

## PART XXV-F. THE LOUISIANA CLAIMS ADJUSTER ACT

## §1210.71. Definitions

As used in this Part, unless the context requires otherwise, the following definitions shall be applicable:

(1) "Adjuster" means an individual who investigates or adjusts losses on behalf of an insurer as an independent contractor or as an employee of:

- (a) An adjustment bureau;
- (b) An association;
- (c) A property and casualty producer;
- (d) An independent contractor;
- (e) An insurer; or
- (f) A managing general agent.

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

(3) "Fingerprints" means an impression of the lines on the finger taken for purpose of identification. The impression may be electronic or in ink converted to electronic format.

(4) "Home state" means the District of Columbia and any state or territory of the United States in which the adjuster's principal place of residence or principal place of business is located. If neither the state in which the adjuster maintains the principal place of residence nor the state in which the adjuster maintains the principal place of business has a substantially similar law governing adjusters, the adjuster may declare another state in which he becomes licensed and acts as an adjuster to be the "home state".

(5) "Individual" means a natural person.

(6) "Insurer" means any type of insurer authorized or approved unauthorized to conduct business in this state.

(7) "Person" means an individual or a business entity.

(8) "Uniform individual application" means the current version of the National Association of Insurance Commissioners (NAIC) Uniform Individual Application for resident and nonresident individuals.

(9) "Uniform business entity application" means the current version of the National Association of Insurance Commissioners (NAIC) Uniform Business Entity Application for resident and nonresident business entities.

Acts 2006, No. 783, §1, eff. Jan. 1, 2007.

§1210.72. General exemptions

This Part does not apply to:

- (1) An attorney at law admitted to practice in this state, when acting in his professional capacity as an attorney.
- (2) An employee of an insurer who is not regularly engaged in the adjustment or investigation of insurance claims.
- (3) A person employed only to furnish technical assistance to a licensed adjuster, including but not limited to an investigator, an attorney, an engineer, an estimator, a handwriting expert, a photographer, and a private detective.
- (4) A producer of an authorized insurer or a licensed employee of a producer who processes an undisputed or uncontested loss for the insurer under a policy issued by the producer.
- (5) A person who performs clerical duties and does not negotiate with parties on disputed or contested claims.
- (6) A person who handles claims arising under life, accident, and health insurance policies.
- (7) A person who is employed principally as a right-of-way agent or a right-of-way and claims agent whose primary responsibility is the acquisition of servitudes, leases, permits, or other real property rights and who handles only claims arising out of operations under those servitudes, 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 person who handles claims arising under vehicle mechanical breakdown insurance policies as defined in R.S. 22:1800.
- (10) A person who handles claims arising under property residual value insurance policies as defined in R.S. 22:1900.
- (11) A person handling claims for workers' compensation benefits pursuant to Title 23 of the Louisiana Revised Statutes of 1950 or a person handling claims arising under a workers' compensation policy or group self insurers fund indemnity agreement.
- (12) A person handling commercial claims for excess coverages as classified by R.S. 22:6(14).  
Acts 2006, No. 783, §1, eff. Jan. 1, 2007.

§1210.73. License required

A. A person shall not act or hold himself out as a claims adjuster in this state unless the person is licensed as a claims adjuster in accordance with this Part.

B. A business entity acting as a claims adjuster is required to obtain a claims adjuster license. Application shall be made using the uniform business entity application. Before approving the application, the commissioner of insurance shall find that:

(1) The business entity has paid the fees set forth in R.S. 22:1078.

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

Acts 2006, No. 783, §1, eff. Jan. 1, 2007.

§1210.74. Application for claims adjuster license

A. Beginning June 30, 2007, any person who is either employed or contracts to perform services in Louisiana as an adjuster shall obtain a license to do so from the Department of Insurance. A person applying for a claims adjuster license shall make application to the commissioner of insurance on the appropriate uniform application or other application prescribed by the commissioner of insurance.

B. The applicant shall declare under penalty of perjury and under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the applicant's knowledge and belief.

C.(1) In order to make a determination of eligibility, the commissioner of insurance is authorized to require fingerprints of applicants and submit the fingerprints and the fee required to perform the criminal history record checks to the Louisiana Bureau of Criminal Identification and Information and the Federal Bureau of Investigation (FBI) for state and national criminal history record checks. The commissioner of insurance shall require a criminal history record check on each applicant in accordance with this Part. The commissioner of insurance shall require each applicant to submit a full set of fingerprints in order for the commissioner of insurance to obtain and receive National Criminal History Records from the FBI Criminal Justice Information Services Division.

