

7088

2009-2010 Regular Sessions

I N A S S E M B L Y

March 20, 2009

Introduced by M. of A. CARROZZA, WEISENBERG, ORTIZ -- Multi-Sponsored by
-- M. of A. COOK, MAYERSOHN, McENENY, NOLAN, PERRY -- read once and
referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to claims for loss or
damage to real property continuing education for licensed persons and
qualifications for independent adjusters

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The insurance law is amended by adding a new section 2616
2 to read as follows:
3 S 2616. CLAIMS FOR LOSS OR DAMAGE TO REAL PROPERTY; REPAIRS. (A) WHEN-
4 EVER AN INSURED SUFFERS A LOSS OR DAMAGE TO REAL PROPERTY, NO INSURER
5 PROVIDING COVERAGE THEREFOR SHALL REQUIRE THAT REPAIRS BE COMPLETED BY A
6 PARTICULAR CONSTRUCTION FIRM OR BUILDING RESTORATION FIRM.
7 (B) IN PROCESSING ANY SUCH CLAIM, IF AN INSURER RECOMMENDS OR SUGGESTS
8 THAT REPAIRS BE COMPLETED BY A PARTICULAR FIRM, THE INSURER SHALL
9 DISCLOSE TO THE INSURED WHETHER THE INSURER HAS A CONTROLLING INTEREST
10 IN SUCH FIRM.
11 S 2. Subsection (a) of section 2108 of the insurance law is amended by
12 adding two new paragraphs 5 and 6 to read as follows:
13 (5) NO PUBLIC OR INDEPENDENT ADJUSTER SHALL RECEIVE ANY COMPENSATION
14 OR RECEIVE ANYTHING OF VALUE FROM ANY PERSON, FIRM, ASSOCIATION, CORPO-
15 RATION, PARTNERSHIP, OR JOINT-STOCK COMPANY IN CONSIDERATION OF A DIRECT
16 REFERRAL OF A CLIENT OR POTENTIAL CLIENT.
17 (6) NO PUBLIC OR INDEPENDENT ADJUSTER SHALL HAVE ANY CONTROLLING
18 INTEREST IN ANY CONSTRUCTION FIRM, SALVAGE FIRM, OR BUILDING APPRAISAL
19 FIRM. THE WORD "FIRM" SHALL INCLUDE ANY CORPORATION, PARTNERSHIP, ASSO-
20 CIATION, JOINT-STOCK COMPANY OR INDIVIDUAL.
21 S 3. Paragraph 1 of subsection (e) of section 2108 of the insurance
22 law, as amended by chapter 264 of the laws of 1998, is amended to read
23 as follows:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 (1) The superintendent shall, in order to determine the trustworthi-
2 ness and competency to act as a public OR INDEPENDENT adjuster of each
3 individual applicant for such license, and of each proposed sub-licen-
4 see, except in the case of a renewal license, require every such indi-
5 vidual to take and pass, to the satisfaction of the superintendent, a
6 personal written examination. No individual shall be deemed qualified to
7 take the examination without having demonstrated by evidence satisfac-
8 tory to the superintendent that (A) the applicant possesses a minimum of
9 one year experience in the insurance business, with involvement in
10 sales, underwriting or claims or other experience considered sufficient
11 by the superintendent, or (B) the applicant successfully completed forty
12 hours of formal training in a course, program of instruction or seminars
13 approved by the superintendent.

14 S 4. Subsection (r) of section 2108 of the insurance law, as added by
15 chapter 264 of the laws of 1998, is amended to read as follows:

16 (r) (1) The following continuing education requirements shall apply to
17 resident and non-resident persons licensed as public OR INDEPENDENT
18 adjusters.

19 (2) Resident and non-resident persons licensed as public OR INDEPEND-
20 ENT adjusters and any person previously so licensed whose license was
21 not in effect on the effective date of this subsection and who has
22 subsequently been relicensed pursuant to the provisions of this article,
23 shall biennially satisfactorily complete such courses or programs as may
24 be approved by the superintendent, as follows:

25 (A) Any person holding a license as a public OR INDEPENDENT adjuster
26 shall, during each full biennial licensing period, satisfactorily
27 complete courses or programs of instruction or attend seminars as may be
28 approved by the superintendent equivalent to fifteen credit hours of
29 instruction.

30 (B) During the same calendar year biennial licensing period, a licen-
31 see may use accumulated continuing education credits to meet the
32 requirements of similar classes of licenses including those authorized
33 by subsection (b) of section two thousand one hundred three, section two
34 thousand one hundred four, section two thousand one hundred seven of
35 this article with respect to general insurance consultants, and THIS
36 section [two thousand one hundred eight of this article] with respect to
37 public AND INDEPENDENT adjusters.

38 (C) Excess credit hours accumulated during any biennial licensing
39 period shall not carry forward to the next biennial licensing period for
40 that same class of license.

