

Senate Bill No. 876

CHAPTER 707

An act to amend Sections 14021, 14022, 14061, 14063, and 14064 of, and to add Sections 14022.5 and 14026.5 to, the Insurance Code, relating to insurance.

[Approved by Governor September 21, 1996. Filed
with Secretary of State September 23, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 876, Rosenthal. Insurance adjusters.

Existing law requires persons acting as insurance adjusters to be licensed by the Insurance Commissioner. Existing law defines an insurance adjuster to be a person other than a private investigator who for consideration agrees to make, or makes, any investigation for the purpose of obtaining, information in the course of adjusting or otherwise participating in the disposal of, any claim under or in connection with a policy of insurance or engages in soliciting insurance adjustment business with reference to certain investigatory matters.

This bill would provide that the activity would be on behalf of an insurer, and includes aiding an insurer in any manner with respect to certain investigatory matters. The bill would provide that those provisions related to the regulation, licensing, and registration of insurance adjusters do not apply to any building contractor, engineer, technical expert, or other person who is engaged by an insurer or licensed adjuster to provide an expert or professional evaluation in connection with damage to insured property, as specified.

The bill would provide that in the event of an emergency situation declared by the commissioner, claims arising out of the emergency may be adjusted by a nonlicensed adjuster acting under the direction, control, charge, or management of a licensed adjuster or insurer, would require the registration of the nonlicensed adjuster, and would limit the authority to a period of 180 days unless renewed.

Existing law provides for disciplinary actions against adjusters.

This bill would permit the commissioner to also issue restricted licenses subject to reasonable conditions and would specify that the unrestricted license is subject to suspension or revocation without a hearing or cause.

The bill would add to the actions that constitute "dishonesty or fraud" for purposes of disciplinary actions against insurance adjusters, by adding impersonating a law enforcement officer or

employee of the United States, a state, or political subdivision, or permitting or aiding and abetting that impersonation.

The bill would become operative July 1, 1997.

The bill would incorporate additional amendments to Section 14022 of the Insurance Code to be operative only if AB 3351 and this bill are both enacted and become effective as specified and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. Section 14021 of the Insurance Code is amended to read:

14021. An insurance adjuster within the meaning of this chapter is a person other than a private investigator as defined in Section 7521 of the Business and Professions Code who, for any consideration whatsoever, engages in business or accepts employment to furnish, or agrees to make, or makes, any investigation for the purpose of obtaining, information in the course of adjusting or otherwise participating in the disposal of, any claim under or in connection with a policy of insurance on behalf of an insurer or engages in soliciting insurance adjustment business or aids an insurer in any manner with reference to:

Crime or wrongs done or threatened against the United States of America or any state or territory of the United States of America; the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person; the location, disposition, or recovery of lost or stolen property; the cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or to property; or securing evidence to be used before any court, board, officer, or investigating committee.

SEC. 2. Section 14022 of the Insurance Code is amended to read:

14022. This chapter does not apply to:

- (a) A person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship.
- (b) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while such officer or employee is engaged in the performance of his or her official duties.
- (c) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.
- (d) A charitable philanthropic society or association duly incorporated under the laws of this state, which is organized and maintained for the public good and not for private profit.
- (e) An attorney at law in performing his or her duties as such attorney at law.



(f) A licensed collection agency or an employee thereof while acting within the scope of his or her employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his or her property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof.

(g) Admitted insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them.

(h) The legal owner of personal property which has been sold under a conditional sales agreement or a mortgagee under the terms of a chattel mortgage.

(i) Any bank subject to the jurisdiction of the Superintendent of Banks of the State of California or the Comptroller of Currency of the United States.

(j) A person engaged solely in the business of securing information about persons or property from public records.

(k) Any building contractor, engineer, technical expert, or other person who is engaged by an insurer or licensed adjuster to provide an expert or professional evaluation of the extent, cause, or origin of damage to the insured property, but who does not otherwise participate in the process of adjusting claims.

SEC. 2.1. Section 14022 of the Insurance Code is amended to read:

14022. This chapter does not apply to:

(a) A person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship.

(b) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while such officer or employee is engaged in the performance of his or her official duties.

(c) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state, which is organized and maintained for the public good and not for private profit.

(e) An attorney at law in performing his or her duties as such attorney at law.

(f) A licensed collection agency or an employee thereof while acting within the scope of his or her employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his or her property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof.

(g) Admitted insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them.



(h) The legal owner of personal property which has been sold under a conditional sales agreement or a mortgagee under the terms of a chattel mortgage.

(i) Any bank subject to the jurisdiction of the Commissioner of Financial Institutions of the State of California under Division 1 (commencing with Section 99) of the Financial Code or the Comptroller of Currency of the United States.

(j) A person engaged solely in the business of securing information about persons or property from public records.

(k) Any building contractor, engineer, technical expert, or other person who is engaged by an insurer or licensed adjuster to provide an expert or professional evaluation of the extent, cause, or origin of damage to the insured property, but who does not otherwise participate in the process of adjusting claims.

