

Senate Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

CHAPTER 237

SENATE BILL 1400

AN ACT

AMENDING SECTIONS 20-321, 20-321.01 AND 20-321.02, ARIZONA REVISED STATUTES;
RELATING TO INSURANCE ADJUSTERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-321, Arizona Revised Statutes, is amended to
3 read:

4 20-321. Definitions

5 ~~A.~~ In this article, unless the context otherwise requires: ~~—~~

6 1. "Adjuster":

7 (a) Means any person who for compensation, fee or commission either:

8 ~~1.~~ (i) Adjusts, investigates or negotiates settlement of claims
9 arising under insurance contracts on behalf of either the insurer or the
10 insured.

11 ~~2.~~ (ii) Holds oneself out to perform a service listed in ~~paragraph 1~~
12 ~~of this subsection~~ ITEM (i) OF THIS SUBDIVISION.

13 ~~B.~~ (b) ~~For the purposes of this article, an adjuster~~ Does not
14 include:

15 ~~1.~~ (i) A licensed attorney-at-law who is qualified to practice law in
16 this state.

17 ~~2.~~ (ii) A salaried employee of an insurer or of a managing general
18 agent. FOR THE PURPOSES OF THIS ITEM, "SALARIED EMPLOYEE" MEANS AN EMPLOYEE
19 WHOSE COMPENSATION IS NOT CONTINGENT ON THE OUTCOME OF A CLAIM DETERMINATION.

20 ~~3.~~ (iii) A licensed insurance producer who adjusts or assists in
21 adjustment of losses arising under policies procured through the insurance
22 producer.

23 ~~4.~~ (iv) An employee of a political subdivision who adjusts or assists
24 in the adjustment of losses arising under policies covering the political
25 subdivision or persons indemnified by the political subdivision.

26 ~~5.~~ (v) An independent contractor retained by a licensed adjuster or a
27 person listed in ~~paragraphs 1~~ ITEMS (i) through ~~4~~ (iv) of this ~~subsection~~
28 SUBDIVISION for the sole purpose of providing technical assistance in
29 connection with a claim. ~~An Independent contractor~~ CONTRACTORS may include
30 photographers, estimators, engineers, private detectives or handwriting
31 experts.

32 (vi) AN INDIVIDUAL WHO COLLECTS CLAIM INFORMATION FROM OR FURNISHES
33 CLAIM INFORMATION TO INSURED OR CLAIMANTS AND WHO CONDUCTS DATA ENTRY,
34 INCLUDING ENTERING DATA INTO AN AUTOMATED CLAIMS ADJUDICATION SYSTEM, IF NO
35 MORE THAN TWENTY-FIVE PERSONS, AS DESCRIBED IN THIS ITEM, ARE UNDER THE
36 SUPERVISION OF A SINGLE LICENSED ADJUSTER OR LICENSED PRODUCER. A LICENSED
37 INSURANCE PRODUCER WHO IS SUPERVISING OR ADJUSTING CLAIMS PURSUANT TO THIS
38 ITEM IS NOT REQUIRED TO BE LICENSED AS AN ADJUSTER.

39 ~~C.~~ ~~For the purposes of subsection B, "salaried employee" means an~~
40 ~~employee whose compensation is not contingent on the outcome of a claim~~
41 ~~determination.~~

42 2. "AUTOMATED CLAIMS ADJUDICATION SYSTEM" MEANS A PREPROGRAMMED
43 COMPUTER SYSTEM THAT IS DESIGNED FOR THE COLLECTION, DATA ENTRY, CALCULATION
44 AND FINAL RESOLUTION OF PORTABLE CONSUMER ELECTRONIC PRODUCTS INSURANCE
45 CLAIMS AND THAT:

1 (a) MAY BE USED ONLY BY A LICENSED ADJUSTER, LICENSED PRODUCER OR
2 SUPERVISED INDIVIDUALS OPERATING PURSUANT TO THIS PARAGRAPH.

3 (b) MUST COMPLY WITH ALL CLAIMS PAYMENT REQUIREMENTS UNDER THIS TITLE
4 AND BE CERTIFIED AS COMPLIANT BY A LICENSED ADJUSTER.

5 3. "PORTABLE CONSUMER ELECTRONIC PRODUCTS" MEANS ELECTRONIC DEVICES
6 AND RELATED ACCESSORIES THAT ARE PORTABLE IN NATURE.

