CHAPTER 47

Insurance Adjusters

**SECTION 38‑47‑10.** Licenses required for adjusters; exemptions; automated claims adjudication system; denied claims.

 (A) An individual commonly called an adjuster, adjusting losses for an insurer licensed to do business in this State, must be licensed by the director or his designee. These individuals shall apply for a license on a form prescribed by the director or his designee. The director or his designee shall satisfy himself that each applicant for an adjuster’s license is an individual of good moral character, has sufficient knowledge of the insurance business and his duties as an adjuster, has not violated the insurance laws of the State, and is a fit and proper individual for the position. No license may be issued to a nonresident adjuster who resides in a state refusing to license South Carolina adjusters.

 (B) The following individuals are exempt from licensure as an adjuster:

 (1) A producer licensed under Chapter 43 is not required to comply with this section.

 (2) An individual who, for portable electronics insurance, collects claim information from, or furnishes claim information to, insureds or claimants and who conducts data entry, including entering data into an automated claims adjudication system, provided that no more than twenty‑five such persons are under the supervision of a licensed adjuster or a licensed producer who is otherwise exempt from licensure pursuant to item (1).

 (C) For purposes of this section, “automated claims adjudication system” means a preprogrammed computer system designed for the collection, data entry, calculation, and final resolution of portable electronics insurance claims that:

 (1) only may be used by a licensed adjuster, licensed producer, or supervised individuals operating pursuant to this paragraph;

 (2) must comply with all claims payment requirements of the insurance code; and

 (3) must be certified as compliant with this section by a licensed independent adjuster who is an officer of the entity or an affiliate of the entity that employs an individual operating pursuant to this section.

 (D) If the insured’s claim is denied and the insured contests the denial, an individual licensed under this section must review the denial with the insured.

HISTORY: Former 1976 Code Section 38‑47‑10 [1947 (45) 322; 1952 Code Section 37‑201; 1962 Code Section 37‑201] recodified as Section 38‑45‑10 by 1987 Act No. 155, Section 1; Former 1976 Code Section 38‑49‑10 [1947 (45) 322; 1952 Code Section 37‑221; 1962 Code Section 37‑221] recodified as Section 38‑47‑10 by 1987 Act No. 155, Section 1; 1993 Act No. 181, Section 681; 2012 Act No. 281, Section 1, eff June 26, 2012.

CROSS REFERENCES

Adjuster, public adjuster, appraiser, broker, bondsmen, runner, producer and agency licenses, see S.C. Code of Regulations R. 69‑23.

Library References

Insurance 3223.

Westlaw Topic No. 217.

Attorney General’s Opinions

A public adjustor is not subject to jurisdiction of the Department of Insurance. 1976‑77 Op.Atty.Gen., No 77‑178, p 138, 1977 WL 24520.

Public adjusters, not licensed as attorneys, engage in the unauthorized practice of law in their activities which go beyond the mere appraisal of the actual losses or damages an insured has sustained. An activity which is found to constitute the unauthorized practice of law cannot constitutionally be sanctioned by the General Assembly without infringing on the judicial branch of the State government. 1976‑77 Op.Atty.Gen., No 77‑384, p 308, 1977 WL 24721.

**SECTION 38‑47‑15.** Applicant’s business and residence address required; notice of change of address required.

 When an individual applies for an adjuster’s license he shall supply the department his business, email, and residential addresses. The adjuster shall notify the department within thirty days of any change in these addresses.

HISTORY: 1988 Act No. 327, Section 3; 1993 Act No. 181, Section 681; 2016 Act No. 194 (H.4817), Section 5, eff May 26, 2016.

