

## **IC 27-1-28**

### **Chapter 28. Independent Adjuster Licensing**

#### **IC 27-1-28-1**

##### **Governance**

Sec. 1. This chapter governs the qualifications and procedure for the licensing of independent adjusters.

*As added by P.L.11-2011, SEC.22.*

#### **IC 27-1-28-2**

##### **Administrative rules**

Sec. 2. The commissioner may adopt rules under IC 4-22-2 to implement this chapter.

*As added by P.L.11-2011, SEC.22.*

#### **IC 27-1-28-3**

##### **Automated claims adjudication system**

Sec. 3. As used in this chapter, "automated claims adjudication system" means a preprogrammed computer system that:

- (1) is designed for the collection, data entry, calculation, and system generated final resolution of property insurance claims;
- (2) is used only by a licensee or a person described in section 6(b)(2) or 6(b)(3) of this chapter;
- (3) complies with all claim payment requirements under Indiana insurance law; and
- (4) is certified as compliant with the claims adjudication requirements of this chapter by an individual who is an:
  - (A) independent adjuster who is licensed under this chapter; and
  - (B) officer of a business entity that is licensed under this chapter.

*As added by P.L.11-2011, SEC.22.*

#### **IC 27-1-28-4**

##### **Catastrophe**

Sec. 4. As used in this chapter, "catastrophe" means an event that is the subject of a declaration by the commissioner and that:

- (1) results in a large number of deaths or injuries;
- (2) causes extensive damage or destruction of facilities used to provide and sustain human needs;
- (3) produces an overwhelming demand on state and local response resources and mechanisms;
- (4) causes a severe long term effect on general economic activity; or
- (5) severely affects state, local, and private sector capabilities to begin and sustain response activities.

*As added by P.L.11-2011, SEC.22.*

#### **IC 27-1-28-5**

##### **Home state**

Sec. 5. As used in this chapter, "home state" means:

(1) a state, district, or territory of the United States in which an independent adjuster:

(A) maintains the independent adjuster's principal place of residence or business; and

(B) is licensed to act as a resident independent adjuster; or

(2) if the principal place of residence described in subdivision (1) does not license independent adjusters for the line of authority in which the independent adjuster seeks licensing under this chapter, the state, district, or territory of the United States:

(A) that is designated by the independent adjuster as the independent adjuster's home state; and

(B) in which the independent adjuster is licensed and in good standing.

*As added by P.L.11-2011, SEC.22.*

### **IC 27-1-28-6**

#### **Independent adjuster**

Sec. 6. (a) As used in this chapter, "independent adjuster" means a person, or an independent contractor or employee of a person, that:

(1) contracts for compensation with insurers or self-insurers to investigate, negotiate, or settle property, casualty, or worker's compensation claims; and

(2) for tax purposes is treated by the insurers or self-insurers in a manner consistent with treatment of an independent contractor rather than an employee under Title 26, Subtitle C of the Internal Revenue Code.

(b) The term does not include the following:

(1) An attorney who:

(A) is admitted to practice in Indiana; and

(B) acts in a professional capacity as an attorney.

(2) A person employed solely to do any of the following:

(A) Obtain facts surrounding a claim.

(B) Furnish technical assistance to a licensed independent adjuster.

(3) An individual:

(A) who is an employee of:

(i) an independent adjuster who is licensed under this chapter; or

(ii) an affiliate of an independent adjuster who is licensed under this chapter;

(B) who is supervised by:

(i) an independent adjuster licensed under this chapter; or

(ii) an insurance producer licensed under IC 27-1-15.6;

who supervises not more than twenty-five (25) persons described in this subdivision; and

(C) who is employed solely to:

(i) collect claim information from insureds or claimants;

