

2022 Regular Session

HOUSE BILL NO. 999

BY REPRESENTATIVE FIRMENT

INSURANCE CLAIMS-ADJUSTR: Provides for public adjusters

1 AN ACT

2 To amend and reenact R.S. 22:1706(H) and to enact R.S. 22:1704(E)(6) through (8) and
3 1706(I) through (P), relative to public adjusters; to provide for certain disclosure; to
4 provide for standards of conduct; to provide for prohibitions; to provide for
5 penalties; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:1706(H) is hereby amended and reenacted and R.S. 22:1704(E)(6)
8 through (8) and 1706(I) through (P) are hereby enacted to read as follows:

9 §1704. Contract between public adjuster and insured

10 * * *

11 E. Prior to the signing of the contract, the public adjuster shall provide the
12 insured with a separate disclosure document regarding the claim process that states:

13 * * *

14 (6) The following notice in at least 12-point boldfaced type: "Louisiana law
15 requires a person insured under a property insurance policy to pay any deductible
16 applicable to a claim made under the policy. It is a violation of Louisiana law for a
17 seller of goods or services who reasonably expects to be paid wholly or partly from
18 the proceeds of a property insurance claim to knowingly allow the insured person to
19 fail to pay the applicable insurance deductible or assist in the insured person's failure
20 to pay the applicable insurance deductible."

1 (7) The public adjuster shall not participate directly or indirectly in the
 2 reconstruction, repair, or restoration of damaged property that is the subject of a
 3 claim adjusted by the public adjuster or engage in any other activities that may
 4 reasonably be construed as presenting a conflict of interest, including soliciting or
 5 accepting any remuneration from or having a financial interest in any salvage firm,
 6 repair firm, or other firm that obtains business in connection with any claim the
 7 public adjuster has a contract or agreement to adjust.

8 (8) The following notice in at least 12-point boldfaced type: "Any person who
 9 knowingly presents a false or fraudulent claim for payment of a loss or benefit or
 10 knowingly presents false information in an application for insurance is guilty of a
 11 crime and may be subject to fines and confinement in prison."

* * *

§1706. Standards of conduct of public adjuster; prohibitions

* * *

15 H. A public adjuster shall not offer a residential property owner a rebate,
 16 gift, gift card, cash, coupon, waiver of any insurance deductible, or any other thing
 17 of value in exchange for permitting a contractor, another public adjuster, a public
 18 adjuster's apprentice, or any other person acting on behalf of a public adjuster to
 19 inspect the property owner's roof or to file a roof related claim.

20 I. A public adjuster shall not offer, deliver, receive, or accept any
 21 compensation, inducement, or reward for the referral of any services for which
 22 property insurance proceeds would be used for roof repairs or replacement.

23 J. A public adjuster shall not prevent or attempt to dissuade a claimant from
 24 speaking privately with an insurer, company or independent adjuster, attorney, or any
 25 other person regarding the settlement of a claim.

26 K. A public adjuster shall not restrict or prevent an insurer, company
 27 employee adjuster, independent adjuster, attorney, investigator, or other person
 28 acting on behalf of an insurer from having reasonable access at reasonable times to
 29 any insured or claimant or to the insured property that is the subject of a claim.

1 L. A public adjuster shall provide to the claimant or insured a written
2 estimate of the loss or any other claim for payment of residential property insurance
3 proceeds within sixty days of the date the contract is executed. The written estimate
4 shall include an itemized per unit estimate of the repair materials including itemized
5 information regarding equipment, materials, labor, and supplies in accordance with
6 accepted industry standards. A public adjuster shall retain such written estimates for
7 at least five years and shall make an estimate available to the claimant or insured, the
8 insurer, and the department upon request.

9 M. A public adjuster shall ensure the following actions are performed:

10 (1) The public adjuster's contract is provided to the insurer within ten
11 business days after the contract is executed.

12 (2) The property is available for inspection of the loss or damage by the
13 insurer.

14 (3) The insurer is given an opportunity to interview the insured directly
15 about the loss and claim.

16 (4) The insurer is allowed to obtain necessary information to investigate and
17 respond to the claim.

18 N. A public adjuster shall not act in a manner that obstructs or prevents an
19 insurer or an insurer's adjuster from timely conducting an inspection of any part of
20 the insured property for which there is a claim for loss or damage. A public adjuster
21 representing an insured may be present for the insurer's inspection, but if the
22 unavailability of the public adjuster would otherwise delay the insurer's timely
23 inspection of the property, the public adjuster or the insured shall allow the insurer
24 to have access to the property without the participation or presence of the public
25 adjuster or insured in order to facilitate the insurer's prompt inspection of the loss or
26 damage.

