

Chapter 18

Adjusters

An adjuster is a person who investigates, negotiates, or settles insurance claims. Adjusters determine coverage, or benefits available under a contract of insurance, examine relevant documents, and inspect property damage. An adjuster may also determine the amount of a claim, loss or damage payable under an insurance contract or plan. An adjuster often settles or negotiates settlement of the claim. In some states, the adjuster's authority is limited to a specialty area such as auto, homeowner, workers' compensation or crop insurance.

There are three basic kinds of adjusters: 1) public; 2) independent; and 3) company, sometimes called staff adjusters. Public adjusters who represent the insured, while independent and staff adjusters who represent the insurer. Some jurisdictions further differentiate adjusters who represent insurers as either staff/company adjusters who are salaried employees of the insurer and its affiliates or independent adjusters who are contracted to perform adjusting services and may work for multiple insurers. Most jurisdictions require licensure of public adjusters. More than 30 states jurisdictions require licensure of independent adjusters, and of those, more than 10 also require licensure of company/staff adjusters. Some jurisdictions do not require any type of adjuster license, one or more of these types of adjusters.

Public adjusters directly contract with the person who is seeking coverage or benefits under an insurance policy or other kind of insurance plan. The role of a public adjuster is to represent an insured or claimant in the settlement of a claim. The NAIC has adopted the *Public Adjuster Licensing Model Act (#228)* ("Model #228").

Under the Model #228, a public adjuster is defined as follows:

"Public adjuster" means any person who, for compensation or any other thing of value on behalf of the insured:

- (1) Acts or aids, solely in relation to first party claims arising under insurance contracts that insure the real or personal property of the insured, on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;
- (2) Advertises for employment as a public adjuster of insurance claims or solicits business or represents himself or herself to the public as a public adjuster of first party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or
- (3) Directly or indirectly solicits business, investigates or adjusts losses, or advises an insured about first party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy, for the insured.

"Public adjuster" means any person who, for compensation or any other thing of value, acts on behalf of an insured by doing any of the following:

1. Acting for or aiding an insured in negotiating for or in effecting the settlement of a first party claim for loss or damage to real or personal property of the insured.
2. Advertising for employment as a public adjuster of first party claims or otherwise soliciting business or representing to the public that the person is a public adjuster of first party claims for loss or damage to real or personal property of an insured.
3. Directly or indirectly soliciting the business of investigating or adjusting losses, or of advising an insured about first party claims for loss or damage to real or personal property of the insured.

Staff adjusters are typically salaried employees of an insurer or an insurer's affiliates and do not adjust claims for entities other than their employer or its affiliates. Independent adjusters work on behalf insurers to determine if coverage or benefits are available under an insurance policy in the settlement of a claim. are self-employed or associated with or employed by an independent firm. Independent adjusters may adjust claims on behalf of many insurers. The NAIC has adopted model guidelines for the *Independent Adjuster Licensing Guideline (#1224)* ("Guideline #1224") adjusters that states are encouraged to adopt. The Appendices contain the model guideline.

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Under Guideline #1224, an independent adjuster is defined as follows:

“Independent adjuster” means a person who:

- (1) Is an individual, a business entity, an independent contractor, or an employee of a contractor, who contracts for compensation with insurers or self-insurers;
- (2) One whom the insurer’s or self-insurer’s tax treatment of the individual is consistent with that of an independent contractor rather than as an employee, as defined in the Internal Revenue Code, United States Code, Title 26, Subtitle C; and
- (3) Investigates, negotiates or settles property, casualty or workers’ compensation claims for insurers or for self-insurers.

Similar to how insurers employ direct writers or captive insurance producers to sell their insurance policies, they also employ individuals to adjust their insurance claims; these are employees of an insurer. While there is no definition of “company adjuster” or “staff adjuster” in either Model #228 or Guidelines #1224, it should be noted that Black’s Law Dictionary defines “employee” as “someone who works in the service of another person (the employer) under an express or implied contract of hire under which the employer has the right to control the details of work performance”.