(ii) furnish claim information to insureds or claimants; or

- (iii) perform data entry into an automated claims adjudication system.
- (4) An individual who is employed to investigate suspected fraudulent insurance claims, but who does not adjust losses or determine claim payments.
- (5) A person that:
  - (A) performs only executive, administrative, managerial, or clerical duties; and
  - (B) does not investigate, negotiate, or settle claims with policyholders, claimants, or legal representatives of policyholders or claimants.
- (6) A person that settles only reinsurance or subrogation claims.
- (7) An officer, director, manager, or employee of an authorized insurer, a managing general agent, a surplus lines insurer, a risk retention group, or an attorney in fact of a reciprocal insurer.
- (8) A manager of the United States branch of an alien insurer.
- (9) A person that investigates, negotiates, or settles life, accident and health, annuity, or disability insurance claims.
- (10) Under a self-insured arrangement, an individual who adjusts claims on behalf of the individual's employer.
- (11) A licensed insurance producer, an attorney in fact of a reciprocal insurer, or a managing general agent of an insurer to whom claim authority has been granted by the insurer.
- (12) A person that is authorized to adjust worker's compensation or disability claims under the authority of a third party administrator.
- (13) A person that investigates, negotiates, or settles crop insurance claims.
- (14) An individual who:
  - (A) does not adjust losses or determine claim payments; and
  - (B) is employed to use a specialized skill possessed by the individual to make a determination:
    - (i) concerning an element of a claim; and
    - (ii) that is used by an independent adjuster, or an adjuster who is directly employed by an insurer, in adjusting a loss or determining a claim payment.

*As added by P.L.11-2011, SEC.22.*

#### **IC 27-1-28-7**

##### **NAIC**

Sec. 7. As used in this chapter, "NAIC" refers to the National Association of Insurance Commissioners.

*As added by P.L.11-2011, SEC.22.*

#### **IC 27-1-28-8**

##### **Uniform individual application**

Sec. 8. As used in this chapter, "uniform individual application" means the NAIC uniform individual application for resident and nonresident individuals.

*As added by P.L.11-2011, SEC.22.*

### **IC 27-1-28-9**

#### **Uniform business entity application**

Sec. 9. As used in this chapter, "uniform business entity application" means the NAIC uniform business entity application for resident and nonresident business entities.

*As added by P.L.11-2011, SEC.22.*

### **IC 27-1-28-10**

#### **Independent adjuster licensure and exemption**

Sec. 10. A person shall not:

- (1) act as an independent adjuster in Indiana; or
- (2) hold the person's self out as an independent adjuster in Indiana;

unless the person is licensed or exempt from licensure under this chapter.

*As added by P.L.11-2011, SEC.22.*

### **IC 27-1-28-11**

#### **Temporary emergency independent adjuster licensure**

Sec. 11. (a) If a catastrophe is declared, an insurer may contract with an individual who:

- (1) is not licensed under this chapter; but
- (2) is otherwise qualified to adjust claims;

to act as a temporary emergency independent adjuster on behalf of the insurer if the insurer obtains for the individual a temporary emergency independent adjuster license under this section.

(b) An insurer described in subsection (a) must, not more than five (5) days after the individual begins to adjust claims arising from the declared catastrophe, submit to the commissioner an application for temporary emergency licensure of the individual under this section.

(c) An application submitted under subsection (b) must include the following information in a format prescribed by the commissioner:

- (1) The name of the individual.
- (2) The Social Security number of the individual.
- (3) The name of the insurer.
- (4) The effective date of the contract between the insurer and the individual.
- (5) The catastrophe or loss number.
- (6) The catastrophe event name.
- (7) Other information the commissioner considers necessary.

(d) The commissioner shall establish standards and procedures for temporary emergency independent adjuster licensure under this section.

(e) A temporary emergency independent adjuster license issued under this section is effective for not more than ninety (90) days, unless extended by the commissioner. In the event of multiple catastrophes, an individual who holds a temporary emergency independent adjuster license issued under this section with respect to

one (1) declared catastrophe may adjust claims arising from any other catastrophe that occurs within the ninety (90) day period during which the license is effective under this subsection without the insurer applying for an additional temporary emergency independent adjuster license.

(f) The rules adopted by the commissioner under section 2 of this chapter may establish a fee for an application submitted under this section.