7 Sec. 2. Section 20-321.01, Arizona Revised Statutes, is amended to
8 read:

9 20-321.01. Licensing of adjusters; qualifications; exemption

10 A. A person shall not act as or claim to be an adjuster unless the
11 person is licensed under this article.

12 B. To obtain a license as an adjuster a person shall apply to the
13 director for the license and use the forms prescribed and provided by the
14 director. The director shall issue the license to qualified persons on
15 payment of the license fee prescribed in section 20-167.

16 C. To be licensed as an adjuster the applicant shall meet all of the
17 following qualifications:

18 1. Be a person who is at least eighteen years of age.

19 2. Be a resident of this state, or a resident of another state that
20 allows residents of this state to act as adjusters in the other state.

21 3. Take and pass an examination that is given by or under the
22 supervision of the director and that reasonably tests the applicant's
23 knowledge of insurance and legal responsibilities as an adjuster AND
24 OTHERWISE COMPLY WITH SECTION 20-321.02.

25 ~~4. Have and maintain in this state an office accessible to the public
26 and keep at the office the usual and customary records pertaining to
27 transactions under the license. This paragraph does not prohibit maintaining
28 an office in the home of the licensee.~~

29 ~~D. A firm or corporation, whether or not organized under the laws of
30 this state, may be licensed as an adjuster if each individual who is to
31 exercise the license powers is qualified for an individual license as an
32 adjuster.~~

33 ~~E. D. An adjuster who is licensed or permitted to act as an adjuster
34 in the state of the adjuster's domicile is not required to be licensed
35 pursuant to this section or meet the qualifications prescribed in this
36 section if the adjuster is sent to this state on behalf of an insurer for the
37 purpose of investigating or making adjustment of a particular loss under an
38 insurance policy or a series of losses resulting from a catastrophe common to
39 all those losses.~~

40 E. TO DETERMINE LICENSE ELIGIBILITY, THE DIRECTOR MAY REQUIRE
41 FINGERPRINTS OF APPLICANTS AND SUBMIT THE FEE AND THE FINGERPRINTS AS
42 REQUIRED BY SECTION 20-285, SUBSECTION E, PARAGRAPH 2.

43 F. THE DIRECTOR MAY CONTRACT WITH NONGOVERNMENTAL ENTITIES TO PERFORM
44 ANY MINISTERIAL FUNCTIONS, INCLUDING COLLECTION OF FEES AND DATA RELATED TO
45 LICENSING, THAT THE DIRECTOR DEEMS APPROPRIATE.

1 G. A RESIDENT OF CANADA MAY NOT BE LICENSED AS A NONRESIDENT ADJUSTER
2 UNLESS THE PERSON HAS OBTAINED A RESIDENT ADJUSTER LICENSE IN ANOTHER STATE
3 AND DESIGNATED THAT STATE AS THE PERSON'S HOME STATE. A CANADIAN RESIDENT
4 WHO QUALIFIES FOR LICENSURE AS AN ADJUSTER UNDER THIS SUBSECTION NEED NOT
5 COMPLY WITH SECTION 25-320, SUBSECTION P.

6 Sec. 3. Section 20-321.02, Arizona Revised Statutes, is amended to
7 read:

8 20-321.02. Application of other laws

9 To the extent ~~not inconsistent with~~ PERMITTED BY this article, section
10 SECTIONS 20-281 AND 20-284, section 20-286, subsections B, C and D and
11 sections 20-287, 20-288, 20-289, 20-289.01, 20-291, 20-292, 20-295, 20-296,
12 20-297, 20-299, 20-301 and 20-302 apply to adjusters.

APPROVED BY THE GOVERNOR APRIL 25, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 25, 2011.

Passed the House April 14, 2011,

by the following vote: 38 Ayes,

18 Nays, 4 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate January 28, 2011,

by the following vote: 23 Ayes,

6 Nays, 1 Not Voting

[Signature]
President of the Senate

Charmine Bellifant
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

18 day of April, 2011,

at 4:30 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 25th day of

April, 2011,

at 12:45 o'clock P. M.

[Signature]
Governor of Arizona

S.B. 1400

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 25th day of April, 2011,

at 2:45 o'clock P. M.

[Signature]
Secretary of State