(2) The commissioner of insurance may contract for the collection, transmission, and resubmission of fingerprints required under this Section. If the commissioner of insurance does so, the fee for collecting, transmitting, and retaining fingerprints shall be payable directly to the contractor by the person. The commissioner of insurance may agree to a reasonable fingerprinting fee to be charged by the contractor.

(3) The commissioner of insurance may waive submission of fingerprints by any person that has previously furnished fingerprints and whose fingerprints are on file with the Central Repository of the National Association of Insurance Commissioners (NAIC), its affiliates, or subsidiaries.

(4) The commissioner of insurance is authorized to receive criminal history record information in lieu of the Louisiana Bureau of Criminal Identification and Information that submitted the fingerprints to the FBI.

(5) The commissioner of insurance is authorized to submit electronic fingerprint records and necessary identifying information to the National Association of Insurance Commissioners (NAIC), its affiliates, or subsidiaries for permanent retention in a centralized repository. The purpose of such a centralized repository is to provide insurance commissioners with access to fingerprint records in order to perform criminal history record checks.

Acts 2006, No. 783, §1, eff. Jan. 1, 2007.

§1210.75. Resident license

A. Before issuing a claims adjuster license to an applicant under this Section, the commissioner of insurance shall find that the applicant:

(1) Is eligible to designate this state as his or her home state or is a nonresident who is not eligible for a license under R.S. 22:1210.80.

(2) Has not committed any act that is a ground for denial, suspension, or revocation of a license as set forth in R.S. 22:1210.82.

(3) Has paid the fees set forth in R.S. 22:1078.

(4) Maintains an office in the home state of residence with public access by reasonable appointment or regular business hours.

(5) When applicable, has the written consent of the commissioner of insurance pursuant to 18 U.S.C. 1033, or any successor statute regulating crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

B. In addition to satisfying the requirements of Subsection A, an individual shall:

(1) Be at least eighteen years of age.

(2) Have successfully passed the adjuster examination unless exempted pursuant to R.S. 22:1210.79.

C. In addition to satisfying the requirements of Subsection A, a business entity shall:

(1) Designate a licensed individual claims adjuster responsible for the business entity's compliance with the insurance laws, rules, and regulations of this state; and

(2) Designate only licensed individual claims adjusters to exercise the business entity's license.

D. The commissioner of insurance may require any documents reasonably necessary to verify the information contained in the application.

Acts 2006, No. 783, §1, eff. Jan. 1, 2007.

§1210.76. Limited claims adjuster license

A. If considered necessary by the commissioner of insurance, the department may issue a limited claims adjuster license to an applicant in the manner otherwise provided for the issuance of a license under this Part.

B. The claims adjuster license shall specifically limit the kinds of insurance that may be handled by the person.

C. The claims adjuster shall not adjust insurance claims other than those for which the adjuster is specifically licensed.

Acts 2006, No. 783, §1, eff. Jan. 1, 2007.

§1210.77. Catastrophe or emergency claims adjuster registration

A. In the event of a catastrophe or an emergency, no adjuster's license shall be required for an individual who is employed or retained by an insurer and brought into this state for the purpose of investigating or making adjustment of losses resulting from the catastrophe or emergency. Notwithstanding, the commissioner of insurance shall establish procedures to register all such individuals.

B. The commissioner of insurance may, without notice and hearing, revoke the privileges of an individual registered pursuant to this Section on grounds specified by R.S. 22:1210.82(A), and thereafter it shall be unlawful for any such person to adjust any such losses, claims, or damages in this state.

C. A catastrophe or emergency claims adjuster license shall be effective for a period not to exceed one hundred eighty days. The commissioner of insurance may extend the term for an additional period of ninety days.

D. The fee for the catastrophe or emergency registration shall be as set forth in R.S. 22:1078 and shall be payable to the commissioner of insurance within ten days of the submission of the registration.

E. The registration requirements of this Section shall not apply to a producer of an insurer or a licensed employee of a producer that adjusts undisputed claims or losses under specific authority from the insurer and solely under policies issued by the insurer.

Acts 2006, No. 783, §1, eff. Jan. 1, 2007.

