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 DIGEST

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DIGEST

SB 186 Reengrossed                      2022 Regular Session                      Henry

Present law provides that a public adjuster can charge a reasonable fee, but also provides that a contingency fee agreement between a public adjuster and an insured is contrary to public policy and is null and void.

Proposed law provides that, except for the fee limitation set forth under present law, a public adjuster who enters into a contract or arrangement with an insured can charge a reasonable fee that includes full flat fees, hourly fees, percentage fees, or any other valuable consideration for services rendered, and the fee cannot exceed 10% over and above the disputed amount successfully paid by the insurer in order to resolve the claim.

Proposed law provides that a public adjuster shall offer in the contract or agreement with the insured all three options that consists of a flat fee, an hourly fee, or a percentage of the fee.

Proposed law provides that a public adjuster shall not require, demand, or accept any fee, retainer, compensation, deposit, or other thing of value from an insured prior to the insurer making payment on a claim.

Present law provides that a public adjuster cannot be paid commissions, service fees, or other valuable considerations to another for public adjusting in this state if the state requires a public adjuster to be licensed under present law and he is not licensed.

Proposed law retains present law but deletes commissions and service fees and adds full flat fees, hourly fees, and percentage fees provided for by proposed law.

Present law provides that a person cannot accept commissions, service fees, or other valuable consideration for public adjusting in this state if the state requires a public adjuster to be licensed under present law but he is not licensed.

Proposed law retains present law but deletes commissions and service fees and adds full flat fees, hourly fees, and adds percentage fees provided for by proposed law.

Present law requires that public adjusters have written contracts for their services that include the full salary, fees, compensations, or other valuable considerations paid for their services.

Proposed law retains present law but deletes commissions and service fees and adds full flat fees, hourly fees, and adds percentage fees provided for by proposed law.

Present law provides that compensation provisions in a public adjusting contract shall not be redacted in any copy of the contract provided to the commissioner of insurance. Such a redaction shall constitute an omission of material fact.

Proposed law retains present law and provides that if a public adjuster's compensation is based on a share of the insurance settlement, the exact percentage shall be specified in the contract.

Proposed law provides that initial expenses to be reimbursed to the public adjuster from proceeds of a claim payment shall be specified by type with dollar estimates set forth in the contract and with any additional expenses approved by the insured, prior to payment.

Present law provides that prior to the signing of a contract, a public adjuster is required to provide an insured a disclosure document that includes the full salary, commissions, fees, or other considerations to be paid to the public adjuster.

Proposed law retains present law but deletes full salary, fees, compensations, and other considerations, and adds full flat fees, hourly fees, percentage fees, and other valuable considerations and provides that disclosure document may be signed at the time the contract is signed.

Proposed law provides that the disclosure document shall state the public adjuster payment options, which include a flat fee, an hourly rate, or a percentage fee. The amount of the flat fee, the hourly rate charged, and the percentage to be applied, respectively, shall be disclosed.

Proposed law provides that the contract shall provide that the insured may terminate the contract upon written notice of his desire to terminate the contract.

Proposed law provides that if the contract provides for compensation by a percentage fee and the insured terminates the contract, the following provisions apply:

- (1) The fee shall be the agreed upon percentage applied to the difference between the amount paid by the insurer prior to the retention of the public adjuster and the amount committed to be paid by the insurer as of the date of termination.
- (2) If the insurer made no payments between the date of retention and the date of termination, the public adjuster shall be entitled to compensation of the hourly rate listed by the public adjuster in the disclosure document for the time spent by the public adjuster adjusting the claim as well as expenses incurred in furtherance of the claim during the term of retention.
- (3) A public adjuster shall not be entitled to apply a percentage fee to proceeds committed to be paid by an insurer after the date the contract is terminated.

Effective on January 1, 2023.

(Amends R.S. 22:1703, 1704(A)(intro para) and (A)(11), (B), and (E)(intro para) and (E)(5); Adds R.S. 22:1704(E)(6) and (K))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Clarifies that the public adjuster fees shall not exceed 10% over and above the disputed amount successfully paid by the insurer in order to resolve a claim.
2. Provides that a public adjuster shall offer in the contract or agreement with the insured all three options that consists of a flat fee, an hourly fee, or a percentage of the fee.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the reengrossed bill:

1. Provide that a public adjuster shall not require, demand, or accept any fee, retainer, compensation, deposit, or other thing of value from an insured prior to the insurer making payment on a claim.
2. Provide that if a public adjuster's compensation is based on a share of the insurance settlement, the exact percentage shall be specified in the contract.

3. Provide that initial expenses to be reimbursed to the public adjuster from proceeds of a claim payment shall be specified by type with dollar estimates set forth in the contract and with any additional expenses approved by the insured, prior to payment.
4. Provide that the disclosure form shall be signed prior to or at the signing of the public adjuster contract.
5. Provide that the disclosure form shall include the public adjuster payment options and the amount of the flat fee, the hourly rate charged, and the percentage to be applied, respectively.
6. Provide certain payment provisions that apply if a public adjuster contract provides for compensation by a percentage fee and the insured terminates the contract.