Commented [RC3]: Add citation: Black's Law Dictionary, Second Pocket Edition 2001

The related actions of both independent and company adjusters are the responsibility of the insurer who has authorized those adjusters to investigate, negotiate, or settle an insurance claim. Such activity is generally monitored under jurisdiction’s consumer protection and market conduct authority.

Guideline #1224 identifies situations where a person may be exempt from licensure. Most jurisdictions have adopted some or all of the following:

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

- A. Attorneys-at-law admitted to practice in this state, when acting in their professional capacity as an attorney;
- B. A person employed solely to obtain facts surrounding a claim or to furnish technical assistance to a licensed independent adjuster;
- C. An individual who is employed to investigate suspected fraudulent insurance claims but who does not adjust losses or determine claims payments;
- D. A person who solely performs executive, administrative, managerial or clerical duties or any combination thereof and who does not investigate, negotiate or settle claims with policyholders, claimants or their legal representative;
- E. A licensed health care provider or its employee who provides managed care services so long as the services do not include the determination of compensability;
- F. A managed care organization or any of its employees or an employee of any organization providing managed care services so long as the services do not include the determination of compensability;
- G. A person who settles only reinsurance or subrogation claims;
- H. An officer, director, manager or employee of an authorized insurer, surplus lines insurer, a risk retention group, or an attorney-in-fact of a reciprocal insurer;
- I. A U.S. Manager of the United States branch of an alien insurer;
- J. A person who investigates, negotiates or settles life, accident and health, annuity, or disability insurance claims;

K. An individual employee, under a self-insured arrangement, who adjust claims on behalf of their employer;

L. A licensed insurance producer, attorney-in-fact of a reciprocal insurer or managing general agent of the insurer to whom claim authority has been granted by the insurer;

M. A person authorized to adjust workers' compensation or disability claims under the authority of a third party administrator (TPA) license pursuant to [insert applicable licensing statute].

Most states recognize one or more of the following exemptions to adjuster licensing:

1. ~~Attorneys at law admitted to practice in this state, when acting in their professional capacity as an attorney.~~
2. ~~A catastrophe situation officially declared by the insurance commissioner or governor, according to state law. Registration may be required, but no permanent license should be required of a nonresident adjuster who is sent on behalf of an insurer for the purpose of investigating or adjusting a loss or a series of losses resulting from a catastrophe.~~
3. ~~A person employed solely to obtain facts surrounding a claim or furnish technical assistance to a licensed independent adjuster.~~
4. ~~An individual who is employed to investigate suspected fraudulent insurance claims but who does not adjust losses or determine claims payments.~~
5. ~~A person who solely performs executive, administrative, managerial or clerical duties, or any combination thereof, and who does not investigate, negotiate or settle claims with policyholders, claimants, or their legal representative.~~
6. ~~A licensed health care provider or its employee who provides managed care services as long as the services do not include the determination of compensability.~~
7. ~~A managed care organization, any of its employees, or an employee of any organization providing managed care services as long as the services do not include the determination of compensability.~~
8. ~~A person who settles only reinsurance or subrogation claims.~~

9. An officer, director, manager or employee of an authorized insurer, surplus lines insurer, risk retention group (RRG), or attorney-in-fact of a reciprocal insurer.
10. A U.S. manager of the U.S. branch of an alien insurer.
11. A person who investigates, negotiates or settles life, accident and health, annuity, or disability insurance claims.
12. An individual employee, under a self-insured arrangement, who adjusts claims on behalf of his or her employer.
13. A licensed insurance producer to whom claim authority has been granted by the insurer.
14. A person authorized to adjust workers' compensation or disability claims under the authority of a third-party administrator (TPA) license pursuant to [applicable licensing statute].
Drafting Note: This guideline is drafted to eliminate redundant licensure requirements with respect to the activities engaged in by a licensee. If licensed as an independent adjuster, TPA, or similar business entity (BE), licensees should not be required to obtain separate independent adjuster licenses, provided that the types of claims adjusted do not include life, health, annuity or disability insurance claims.