41 (3) (A) The courses or programs of instruction successfully completed,
42 which shall be deemed to meet the superintendent's standards for contin-
43 uing education shall be:

44 (i) Courses, programs of instruction or seminars, approved as to meth-
45 od and content by the superintendent, covering portions of the principal
46 branches of insurance related to the kinds of insurance covered by the
47 public OR INDEPENDENT adjusting license, and given by a degree confer-
48 ring college or university whose curriculum is registered with the state
49 education department at the time the person takes the course, whether
50 such course be given as part of such curriculum or separately, or by any
51 other institution, association, trade association or insurer, which
52 maintains equivalent standards of instruction and which shall have been
53 approved for such purpose by the superintendent.

54 (ii) Continuing education as required by the state in which a non-re-
55 sident licensee resides and maintains an office, provided the super-
56 intendent deems them equivalent to New York continuing education

1 requirements. If the state in which the non-resident licensee resides
2 and maintains an office has no continuing education requirements, or the
3 superintendent does not deem them equivalent, the licensee must satisfy
4 New York continuing education requirements.

5 (B) The number of credit hours assigned to each of the courses or
6 programs of instruction set forth in paragraph one of this subsection
7 shall be determined by the superintendent.

8 (4) A person who teaches any approved course of instruction or who
9 lectures at any approved seminar, and who is subject to these continuing
10 education requirements shall be granted the same number of credit hours
11 as would be granted to a person taking and successfully completing such
12 course, seminar or program, provided that such credit hours shall be
13 credited only once per approved course during any biennial licensing
14 period.

15 (5) Every person subject to these continuing education requirements
16 shall furnish, in a form satisfactory to the superintendent, written
17 certification attesting to the course or programs of instruction taken
18 and successfully completed by such person, and executed by the sponsor-
19 ing organization or its authorizing representative.

20 (6) (A) Any person failing to meet applicable continuing education
21 requirements shall not be eligible to renew the license.

22 (B) Any person whose license was not renewed shall not be eligible to
23 become relicensed during the next biennial licensing period until that
24 person has demonstrated to the satisfaction of the superintendent that
25 continuing education requirements for the last biennial licensing period
26 were met.

27 (C) Any person whose license was not renewed pursuant to subparagraph
28 (A) of this paragraph, who accumulates sufficient credit hours for the
29 prior licensing period to qualify for relicensing in the biennial period
30 following such non-renewal, may not apply those same credit hours toward
31 the continuing education requirements for the current biennial licensing
32 period.

33 (7) (A) Any entity eligible to provide continuing education courses,
34 programs of instruction, or seminars shall file for approval by the
35 superintendent on a biennial basis, to conform with its areas of
36 instruction, a provider organization application and a course submission
37 application for each course, program, and seminar.

38 (B) The provider organization application shall include the names of
39 all instructors to be used during the contract period, and instructors
40 may be added during the period by notifying the superintendent and
41 paying the appropriate filing fee.

42 (C) The completed applications shall be returned in a timely manner,
43 as specified by the superintendent with a non-refundable filing fee of
44 two hundred dollars per organization, fifty dollars per course, program,
45 and seminar, and fifty dollars per instructor.

46 (D) Approval of the application shall be at the discretion of the
47 superintendent.

48 (8) Each licensee shall pay a biennial fee of ten dollars per license,
49 for continuing education certificate filing and recording charges, to
50 the superintendent, or, at the direction of the superintendent, directly
51 to an organization under contract to provide continuing education admin-
52 istrative services.

53 S 5. The opening paragraph of subsection (a) of section 2110 of the
54 insurance law, as amended by chapter 687 of the laws of 2003, is amended
55 to read as follows:

1 The superintendent may refuse to renew, revoke, or may suspend for a
2 period the superintendent determines the license of any insurance
3 producer, insurance consultant or PUBLIC OR INDEPENDENT adjuster, if,
4 after notice and hearing, the superintendent determines that the licen-
5 see or any sub-licensee has:

6 S 6. Paragraph 2 of subsection (c) of section 2132 of the insurance
7 law, as amended by chapter 264 of the laws of 1998, is amended to read
8 as follows:

9 (2) During the same calendar year biennial licensing period, a licen-
10 see may use accumulated continuing education credits to meet the
11 requirements of similar classes of licenses, as follows: (A) subsection
12 (a) of section two thousand one hundred three and section two thousand
13 one hundred seven of this article with respect to life insurance
14 consultants; or (B) subsection (b) of section two thousand one hundred
15 three, section two thousand one hundred four, section two thousand one
16 hundred seven of this article with respect to general insurance consult-
17 ants, and section two thousand one hundred eight of this article with
18 respect to public AND INDEPENDENT adjusters.

19 S 7. This act shall take effect on the first of January next succeed-
20 ing the date on which it shall have become a law.