27 O. Public adjusters shall also adhere to the following general requirements:

28 (1) No public adjuster, while so licensed by the department, may represent
29 or act as a company adjuster or independent adjuster in Louisiana.

1 (2) A public adjuster shall not enter into a contract or accept a power of
2 attorney that vests in the public adjuster the authority to choose the persons who shall
3 perform repair work.

4 (3) A public adjuster shall ensure that all contracts for the public adjuster's
5 services are in writing and set forth all terms and conditions of the engagement.

6 (4) A public adjuster shall not file or record on behalf of an insured client
7 any complaint to or with any court of record or agency of the state.

8 (5) A public adjuster shall not provide services with any claim except a first-
9 party claim on behalf of an insured against such insured's insurer.

10 (6) A public adjuster shall not provide services to the insured in connection
11 with any claim for personal injury.

12 (7) A public adjuster shall not render legal advice to the insured, including
13 but not limited to legal advice regarding the policy provisions or coverage issues.

14 (8) A public adjuster shall not engage in the unauthorized practice of law as
15 defined in R.S. 37:212 and 213.

16 (9) A public adjuster may not agree to any loss settlement without the
17 insured's knowledge and written consent.

18 (10) A public adjuster shall not act as an appraiser or umpire pursuant to the
19 appraisal provisions of R.S. 22:1311 or any similar provision of a policy of insurance
20 if that public adjuster is adjusting or has adjusted all or any part of the claim, or both,
21 or property subject to that appraisal provision.

22 (11) A public adjuster shall handle every adjustment and settlement with
23 honesty and integrity without any remuneration to himself, except that to which he
24 is legally entitled.

25 (12) A public adjuster, upon undertaking a claim, shall act with dispatch and
26 due diligence in achieving a proper disposition of the claim.

27 (13) A public adjuster shall promptly report to the department any conduct
28 by any licensed insurance representative of this state which violates any provision
29 of this Section or any department rules or regulations.

1 (14) A public adjuster shall exercise appropriate care when dealing with
2 elderly claimants.

3 (15) A public adjuster shall not advise a claimant to refrain from seeking
4 legal advice, nor advise against retaining counsel to protect the claimant's interests.

5 (16) A public adjuster shall not undertake the adjustment of any claim for
6 which the public adjuster is not competent and knowledgeable as to the terms and
7 conditions of the insurance coverage, or which otherwise exceeds the public
8 adjuster's expertise.

9 (17) A public adjuster shall not materially misrepresent to an insured or other
10 interested parties the terms and coverage of an insurance contract with the intent of
11 and for the purpose of effectuating the settlement of a claim for loss or damage or
12 benefits under such contract on more favorable terms than those provided in and
13 contemplated by the insurance contract.

14 (18) A public adjuster shall not, with intent to defraud or deceive an insurer,
15 present to an insurer a statement, estimate, invoice, claim summary, proof of loss,
16 engineer's report, building consultant's report, weather report, or any other document
17 that the public adjuster knows to contain false or misleading material information.

18 P. Violation of any provision of this Section shall be grounds for
19 administrative action against the licensee. In addition to administrative action, a
20 public adjuster who violates the provisions in this Section shall be deemed to have
21 committed an unfair trade practice pursuant to R.S. 22:1964, and the penalties
22 contained in R.S. 22:1969 may be enforced by the commissioner.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 999 Engrossed

2022 Regular Session

Firment

Abstract: Provides for public adjusters in insurance.

Present law provides that prior to the signing of a contract between a public adjuster and an insured, the public adjuster shall provide the insured with a separate disclosure document regarding certain aspects of the claims process.

Proposed law retains present law and adds the following provisions to the list of disclosures:

- (1) A notice that Louisiana law requires a person insured under a property insurance policy to pay any deductible applicable under the policy and that it is a violation of the law for certain persons to assist in an insured's failure to pay a deductible.
- (2) A public adjuster shall not participate directly or indirectly in the repair of damaged property that is the subject of a claim adjusted by the public adjuster.
- (3) A notice that any person who knowingly presents a fraudulent claim or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

Present law provides certain standards of conduct for public adjusters.

