no more than 25 individuals performing duties described by Paragraph (A) are supervised by a single licensed independent adjuster or a single licensed agent; or

(11) an individual employed by an insurer or an affiliate of the insurer who adjusts a loss not to exceed \$500, or authorizes a payment on a claim for a loss for which there is a specified coverage limit of \$500 or less, arising from a first-party claim under a property and casualty insurance policy.

(b) A nonresident adjuster is not required to hold a license

under this chapter to:

- (1) adjust a single loss in this state;
- (2) adjust losses arising out of a catastrophe common to all those losses; or
- (3) act as a temporary substitute for a licensed adjuster.

(c) For purposes of Subsection (a)(6), claims arising under workers' compensation insurance policies, including claims relating to services provided through a certified workers' compensation health care network authorized under Chapter 1305, do not constitute claims arising under life, accident, or health insurance policies.

(d) A licensed agent acting as a supervisor under Subsection (a)(10) is not required to be licensed as an adjuster.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.081(a), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 2.05, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 544 (H.B. 2699), Sec. 2, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 198 (S.B. 718), Sec. 1, eff. September 1, 2017.

Sec. 4101.003. TEMPORARY EXEMPTION. An individual who is undergoing training as an adjuster under the supervision of a licensed adjuster may act as an adjuster for a period not to exceed 12 months without having a license issued under this chapter if, at the beginning of the period, the individual has been registered with the commissioner as a trainee.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4101.004. RECIPROCITY. The department may waive any license requirement imposed under this chapter for an applicant who holds a valid license from another state if the state has license requirements substantially equivalent to the requirements for a

license issued under this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4101.005. RULES. The commissioner may adopt rules necessary to implement this chapter and to meet the minimum requirements of federal law, including regulations.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

#### SUBCHAPTER B. LICENSE REQUIREMENTS

Sec. 4101.051. LICENSE REQUIRED. Except as otherwise provided by this chapter, a person may not act as or represent that the person is an adjuster in this state unless the person holds a license under this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4101.052. APPLICATION. (a) An applicant for a license under this chapter must submit to the department an application on a form prescribed and provided by the department, and include as part of or in connection with the application any information that the department reasonably requires, including information about the applicant's:

- (1) identity;
- (2) personal history;
- (3) experience; and
- (4) business record.

(b) The application must be accompanied by the fee required by Section [4101.057](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4101.053. QUALIFICATIONS; ISSUANCE. (a) To qualify for a license under this chapter, an individual must:

- (1) comply with this chapter;
- (2) present evidence satisfactory to the department that the applicant:
  - (A) is at least 18 years of age;
  - (B) resides in this state or a state or country

that permits a resident of this state to act as an adjuster in that state or country;

(C) has complied with all federal laws relating to employment or the transaction of business in the United States, if the applicant does not reside in the United States;

(D) is trustworthy; and

(E) has had experience, special education, or training of sufficient duration and extent regarding the handling of loss claims under insurance contracts to make the applicant competent to fulfill the responsibilities of an adjuster; and

(3) pass an examination conducted under this subchapter or present evidence that the applicant has been exempted under Section [4101.056](#).

(b) The commissioner shall issue a license to an applicant who meets the qualifications prescribed by this section.

(c) To qualify for a license under this chapter, a business entity must:

(1) comply with this chapter; and

(2) present evidence satisfactory to the department that the applicant:

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

(B) is trustworthy;

(C) has designated a licensed adjuster responsible for the business entity's compliance with the insurance laws of this state;

(D) has not committed an act that is a ground for probation, suspension, revocation, or refusal of an adjuster's license under Section [4101.201](#); and

(E) has paid the fees prescribed under Section [4101.057](#).

(d) An individual who is a resident of Canada may not be licensed under this chapter or designate this state as the individual's home state unless the individual has successfully passed the adjuster examination and complied with the other applicable portions of this section, except that the individual is not required to comply with Subsection (a)(2)(B) or (C).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 544 (H.B. 2699), Sec. 3, eff. September 1, 2011.

Sec. 4101.054. EXAMINATION REQUIRED. (a) To be eligible for a license under this chapter, an applicant must personally take and pass, to the satisfaction of the commissioner, a written examination of the applicant's qualifications and competency.

(b) The department may supplement a written examination under Subsection (a) with an oral examination.

(c) The commissioner shall prescribe each examination under this section. An examination must be of sufficient scope to reasonably test the applicant's knowledge relative to the kinds of insurance that may be dealt with under the license and of:

(1) the duties of a licensed adjuster; and

(2) the laws of this state that apply to a licensed adjuster.

(d) The commissioner may require a reasonable waiting period before an applicant who fails to pass an examination is eligible to be retested on a similar examination.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4101.055. EXAMINATION PROCEDURES. (a) The department shall prepare and make available to applicants instructions specifying in general terms the subjects that may be covered in an examination required under Section 4101.054.

