

CONFERENCE COMMITTEE REPORT

HB 457

2021 Regular Session

Firment

June 7, 2021

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 457 by Representative Firment, recommend the following concerning the Reengrossed bill:

- 1. That Senate Committee Amendment No. 2 proposed by the Senate Committee on Insurance (#2282) be adopted.
- 2. That Senate Committee Amendment Nos. 1 and 3 proposed by the Senate Committee on Insurance (#2282) be rejected.
- 3. That the following amendments to the Reengrossed bill be adopted:

AMENDMENT NO. 1

On page 1, delete line 2 in its entirety and insert in lieu thereof the following:

"To enact R.S. 22:1674.1 and to repeal R.S. 22:1674,"

AMENDMENT NO. 2

On page 1, at the end of line 6, delete "to provide"

AMENDMENT NO. 3

On page 1, delete line 7 in its entirety and insert in lieu thereof "and to provide for related matters."

AMENDMENT NO. 4

On page 1, delete lines 9 through 21, in their entirety and insert in lieu thereof the following:

"Section 1. R.S. 22:1674.1 is hereby enacted to read as follows:"

AMENDMENT NO. 5

On page 4, between lines 15 and 16, insert the following:

"D. This Section does not create any civil action or create any cause of action not otherwise provided by law."

Respectfully submitted,

Representative Michael "Gabe" Firment

Senator Kirk Talbot

Representative Chad Brown

Senator Barrow Peacock

Representative Michael T. Johnson

Senator Gary L. Smith Jr.

CONFERENCE COMMITTEE REPORT DIGEST

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Keyword and oneliner of the instrument as it left the House

INSURANCE CLAIMS-ADJUSTR: Provides for claims adjusters

Report adopts Senate amendments to:

1. Change the standard of care for adjusters dealing with elderly claimants from "extraordinary" to "appropriate".

Report rejects Senate amendments which would have:

1. Removed the provision in proposed law that would subject engineers, estimators, and building consultants in certain circumstances to claims adjuster licensure and the claims adjuster code of conduct.
2. Provided that persons employed by or contracted with an insurer only to furnish technical assistance to a licensed adjuster shall be subject to certain good faith duties.
3. Provided that violation of the claims adjuster code of conduct does not create any civil action, create or support any cause of action, or establish any penalty other than those provided in proposed law.

Report amends the bill to:

1. Return the exemption from licensure for certain persons employed only to furnish technical assistance to a licensed claims adjuster to its posture in present law.
2. Provide that violation of the claims adjuster code of conduct does not create any civil action or create any cause of action not otherwise provided by law.

Digest of the bill as proposed by the Conference Committee

Present law provides for certain standards of conduct for claims adjusters including:

- (1) An adjuster shall not permit an unlicensed employee or his representative to conduct business for which a license is required.
- (2) An adjuster shall not have a financial interest in any aspect of the claim, other than the salary, fee, or other consideration established with the insurer.
- (3) An adjuster shall not acquire any interest in salvage of property subject to the contract with the insurer.
- (4) An insurer shall not solicit employment for any attorney, contractor, or subcontractor in connection with any loss the adjuster is concerned or employed.
- (5) An adjuster shall not solicit or accept compensation from any contractor or subcontractor on behalf of any insured for which the adjuster is employed.
- (6) An adjuster shall not undertake the adjustment of any claim if the adjuster is not competent or knowledgeable.
- (7) An adjuster shall not knowingly make a material misrepresentation intended to injure any person engaged in the business of insurance.
- (8) An adjuster shall not represent or act as a public adjuster.

- (9) An adjuster shall not materially misrepresent the terms and coverage of an insurance contract to an insured for the purpose of effecting settlement of a claim on less favorable terms than those provided in the insurance contract.

Proposed law repeals present law and codifies some provisions of present law (R.S. 22:1674).

Proposed law provides standards of conduct for claims adjusters including:

- (1) An adjuster shall not have a direct or indirect financial interest in any aspect of the claim, other than the salary, fee, or other consideration established with the insurer.
- (2) An adjuster shall not acquire any interest in salvage of property subject to the contract with the insurer.
- (3) An adjuster shall not solicit employment for, recommend, or otherwise solicit engagement for any attorney, contractor, or subcontractor, in connection with any loss or damage for which the adjuster is employed or concerned.
- (4) An adjuster shall not solicit or accept any compensation from, by, or on behalf of any contractor or subcontractor engaged by or on behalf of any insured by which such adjuster has been, is, or will be employed or compensated.
- (5) An adjuster shall treat all claimants fairly.
- (6) An adjuster shall not approach investigations, adjustments, and settlements in a manner prejudicial to the insured.
- (7) An adjuster shall make truthful and unbiased reports of the facts after completing a thorough investigation.
- (8) An adjuster shall handle every adjustment and settlement with honesty and integrity.
- (9) An adjuster shall act with due diligence in achieving a proper disposition of the claim.
- (10) An adjuster shall promptly report violations of any provision of the Insurance Code.
- (11) An adjuster shall exercise appropriate care when dealing with elderly claimants.
- (12) An adjuster shall not negotiate or effect settlement with any third-party claimant represented by an attorney, except with the consent of the attorney.
- (13) An adjuster shall avoid any suggestion calculated to induce a witness to suppress or deviate from the truth.
- (14) An adjuster shall not advise a claimant to refrain from seeking legal advice, nor advise against the retention of counsel to protect the claimant's interest.
- (15) An adjuster shall not knowingly make any oral or written misrepresentation or statement in regards to applicable policy provisions, contract conditions, or pertinent state laws.
- (16) An adjuster shall not undertake the adjustment of any claim that exceeds the adjuster's current expertise.
- (17) An adjuster shall not permit an unlicensed employee or representative of the adjuster to conduct business for which a license is required under this Part.
- (18) An adjuster shall not act as a public adjuster.

- (19) An adjuster shall not materially misrepresent to an insured or other interested party the terms and coverage of an insurance contract.

Proposed law requires claims adjusters to read and acknowledge the claims adjuster standards of conduct upon license issuance and upon license renewal.

Proposed law provides that violation of the claims adjuster standards and conduct shall constitute grounds for administrative action against the licensee and constitute commission of an unfair trade practice.

Proposed law provides that violation of proposed law does not create any civil action or create any cause of action not otherwise provided by law.

(Adds R.S. 22:1674.1; Repeals R.S. 22:1674)