

116TH CONGRESS  
1ST SESSION

# H. R. 4037

To promote uniformity and reciprocity among States that license insurance claims adjusters and to facilitate prompt and efficient adjusting of insurance claims, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2019

Mr. KUSTOFF of Tennessee (for himself and Mr. FOSTER) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To promote uniformity and reciprocity among States that license insurance claims adjusters and to facilitate prompt and efficient adjusting of insurance claims, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Claims Licensing Ad-  
5 vancement for Interstate Matters Act” or the “CLAIM  
6 Act”.

1 **SEC. 2. STATE FLEXIBILITY IN MULTISTATE ADJUSTER LI-**  
2 **CENSING REFORMS.**

3 (a) IN GENERAL.—Section 4, or in the case of crop  
4 adjusting section 6, shall take effect upon the expiration  
5 of the 4-year period beginning on the date of the enact-  
6 ment of this Act unless, before the expiration of such pe-  
7 riod, those States that license independent claims adjust-  
8 ers have enacted—

9 (1) uniform laws and regulations governing the  
10 licensure of individuals and entities authorized to  
11 adjust insurance claims within the State; and

12 (2) reciprocity laws and regulations governing  
13 the licensure of nonresident individuals and entities  
14 authorized to adjust insurance claims within those  
15 States.

16 (b) UNIFORMITY REQUIRED.—States shall be deemed  
17 to have established the uniformity necessary to comply  
18 with subsection (a)(1) if the States—

19 (1) establish uniform criteria regarding the in-  
20 tegrity, personal qualifications, education, training,  
21 and experience of licensed independent claims ad-  
22 justers for—

23 (A) property and casualty insurance;

24 (B) workers compensation insurance;

25 (C) crop insurance (to the extent that a  
26 State licenses crop insurance adjusters; and

1 (D) such other lines as a State may choose  
2 to regulate;

3 (2) establish uniform continuing education re-  
4 quirements for licensed independent claims adjusters  
5 for each line of insurance under paragraph (1) that  
6 a State chooses to regulate;

7 (3) establish uniform ethics course require-  
8 ments for licensed independent claims adjusters in  
9 conjunction with the continuing education require-  
10 ments under paragraph (2);

11 (4) do not impose any requirement upon any  
12 independent claims adjuster to be licensed or other-  
13 wise qualified to do business as a nonresident that  
14 has the effect of limiting or conditioning that inde-  
15 pendent claims adjuster's activities because of its  
16 residence or place of operations; and

17 (5) utilize a uniform license application.

18 (c) RECIPROCITY REQUIRED.—States shall be  
19 deemed to have established the reciprocity required to  
20 comply with subsection (a)(2) if the following conditions  
21 are met:

22 (1) ADMINISTRATIVE LICENSING PROCE-  
23 DURES.—Each State that licenses independent  
24 claims adjusters permits an independent claims ad-  
25 juster that has a license for adjusting insurance

1 claims in their home State to receive a license to ad-  
2 just insurance claims in those other States as a non-  
3 resident to the same extent that such independent  
4 claims adjuster is permitted to adjust insurance  
5 claims in their home State without satisfying any  
6 additional requirements other than submitting—

7 (A) a request for licensure utilizing the  
8 uniform license application;

9 (B) a copy of, or evidence of, a valid li-  
10 cense held by the adjuster in their home State  
11 (unless such information is available in the Na-  
12 tional Insurance Producer Registry Producer  
13 Database); and

14 (C) the payment of any requisite fee to the  
15 appropriate authority.

16 (2) CONTINUING EDUCATION REQUIRE-  
17 MENTS.—Each State that licenses an independent  
18 claims adjuster accepts an insurance claims adjust-  
19 er’s satisfaction of their home State’s continuing  
20 education requirements for licensed insurance claims  
21 adjusters to satisfy the State’s own continuing edu-  
22 cation requirements.