*As added by P.L.11-2011, SEC.22.*

### **IC 27-1-28-12**

#### **Resident individual independent adjuster licensure**

Sec. 12. (a) An individual may apply for a resident independent adjuster license by submitting:

- (1) a uniform individual application to the commissioner with a declaration, under penalty of suspension, revocation, or refusal of licensure, that the statements made in the application are true and complete to the best of the individual's knowledge; and
- (2) an application fee of forty dollars (\$40).

(b) The commissioner shall approve an application submitted under subsection (a) upon finding all of the following:

- (1) The individual is at least eighteen (18) years of age.
- (2) The individual is eligible to designate Indiana as the individual's home state.
- (3) The individual is determined by the commissioner to be trustworthy, reliable, and of good reputation.
- (4) The individual has not committed an act that is grounds for probation, suspension, revocation, or refusal of licensure under section 18 of this chapter.
- (5) The individual has completed a prelicensing course of study for the line of authority in which the individual has applied for licensing under this section.
- (6) The individual has successfully passed the written examination administered under section 15 of this chapter for the line of authority in which the individual has applied for licensing under this section.

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

*As added by P.L.11-2011, SEC.22.*

### **IC 27-1-28-13**

#### **Resident business entity independent adjuster licensure**

Sec. 13. (a) A business entity may apply for a resident independent adjuster license by submitting:

- (1) a uniform business entity application to the commissioner with a declaration, under penalty of suspension, revocation, or refusal of licensure, that the statements made in the application are true and complete to the best knowledge of the individual submitting the application on behalf of the business entity;

- (2) an application fee of forty dollars (\$40); and
- (3) the name, address, Social Security number, and criminal and administrative history of each of the following:
  - (A) An owner that has at least ten percent (10%) interest or voting interest in the business entity.
  - (B) A partner of the business entity.
  - (C) An executive officer of the business entity.
  - (D) A director of the business entity.

(b) The commissioner shall approve an application submitted by a business entity under subsection (a) upon finding all of the following:

- (1) The business entity is eligible to designate Indiana as the business entity's home state.
- (2) The business entity has designated an individual independent adjuster licensed under this chapter to be responsible for the business entity's compliance with Indiana insurance law.
- (3) The business entity has not committed any act that is grounds for probation, suspension, revocation, or refusal of an independent adjuster license under section 18 of this chapter.

(c) The commissioner may require a business entity applying under this section to produce any documents reasonably necessary to verify the information contained in the application.

*As added by P.L.11-2011, SEC.22.*

#### **IC 27-1-28-14**

##### **Qualifications; renewal; fees; expiration; content of license; change of information; contract for administration**

Sec. 14. (a) An independent adjuster may qualify for an independent adjuster license under this chapter in one (1) or more of the following lines of authority:

- (1) Property and casualty insurance.
- (2) Worker's compensation insurance.

(b) An independent adjuster licensed under this chapter is not required to hold another independent adjuster, insurance producer, or insurance administrator license in Indiana.

(c) An independent adjuster license:

- (1) is effective for two (2) years after the date of issuance unless probated, suspended, revoked, or refused; and
- (2) may be renewed if all requirements for renewal, including submission to the commissioner of a renewal fee of forty dollars (\$40), are met on or before the renewal date.

(d) If an independent adjuster license expires, the independent adjuster may, within twelve (12) months after the date of expiration, be reissued an independent adjuster license upon receipt by the commissioner of:

- (1) a request for reissuance, as prescribed by the commissioner; and
- (2) a reissuance fee of eighty dollars (\$80).

(e) An independent adjuster who is unable to comply with the

license renewal requirements of this section due to:

- (1) military service;
- (2) long term medical disability; or
- (3) another extenuating circumstance determined by the commissioner;

may request a waiver of the renewal requirements or applicable sanction.

(f) A license issued under this chapter must contain the following:

- (1) The licensee's name, address, and personal identification number.
- (2) The date of issuance.
- (3) The date of expiration.
- (4) Other information considered necessary by the commissioner.

(g) An independent adjuster is subject to IC 27-4-1-4.5.

(h) An independent adjuster shall, not more than thirty (30) days after the occurrence of a change of the independent adjuster's:

- (1) legal name; or
- (2) home state address;

provide written notice to the commissioner of the change.