§1210.78. Claims adjuster license examination

A. An individual applying for a claims adjuster license under this Part shall pass a written examination unless exempt pursuant to R.S. 22:1210.79, 1210.80, or 1210.81. The examination shall test the knowledge of the individual concerning the duties and responsibilities of a claims adjuster and the insurance laws and regulations of this state. Examinations required by this Section shall be developed and conducted under rules and regulations prescribed by the commissioner of insurance.

B. The commissioner of insurance may make arrangements, including contracting with one or more outside testing services for administering examinations and collecting the examination fees. The commissioner of insurance may require that the applicant pay the cost of the examination directly to the testing firm.

C. An individual who fails to appear for the examination as scheduled or fails to pass the examination may reapply for an examination and shall remit all required fees and forms before being rescheduled for another examination.

Acts 2006, No. 783, §1, eff. Jan. 1, 2007.

§1210.79. Exemptions from examination

A. An individual who applies for a claims adjuster license in this state who was previously licensed as a claims adjuster in another state based on a claims adjuster examination shall not be required to complete any prelicensing or examination. This exemption is only available if the person is currently licensed in that state or if the application is received within twelve months of the cancellation of the applicant's previous claims adjuster license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer database records or records maintained by the National Association of Insurance Commissioners (NAIC), its affiliates, or subsidiaries, indicate that the adjuster is or was licensed in good standing.

B. An individual licensed as a claims adjuster in another state based on a claims adjuster examination who moves to this state shall make application within ninety days of establishing legal residence to become a resident claims adjuster licensee pursuant to R.S. 22:1210.75. No prelicensing or examination shall be required of that person to obtain a claims adjuster license.

C. On January 1, 2007, an individual who has been actively engaged in the business of adjusting insurance claims for at least three consecutive years in this state or has five total years of adjusting experience may apply to the commissioner for a license without passing the examination. Such an individual shall submit to the commissioner of insurance satisfactory proof of claims adjusting experience.

D. An individual who applies for a claims adjuster license in this state who was previously licensed as a claims adjuster in this state shall not be required to complete any prelicensing or examination. This exemption is only available if the application is received within twelve months of the cancellation of the applicant's previous claims adjuster license in this state and if, at the time of cancellation, the applicant was in good standing in this state, and had passed the examination required by R.S. 22:1210.78.

Acts 2006, No. 783, §1, eff. Jan. 1, 2007.

§1210.80. Nonresident claims adjuster license reciprocity

A. Unless denied licensure pursuant to R.S. 22:1210.82, a nonresident person may receive a nonresident claims adjuster license upon complying with the following requirements:

(1) The person is currently licensed as a resident claims adjuster, and if an individual has passed a claims adjuster examination, and is in good standing in the home state. If the home state does not require examinations then the individual shall pass the examination provided for in R.S. 22:1210.78.

(2) The person has submitted the proper request for licensure along with the fees required by R.S.22:1078.

(3) The person has submitted or transmitted to the commissioner of insurance the appropriate completed application for licensure.

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

B. The commissioner of insurance may verify the adjuster's licensing status through the producer database maintained by the National Association of Insurance Commissioners (NAIC), its affiliates, or subsidiaries.

C.(1) The commissioner of insurance shall not issue a license to any nonresident applicant until such applicant has filed forms approved by the commissioner of insurance which designate the commissioner of insurance as his true and lawful agent, upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of any interested person arising out of the applicant's business in this state. This designation shall constitute an agreement that such service of process has the same legal force and validity as personal service of process upon the person in the state.

(2) The service of process upon any such licensee in any action or proceeding in any court of competent jurisdiction may be made by a party serving the commissioner of insurance with appropriate copies thereof and the payment to him of a fee as authorized by R.S. 22:1078.

(3) The commissioner of insurance shall, within ten days of being served, forward a copy of such process by registered or certified mail, return receipt requested, to the nonresident claims adjuster licensee at his last known address of record or principal place of business, and the commissioner of insurance shall maintain copies of all such processes so served upon him.

(4) The service of process upon any such nonresident claims adjuster licensee in any action or proceeding instituted by the commissioner of insurance under this Part shall be made by the commissioner of insurance by mailing such process by registered or certified mail, return receipt requested, to the licensee at his last known address of record or principal place of business.

D. As a condition to continuation of a nonresident claims adjuster license issued under this Section, the nonresident claims adjuster licensee shall maintain a resident adjuster license in their home state. The nonresident claims adjuster license issued under this Section shall terminate and be surrendered immediately to the commissioner of insurance if the home state claims adjuster license terminates for any reason, unless the claims adjuster has been issued a license as a resident claims adjuster in their new home state. Notification to the state or states where a nonresident license is issued must be made as soon as possible, yet no later than thirty days of change in the new state resident license. Licensee shall include the new and old address. A new state resident license is required for nonresident licenses to remain valid. The new state resident license must have reciprocity with this state for the nonresident license not to terminate.

