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**SENATE FLOOR AMENDMENTS**

2022 Regular Session

Amendments proposed by Senator Henry to Engrossed House Bill No. 999 by Representative Firment

AMENDMENT NO. 1

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

"To amend and reenact R.S. 22:1704(D) through (J) and 1706(H) and to enact R.S. 22:1704(K) and"

AMENDMENT NO. 2

On page 1, line 3, change "(P)" to "(U)"

AMENDMENT NO. 3

On page 1, delete lines 7 and 8, in their entirety and insert in lieu thereof the following:

"Section 1. R.S. 22:1704(D) through (J) and 1706(H) are hereby amended and reenacted and R.S. 22:1704(K) and 1706(I) through (U) are hereby enacted to read as follows:"

AMENDMENT NO. 4

On page 1, between lines 10 and 11, insert the following:

"D. A public adjuster shall provide the insured a written disclosure concerning any direct or indirect financial interest that the public adjuster has with any other party who is involved in any aspect of the claim, other than the salary, fee, commission, or other consideration established in the written contract with the insured, including but not limited to any ownership of, other than as a minority stockholder, or any compensation expected to be received from, any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop, or any other firm that provides estimates for work, or that performs any work, in conjunction with damages caused by the insured loss of which the public adjuster is engaged. For the purposes of this Subsection, the term "firm" shall include any corporation, partnership, association, joint-stock company, or person.

E. A public adjuster contract may not contain any contract term that:

(1) Allows the public adjuster's fee to be collected when money is due from an insurance company, but not paid, or that allows a public adjuster to collect the entire fee from the first check issued by an insurance company, rather than as a percentage of each check issued by an insurance company.

(2)(a) When any payment on a claim is made and the insured is represented by a public adjuster, the insurer's check or checks may be made payable to the insured and the public adjuster when all of the following occurs:

(i) The amount of the check does not exceed the public adjuster's fee,

(ii) The amount of the fee is indicated in a written compensation agreement signed by the insured.

(iii) The balance of the proceeds, not included in the check made payable to the insured and the public adjuster, is made payable to the insured or to the insured and other lienholder or holders as is required by law.

(b) Should a dispute arise between a public adjuster and the insured with which he contracts, the public adjuster is prohibited from acting in any manner which would interfere with or cause the insured not to receive the undisputed portion of the insurance proceeds. Should the insured's check, which contains that amount not associated with the public adjuster's fee, be mailed to or received by the public adjuster, the public adjuster shall promptly present the check to the insured.

- 1 (3) Imposes collection costs or late fees.  
 2 (4) Precludes the insured from pursuing civil or judicial remedies."

3 AMENDMENT NO. 5

4 On page 1, line 11, delete "E." and insert "F." and after "Prior to" and before "the signing"  
 5 insert "or at"

6 AMENDMENT NO. 6

7 On page 1, delete line 13, in its entirety and insert in lieu thereof the following:

8 (1) Property insurance policies obligate the insured to present a claim to his  
 9 insurance company for consideration. There are three types of adjusters that could  
 10 be involved in that process. The definitions of the three types are as follows:

11 (a) "Company adjusters" means the insurance adjusters who are employees  
 12 of an insurance company. They represent the interest of the insurance company and  
 13 are paid by the insurance company. Company adjusters shall not charge insureds a  
 14 fee.

15 (b) "Independent adjusters" means the insurance adjusters who are hired on  
 16 a contract basis by an insurance company to represent the insurance company's  
 17 interest. They are paid by your insurance company. Independent adjusters shall not  
 18 charge insureds a fee.

19 (c) "Public adjusters" means the insurance adjusters who do not work for any  
 20 insurance company. They work for the insured to assist in the investigation,  
 21 appraisal, evaluation, and reporting of the claim. The insured hires them by signing  
 22 a contract agreeing to pay them a fee.

23 (2) The insured is not required to hire a public adjuster to help the insured  
 24 meet his obligations under the policy but has the right to do so.

25 (3) The insured always has the right to initiate direct communications with  
 26 the insured's attorney, the insurer, the insurer's adjuster, and the insurer's attorney,  
 27 or any other person regarding the settlement of the insured's claim. Once a public  
 28 adjuster has been retained, the public adjuster shall not restrict communications  
 29 between the insurer and its insured.

30 (4) The public adjuster is not a representative or employee of the insurer.

31 (5) The ~~salary, full flat fee, or the hourly fee, or other valuable~~ consideration  
 32 to be paid to the public adjuster is the obligation of the insured, not the insurer."  
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34 AMENDMENT NO. 7

35 On page 1, line 14, change "12-point" to "twelve-point"

36 AMENDMENT NO. 8

37 On page 2, between lines 11 and 12, insert the following:

38 ~~F.G.~~ The contracts shall be executed in duplicate to provide an original  
 39 contract to the public adjuster and an original contract to the insured. The public  
 40 adjuster's original contract shall be available at all times for inspection without notice  
 41 by the commissioner of insurance.

42 ~~G.H.~~ The public adjuster shall provide the insurer a notification letter, which  
 43 has been signed by the insured, indicating that the insured and the public adjuster  
 44 have a contract pursuant to this Part. Delivery of this letter shall not prohibit or  
 45 impede the right of the insured to communicate directly with the insurer.

46 ~~H.I.~~ The insured has the right to rescind the contract within three business  
 47 days after the date the contract was signed. The rescission shall be in writing and  
 48 mailed or delivered to the public adjuster at the address in the contract within the  
 49 three business day period.

50 ~~I.J.~~ If the insured exercises the right to rescind the contract, any thing of value  
 51 given by the insured under the contract will be returned to the insured within fifteen  
 52 business days following the receipt by the public adjuster of the cancellation notice.

1                    ~~J.K.~~ The contract shall not be construed to prevent an insured from pursuing  
2 any civil or judicial remedy."

3 AMENDMENT NO. 9

4 On page 3, between lines 26 and 27, insert the following:

5                    "O. A public adjuster shall disclose to an insured whether he has any interest  
6 in or will be compensated by any construction firm, salvage firm, building appraisal  
7 firm, motor vehicle repair shop, or any other firm that performs any work in  
8 conjunction with damages caused by the insured's loss. For the purposes of this  
9 Subsection, the term "firm" shall include any corporation, partnership, association,  
10 joint-stock company, or individual.

11                    P. A public adjuster shall disclose to an insured in writing any compensation  
12 or anything of value received by the public adjuster in connection with the insured's  
13 loss. The disclosure shall include the source and amount of any such compensation.

14                    Q. A public adjuster shall not share in any legal fee earned by an attorney.

15                    R. A public adjuster shall not require an insured to sign an attorney  
16 representation agreement on behalf of an attorney.

17                    S. A public adjuster shall not accept a fee, commission, or other valuable  
18 consideration, regardless of form or amount, in exchange for a referral by a licensed  
19 public adjuster of an insured to any third-party individual or firm, including but not  
20 limited to an attorney, appraiser, umpire, construction company, contractor, or  
21 salvage company."

22 AMENDMENT NO. 10

23 On page 3, at the beginning of line 27, change "O." to "T."

24 AMENDMENT NO. 11

25 On page 5, at the beginning of line 18, change "P." to "U."