

I Mina'trentai Siette Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
123-37 (COR)	Sabina Flores Perez Therese M. Terlaje Joanne Brown	AN ACT TO ADD A NEW ARTICLE 9, CHAPTER 15, TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING INSURANCE ADJUSTER LICENSING REQUIREMENTS.	5/16/23 2:40 p.m.						

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 123-37 (COR)

Introduced by:

Sabina Flores Perez *SFP*
Therese M. Terlaje *TML*
Joanne Brown *JOB*

**AN ACT TO *ADD* A NEW ARTICLE 9, CHAPTER 15,
TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO
ESTABLISHING INSURANCE ADJUSTER LICENSING
REQUIREMENTS.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** A new Article 9 of Chapter 15 of Title 22 Guam Code Annotated
3 is hereby *added* to read as follows:

4 **“CHAPTER 15**

5 **BUSINESS OF INSURANCE**

6 **Article 1. General Regulations.**

7 **Article 2. Uniform Unauthorized Insurers Act.**

8 **Article 3. Domestic Insurers.**

9 **Article 4. Foreign Insurers.**

10 **Article 5. Alien Insurers.**

11 **Article 6. Uniform Insurers Liquidation Act.**

12 **Article 7. Brokers, General Agents, Sub-Agents and Solicitors.**

13 **Article 8. Surplus Line Broker or Agents.**

14 **Article 9. Insurance Adjuster Licensing.**

1 ARTICLE 9

2 INSURANCE ADJUSTER LICENSING

3 § 15901. Purpose and Scope.

4 § 15902. Definitions.

5 § 15903. License Required.

6 § 15904. Exceptions to License Requirement.

7 § 15905. Application for License

8 § 15906. License.

9 § 15907. Examination.

10 § 15908. Exemptions from Examination.

11 § 15909. Nonresident Licenses Prohibited.

12 § 15910. License Denial, Non-Renewal, or Revocation.

13 § 15911. Continuing Education.

14 § 15912. Standards of Conduct of Adjusters.

15 § 15913. Reporting or Actions.

16 § 15914. Regulations.

17 § 15915. Severability.

18 § 15916. Penalty.

19 § 15901. Purpose and Scope.

20 This Article governs the qualifications and procedures for the licensing of
21 insurance adjusters. It specifies the duties of and restrictions on adjusters.

22 § 15902. Definitions.

23 (a) "Appraiser" means an individual who is able to estimate the monetary
24 value of; determine the worth of; assess.

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

1 (c) “Catastrophe” means an event that results in large numbers of deaths or
2 injuries; causes extensive damage or destruction of facilities that provide and sustain
3 human needs; produces an overwhelming demand on state and local response
4 resources and mechanisms; causes a severe long-term effect on general economic
5 activity; or severely affects state, local and private sector capabilities to begin and
6 sustain response activities. A catastrophe shall be declared by the Governor of the
7 state, district, or territory in which the catastrophe occurred.

8 (d) “Adjuster” means a person who:

9 (1) Investigates, negotiates or settles claims for insurers or for self-
10 insurers.

11 (2) Is an individual, a business entity, an independent contractor, or
12 an employee of a contractor, who contracts for compensation with insurers or
13 self-insurers;

14 (e) “Individual” means a natural person.

15 (f) “Insurer” means the person who undertakes to indemnify another by
16 insurance.

17 (g) “Person” means an individual or business entity.

18 (h) “Uniform Individual Application” means the current version of the
19 National Association of Insurance Commissioners (NAIC) Uniform Individual
20 Application for individuals.

21 (i) “Uniform Business Entity Application” means the current version of
22 the National Association of Insurance Commissioners (NAIC) Uniform Business
23 Entity Application for business entities.

24 **§ 15903. License Required**

1 No person shall make any adjustment under an insurance policy covering any
2 hazards which are insured on Guam, unless he shall hold a license in accordance
3 with this Article, or is exempt from licensure as an adjuster under this Article.

4 **§ 15904. Exceptions to License Requirement**

5 The definition of adjuster shall not be deemed to include, and a license as an
6 adjuster shall not be required of the following:

7 (a) Attorneys-at-law admitted to practice in this state, when acting
8 in their professional capacity as an attorney;

9 (b) A person employed solely to obtain facts surrounding a claim or
10 to furnish technical assistance to a licensed adjuster;

11 (c) An individual who is employed to investigate suspected
12 fraudulent insurance claims but who does not adjust losses or determine
13 claims payments;

14 (d) A person who solely performs executive, administrative,
15 managerial or clerical duties or any combination thereof and who does not
16 investigate, negotiate or settle claims with policyholders, claimants or their
17 legal representative;

18 (e) A licensed health care provider or its employee who provides
19 managed care services so long as the services do not include the
20 determination of compensability;

21 (f) A managed care organization or any of its employees or an
22 employee of any organization providing managed care services so long as the
23 services do not include the determination of compensability;

24 (g) A person who settles only reinsurance or subrogation claims;

1 (h) An officer, director, manager or employee of an authorized
2 insurer, surplus lines insurer, a risk retention group, or an attorney-in-fact of
3 a reciprocal insurer;

4 (i) A U.S. Manager of the United States branch of an alien insurer;

5 (j) A person who investigates, negotiates or settles life, accident and
6 health, annuity or disability insurance claims.

