

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN

2023 (FIRST) Regular Session

VOTING RECORD

NAME	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building November 30, 2023					
	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Chris Barnett	✓					
Senator Frank Blas, Jr.	✓					
Senator Joanne Brown	✓					
Senator Christopher M. Dueñas	✓					
Senator Thomas J. Fisher	✓					
Senator Jesse A. Lujan	✓					
Vice Speaker Tina Rose Muña Barnes	✓					
Senator William A. Parkinson		✓				
Senator Sabina Flores Perez	✓					
Senator Roy A. B. Quinata	✓					
Senator Joe S. San Agustin	✓					
Senator Dwayne T. D. San Nicolas	✓					
Senator Amanda L. Shelton	✓					
Senator Telo T. Taitague	✓					
Speaker Therese M. Terlaje	✓					

TOTAL

14

1

0

0

Aye

Nay

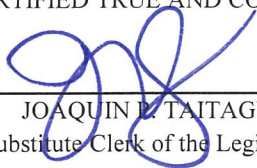
**Not
Voting/
Abstained**

**Out
During
Roll Call**

Absent

Excused

CERTIFIED TRUE AND CORRECT:



JOAQUIN E. TAITAGUE
Substitute Clerk of the Legislature

I = Pass

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

Bill No. 123-37 (COR)

As amended by the Committee on Environment,
Revenue and Taxation, Labor, Procurement,
and Statistics, Research, and Planning; and
substituted on the Floor.

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Introduced by:

Sabina Flores Perez
Therese M. Terlaje
Joanne Brown

**AN ACT TO ADD A NEW ARTICLE 9 TO CHAPTER 15
OF 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 is hereby *added* to Chapter 15 of Title 22, Guam
3 Code Annotated, to read as follows:

4 **“ARTICLE 9**

5 **INSURANCE ADJUSTER LICENSING**

6 § 15901. Purpose and Scope.

7 § 15902. Definitions.

8 § 15903. License Requirement.

9 § 15904. Exceptions to License Requirement.

10 § 15905. License Application.

11 § 15906. License Renewal and Fees.

12 § 15907. Examination.

- 1 § 15908. Exemptions from Examination.
- 2 § 15909. Nonresident Adjuster Licenses Prohibited.
- 3 § 15909.1. Temporary Licensure or Registration for Emergency
- 4 Independent Adjusters.
- 5 § 15910. License Refusal, Non-Renewal, or Revocation.
- 6 § 15911. Continuing Education.
- 7 § 15912. Reporting of Actions.
- 8 § 15913. Regulations.
- 9 § 15914. Severability.
- 10 § 15915. Penalty.

11 **§ 15901. Purpose and Scope.**

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

14 **§ 15902. Definitions.**

15 (a) *Adjuster* means an individual, a business entity, an independent
16 contractor, or an employee of a contractor, who contracts for compensation
17 with insurers or self-insurers, and who investigates, negotiates, or settles
18 claims for insurers or for self-insurers.

19 (b) *Appraiser* means an individual who is able to estimate the
20 monetary value of, determine the worth of, or assess.

21 (c) *Business entity* means a corporation, association, partnership,
22 limited liability company, limited liability partnership, or other legal entity.

23 (d) *Catastrophe* means an event that results in large numbers of
24 deaths or injuries; causes extensive damage or destruction of facilities that
25 provide and sustain human needs; produces an overwhelming demand on state
26 and local response resources and mechanisms; causes a severe long-term
27 effect on general economic activity; or severely affects the local government

1 and private sector capabilities to begin and sustain response activities. A
2 catastrophe shall be declared by the Governor of Guam.

3 (e) *Claim authority* means the authority to make decisions and
4 determinations related to claims, but shall specifically exclude any
5 responsibilities related to the adjustment of claims.

6 (f) *Individual* means a natural person.

7 (g) *Insurer* means the person who undertakes to indemnify another
8 by insurance.

9 (h) *Person* means an individual or business entity.

10 (i) *Uniform Individual Application* means the current version of the
11 National Association of Insurance Commissioners (NAIC) Uniform
12 Individual Application for individuals.

13 (j) *Uniform Business Entity Application* means the current version
14 of the National Association of Insurance Commissioners (NAIC) Uniform
15 Business Entity Application for business entities.

