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## DIGEST

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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.