7 (k) Individual employees, under a self-insured arrangement, who
8 adjust claims on behalf of their employer;

9 (l) A licensed insurance producer, attorney-in-fact of a reciprocal
10 insurer or managing general agent of the insurer to whom claim authority has
11 been granted by the insurer;

12 (m) An “appraiser” who is used by an insurer after a “catastrophe” to
13 relieve the emergent heavy burden of claims on the licensed adjusting staff
14 who are used to value the damage of a loss after a catastrophic event.

15 **§ 15905. Application for License**

16 (a) An individual applying for an adjuster license shall make application to
17 the Commissioner of Banking and Insurance on the appropriate National Association
18 of Insurance commissioners (NAIC) Uniform Individual Application in a format
19 prescribed by the Commissioner of Banking and Insurance and declare under penalty
20 of suspension, revocation or refusal of the license that the statements made in the
21 application are true, correct and complete to the best of the individual’s knowledge
22 and belief. Before approving the application, the Commissioner of Banking and
23 Insurance shall find that the individual:

24 (1) Is at least eighteen (18) years of age;

25 (2) Is eligible to designate Guam as his or her residence;

1 (3) Is trustworthy, reliable and of good reputation, evidence of which
2 shall be determined by the Commissioner of Banking and Insurance;

3 (4) Has not committed any act that is a ground for probation,
4 suspension, revocation or refusal of an adjuster's license as set forth in Section
5 15910;

6 (5) Has successfully passed the Guam examination for the line(s) of
7 authority for which the person has applied;

8 (6) Has paid the fees set forth in this Article.

9 (b) A business entity applying for an adjuster license shall make
10 application to the Commissioner of Banking and Insurance on the appropriate
11 National Association of Insurance Commissioners (NAIC) Uniform Business Entity
12 Application in a format prescribed by the Commissioner of Banking and Insurance
13 and declare under penalty of suspension, revocation or refusal of the license that the
14 statements made in the application are true, correct and complete to the best of the
15 business entity's knowledge and belief. Before approving the application, the
16 Commissioner of Banking and Insurance shall find that the business entity:

17 (1) Is eligible to designate Guam as its residence;

18 (2) Has designated a licensed individual adjuster responsible for the
19 business entity's compliance with the insurance laws, rules and regulations of
20 Guam;

21 (3) Has not committed an act that is a ground for probation,
22 suspension, revocation or refusal of an adjuster's license as set forth in Section
23 15910;

24 (4) Has paid the fees set forth in Section 15906.

1 (c) The Commissioner of Banking and Insurance may require any
2 documents reasonably necessary to verify the information contained in the
3 application.

4 **§ 15906. License, Renewal and Fees**

5 (a) Unless denied licensure pursuant to Section 15910 of this Article,
6 persons who have met the requirements of Section 15905 shall be issued an adjuster
7 license. An adjuster may qualify for a license for any lines of authority which are
8 authorized under the laws of Guam.

9 (b) An adjuster license shall remain in effect unless probated, suspended,
10 revoked or refused as long as the request for renewal and fee set forth in this § is paid
11 and all other requirements for license renewal are met by the due date, otherwise the
12 license expires.

13 (c) An adjuster whose license expires may, within twelve (12) months of
14 the renewal date, be reissued an adjuster license upon receipt of the renewal request,
15 as prescribed by the Commissioner of Banking and Insurance. However, a penalty
16 in the amount of fifty (50) percent of the unpaid renewal fee shall be required to
17 reissue the expired license.

18 (d) An adjuster who is unable to comply with license renewal procedures
19 and requirements due to military service, long-term medical disability or some other
20 extenuating circumstance may request a waiver of same and a waiver of any
21 examination requirement, fine or other sanction imposed for failure to comply with
22 renewal procedures.

23 (e) An individual adjuster license and renewal thereof shall be for a term
24 of two (2) years expiring the 1st day of July occurring after issuance.