SEC. 3. Section 14022.5 is added to the Insurance Code, to read:

14022.5. (a) In the event of an emergency situation as declared by the commissioner, claims arising out of the emergency, catastrophe, disaster, or other similar occurrence may be adjusted by a nonlicensed adjuster upon registration with the commissioner if all of the following requirements are met:

(1) The work performed by the nonlicensed adjuster is under the active direction, control, charge, or management of a licensed adjuster or an insurer authorized to do business in this state.

(2) Registration with the commissioner is accomplished within 15 working days from the date on which the nonlicensed adjuster commences the claims adjusting activity in connection with the emergency situation.

(b) "Registration," within the meaning of this section, shall mean a written letter to the commissioner, submitted by the supervising licensed adjuster or admitted insurer, naming the nonlicensed adjusters, identifying their adjuster licenses held in other jurisdictions, and stating when their claims adjusting activity commenced.

(c) Registration under this section is valid for a period of 180 days from the date of the registration letter. Before the lapse of that period, the commissioner may grant further 180-day extensions as he or she deems appropriate upon written request from the supervising licensed adjuster or the admitted insurer.

SEC. 4. Section 14026.5 is added to the Insurance Code, to read:

14026.5. Where a person who is or has been licensed under this chapter has been found by the commissioner to have violated any provision of this code that would justify the suspension or revocation of a license held by the person, or where a person is applying for a license under this chapter and there exists grounds for the denial of the application by the commissioner, the commissioner may, after hearing, revoke the license held or deny the application for an unrestricted license, and in lieu thereof issue to the person a



restricted license. The commissioner may impose any reasonable conditions upon the acquisition of the restricted license or conduct of the holder of the license. The holder of the restricted license has no property right in it and the commissioner may, with or without either hearing or cause, suspend or revoke a restricted license. If a hearing is held under this section, it shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The holder of a restricted license is subject to all the provisions of this code and the license shall be kept in force and renewed in the same manner, at the same time, and subject to the same conditions and fees as are applicable to an unrestricted license to act in the same capacity.

SEC. 5. Section 14061 of the Insurance Code is amended to read:

14061. The commissioner may suspend or revoke a license issued under this chapter or may issue a restricted license in accordance with Section 14026.5 if he or she determines that the licensee, or his or her manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its manager, has:

(a) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement of a license.

(b) Violated any provisions of this chapter.

(c) Violated any rule of the commissioner adopted pursuant to the authority contained in this chapter.

(d) Been convicted of any crime substantially related to the qualifications, functions and duties of the holder of the registration or license in question.

(e) Impersonated, or permitted or aided and abetted an employee to impersonate a law enforcement officer or employee of the United States of America, or of any state or political subdivision thereof.

(f) Committed or permitted any employee to commit any act, while the license was expired which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license.

(g) Willfully failed or refused to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties.

(h) Committed assault, battery, or kidnapping, or used force or violence on any person, without proper justification.

(i) Knowingly violated, or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee.

(j) Acted as a runner or capper for any attorney.



(k) Committed any act which is a ground for denial of an application for license under this chapter.

(l) Purchased, possessed, or transported any tear gas weapon except as authorized by law. A violation of this subdivision may be punished by the suspension of a license for a period to be determined by the commissioner.

SEC. 6. Section 14063 of the Insurance Code is amended to read:

14063. The commissioner may suspend or revoke a license issued under this chapter or may issue a restricted license in accordance with Section 14026.5 if the commissioner determines that the licensee, or his or her manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its manager, has:

(a) Used any letterhead, advertisement, or other printed matter, or in any matter whatever represented that he or she is an instrumentality of the federal government, a state or any political subdivision thereof.

(b) Used a name different from that under which he or she is currently licensed in any advertisement, solicitation, or contract for business.

SEC. 7. Section 14064 of the Insurance Code is amended to read:

14064. The commissioner may suspend or revoke a license issued under this chapter or may issue a restricted license in accordance with Section 14026.5 if the commissioner determines that the licensee, or his or her manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its manager, has committed any act, in the course of the licensee's business constituting dishonesty or fraud.

"Dishonesty or fraud" as used in this section includes, in addition to other acts not specifically enumerated herein, all of the following:

(a) Knowingly making a false statement relating to evidence or information obtained in the course of employment, or knowingly publishing a slander or a libel in the course of business.

(b) Using illegal means in the collection or attempted collection of a debt or obligation.

(c) Manufacture of evidence.

(d) Acceptance of employment adverse to a client or former client relating to a matter with respect to which the licensee has obtained confidential information by reason of or in the course of his or her employment by such client or former client.

(e) Impersonating, or permitting or aiding and abetting an employee to impersonate a law enforcement officer or employee of the United States of America, or of any state or political subdivision thereof.

SEC. 7.1. Section 2.1 of this bill incorporates amendments to Section 14022 of the Insurance Code proposed by both this bill and AB 3351. It shall only become operative if (1) both bills are enacted



and become effective on or before January 1, 1997, (2) each bill amends Section 14022 of the Insurance Code, and (3) this bill is enacted after AB 3351, in which case Section 2 of this bill, shall not become operative.

SEC. 8. This act shall become operative on July 1, 1997.

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