Effect of Amendment

2016 Act No. 194, Section 5, inserted “, email,” and substituted “residential addresses” for “residence address”.

**SECTION 38‑47‑20.** Reciprocal agreements as to licensing nonresidents.

 The director or his designee may enter into reciprocal agreements with the insurance commissioners of other states in regard to licensing of nonresident adjusters if in his judgment such arrangements or agreements are in the best interest of the state and if the applicant for an adjuster’s license meets the minimum statutory requirements of this State for the issuance of a license. However, the director or his designee may not enter into or continue any reciprocal agreement unless the other state is just as liberal as this State in licensing nonresident adjusters.

HISTORY: Former 1976 Code Section 38‑47‑20 [1947 (45) 322; 1952 Code Section 37‑202; 1962 Code Section 37‑202] recodified as Section 38‑45‑20 by 1987 Act No. 155, Section 1; Former 1976 Code Section 38‑49‑20 [1957 (50) 534; 1962 Code Section 37‑221.1] recodified as Section 38‑47‑20 by 1987 Act No. 155, Section 1; 1993 Act No. 181, Section 681.

Library References

Insurance 3224.

Westlaw Topic No. 217.

Attorney General’s Opinions

A public adjustor is not subject to jurisdiction of the Department of Insurance. 1976‑77 Op.Atty.Gen., No 77‑178, p 138, 1977 WL 24520.

**SECTION 38‑47‑30.** Fee for adjuster’s license.

 The fee for an adjuster’s license is eighty dollars payable in advance and fully earned when received, not refundable, transferable, nor proratable. However, when the laws of another state of the United States require South Carolina adjusters to pay a license fee greater than the fee required in this State of nonresident adjusters, the nonresident adjuster shall pay an amount equal to the amount of charges imposed by the laws of his state upon adjusters of this State.

HISTORY: Former 1976 Code Section 38‑47‑30 [1947 (45) 322; 1952 Code Section 37‑203; 1960 (51) 1646; 1962 Code Section 37‑203; 1969 (56) 240; 1970 (56) 2497; 1981 Act No. 11, Section 1; 1981 Act No. 44, Section 1] recodified as Sections 38‑45‑20 and 38‑45‑30 by 1987 Act No. 155, Section 1; Former 1976 Code Section 38‑49‑30 [1947 (45) 322; 1952 Code Section 37‑222; 1962 Code Section 37‑222; 1981 Act No. 44 Section 2] recodified as Section 38‑47‑30 by 1987 Act No. 155, Section 1; 1992 Act No. 501, Part II Section 11M; 1993 Act No. 181, Section 681.

Library References

Insurance 3225.

Westlaw Topic No. 217.

Attorney General’s Opinions

A public adjustor is not subject to jurisdiction of the Department of Insurance. 1976‑77 Op.Atty.Gen., No 77‑178, p 138, 1977 WL 24520.

**SECTION 38‑47‑40.** Duration of license; nonpayment of fee; requirements for reinstatement.

 An adjuster’s license is for an indefinite term unless sooner revoked or suspended if the biennial license fee is paid at the time and in the manner which the department provides by regulation. If the license fee for an adjuster is not received when due, the license must be canceled. If the license is to be reinstated, an original application must be filed and a reinstatement fee equal to the biennial license fee unpaid must be paid in addition to the regular biennial license fee.

HISTORY: Former 1976 Code Section 38‑47‑40 [1947 (45) 322; 1952 Code Section 37‑203.1; 1962 Code Section 37‑203.1] recodified as Section 38‑45‑30 by 1987 Act No. 155, Section 1; Former 1976 Code Sections 38‑1‑60 [1979 Act No. 63] and 38‑49‑30 [1947 (45) 322; 1952 Code Section 37‑222; 1962 Code Section 37‑222] recodified as Section 38‑47‑40 by 1987 Act No. 155, Section 1; 1992 Act No. 501, Part II Section 11N. 181, Section 681.

CROSS REFERENCES

Department of Insurance regulations, see S.C. Code of Regulations R. 69‑1 et seq.

Library References

Insurance 3223.

Westlaw Topic No. 217.