25 (f) The fee for each type of license and the renewal thereof shall be as
26 follows:

1 (1) Individual Adjuster \$100.00 for each two (2)-year period

2 (g) A business entity's adjuster's license and renewal thereof shall be for a
3 term of two (2) years expiring the 1st day of July occurring after issuance. However,
4 if, for any reason, the individual adjuster's licenses of all employees should lapse
5 during the term of the business entity's adjuster's license, then the business entity's
6 license shall also lapse on the day that its last employee's license lapsed or expired.

7 (h) Business Entity Adjuster \$100.00 for each 2-year period

8 (i) The adjuster shall inform the Commissioner of Banking and Insurance
9 by any means acceptable of any change in residence or business address(es) for
10 Guam or in legal name, within thirty (30) days of the change.

11 (j) The license shall contain the licensee's name, address, personal
12 identification number, the date of issuance and expiration and any other information
13 the Commissioner of Banking and Insurance deems necessary.

14 (k) In order to assist in the performance of the Commissioner of Banking
15 and Insurance's duties, the Commissioner of Banking and Insurance may contract
16 with non-governmental entities, including the appropriate National Association of
17 Insurance Commissioners (NAIC), its affiliates or subsidiaries, to perform any
18 ministerial functions, including the collection of fees and data, related to licensing
19 that the Commissioner of Banking and Insurance may deem appropriate.

20 **§ 15907. Examination**

21 (a) An individual applying for an adjuster license under this Article shall
22 pass a written examination unless exempt pursuant to Section 15908. The
23 examination shall test the knowledge of the individual concerning, the lines of
24 authority for which application is made, the duties and responsibilities of an adjuster
25 and the insurance laws and regulations of Guam. Examinations required by this

1 Section shall be developed and conducted under rules and regulations prescribed by
2 the Commissioner of Banking and Insurance.

3 (b) The Commissioner of Banking and Insurance may make arrangements,
4 including contracting with an outside testing service, for administering examinations
5 and collecting the nonrefundable fee set forth in this Section.

6 (c) Each individual applying for an examination shall remit a non-
7 refundable examination fee as may be established by the Commissioner of Banking
8 and Insurance.

9 (d) An individual who fails to appear for the examination as scheduled or
10 fails to pass the examination shall reapply for an examination and remit all required
11 fees and forms before being rescheduled for another examination.

12 **§ 15908. Exemptions from Examination**

13 (a) An individual who applies for an adjuster license in Guam who is or
14 was licensed in another state for the same line(s) of authority based on an adjuster
15 examination shall not be required to complete any examination. This exemption is
16 only available if the person is currently licensed in another state or if that state license
17 has expired and the application is received by Guam within ninety (90) days of
18 expiration. The applicant must provide certification from the other state that the
19 applicant's license is currently in good standing or was in good standing at the time
20 of expiration or certification from the other state that its Producer Database records,
21 maintained by the appropriate National Association of Insurance Commissioners
22 (NAIC), its affiliates or subsidiaries, indicate that the applicant or their company is
23 or was licensed in good standing. The certification must be of a license with the same
24 line of authority for which the individual has applied.

1 (b) A person licensed as an adjuster in another state based on an adjuster
2 examination who establishes legal residency in Guam shall make application within
3 ninety (90) days to become a resident adjuster licensee pursuant to Section 15905.

4 **§ 15909. Nonresident Licenses Prohibited Adjuster**

5 Adjuster's licenses will not be granted to persons who are not residents of
6 Guam.

7 **§ 15910. License Denial, Non-Renewal, or Revocation**

8 (a) The Commissioner of Banking and Insurance may place on probation,
9 suspend, revoke, or refuse to issue or renew an adjuster's license or may levy a civil
10 penalty in accordance with Guam law or any combination of the above actions for
11 any one or more of the following causes:

12 (1) Providing incorrect, misleading, incomplete or materially untrue
13 information in the license application;

14 (2) Violating any insurance laws, regulations, subpoena or order of
15 the Commissioner of Banking and Insurance or of another state's
16 Commissioner of Banking and Insurance;

17 (3) Obtaining or attempting to obtain a license through
18 misrepresentation or fraud;

19 (4) Improperly withholding, misappropriating, or converting any
20 monies or properties received in the course of doing insurance business;

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

23 (6) Having been convicted of a felony;

24 (7) Having admitted or been found to have committed any insurance
25 unfair trade practice or fraud;

1 (8) Using fraudulent, coercive or dishonest practices, or
2 demonstrating incompetence, untrustworthiness or financial irresponsibility,
3 in the conduct of insurance business in Guam or elsewhere;

4 (9) Having an insurance license, or its equivalent, probated,
5 suspended, revoked or refused in any other state, province, district, or
6 territory;

7 (10) Forging another's name to any document related to an insurance
8 transaction;

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

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

13 (13) Failing to pay territorial or federal tax or comply with any
14 administrative or court order directing payment of tax which remains unpaid.