Acts 2006, No. 783, §1, eff. Jan. 1, 2007.

§1210.81. License

A. Unless denied licensure under this Part, persons who have met the requirements of this Part shall be issued a claims adjuster license. The license shall contain the licensee's name, business address, personal identification number, date of issuance, expiration date, and any other information the commissioner of insurance deems necessary.

B.(1) A claims adjuster license shall remain in effect unless revoked, terminated, suspended, or denied renewal or reinstatement, as long as the request for renewal has been filed, the fee set forth in R.S. 22:1078 has been paid, and any other requirements for license renewal are met by the due date.

(2) Every licensed claims adjuster shall file an application for renewal of his license every two years, by notifying the commissioner of insurance using methods prescribed by the commissioner of insurance, of the licensee's intention to continue his license.

C. The licensee shall inform the commissioner of insurance by any means acceptable to the commissioner of insurance of a change of address, change of legal name, or change of information submitted on the application within thirty days of the change. Failure to file a change within the required time shall subject the licensee to a fifty dollar fine per violation or other fine as may be authorized by R.S. 22:1078. Any person against whom a penalty has been levied shall be given due notice of such action. Upon receipt of this notice, the licensee may apply for and shall be entitled to a hearing.

D. A licensed claims adjuster shall be subject to R.S. 22:1211 et seq., relative to unfair trade practices, and R.S. 22:1241 et seq., relative to insurance fraud.

E. A claims adjuster whose license has lapsed may, within twelve months from the expiration date of the renewal, reinstate the license upon approval of the commissioner of insurance. However, a penalty in the amount of double the unpaid renewal fee shall be required for the reinstatement of the claims adjuster license. Reinstatement shall be effective on the date the commissioner of insurance approves the request for reinstatement.

F. A licensed claims adjuster who is unable to comply with license renewal procedures due to military service, long-term medical disability, or other extenuating circumstance, may request a waiver of those procedures. The licensed claims adjuster may also request a waiver of any examination requirement, fine, or other sanction imposed for failure to comply with renewal procedures.

G. To assist the commissioner of insurance in his licensing duties, he may contract with nongovernmental entities, including the National Association of Insurance Commissioners (NAIC) or any affiliates or subsidiaries that the National Association of Insurance Commissioners (NAIC) oversees to perform any ministerial functions, including the collection of fees and data, related to licensing that the commissioner of insurance may deem appropriate.

Acts 2006, No. 783, §1, eff. Jan. 1, 2007.

§1210.82. License denial, nonrenewal, or revocation

A. The commissioner of insurance may place on probation, suspend, revoke, or refuse to issue, renew, or reinstate a claims adjuster's license or may levy a fine not to exceed five hundred dollars for each violation up to ten thousand dollars aggregate for all violations in a calendar year, unless a fine is established by separate statute in this Title authorizing a greater penalty, or any combination of actions, for any one or more of the following causes:

(1) Providing incorrect, misleading, incomplete, or materially false information in the license application.

(2) Violating any state insurance law or regulation or a subpoena or order of the commissioner of insurance or of another state's insurance commissioner.

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud.

(4) Improperly withholding, misappropriating, or converting any money or property received in the course of conducting insurance business.

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

(6) Conviction of a felony related to the adjustment of insurance claims.

(7) Admitting to or committing fraud or unfair trade practices.

(8) Using fraudulent, coercive, or dishonest practices.

(9) Demonstrating incompetence, untrustworthiness, or financial irresponsibility while conducting business.

(10) Denial, suspension, or revocation of an insurance license, or its equivalent, in any other state, province, district, or territory.

(11) Forging a name on an application for insurance or any document related to an insurance transaction.

(12) Cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license.

(13) Knowingly accepting insurance business from an individual who is not licensed but who is required to be licensed by the commissioner of insurance.

(14) Failure to comply with an administrative or court order imposing a child support obligation.

(15) Failure to pay state income tax or comply with any administrative or court order directing payment of state income tax.

(16) Violating R.S. 22:1210.84(F).

(17) Failure to complete assignment of adjustment of a claim in a thorough and timely manner, including submission of the adjustment of a claim to the party which made that assignment.