(i) The commissioner may contract with a nongovernmental entity to perform ministerial functions required by this section, including the collection of data and fees related to licensing.

*As added by P.L.11-2011, SEC.22.*

## **IC 27-1-28-15**

### **Written examination**

Sec. 15. (a) Except as provided in section 16 of this chapter, an individual who applies for an independent adjuster license under this chapter must pass a written examination that is:

- (1) developed and conducted according to rules adopted by the commissioner under IC 4-22-2; and
- (2) intended to test the knowledge of the individual concerning:
  - (A) the lines of authority in which the individual has applied for licensing under this chapter;
  - (B) the duties and responsibilities of an independent adjuster; and
  - (C) Indiana insurance law.

(b) The commissioner may contract with a nongovernmental entity to administer the written examination required by this section.

(c) An individual described in subsection (a) shall remit, with the application to take the written examination required by this section, a nonrefundable examination fee in an amount set by the commissioner or the organization administering the examination.

(d) If an individual:

- (1) fails to appear for or to pass an examination; and
- (2) desires to reschedule the examination;

the individual shall reapply for the written examination and remit all fees and forms before scheduling an examination date.

*As added by P.L.11-2011, SEC.22.*

## **IC 27-1-28-16**

### **Nonresident licensure**

Sec. 16. (a) An individual who applies for an independent adjuster license under this chapter and who:

- (1) possesses an independent adjuster license for the same line of authority in which the individual has applied for licensing under this chapter in a state in which a prelicensing independent adjuster licensure examination is required;
- (2) possessed an independent adjuster license that:
  - (A) was for the same line of authority in which the individual has applied for licensing under this chapter in a state in which a prelicensing independent adjuster licensure examination is required; and
  - (B) expired less than ninety (90) days before the date the commissioner receives the application; or
- (3) provides proof from contracting insurers that the individual has participated in claims adjudication in the same line of authority during the five (5) years immediately preceding the date of application;

is not required to complete a prelicensing course as described in section 12(b)(5) of this chapter or pass a written examination under section 15 of this chapter before being licensed under this chapter.

(b) An applicant who meets the criteria set forth in subsection (a)(1) or (a)(2) must provide certification from the other state that the applicant's independent adjuster license:

- (1) is currently in good standing; or
- (2) was in good standing at the time of expiration.

(c) A person that:

- (1) is licensed as an independent adjuster in another state where a prelicensing independent adjuster licensure examination is required;
- (2) establishes legal residency in Indiana; and
- (3) applies for a resident independent adjuster license under this chapter less than ninety (90) days after the person establishes legal residency in Indiana;

is not required to complete a prelicensing course as described in section 12(b)(5) of this chapter or pass a written examination under section 15 of this chapter before being licensed under this chapter.

*As added by P.L.11-2011, SEC.22.*

## **IC 27-1-28-17**

### **Issuance of nonresident license**

Sec. 17. (a) Except as provided in section 18 of this chapter, the commissioner shall issue a nonresident independent adjuster license to a person if:

- (1) the person is currently licensed in good standing as an independent adjuster in the person's home state;
- (2) the person has submitted:
  - (A) the proper application for licensure;
  - (B) a nonresident application fee of ninety dollars (\$90); and

