



Republic of the Philippines
Department of Finance
INSURANCE COMMISSION
1071 United Nations Avenue
Manila

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CIRCULAR LETTER

TO : ALL INSURANCE COMPANIES, ADJUSTERS AND LAWYERS

SUBJECT : INTERPRETING THE RULES ON ADJUSTERS PERTAINING TO LICENSING AND CONCURRENT PRACTICE OF PROFESSION BY LAWYERS

This circular seeks to clarify the rules provided under Title V of Chapter IV of the Insurance Code regarding Adjusters, particularly Sections 332, 333, 334 and 338 thereof.

I. PERSONS WHO MAY ACT AS ADJUSTERS

Section 332 of the Insurance Code provides the rules in order for a person, partnership, association or corporation to be able to act as an adjuster, viz:

"Section 332. No person, partnership, association, or corporation shall act as an adjuster, as hereinafter defined, **unless authorized so to act by virtue of a license issued or renewed by the Commissioner pursuant to the provisions of this Code: Provided,** That in the case of a natural person, he must be a Filipino citizen and in the case of a partnership, association or corporation, at least sixty percent (60%) of its capital must be owned by citizens of the Philippines."

In order to be allowed to act as an adjuster, two (2) conditions must be complied with: first, the citizenship requirement, and second, the procurement of a license from the Insurance Commission ("Commission"). For natural persons, he/she must be a Filipino citizen. For juridical persons, it is required that at least sixty percent (60%) of its capital must be owned by Filipino citizens. Both natural and juridical persons are required to procure a license to act as adjusters from the Commission.

An exception to the above-cited rule is provided under Section 338 of the same code, *viz*:

"Section 338 Nothing contained in this title shall apply to any duly licensed attorney-at-law who acts or aids in adjusting insurance claims as an incident to the practice of his profession and who does not advertise himself as an adjuster."

(Emphasis and underscoring supplied.)

Based on the foregoing rules, it is manifest that as a general rule, before a person may be allowed to act as an adjuster, it is mandatory that he first obtain a license from the Insurance Commission. As an exception, however, a duly licensed attorney-at-law is not required to obtain such license, and may act in aid of his client in adjusting insurance claims, *provided* such engagement is merely an incident to the practice of his profession, and *provided further*, that he does not advertise himself as an adjuster.

Verily, if a lawyer would engage in adjusting, outside of, or not as an incident to the practice of his profession, and if he intends to advertise himself as an adjuster, the exception would not apply. In such case, he is obliged to procure a license from the Insurance Commission, either as an independent adjuster, or a public adjuster.

Another exception to the procurement of a license to act as an adjuster is provided under Section 334 of the Insurance Code, *viz*:

"Section 334

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No license, however, shall be required of any company adjuster who is a salaried employee of an insurance company for the adjustment of claims filed under policies issued by such insurance company."

(Emphasis and underscoring supplied.)

Hence, the following circumstances must be present for a person to be exempted from procuring a license to become an adjuster: first, that such person is a salaried employee of an insurance company, and second, that such adjusting is limited to adjustment of claims filed under or issued by such insurance company.

II. EXCLUSIVITY OF PUBLIC ADJUSTING AND INDEPENDENT ADJUSTING

The terms **Independent Adjuster** and **Public Adjuster** are respectively defined under Section 333 of the Insurance Code, to wit:

"Section 333. An adjuster may be an independent adjuster or a public adjuster.

The term *independent adjuster* means any person, partnership, association or corporation which, for money, commission or any other thing of value, acts for or on behalf of an insurer in the adjusting of claims arising under insurance contracts or policies issued by such insurer.

The term *public adjuster* means any person, partnership, association or corporation which, for money, commission or any other thing of value, acts on behalf of an insured in negotiating for, or effecting, the settlement of a claim or claims of the said insured arising under insurance contracts or policies, or which advertises for or solicits employment as an adjuster of such claims."

(Emphasis and underscoring supplied.)

Independent adjusters therefore, are persons who act on behalf of the insurer, while public adjusters are persons who act on behalf of the insured. In furtherance thereto, Section 334 provides that a person may be issued a license to act either as an independent adjuster, or a public adjuster, but not both, to wit:

"Section 334. For every line of insurance claim adjustment, adjusters shall be licensed either as independent adjusters or as public adjusters. **No adjuster shall act on behalf of an insurer unless said adjuster is licensed as an independent adjuster; and no adjuster shall act on behalf of an insured unless said adjuster is licensed as a public adjuster: Provided, however, That when a firm or person has been licensed as a public adjuster, he shall not be granted another license as independent adjuster and vice versa.**

No license, however, shall be required of any company adjuster who is a salaried employee of an insurance company for the adjustment of claims filed under policies issued by such insurance company."

(Emphasis and underscoring supplied.)

From the foregoing, it is clear that Section 334 is intended to prohibit a person from acting as an Independent Adjuster and as a Public Adjuster at the same time. This is established by the fact that under Section 334 of the Insurance Code, one cannot act as an independent adjuster without first obtaining a license as an independent adjuster, and in a similar way, a public adjuster cannot act as such without being issued a license as a public adjuster. Verily, since the procurement of a license as an independent adjuster bars a

person from obtaining a license to become a public adjuster, and *vice versa*, in addition to the rule under Section 332 that one cannot act as an adjuster without first obtaining a license, it necessarily follows that, one cannot act as both independent adjuster and public adjuster.

The same rule holds true even in the case of lawyers who are licensed as either public or independent adjusters. Once a lawyer is issued a license to act either as an independent or public adjuster, he is barred from the exception provided in Section 338.

Stated differently, a lawyer who obtains a license as an independent adjuster is barred from acting as an adjuster for the insured, even when the said act is merely an incident to the practice of law. This is consistent with Section 338 which only exempts attorneys-at-law who engage as adjusters as mere incident to the practice of their profession and who do not advertise themselves as adjusters. To stress, the Section 338 does not distinguish between advertising oneself as an independent or public adjuster. Hence, the practice and advertisement of the lawyer of himself as an independent adjuster, despite being licensed as such, necessarily disqualifies him from the exception provided under Section 338.

In a similar way, a lawyer licensed as a public adjuster is barred from acting on behalf of the insurer, for the same reasons stated above.

To allow a lawyer who is concurrently licensed as an independent adjuster to act on behalf of the insured, or a public adjuster to act on behalf of the insurer, under the guise of Section 338, would be a circumvention of the intentions of the rule provided under Section 334 of the Insurance Code.

For strict compliance.


EMMANUEL F. DOOC
Insurance Commissioner