(b) An examination under this subchapter shall be given at times and locations in this state necessary to reasonably serve the convenience of the department and applicants.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4101.056. EXEMPTION FROM EXAMINATION REQUIREMENT. (a) An applicant for a license under this chapter is not required to pass an examination under Section 4101.054 to receive the license if the applicant:

(1) had been principally engaged in the investigation,

adjustment, or supervision of losses on August 27, 1973, and during the 90-day period preceding that date;

(2) is applying for a renewal license under this chapter;

(3) is licensed as an adjuster in another state with which a reciprocal agreement has been entered into by the commissioner; or

(4) has completed a course in adjusting losses as prescribed and approved by the commissioner and it is certified, by a form signed by a person described by Subsection (b)(2), to the commissioner on completion of the course that the applicant has:

(A) completed the course; and

(B) passed an examination, in a manner described by Subsection (b)(2), testing the applicant's knowledge and qualification, as prescribed by the commissioner.

(b) An applicant wishing to claim an exemption under Subsection (a)(4) must:

(1) schedule the required examination; and

(2) take the required examination in a testing environment that is controlled, supervised, and proctored by a disinterested third party approved by the commissioner to administer the examination.

(c) In this section, "disinterested third party" means an individual who:

(1) is not related to an applicant by consanguinity or affinity as a first cousin or within the third degree by consanguinity or affinity as described by Subchapter B, Chapter 573, Government Code; and

(2) is not an employee or a subordinate of the applicant.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 433 (S.B. 569), Sec. 1, eff. June 14, 2013.

Sec. 4101.057. FEES. (a) Before issuing or renewing a license under this chapter, the department shall set and collect a

nonrefundable license application fee in an amount not to exceed \$50.

(b) An applicant for a renewal license must remit the fee required by Subsection (a) before the expiration of the license being renewed. If the applicant's license has been expired for not more than 90 days, an applicant for a renewal license must remit, in addition to the fee assessed under Subsection (a), a fee equal to one-half of the original application fee.

(c) Before administering an examination under this subchapter, the department shall set and collect a nonrefundable examination fee in an amount not to exceed \$50.

(d) Before issuing a duplicate license requested by an adjuster, the department shall set and collect a duplicate license application fee.

(e) The department shall deposit a fee collected under this chapter to the credit of the Texas Department of Insurance operating account.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1172 (S.B. 876), Sec. 14, eff. September 1, 2015.

Sec. 4101.058. LICENSE FORM. (a) The commissioner shall prescribe the form of a license issued under this chapter.

(b) A license must contain:

(1) the adjuster's name;

(2) the address of the adjuster's place of business;

(3) the date of issuance and the date of expiration of the license; and

(4) the name of the firm or insurer with whom the adjuster is employed at the time the license is issued.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4101.059. CONTINUING EDUCATION: GENERAL REQUIREMENTS.

(a) To renew a license under this chapter, a licensed adjuster must participate in a continuing education program under

Chapter 4004.

(b) The department may certify continuing education programs.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1172 (S.B. 876), Sec. 15, eff. September 1, 2015.

Sec. 4101.060. CONTINUING EDUCATION: EXEMPTIONS AND WAIVERS. (a) On written request of a licensed adjuster and if the department determines that the adjuster is unable to comply with continuing education requirements under this subchapter because of illness, medical disability, or another extenuating circumstance beyond the control of the adjuster, the department may:

(1) extend the time for the adjuster to comply with the continuing education requirements; or

(2) exempt the adjuster from any of the requirements for a licensing period.

(b) The commissioner by rule shall establish the criteria for an extension or exemption under Subsection (a).

(c) The department may waive any continuing education requirement imposed under this chapter for a nonresident adjuster who holds a valid license from another state if the state has continuing education requirements substantially equivalent to the requirements for a license issued under this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4101.061. EXPIRATION; RENEWAL. Expiration and renewal of a license issued under this chapter are governed by Sections 4003.001 and 4004.055, rules adopted by the commissioner, and any applicable provision of this code or another insurance law of this state.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1172 (S.B. 876), Sec. 16, eff. September 1, 2015.

Sec. 4101.062. ALTERNATIVE CONTINUING EDUCATION: CLAIMS CERTIFICATION. Notwithstanding Section 4004.051, the department shall accept as satisfaction of any continuing education requirement imposed on an adjuster under this chapter or Chapter 4004 a claims certification that the adjuster receives during a license period for which the continuing education is required if:

(1) the claims certification is issued by a national or state claims association with a certification program;

(2) the number of hours required to complete the certification program is not less than the number of hours of continuing education that an adjuster is required to complete during the license period under Sections 4004.053 and 4004.054;

(3) the content of the certification program:

(A) includes the content required under Section 4004.105; and

(B) is made available through an electronic portal maintained by the association for review and audit by the department;

(4) the association is approved by the department as a continuing education provider;

(5) the association reports the adjuster's completion of the certification program to the department through an electronic portal maintained by the department; and

(6) the association, through an electronic portal maintained by the association, provides the department access to the adjuster's transcript showing the adjuster's completion of the certification program.