16 **§ 15903. License Requirement.**

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

21 **§ 15904. Exceptions to License Requirement.**

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

24 (a) attorneys-at-law admitted to practice on Guam, when
25 acting in their professional capacity as an attorney;

26 (b) a person employed solely to obtain facts surrounding a
27 claim or to furnish technical assistance to a licensed adjuster;

1 (c) an individual who is employed to investigate suspected
2 fraudulent insurance claims but who does not adjust losses or determine
3 claims payments;

4 (d) a person who solely performs executive, administrative,
5 managerial or clerical duties, or any combination thereof, and who does
6 not investigate, negotiate or settle claims with policyholders, claimants
7 or their legal representative;

8 (e) a licensed health care provider or any of its employees
9 who provides managed care services so long as the services do not
10 include the determination of compensability;

11 (f) a managed care organization or any of its employees or an
12 employee of any organization providing managed care services so long
13 as the services do not include the determination of compensability;

14 (g) a person who settles only reinsurance or subrogation
15 claims;

16 (h) an officer, director, manager, or employee of an authorized
17 insurer, surplus lines insurer, a risk retention group, or an attorney-in-
18 fact of a reciprocal insurer;

19 (i) a U.S. Manager of the United States branch of an alien
20 insurer;

21 (j) an employee who coordinates with a licensed adjusting
22 firm acting as a Third-Party Administrator (TPA) for a self-insured
23 arrangement, and who does not engage in the direct adjustment of
24 claims;

25 (k) a licensed insurance producer, attorney-in-fact of a
26 reciprocal insurer, or a managing general agent of the insurer to whom
27 claim authority has been granted by the insurer; or

1 (1) an “appraiser” who is employed by an insurer specifically
2 for the purpose of valuing damage resulting from claims related to a
3 declared “catastrophe” to alleviate the immediate and substantial
4 workload placed on the licensed adjusting staff due to the effects of a
5 catastrophe.

6 **§ 15905. License Application.**

7 (a) An individual applying for an adjuster license shall submit an
8 application to the Commissioner of Banking and Insurance on the appropriate
9 National Association of Insurance Commissioners (NAIC) Uniform
10 Individual Application, or other application prescribed by the Commissioner
11 of Banking and Insurance, and declare under penalty of suspension,
12 revocation, or refusal of the license that the statements made in the application
13 are true, correct, and complete to the best of the individual’s knowledge and
14 belief. Before approving the application, the Commissioner of Banking and
15 Insurance shall find that the individual:

- 16 (1) is at least eighteen (18) years of age;
- 17 (2) is a resident of Guam;
- 18 (3) has not committed any act that is a ground for
19 probation, suspension, revocation, or refusal of an adjuster’s
20 license as set forth in § 15910 of this Article;
- 21 (5) has successfully passed the Guam examination for
22 the line(s) of authority for which the person has applied; and
- 23 (6) has paid the fees set forth in this Article.

24 (b) A business entity applying for an adjuster license shall make
25 application to the Commissioner of Banking and Insurance on the appropriate
26 National Association of Insurance Commissioners (NAIC) Uniform Business
27 Entity Application, or other application prescribed by the Commissioner of

1 Banking and Insurance, and declare under penalty of suspension, revocation,
2 or refusal of the license that the statements made in the application are true,
3 correct, and complete to the best of the business entity's knowledge and belief.
4 Before approving the application, the Commissioner of Banking and
5 Insurance shall find that the business entity:

6 (1) is a resident of Guam;

7 (2) has designated a licensed individual adjuster
8 responsible for the business entity's compliance with the
9 insurance laws, rules, and regulations of Guam;

10 (3) has not committed an act that is a ground for
11 probation, suspension, revocation, or refusal of an adjuster's
12 license as set forth in § 15910 of this Article; and

13 (4) has paid the fees set forth in this Article.

14 (c) The Commissioner of Banking and Insurance may require any
15 documents reasonably necessary to verify the information contained in the
16 application.

17 **§ 15906. License Renewal and Fees.**

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

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

1 (d) An individual adjuster shall not simultaneously have an
2 insurance producer license to avoid conflict in carrying out his/her duties as
3 such.