15 (b) In the event that the action by the Commissioner of Banking and
16 Insurance is to refuse application for licensure or renewal of an existing license, the
17 Commissioner of Banking and Insurance shall notify the applicant or licensee in
18 writing, advising of the reason for the refusal. The applicant or licensee may make
19 written demand upon the Commissioner of Banking and Insurance pursuant to 5
20 GCA Title 9 for a hearing before the Commissioner of Banking and Insurance to
21 determine the reasonableness of the refusal. The hearing shall be held pursuant to
22 the terms of the Guam Administrative Adjudication Law at 5 GCA Title 9.

23 (c) The license of a business entity may be probated, suspended, revoked,
24 or refused if the Commissioner of Banking and Insurance finds, after a hearing, that
25 its designated individual licensee's violation occurred while acting on behalf of or
26 representing the business entity and that the violation was known or should have

1 been known by one or more of the business entity's partners, officers or managers
2 and that the violation was neither reported to the Commissioner of Banking and
3 Insurance nor was corrective action taken.

4 (d) In addition to or in lieu of any applicable probation, suspension,
5 revocation or refusal, a person may, after a hearing, additionally be subject to a civil
6 fine according to law.

7 (e) The Commissioner of Banking and Insurance shall retain the authority
8 to enforce the provisions of and impose any penalty or remedy authorized by this
9 Title against any person who is under investigation for or charged with a violation
10 of this Title even if the person's license or registration has been surrendered or has
11 expired by operation of law.

12 **§ 15911. Continuing Education**

13 (a) Resident persons licensed to adjust losses on any or all of the following
14 classes of insurance such as fidelity and surety, fire, marine, motor vehicle,
15 property damage and liability, workmen's compensation, and miscellaneous lines
16 claims shall complete a total of fourteen (14) credit hours every two (2) years made
17 up of two (2) hours Ethics, six (6) hours of license specific area and six (6) additional
18 approved hours, whether General CE or another license specific area. An individual
19 who holds an adjuster's license for twenty (20) consecutive years shall no longer be
20 required to participate in continuing education programs.

21 (b) This Section shall not apply to licensees not licensed for one (1) full
22 year prior to the end of the applicable continuing education biennium;

23 **§ 15912. Standards of Conduct of Adjusters**

24 (a) An adjuster shall be honest and fair in all communications with the
25 insured, the insurer and the public;

1 (b) An adjuster shall give policyholders and claimants prompt,
2 knowledgeable service and courteous, fair and objective treatment at all times;

3 (c) An adjuster shall not give legal advice, and shall not deal directly with
4 any policyholder or claimant who is represented by legal counsel without the consent
5 of the legal counsel involved;

6 (d) An adjuster shall comply with all local, territorial and federal privacy
7 and information security laws, if applicable;

8 (e) An adjuster shall identify himself as an adjuster and, if applicable,
9 identify his employer when dealing with any policyholder or claimant; and

10 (f) An adjuster shall not have any financial interest in any adjustment or
11 acquire for himself or any person any interest or title in salvage, without first
12 receiving written authority from the principal.

13 **§ 15913. Reporting of Actions**

14 (a) The adjuster shall report to the Commissioner of Banking and Insurance
15 any administrative action taken against the adjuster in another jurisdiction or by
16 another governmental agency in Guam within thirty (30) days of the final disposition
17 of the matter. This report shall include a copy of the order, consent order and any
18 other relevant legal documents.

19 (b) The adjuster shall report to the Commissioner of Banking and Insurance
20 any criminal action taken against the adjuster in this or any jurisdiction within thirty
21 (30) days of the final disposition of the criminal matter. The report shall include a
22 copy of the initial complaint filed, the final order issued by the court, and any other
23 relevant legal documents.

24 **§ 15914. Regulations.**

25 The Commissioner of Banking and Insurance may, in accordance with
26 Administrative Adjudication Law 5 Guam Code Annotated Title 9, promulgate

1 reasonable regulations as are necessary or proper to carry out the purposes of this
2 Title.

3 **§ 15915. Severability.**

4 If any provision of this Act or its application to any person or circumstance is
5 found to be invalid or inorganic, such invalidity shall not affect other provisions or
6 applications of this Act which can be given effect without the invalid provision or
7 application, and to this end the provisions of this Act is severable.

8 **§ 15916. Penalty.**

9 Any person violating any of the provisions of this Article, or any of the
10 regulation issued hereunder, or any lawful order of the Commissioner shall be fined
11 according to fees promulgated in accordance with the Administrative Adjudication
12 Law.”

13 **Section 2. Effective Date.** This Act shall be effective upon enactment.