23 (3) NO LIMITING NONRESIDENT REQUIRE-  
24 MENTS.—A State does not impose any requirement  
25 upon any independent claims adjuster to be licensed

1 or otherwise qualified to do business as a non-  
2 resident that has the effect of limiting or condi-  
3 tioning that independent claims adjuster's activities  
4 because of its residence or place of operations.

5 (4) RECIPROCAL RECIPROCITY.—Each of the  
6 States that satisfies paragraphs (1), (2), and (3)  
7 grants reciprocity to residents of all of the other  
8 States that satisfy such paragraphs.

9 (d) COMPLIANCE.—

10 (1) DETERMINATION.—A State shall be consid-  
11 ered to be in compliance with subsection (a) for pur-  
12 poses of this Act if the State, before the expiration  
13 of the 4-year period beginning on the date of the en-  
14 actment of this Act, publishes a finding that it is in  
15 compliance with the provision. Any such publication  
16 shall be made following notice by the State of its in-  
17 tention to publish the finding, and the State's ac-  
18 ceptance of comments on the proposed finding. After  
19 notice required by this paragraph, a State agency  
20 shall give interested persons an opportunity to par-  
21 ticipate through submission of written data, views,  
22 or arguments. After consideration of the relevant  
23 matter presented, the agency shall incorporate in the  
24 finding adopted a concise general statement of the

1 basis and purpose and shall respond to the com-  
2 ments it received in detail.

3 (2) JUDICIAL REVIEW.—The appropriate  
4 United States District Court shall have exclusive ju-  
5 risdiction over any challenge arising under this sec-  
6 tion. The court shall apply the standards set forth  
7 in section 706 of title 5, United States Code, in re-  
8 viewing any such challenge.

9 **SEC. 3. STATE AUTHORITIES.**

10 Nothing in this Act shall be construed to—

11 (1) require a State that does not have licensing  
12 requirements for independent claims adjusters to  
13 adopt any such requirements;

14 (2) subject to section 2, limit the right of a  
15 State to establish licensing fees or enforce its laws  
16 regarding the adjusting of insurance claims, pro-  
17 vided that such State fee is uniform regardless of  
18 the State of residence of the licensee in that State;  
19 or

20 (3) affect the jurisdiction and authority of a  
21 State insurance regulator to prescribe and enforce  
22 its insurance laws, rules, and regulations regulating  
23 independent claims adjuster activity in its jurisdic-  
24 tion.

1 **SEC. 4. AUTHORITY FOR INTERSTATE CLAIMS ADJUSTING.**

2       In the case of any State that requires and issues li-  
3 censes for independent claims adjusters (other than crop  
4 adjusters) but is not in compliance with section 2, after  
5 the expiration of the 4-year period beginning on the date  
6 of the enactment of this Act, an independent claims ad-  
7 juster may apply to the National Association of Registered  
8 Agents and Brokers for Membership for the purpose of  
9 licensure in each such State not in compliance with section  
10 2, provided that such independent claims adjuster pays the  
11 requisite fees, including licensing fees. For purposes of  
12 this provision, upon such date an independent claims ad-  
13 juster shall be determined to be a person that negotiates  
14 policies of insurance and offers advice, counsel, opinions  
15 or services related to insurance, as such terms are used  
16 in section 334(5) of Public Law 106–102, as amended by  
17 section 202(a) of Public Law 114–1 (15 U.S.C. 6764(5);  
18 129 Stat. 27).

19 **SEC. 5. WAIVER OF LICENSE RENEWAL IN CERTAIN CIR-**  
20 **CUMSTANCES.**

21       If a natural person, while licensed or applying to be  
22 licensed to adjust claims pursuant to any State statute  
23 enters the military service of the United States and is in  
24 that service at a time prescribed for the filing of a renewal  
25 application or payment of a licensing fee, the filing of that  
26 application and the payment of the fee shall be waived,

1 and the license held by that licensee at the time of his  
2 or her entry into military service shall remain in force dur-  
3 ing the period of that military service and until the end  
4 of the license year in which he or she is released from  
5 that service, but not for less than six months after that  
6 release. During that period, that person may secure a li-  
7 cense of the type held by him or her on his or her entry  
8 into military service upon the filing of an application and  
9 paying the fee therefor without the necessity of taking an  
10 examination or paying a penalty.