4 (e) An adjuster who is unable to comply with license renewal
5 procedures and requirements due to long-term medical disability or some
6 other extenuating circumstance may request a waiver of the same and a waiver
7 of any examination requirement, fine, or other sanction imposed for failure to
8 comply with renewal procedures.

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

11 (1) Individual Adjuster - One Hundred Dollars (\$100.00) for
12 each two (2)-year period.

13 (2) Business Entity Adjuster - One Hundred Dollars
14 (\$100.00) for each two (2)-year period.

15 (g) An individual adjuster license and renewal thereof shall be for a
16 term of two (2) years expiring the first (1st) day of July occurring after
17 issuance.

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

24 (i) The adjuster shall inform the Commissioner of Banking and
25 Insurance of any change in residence or business address(es) for Guam or in
26 legal name within thirty (30) days of the change.

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

4 **§ 15907. Examination.**

5 (a) An individual applying for an adjuster license shall pass a pre-
6 licensing test and present a certificate of completion of thirty (30) credit hours
7 of pre-licensing adjuster courses to the proctor prior to taking licensing
8 examination.

9 (b) An individual applying for an adjuster license under this Article
10 shall pass a written examination unless exempt pursuant to § 15908 of this
11 Article. The examination shall test the knowledge of the individual concerning
12 the lines of authority for which application is made, the duties and
13 responsibilities of an adjuster, and the insurance laws and regulations of
14 Guam. Examinations required by this Section shall be developed and
15 conducted under rules and regulations prescribed by the Commissioner of
16 Banking and Insurance.

17 (c) The Commissioner of Banking and Insurance is authorized to
18 procure testing services for the purposes of administering examinations.

19 (d) Each individual applying for an examination shall remit a non-
20 refundable examination fee as may be established by the Commissioner of
21 Banking and Insurance.

22 (e) An individual who fails to appear for the examination as
23 scheduled or fails to pass the examination shall reapply for an examination
24 and remit all required fees and forms before being rescheduled for another
25 examination.

26 **§ 15908. Exemptions from Examination.**

1 (a) An individual who applies for an adjuster license in Guam who
2 is licensed in another state for the same line(s) of authority and who plans to
3 reside in Guam is exempt from taking the general section of Adjuster’s exam
4 but is not exempt from taking the Guam specific exam pertaining to the Guam
5 Adjuster’s Law. This exemption is applicable only if the person is currently
6 licensed in another state or if that state license has expired and the application
7 is received by Guam within ninety (90) days of expiration. The applicant must
8 provide certification from the other state that the applicant’s license is
9 currently in good standing at the time of expiration or certification from the
10 other state that its Producer Database records, maintained by the appropriate
11 National Association of Insurance Commissioners (NAIC), its affiliates or
12 subsidiaries, and indicate that the applicant or their company is licensed in
13 good standing. The certification must be of a license with the same line of
14 authority for which the individual has applied.

15 (b) A person licensed as an adjuster in another state based on an
16 adjuster examination who establishes legal residency in Guam shall make
17 application within ninety (90) days to become a resident adjuster licensee
18 pursuant to § 15905 of this Article.

19 **§ 15909. Nonresident Adjuster Licenses Prohibited.**

20 Adjuster’s licenses will not be granted to persons who are not residents
21 of Guam, except as provided in § 15909.1 of this Article.

22 **§ 15909.1. Temporary Licensure or Registration for Emergency**
23 **Independent Adjusters.**

24 (a) In the event of an emergency situation as declared by the
25 Governor of Guam, claims arising out of the emergency or catastrophe may
26 be adjusted by a licensed non-resident adjuster upon application with the
27 Commissioner, if all of the following requirements are met:

1 (1) The work performed by the licensed non-resident adjuster
2 is under the active direction, control, charge, or management of a
3 licensed adjuster or an insurer authorized to do business in Guam.

4 (2) The licensee or insurer registers the licensed non-resident
5 adjuster with the Commissioner no later than fifteen (15) calendar days
6 from the date on which the licensed non-resident adjuster began claims
7 adjusting activity in Guam.

8 (b) “Registration” or “register,” within this Section, shall mean
9 securing a temporary adjuster license filing with the Commissioner in a format
10 specified by the Commissioner, submitted by the supervising licensed adjuster
11 or insurer, naming the licensed non-resident adjuster(s) and submitting a copy
12 of their adjuster licenses held in other jurisdictions.