Proposed law retains present law and adds the following items to the standards of conduct for public adjusters:

- (1) A public adjuster shall not offer a residential property owner a waiver of any insurance deductible or anything of value in exchange for permitting a person acting on behalf of a public adjuster to inspect the property owner's roof.
- (2) A public adjuster shall not offer or accept any compensation for the referral of any services for which property insurance proceeds would be used for roof repairs.
- (3) A public adjuster shall not prevent or attempt to dissuade a claimant from speaking privately with an insurer, company or independent adjuster, attorney, or any other person regarding the settlement of a claim.
- (4) A public adjuster shall not restrict or prevent a person acting on behalf of an insurer from having reasonable access to any insured or claimant or the insured property that is the subject of a claim.
- (5) A public adjuster shall provide to the claimant or insured a written estimate of the loss or any other claim for payment of residential property insurance proceeds within 60 days of the date the contract is executed. The public adjuster shall retain such written estimates for at least 5 years and make an estimate available to the claimant, insured, insurer, and the department upon request.
- (6) A public adjuster shall ensure that the public adjuster's contract is provided to the insurer within 10 business days after the contract is executed, the property is available for inspection of the loss by the insurer, the insurer is given an opportunity to interview the insured about the loss and claim, and the insurer is allowed to obtain necessary information to investigate and respond to the claim.
- (7) A public adjuster shall not act in a manner that obstructs or prevents an insurer or an insurer's adjuster from timely conducting an inspection of any part of the insured property for which there is a claim for loss or damage.

Present law provides certain general requirements to which public adjusters shall adhere.

Proposed law retains present law and adds the following items to the list of general requirements:

- (1) A public adjuster shall handle every adjustment and settlement with honesty and integrity, without any remuneration to himself except that to which he is legally entitled.

- (2) A public adjuster, upon undertaking a claim, shall act with dispatch and due diligence in achieving a proper disposition of the claim.
- (3) A public adjuster shall promptly report to the department any conduct by any licensed insurance representative of this state which violates any provision of present or proposed law or any department rules.
- (4) A public adjuster shall exercise appropriate care when dealing with elderly claimants.
- (5) A public adjuster shall not advise a claimant to refrain from seeking legal advice, nor advise against retaining counsel to protect the claimant's interests.
- (6) A public adjuster shall not undertake the adjustment of any claim for which the public adjuster is not competent and knowledgeable as to the terms and conditions of the insurance coverage, or which otherwise exceeds the public adjuster's expertise.
- (7) A public adjuster shall not materially misrepresent to an insured or other interested parties the terms and coverage of an insurance contract with the intent of and for the purpose of effectuating the settlement of a claim for loss or damage or benefits under such contract on more favorable terms than those provided in and contemplated by the insurance contract.
- (8) A public adjuster shall not, with the intent to defraud or deceive an insurer, present to an insurer a statement, estimate, invoice, claim summary, proof of loss, engineer's report, building consultant's report, weather report, or any other document that the public adjuster knows to contain false or misleading material information.

Proposed law provides that violation of any provision of the public adjuster standards of conduct shall be grounds for administrative action against the licensee.

Proposed law provides that in addition to administrative action, a public adjuster who violates the provisions of the public adjuster standards of conduct shall be deemed to have committed an unfair trade practice pursuant to present law (R.S. 22:1964), and the penalties contained in present law (R.S. 22:1969) may be enforced by the commissioner.

(Amends R.S. 22:1706(H); Adds R.S. 22:1704(E)(6)-(8) and 1706(I)-(P))

Summary of Amendments Adopted by House

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

1. Delete the requirement that prior to the signing of the contract, the public adjuster shall provide the insured with a separate disclosure document regarding the claim process that states that the insured has the right to rescind the contract within 10 business days of the date the contract was signed.
2. Restore present law (R.S. 22:1704(H)).
3. Delete the requirement from the public adjuster standards of conduct in proposed law that would have prohibited a public adjuster from negotiating with or obtaining a statement from a claimant or witness at a time the claimant or witness would reasonably be expected to be in duress.

4. Specify that the requirement for public adjusters to provide claimants with written estimates of the loss or any other claim for payment of insurance proceeds within 60 days of the date the contract is executed applies to residential property claims.
5. Delete the requirement from the public adjuster standards of conduct in proposed law that would have required a public adjuster to ensure that prompt notice of the claim is given to the insurer.
6. Specify that a public adjuster shall ensure that the public adjuster's contract is provided to the insurer within 10 business days after the contract is executed.
7. Make technical changes.