Attorney General’s Opinions

A public adjustor is not subject to jurisdiction of the Department of Insurance. 1976‑77 Op.Atty.Gen., No 77‑178, p 138, 1977 WL 24520.

**SECTION 38‑47‑50.** Adjusters represent the companies.

 Adjusters are declared to be acting as the agents for the company or companies represented by them in the adjustment of any loss.

HISTORY: Former 1976 Code Section 38‑47‑50 [1957 (50) 534; 1962 Code Section 37‑203.2] recodified as Section 38‑45‑40 by 1987 Act No. 155, Section 1; Former 1976 Code Section 38‑49‑50 [1947 (45) 322; 1952 Code Section 37‑224; 1962 Code Section 37‑225] recodified as Section 38‑47‑50 by 1987 Act No. 155, Section 1; 1993 Act No. 181, Section 681.

Library References

Insurance 3222.

Westlaw Topic No. 217.

C.J.S. Insurance Sections 1874 to 1875.

NOTES OF DECISIONS

Admissibility of evidence 1

1. Admissibility of evidence

Where defendant elicited from witness who investigated accident that he was adjuster for insurance companies and self‑insureds, was investigating accident, and was working for defendant, trial judge erred in limiting cross‑examination by excluding plaintiff’s attempt to establish bias or prejudice on part of witness by showing he was also working for defendant’s liability insurance carrier (decided under former Section 38‑49‑50). Central of Georgia Ry. v. Walker Truck Contractors (S.C. 1978) 270 S.C. 533, 243 S.E.2d 923. Evidence 560

**SECTION 38‑47‑60.** Adjuster acting for unauthorized insurer.

 It is unlawful for a person to:

 (1) act as adjuster on a contract made other than as authorized by the laws of this State or made by an insurer who is not regularly licensed to do business in this State; or

 (2) adjust or aid in the adjustment, either directly or indirectly, of a claim arising under a contract of insurance not authorized by the laws of this State.

 A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than two years, or both.

HISTORY: Former 1976 Code Section 38‑47‑60 [1947 (45) 322; 1952 Code Section 37‑206; 1962 Code Section 37‑206] has no comparable provisions in 1987 Act No. 155; Former 1976 Code Section 38‑49‑60 [1947 (45) 322; 1952 Code Section 37‑226; 1962 Code Section 37‑226] recodified as Section 38‑47‑60 by 1987 Act No. 155, Section 1; 1988 Act No. 374, Section 21; 1993 Act No. 184, Section 216; 1993 Act No. 181, Section 681.

CROSS REFERENCES

Penalties for violations of the insurance laws of this state, see Section 38‑2‑10 et seq.

Library References

Insurance 3640.

Westlaw Topic No. 217.

C.J.S. Insurance Section 148.

Attorney General’s Opinions

A public adjustor is not subject to jurisdiction of the Department of Insurance. 1976‑77 Op.Atty.Gen., No 77‑178, p 138, 1977 WL 24520.

**SECTION 38‑47‑70.** Indication of violation of title by adjuster warrants imposition of listed penalties; notice.

 When the director or his designee determines after investigation that there has been a violation of this title by an adjuster, upon ten days’ notice, he may impose the penalties provided in Section 38‑2‑10.

HISTORY: Former 1976 Code Section 38‑47‑70 [1947 (45) 322; 1952 Code Section 37‑207; 1962 Code Section 37‑207; 1978 Act No. 585 Section 2; 1981 Act No. 11, Section 2] recodified as Section 38‑45‑60 by 1987 Act No. 155, Section 1; Former 1976 Code Section 38‑49‑70 [1947 (45) 322; 1952 Code Section 37‑223; 1962 Code Section 37‑223] recodified as Section 38‑47‑70 by 1987 Act No. 155, Section 1; 1988 Act No. 374, Section 22; 1993 Act No. 181, Section 681.

Library References

Insurance 3226.

Westlaw Topic No. 217.