Qualifications of an Adjuster

Under Model #228 and Guideline #1224, States that do require licensure jurisdictions will assess the qualifications of potential adjusters in various ways applicants. Typically, States use one or more of the following requirements are in place methods to determine that a person has the requisite knowledge to properly adjust claims:

1. Specialized or related education prior to licensure; i.e., precursing coursework.
2. A specified amount of experience that is relevant to the kind of adjusting work the applicant will be doing; i.e., property/casualty (P/C), workers' compensation ~~or life/health.~~
3. A license examination.
4. Relevant professional designation such as the Chartered Property Casualty Underwriter (CPCU) or Associate in Claims (AIC).
5. Prior or concurrent similar licensure in another state jurisdiction.

For states jurisdictions implementing ~~a new regulatory scheme for~~ adjusters licensing for the first time, it is common practice to waive the initial exam for applicants with appropriate credentials and experience.

Fitness and Character Considerations

Like insurance producers:

(1); mMany states jurisdictions also evaluate an adjuster applicant's fitness, character and trustworthiness by considering to engage in this aspect of the insurance business. State insurance regulators typically consider:

1. ~~Criminal history.~~
 2. ~~Administrative actions taken by other state insurance regulators.~~
- and Ccivil judgments that may shed light on an applicant's character or fiscal integrity.

(2)

In someMost jurisdictions states, issue an adjuster must apply for a "license type" with a by line of insurance, or line of authority (LOA), similar to the manner in which producers are licensed. OtherSome states jurisdictions require issue adjuster licenses types by categories, without an LOA, such as motor vehicle physical damage, workers' compensation or crop.

(3) Many jurisdictions have States are encouraged to implement a fingerprint requirement for resident public and independent adjusters similar to what is required of producers. Additionally, if a state jurisdiction permits a nonresident adjuster to designate that state itself as its the adjuster's home state (DHS), the resident fingerprinting requirement extends to that of that nonresident should be required. States Jurisdictions are encouraged to adopt the Authorization for Criminal History Record Check Model Act (#222) when evaluating and considering whether an applicant or licensee has met the character and trustworthiness requirements to obtain, maintain or renew a license.

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Determination of Home State

Model # 228 defines home state as:

“Home state” means Washington, DC and any state or territory of the U.S. in which the public adjuster’s principal place of residence or principal place of business is located. If neither the state in which the public adjuster maintains the principal place of residence nor the state in which the public adjuster maintains the principal place of business has a substantially similar law governing public adjusters, the public adjuster may declare another state in which it becomes licensed and acts as a public adjuster to be the “home state.”

Guideline #1224 defines home state as:

“Home state” means Washington, DC and any state or territory of the U.S. in which an independent adjuster maintains his, her or its principal place of residence or business and is licensed to act as a resident independent adjuster. If the resident state does not license independent adjusters for the line of authority sought, the independent adjuster shall designate as his, her or its home state any state in which the independent adjuster is licensed and in good standing.

The Producer Licensing Model Act #218 (Model #218”) defines home state as:

“Home state” means the District of Columbia and any state or territory of the United States in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.

Model #218 precedes both Model #228 and Guideline #1224. The “home state” definition is “intended to accommodate a producer who lives in one state but maintains their business in another state”.

Individuals who reside in a jurisdiction that does not have an adjuster license requirement faced a challenge in obtaining nonresident licenses in jurisdictions where licensure was required. The concept of a designated home state (“DHS”) was developed to allow these individuals to choose a jurisdiction that does issue adjuster licenses to be their home state for the purposes of licensure. A DHS licensee would qualify for a license in that jurisdiction in accordance with resident licensing procedures.

While DHS licensing has resolved some licensing issues, making a determination of what qualifies as a home state and who is eligible to designate a home state has presented regulatory challenges.

If the “principal place of business” is relied upon to determine and adjuster’s residency it should be construed as the primary location where the adjuster physically “maintains their business”. For a public or independent adjuster, this means that they report to an office in a border state every day or they are the proprietor of that business and chose residency to align with the business they own and operate in a border state. Company adjusters should first seek licensure in their resident state and if licensure is not available, they should seek a DHS. Insurance company regional, area, training, or corporate offices that an adjuster rarely or never reports to should not constitute a principal place of business. Jurisdictions should be mindful of this type of “home state” shopping and not permit such.