11 **SEC. 6. CROP ADJUSTING.**

12 In the case of any State that requires and issues li-  
13 censes for independent crop insurance adjusters but is not  
14 in compliance with section 2, after the expiration of the  
15 4-year period beginning on the date of the enactment of  
16 this Act, an independent claims adjuster may adjust  
17 claims in such State for crop insurance provided that the  
18 crop adjuster has met the certification requirements of the  
19 Federal Crop Insurance Corporation in his or her home  
20 State or designated home State, as established by the Fed-  
21 eral Crop Insurance Act (7 U.S.C. 1501 et seq.) and pro-  
22 vided that such crop adjuster pays the requisite fees, in-  
23 cluding State licensing fee.

1 **SEC. 7. DEFINITIONS.**

2 For purposes of this Act, the following definitions  
3 shall apply:

4 (1) HOME STATE.—

5 (A) ACTUAL.—The term “home State”  
6 means, with respect to an independent claims  
7 adjuster, the State in which the adjuster main-  
8 tains his, her, or its principal place of residence  
9 or business and is licensed upon having passed  
10 an exam as an independent claims adjuster.

11 (B) DESIGNATED.—If the State in which  
12 an independent claims adjuster maintains his or  
13 her principal place of residence or business does  
14 not issue an independent claims adjuster license  
15 or require an examination as a condition for  
16 such licensure for the line or lines of authority  
17 sought, such term means any other State in  
18 which the independent claims adjuster is so li-  
19 censed upon having passed an exam and that is  
20 designated by such adjuster as his or her home  
21 State.

22 (2) INDEPENDENT CLAIMS ADJUSTER.—The  
23 term “independent claims adjuster” means an indi-  
24 vidual, other than a public adjuster, who undertakes  
25 on behalf of insurers or self-insurers to investigate,  
26 evaluate, and negotiate the resolution of the amount

1 of a property, casualty, liability, disability, or work-  
2 ers' compensation claim, loss, or damage on behalf  
3 of an insurance policy or insurer or as a third party  
4 on behalf of a self-insurer. Such term includes com-  
5 pany or staff adjusters, who are individuals, other  
6 than a public adjuster, employed by property cas-  
7 ualty insurers and undertake to investigate, evalu-  
8 ate, and negotiate the resolution of a property, cas-  
9 ualty, liability, disability, crop loss, or workers' com-  
10 pensation claim, loss, or damage on behalf of an in-  
11 surance policy or insurer or as a third party on be-  
12 half of a self-insurer.

13 (3) PUBLIC ADJUSTER.—The term “public ad-  
14 juster” means any person who, for compensation or  
15 any other thing of value, on behalf of the insured  
16 acts, aids, advertises, or solicits business to ascer-  
17 tain, determine, negotiate, or settle the amount of a  
18 claim, loss, or damage, solely in relation to first  
19 party claims arising under contracts that insure the  
20 real or personal property of the insured.

21 (4) STATE.—The term “State” means the  
22 States of the United States, the District of Colum-  
23 bia, the Commonwealth of Puerto Rico, the Com-  
24 monwealth of the Northern Mariana Islands, Guam,

1 the Virgin Islands, American Samoa, and any other  
2 territory or possession of the United States.

3 (5) STATE LAW.—The term “State law” in-  
4 cludes all laws, decisions, rules, regulations, or other  
5 State action of any State having the effect of law;  
6 and a law of the United States applicable only to the  
7 District of Columbia shall be treated as a State law  
8 rather than as a law of the United States.

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