- (C) in the case of a business entity, the information described in section 13(a)(3) of this chapter; and
- (3) the person's designated home state awards nonresident independent adjuster licenses to residents of Indiana on the same basis as nonresident independent adjuster licenses are awarded under this chapter to residents of other states.
- (b) Except as provided in section 18 of this chapter, if a person that:
  - (1) is not a resident of Indiana; and
  - (2) is not licensed as an independent adjuster in another state; desires to obtain an independent adjuster license under this chapter, the person must comply with the requirements of section 12 or 13 of this chapter, and sections 14 and 15 of this chapter, and must remit the nonresident application fee of ninety dollars (\$90).
- (c) The commissioner may:
  - (1) verify an independent adjuster's licensure status in another state through an appropriate data base, including the insurance producer data base maintained by the NAIC or an affiliate or a subsidiary of the NAIC; or
  - (2) request certification of good standing as described in section 16(b) of this chapter.
- (d) To maintain a valid nonresident independent adjuster license issued under this chapter:
  - (1) the independent adjuster must maintain a valid resident independent adjuster license in the independent adjuster's home state; and
  - (2) the independent adjuster's home state must award nonresident independent adjuster licenses to residents of Indiana on the same basis as nonresident independent adjuster licenses are awarded under this chapter to residents of other states.
- (e) For a nonresident independent adjuster license issued under this chapter to be renewed:
  - (1) the independent adjuster must:
    - (A) maintain a valid resident independent adjuster license in the independent adjuster's home state; and
    - (B) remit to the commissioner a nonresident independent adjuster license renewal fee of ninety dollars (\$90); and
  - (2) the independent adjuster's home state must award nonresident independent adjuster licenses to residents of Indiana on the same basis as nonresident independent adjuster licenses are awarded under this chapter to residents of other states.
- (f) If a nonresident independent adjuster's home state license terminates for any reason other than issuance of a new resident independent adjuster license in a new home state:
  - (1) the person's nonresident independent adjuster license issued under this chapter also terminates immediately; and
  - (2) the person shall immediately surrender the nonresident independent adjuster license to the commissioner.

(g) If a nonresident independent adjuster's home state license terminates due to the issuance of a new resident independent adjuster license in a new home state, the independent adjuster shall, not more than thirty (30) days after the nonresident independent adjuster's home state license termination date, provide notice of the termination to the commissioner and the insurance commissioner of any state that has issued a nonresident independent adjuster license to the independent adjuster. The notice must specify the independent adjuster's previous home state address and new home state address.

(h) If a resident independent adjuster's license issued under this chapter terminates for any reason, the resident independent adjuster shall, not more than thirty (30) days after the resident adjuster license termination date, provide notice of the termination to the insurance commissioner of any state that has issued a nonresident independent adjuster license to the resident independent adjuster. If the termination results from a change of the resident independent adjuster's home state, the notice must specify the independent adjuster's previous home state address and new home state address.  
*As added by P.L.11-2011, SEC.22.*

#### **IC 27-1-28-18**

##### **Penalties; refusal of license renewal**

Sec. 18. (a) The commissioner may suspend, revoke, or refuse to issue or renew an independent adjuster license, or place an independent adjuster on probation, for a cause set forth in subsection (b).

(b) An independent adjuster is subject to the penalties set forth in subsection (a) for any of the following:

- (1) Providing incorrect, misleading, incomplete, or materially untrue information in a license application.
- (2) Violating an insurance law, a subpoena, or an order of the commissioner or another state's insurance commissioner.
- (3) Obtaining or attempting to obtain a license through misrepresentation or fraud.
- (4) Improperly withholding, misappropriating, or converting money or property received in the course of doing insurance business.
- (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
- (6) Having been convicted of a felony.
- (7) Having admitted or been found to have committed any unfair trade practice or fraud in the business of insurance.
- (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility, in the conduct of insurance business.
- (9) Having an insurance license, or its equivalent, probated, suspended, revoked, or refused in another state, province, district, or territory.
- (10) Forging another person's name to a document related to an insurance transaction.

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

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

(13) Failing to pay state income tax or failing to comply with an administrative or court order directing payment of state income tax.

(c) If the commissioner refuses an application for licensure or for the renewal of an existing license under this chapter, the commissioner shall notify the applicant or licensee in writing, advising of the reason for the refusal. The applicant or licensee may, not more than thirty (30) days after receiving the commissioner's notice of refusal, make written demand upon the commissioner for a hearing to determine the reasonableness of the refusal. The hearing must be held under IC 4-21.5 not more than twenty (20) days after the commissioner receives the applicant's or licensee's written demand.