Company adjusters who reside in a jurisdiction that only requires independent adjuster licensing have a choice: they can either obtain a resident independent adjuster license in the jurisdiction where they reside (unless their resident jurisdiction prohibits a company adjuster from independent adjuster licensure) or obtain DHS status with a license in another jurisdiction. In jurisdictions where both independent and company adjusters are required to be licensed, the license exam is the same. In some jurisdictions, the adjuster license exam is the same for public, independent, and/or company adjusters.

Reciprocity Nonresident Licensing

Similar to insurance producer licensing, in almost every jurisdiction where an adjuster licensure is required, it is the resident, or “home state”, insurance regulator who jurisdiction who assesses the qualifications of his or her their resident adjusters. Based upon securing a license in one’s home state, many Most states jurisdictions will grant a comparable or similar nonresident license based on reciprocity, however, reciprocity is not as widely accepted as it is with insurance producer licensing to such an individual. This is not the case in all states, and varying

Commented [RC5]: Add citation - pages 7 - 8 of state licensing handbook.

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Variations with LOAs, qualification standards, and “license types” have created hurdles barriers to nonresident licensure. In addition, an adjuster based in a state that does not license adjusters may be required to take exams in multiple states. There are a few jurisdictions that will not grant nonresident licensure based upon a person having qualified and passed a license exam in the applicant’s home state. Instead, these jurisdictions require the nonresident applicant to take an exam in the nonresident state even though the person has taken and passed the license exam in the home state. Some jurisdictions will reciprocate with a true resident license but not with a DHS license.

Reciprocity with DHS

Applicants can choose which jurisdiction to seek DHS status from. As such, regulators should be mindful of jurisdictional requirements and applicants who are forum shopping. A DHS license should not be issued to an applicant who should obtain licensure in their resident jurisdiction.

The initial focus of DHS licensing was to create a path for individuals with resident licensure requirements to obtain nonresident licenses in that they only needed to take a single qualifying examination. This choice may have been made without consideration of maintaining nonresident licenses in the future. The ramifications of choosing a DHS without continuing education requirements may not be realized until the DHS licensee has to renew the license in a state that requires continuing education compliance. In addition, there are currently no recommended standards as to how a DHS license is distinguished from other nonresident licenses, how DHS licensee information is reported to the PDB or best practices when a licensee wants to change from one DHS state to another. The absence of accepted standards leads to inefficiencies the licensing process and limit the extent to which regulators and industry can leverage technological solutions.

All jurisdictions should reciprocate with an individual who was issued DHS status in a jurisdiction with:

- (1) a licensing exam requirement to meet the knowledge qualification.
- (2) authority to require a fingerprint criminal background check to meet the fitness and character qualification, and
- (3) 24 hours of continuing education (with 3 of those 24 hours in ethics) to ensure continued competence.

As of the 2024 update to this Chapter, the following jurisdictions meet these requirements: Alabama, Alaska, Delaware, Florida, Idaho, Louisiana, Minnesota, Montana, Nevada, New Mexico, Texas, Utah, Washington, West Virginia, and Wyoming.

The New NAIC Public Adjuster Model Act (# 228) defines home state as:

“Home state” means Washington, DC and any state or territory of the U.S. in which the public adjuster’s principal place of residence or principal place of business is located. If neither the state in which the public adjuster maintains the principal place of residence nor the state in which the public adjuster maintains the principal place of business has a substantially similar law governing public adjusters, the public adjuster may declare another state in which it becomes licensed and acts as a public adjuster to be the “home state.”

Guideline #1224 defines home state as:

“Home state” means Washington, DC and any state or territory of the U.S. in which an independent adjuster maintains his, her or its principal place of residence or business and is licensed to act as a resident independent adjuster. If the resident state does not license independent adjusters for the line of authority sought, the independent adjuster shall designate as his, her or its home state any state in which the independent adjuster is licensed and in good standing.