B. If the commissioner of insurance denies an application or refuses to renew a license, he shall notify the applicant or licensee, in writing, of the reason for the denial or nonrenewal. The applicant or licensee may make written demand upon the commissioner of insurance within thirty days for a hearing to review the commissioner of insurance's action.

C. The claims adjuster license of a business entity may be suspended, revoked, or refused if the commissioner of insurance finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers of the business entity and the violation was not reported to the commissioner of insurance.

D. In addition to denial, suspension, or revocation, a licensee may be fined for violating the provisions of this Section.

E. The commissioner of insurance shall have the authority to enforce the provisions of this Part and this Title against any person who is under investigation for or charged with a violation of this Part or this Title even if the person's license or registration has been surrendered or has lapsed by operation of

law.

Acts 2006, No. 783, §1, eff. Jan. 1, 2007.

§1210.83. Continuing education

A. An individual who holds an adjuster license and who is not exempt under Subsection B of this Section shall satisfactorily complete a minimum of twenty-four hours of continuing education courses, including ethics, reported on a biennial basis in conjunction with the license renewal cycle.

B. This Section shall not apply to:

(1) Licensees not licensed for one full year prior to the end of the applicable continuing education biennium; or

(2) Licensees holding nonresident adjuster licenses who have met the continuing education requirements of their home state and whose home state gives credit to residents of this state on the same basis.

C. Only continuing education courses approved by the commissioner of insurance shall be used to satisfy the continuing education requirement of Subsection A.

Acts 2006, No. 783, §1, eff. Jan. 1, 2007.

§1210.84. Standards of conduct

A. An adjuster shall not permit an unlicensed employee or representative of the adjuster to conduct business for which a license is required under this Part.

B. An adjuster shall not have a direct or indirect financial interest in any aspect of the claim, other than the salary, fee, or other consideration established with the insurer.

C. An adjuster shall not acquire any interest in salvage of property subject to the contract with the insurer.

D. An adjuster shall not solicit employment for, recommend or otherwise solicit engagement, directly or indirectly, for or on behalf of any attorney at law, contractor or subcontractor, in connection with any loss or damage with respect to which such adjuster is concerned or employed.

E. An adjuster shall not solicit or accept any compensation, direct or indirect, from, by, or on behalf of any contractor or subcontractor engaged by or on behalf of any insured by which such adjuster has been, is, or will be employed or compensated, directly or indirectly.

F. Adjusters shall also adhere to the following general requirements:

(1) An adjuster shall not undertake the adjustment of any claim if the adjuster is not competent and knowledgeable as to the terms and conditions of the insurance coverage, or which otherwise exceeds the adjuster's current expertise;

(2) An adjuster shall not knowingly make any oral or written material misrepresentations or statements which are false or maliciously critical and intended to injure any person engaged in the business of insurance;

(3) No adjuster, while so licensed by the department, may represent or act as a public adjuster; and

(4) No adjuster shall materially misrepresent to an insured or other interested party the terms and coverage of an insurance contract with intent and for the purpose of effecting settlement of a claim for loss or damage or benefit under such contract on less favorable terms than those provided in and contemplated by the insurance contract.

Acts 2006, No. 783, §1, eff. Jan. 1, 2007.

§1210.85. Referral by insurer

A. An insurer may not knowingly refer a claim or loss for adjustment to a person purporting to be or acting as an adjuster in this state unless the person holds a license under this Part.

B. Before referring a claim or loss for adjustment, an insurer must ascertain from the commissioner of insurance whether the person performing the adjustment holds a license under this Part. 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 of insurance that the person no longer holds a license.

Acts 2006, No. 783, §1, eff. Jan. 1, 2007.

§1210.86. Reporting of actions

A. The adjuster shall report to the commissioner of insurance any administrative action taken against the adjuster in any jurisdiction or by another governmental agency within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent order, or other relevant legal documents.

B. Within thirty days of a conviction, the adjuster shall report to the commissioner of insurance any criminal prosecution of the adjuster taken in any jurisdiction for violation of insurance laws or regulations, any felony, or any misdemeanor involving misappropriation of funds. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

Acts 2006, No. 783, §1, eff. Jan. 1, 2007.

§1210.87. Regulations

The commissioner of insurance may adopt reasonable rules and regulations as are necessary or proper to carry out the purposes of this Part.

Acts 2006, No. 783, §1, eff. Jan. 1, 2007.