13 (c) Temporary adjuster license for claims adjusting activities arising
14 out of an emergency or catastrophe is valid for a period of one hundred twenty
15 (120) days from the date of the temporary license approval. Before the
16 expiration of the temporary license, it can be extended for ninety (90) days by
17 submitting another application with the fee and an explanation as to why an
18 extension is being sought signed by the authority in charge and an estimate
19 time of completion of the project.

20 (d) A temporary license is not valid unless a current registration is
21 on file with the Commissioner.

22 **§ 15910. License Refusal, Non-Renewal, or Revocation.**

23 (a) The Commissioner of Banking and Insurance may place on
24 probation, suspend, revoke, or refuse to issue or renew an adjuster’s license
25 or may levy a civil penalty in accordance with Guam law, or any combination
26 of the above actions, for any one (1) or more of the following causes:

1 (1) providing incorrect, misleading, incomplete or materially
2 untrue information in the license application;

3 (2) violating any insurance laws, regulations, subpoena or
4 order of the Commissioner of Banking and Insurance or of another
5 state's Commissioner of Banking and Insurance;

6 (3) obtaining or attempting to obtain a license through
7 misrepresentation or fraud;

8 (4) improperly withholding, misappropriating, or converting
9 any monies or properties received in the course of doing insurance
10 business;

11 (5) intentionally misrepresenting the terms of an actual or
12 proposed insurance contract or application for insurance;

13 (6) having been convicted of a felony;

14 (7) having admitted or been found to have committed any
15 insurance unfair trade practice or fraud;

16 (8) using fraudulent, coercive, or dishonest practices, or
17 demonstrating incompetence, untrustworthiness, or financial
18 irresponsibility, in the conduct of insurance business in Guam or
19 elsewhere;

20 (9) having an insurance license, or its equivalent, probated,
21 suspended, revoked, or refused in any other state, province, district, or
22 territory;

23 (10) forging another person's name to any document related to
24 an insurance transaction; or

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

1 (b) In the event the Commissioner of Banking and Insurance refuses
2 the application for licensure or renewal of an existing license, the
3 Commissioner of Banking and Insurance shall notify the applicant or licensee
4 in writing, advising of the reason for the refusal. The applicant or licensee
5 may make written demand upon the Commissioner of Banking and Insurance
6 pursuant to Chapter 9, Title 5, Guam Code Annotated, for a hearing before
7 the Commissioner of Banking and Insurance to determine the reasonableness
8 of the refusal. The hearing shall be held pursuant to the terms of the
9 Administrative Adjudication Law found in Chapter 9, Title 5, Guam Code
10 Annotated.

11 (c) The license of a business entity may be probated, suspended,
12 revoked, or refused if the Commissioner of Banking and Insurance finds, after
13 a hearing, that its designated individual licensee's violation occurred while
14 acting on behalf of or representing the business entity and that the violation
15 was known or should have been known by one or more of the business entity's
16 partners, officers, or managers, and that the violation was neither reported to
17 the Commissioner of Banking and Insurance nor was corrective action taken.

18 (d) In addition to or in lieu of any applicable probation, suspension,
19 revocation, or refusal, a person may, after a hearing, additionally be subject to
20 a civil fine pursuant to § 15915 of this Article.

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

26 **§ 15911. Continuing Education.**

1 (a) Resident persons licensed to adjust losses on any or all of the
2 following classes of insurance, such as fidelity and surety, fire, marine,
3 motor vehicle, property damage and liability, workmen's compensation, and
4 miscellaneous lines claims shall complete a total of fourteen (14) credit hours
5 every two (2) years made up of two (2) hours of ethics, six (6) hours of license
6 specific area, and six (6) additional approved hours, whether General CE or
7 another license specific area. An individual who holds an adjuster's license
8 for twenty-five (25) consecutive years shall not be required to participate in
9 continuing education programs.

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

12 **§ 15912. Reporting of Actions.**

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

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

23 **§ 15913. Regulations.**

24 The Commissioner of Banking and Insurance may, in accordance with
25 the Administrative Adjudication Law found in Chapter 9, Title 5 Guam Code
26 Annotated, promulgate regulations to carry out the purposes of this Article.

27 **§ 15914. Severability.**

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

6 **§ 15915. Penalty.**

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

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