Added by Acts 2019, 86th Leg., R.S., Ch. 442 (S.B. 1584), Sec. 1, eff. September 1, 2019.

#### SUBCHAPTER C. SPECIAL LICENSES

Sec. 4101.101. EMERGENCY LICENSE. (a) If a catastrophe or an emergency arises out of a disaster, act of God, riot, civil commotion, conflagration, or other similar occurrence, the commissioner shall, on application, issue an emergency license to a person if the application is certified to the commissioner not

later than the fifth day after the date on which the person begins work as an adjuster by:

(1) a person who holds a license under this chapter;  
or

(2) an insurer that maintains an office in this state and holds a certificate of authority to engage in the business of insurance in this state.

(b) The person or insurer that certifies an application under Subsection (a) is responsible for the loss or claims practices of the emergency license holder whom the person or insurer certifies.

(c) The commissioner may, after notice and hearing, revoke an emergency license on grounds specified by Section 4101.201.

(d) An emergency license is effective for a period not to exceed 90 days. The commissioner may extend the term of the emergency license for an additional period of 90 days.

(e) The commissioner shall establish a fee for an emergency license in an amount not to exceed \$20. A person issued an emergency license shall remit the fee to the department not later than the 30th day after the date on which the department issues the license.

(f) The commissioner may issue an emergency license to an applicant who meets the requirements of Subsection (a) regardless of whether the applicant is:

- (1) a resident of this state; or
- (2) an otherwise licensed adjuster.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4101.102. LIMITED LICENSE. (a) If considered necessary by the commissioner, the department may issue a limited license to an applicant in the manner otherwise provided for the issuance of a license under this chapter.

(b) The license shall specifically limit the kinds of insurance that may be handled by the person.

(c) The person may not adjust claims in a kind of insurance other than that for which the adjuster is specifically licensed.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

#### SUBCHAPTER D. POWERS AND DUTIES OF ADJUSTER

Sec. 4101.151. PLACE OF BUSINESS. (a) A licensed adjuster shall maintain a place of business that is:

(1) located at the place at which the adjuster principally conducts transactions under the license; and

(2) accessible to the public.

(b) A licensed adjuster shall promptly notify the commissioner if the adjuster changes the location of the adjuster's place of business.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4101.152. REFERRAL BY INSURER. (a) An insurer may not knowingly refer a claim or loss for adjustment in this state to a person purporting to be or acting as an adjuster unless the person holds a license under this chapter.

(b) Before referring a claim or loss for adjustment, an insurer must ascertain from the commissioner whether the person performing the adjustment holds a license under this chapter. Once the insurer has ascertained that the person holds a license, the insurer may refer the claim or loss to the person and may continue to refer claims or losses to the person until the insurer has knowledge or receives information from the commissioner that the person no longer holds a license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

#### SUBCHAPTER E. ENFORCEMENT

Sec. 4101.201. GROUNDS FOR DISCIPLINARY ACTION. (a) The commissioner may discipline an adjuster or deny an application for a license under this chapter under a department rule or any applicable insurance law of this state.

(b) Department rules may specify grounds for discipline that are comparable to grounds for discipline of other license holders under this title.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4101.202. REINSTATEMENT OR REISSUANCE OF LICENSE. The commissioner may not reinstate or reissue the license of a license holder or former license holder whose license has been suspended, revoked, or refused renewal until the commissioner determines that the cause for a suspension, revocation, or refusal of a license issued under this chapter no longer exists.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4101.203. CRIMINAL PENALTY. A person commits an offense if the person violates Section [4101.051](#) or [4101.102\(c\)](#). An offense under this section is a misdemeanor punishable by:

- (1) a fine of not more than \$500;
- (2) confinement in the county jail for not more than six months; or
- (3) both the fine and the confinement.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

#### SUBCHAPTER F. PROHIBITED CONDUCT

Sec. 4101.251. CERTAIN ROOFING-RELATED BUSINESS PROHIBITED. (a) An insurance adjuster licensed under this chapter may not adjust a loss related to roofing damage on behalf of an insurer if the adjuster is a roofing contractor or otherwise provides roofing services or roofing products for compensation, or is a controlling person in a roofing-related business.

(b) A roofing contractor may not act as an adjuster or advertise to adjust claims for any property for which the contractor is providing or may provide roofing services, regardless of whether the contractor holds a license under this chapter.

(c) The commissioner shall adopt rules necessary to implement and enforce this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 903 (H.B. [1183](#)), Sec. 1, eff. September 1, 2013.