There are a few states that will not grant nonresident licensure based upon a person having qualified and passed a license exam in the applicant’s home state. Instead, these states require the nonresident applicant to take an exam in the nonresident state even though the person has taken and passed the license exam in the home state.

~~Electronic A~~adjuster licensing processes were modeled on existing producer licensing processes, which are based upon active licensure in the resident jurisdiction and ~~in~~ 2011, the NAIC adopted the *Independent Adjuster Reciprocity Best Practices Guidelines* paper, which provides jurisdictions with a model to meet reciprocity requirements, as well as take major steps toward reaching uniformity. ~~The NAIC uniform licensing forms are designed to be used by applicants for adjuster licenses. Producer licensing for nonresidents is predicated on the producer satisfying the requirements for a home state license. Those producer requirements often include prelicensing education and examination. Since, at this writing, 40 states license public adjusters, 33 states license independent adjuster licenses, and only 15 states require company adjusters to be licensed, obtaining nonresident adjuster licenses becomes more complex because adjusters often do not have an underlying resident license. Until~~ Most jurisdictions ~~states~~ have adopted the DHS provision that and allows an individual to qualify for licensure by either reciprocating with another jurisdiction's verifiable DHS status on the PDB, or by vetting the individual just like a resident and awarding DHS status and reporting such to the PDB. This facilitates use of electronic licensing processes, designating another state as the person's home state or to designate the state in which the application is filed as the person's home state, obtaining a nonresident adjuster license becomes more complex because adjusters often do not have an underlying resident license.

~~Some states do not license adjusters. In order for the use of electronic licensing systems, adjusters residing in states that do not license adjusters can select an Adjuster Designated Home State (ADHS). The ADHS is the state in which the adjuster does not maintain his, her or its principal place of residence or business, and the adjuster qualifies for the license as if the person were a resident.~~

~~A state whose laws permit a nonresident adjuster to designate that state as its home state will require the nonresident to qualify as if the person were a resident — exam requirements; fingerprinting, if required; and continuing education (CE). Once the individual has met the qualifications, the Designated Home State (DHS) will issue a nonresident license. The Producer Database (PDB) and DHS will list the record as nonresident DHS.~~

~~If the resident state of the adjuster does not require an adjuster license, adjusters cannot use the National Insurance Producer Registry (NIPR) ADHS module unless they declare another state to be the home state. NIPR has recently added a new Nonresident Adjuster Licensing (NRAL) application that allows an individual to designate a state other than the resident state as the home state. NIPR contains functionality to allow adjusters that have designated another state as the home state to renew online. Adjusters with any license can update contact information through the NIPR Contact Change Request (CCR) tool.~~

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Continuing Education

Majority of jurisdictions require CE for public adjusters and reciprocate accordingly.

As of the 2024 update to this Chapter, 22 of the 30 reciprocating independent licensing jurisdictions ~~Approximately 18 states~~ have CE requirements for their resident adjusters. Reciprocity exists among a majority of these states, but not all, in part as a result of the inconsistency among LOAs granted within each state's jurisdiction's adjuster

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licensing ~~scheme~~ requirements. It also becomes problematic when the resident adjuster's home state does not have any CE requirements. [Individual adjusters who are eligible to designate a home state should be mindful of CE requirements when selecting a home state.](#)

Similar to the [producer licensing continuing education requirement in Model #218](#), Model #228 and Guideline #1224 contain a CE requirement that the home state shall require 24 hours of CE every two years, with three of the 24 hours covering ethics. It is recommended that a [state jurisdiction](#) accept an adjuster's satisfaction of its home state's CE requirements as satisfying that state's CE requirements, provided that the home state recognizes CE satisfaction on a reciprocal basis. For a state that permits a nonresident adjuster to designate that state as its home state, the home state will require and track CE compliance for that adjuster.