(d) The commissioner may suspend, revoke, or refuse a business entity's independent adjuster license under this chapter or place a business entity licensed under this chapter on probation if, after a hearing under IC 4-21.5, the commissioner finds that:

(1) the individual licensed independent adjuster designated by the business entity under section 13(b)(2) of this chapter as being responsible for the business entity's compliance with Indiana insurance law committed a violation described in subsection (b) while acting on behalf of or representing the business entity;

(2) the violation was known or should have been known by at least one (1) of the business entity's partners, officers, or managers;

(3) the violation was not reported to the commissioner; and

(4) the business entity did not take corrective action.

(e) In addition to or instead of a penalty imposed under subsection (a), the commissioner may, after a hearing under IC 4-21.5, impose a civil penalty of at least fifty dollars (\$50) and not more than ten thousand dollars (\$10,000), regardless of whether the person on whom the penalty is imposed holds an independent adjuster license issued under this chapter that is in effect. A penalty imposed under this subsection may be enforced in the same manner as a civil judgment.

*As added by P.L.11-2011, SEC.22.*

### **IC 27-1-28-19**

#### **Continuing education**

Sec. 19. (a) Except as provided in subsection (b), an individual who holds a license under this chapter shall, every two (2) years, satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses and report the completion of the courses to the commissioner.

(b) This section does not apply to the following:

- (1) An individual who is licensed for less than twelve (12) months before the end of the applicable continuing education biennium.
- (2) A licensed nonresident independent adjuster who has met the continuing education requirements of the licensed nonresident independent adjuster's designated home state.

*As added by P.L.11-2011, SEC.22.*

#### **IC 27-1-28-20**

##### **Contracts**

Sec. 20. An independent adjuster shall:

- (1) maintain a copy of each contract between the independent adjuster and an insurer or a self-insurer; and
- (2) comply with the record retention policy agreed to in the contract described in subdivision (1).

*As added by P.L.11-2011, SEC.22.*

#### **IC 27-1-28-21**

##### **Duties**

Sec. 21. An independent adjuster shall do all of the following:

- (1) Be honest and fair in all communications with an insured, an insurer, a self-insurer, and the public.
- (2) Give policyholders and claimants prompt and knowledgeable service and courteous, fair, and objective treatment.
- (3) Refrain from:
  - (A) giving legal advice; or
  - (B) dealing directly with a policyholder or claimant who is represented by legal counsel unless the legal counsel consents to the direct contact.
- (4) Comply with all local, state, and federal privacy and information security laws.
- (5) Identify:
  - (A) the independent adjuster's self as an independent adjuster; and
  - (B) if applicable, the independent adjuster's employer; when dealing with a policyholder or claimant.
- (6) Refrain from:
  - (A) having any financial interest in an adjustment; or
  - (B) acquiring, for the independent adjuster or any person, an interest or a title in salvage without first receiving written authority from the principal.

*As added by P.L.11-2011, SEC.22.*

#### **IC 27-1-28-22**

##### **Reports to commissioner of administrative and criminal actions**

Sec. 22. (a) An independent adjuster shall report to the commissioner an administrative action taken against the independent adjuster:

(1) in another jurisdiction; or  
(2) by another governmental agency in Indiana;  
not more than thirty (30) days after the final disposition of the matter. The report must include a copy of the order or consent order, and any other relevant documentation.

(b) An independent adjuster shall report to the commissioner any criminal action taken against the independent adjuster:

(1) in another jurisdiction; or  
(2) by another governmental agency in Indiana;  
not more than thirty (30) days after the final disposition of the criminal matter. The report must include a copy of the initial complaint filed, the final order issued by the court, and any other relevant documentation.

*As added by P.L.11-2011, SEC.22.*

### **IC 27-1-28-23**

#### **Certification of automated claims adjudication system**

Sec. 23. If an independent adjuster uses an automated claims adjudication system, the independent adjuster shall maintain proof of the certification described in section 3(4) of this chapter and provide the proof of certification to the commissioner upon request.

*As added by P.L.11-2011, SEC.22.*

### **IC 27-1-28-24**

#### **Deposit of fees**

Sec. 24. The commissioner shall deposit a fee received under this chapter into the department of insurance fund established by IC 27-1-3-28.

*As added by P.L.11-2011, SEC.22.*