Emergency/Catastrophic Adjusters

A state that offers temporary licensure or registration for emergency/catastrophic adjusters are encouraged to follow Guideline #1224 and develop an automated notification or registration procedure that allows for an immediate, ~~streamlined~~ [streamlined](#), and efficient [filing application or reporting](#) process for adjusters who are seeking authority to adjust claims in the event ~~that~~ an emergency or catastrophe is declared. [Most jurisdictions will trigger emergency/catastrophe licensure with an announcement, and permit applications \(or reporting\) for a defined event, for a prescribed number of days.](#)

Non-U.S. Adjusters for Limited Lines Portable Electronics Insurance Products

~~Many states license, or are considering licensure for, limited lines portable electronics insurance producers. Because some major portable electronics insurance companies provide claims adjustment services via non-U.S. entities, the issue of licensing adjusters who do not reside in the U.S. has gained increased prominence. Guideline #1224 and Model #228 are silent on the licensing of non-U.S. citizens beyond the requirement to designate a home state. Some states, however, have tax laws or other laws that require licensees and applicants for licenses to submit and maintain a Social Security number (SSN). State license laws that allow for the licensing of non-U.S. adjusters must take this possible barrier to licensure into consideration. States should also require non-U.S. citizens to comply with all necessary qualification requirements, such as passing the resident license examination, if applicable.~~

Recommended Best Practices for State Insurance Regulators

- Adopt Model #228.
- Adopt Guideline #1224.
- Use the NAIC uniform applications and ~~develop a mechanism~~ [establish a process](#) for electronic [application](#) submission and ~~electronic bulk submissions~~ [processing](#).
- Use the definition of "home state" as defined in [Model #218](#), [Model #228](#), and [Guideline #1224](#) as the basis of reciprocity.
- Provide resident and nonresident adjuster licensing requirements on [forms, websites, and the State Producer Licensing Database \(SPLD\)](#).
- ~~Allow electronic payment for residents and nonresidents for authorized submitters, as well as individual adjusters.~~
- [Post applications and license status information on websites and the SPLD.](#)
- [Eliminate perpetual licenses, eliminate the word "perpetual" from issued licenses, and adopt a biennial renewal process tied to the uniformity standards.](#)
- ~~Adopt the Independent Adjuster Reciprocity Best Practices Guidelines paper.~~
- ~~Use the definition of "home state" as defined in Guideline #1224.~~
- [Participate in the NIPR ADHS application.](#)
- [Participate in the NAIC Personalized Information Capture System \(PICS\) to receive \[license status\]\(#\) alerts ~~or~~ \[and\]\(#\) to monitor \[administrative or enforcement\]\(#\) actions against existing licensees.](#)
- [Use the Attachments Warehouse/Reporting of Action \(ROA\) system to receive electronic notifications to alert a state when an adjuster has added information into the Attachments Warehouse since their initial entry regarding administrative, criminal or civil actions.](#)
- ~~For~~ [Nonresidents that designate your state as their "home state," \(DHS\) should issue a nonresident license and report your jurisdiction's two-digit state code to the PDB.](#) ~~should be issued.~~
- ~~For~~ [Nonresidents that designate your state as their "home state," \(DHS\) should develop an electronic reporting method internal data fields that will allow the tracking of CE compliance, and report CE to the PDB.](#)

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Commented [RC12]: Are there any jurisdictions that require PAPER/CHECK applications? This bullet point seems outdated and therefore I recommend deleting it entirely.

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- Include a provision in law that prohibits simultaneous licensure as both an independent [\(or company\)](#) adjuster and a public adjuster.

- If your state requires a license examination, require ~~applicants for a resident~~ applicants ~~license~~ to pass your own state's examination. ~~not simply use passing results from another's state's examination.~~ However, recognition of an exam taken in another state may should be given ~~where to a~~ a nonresident adjuster applicant who is actively licensed in their resident or DHS jurisdiction. ~~license is being requested.~~
- Grant an exemption from the license examination requirement to applicants for the crop LOA who have satisfactorily completed the National Crop Insurance Services (NCIS) Crop Adjuster Proficiency Program (CAPP) or the loss adjustment training curriculum and competency testing required by the Federal Crop Insurance Corporation (FCIC) Standard Reinsurance Agreement (SRA).
- If your state allows non-U.S. citizens to receive a license, ensure that other laws in your state, such as tax laws, do not require every licensee or applicant for a license to submit a SSN or Individual Taxpayer Identification Number (ITIN).