

2022 Regular Session

SENATE BILL NO. 186

BY SENATOR HENRY

INSURANCE POLICIES. Provides relative to public adjuster fees. (1/1/23)

1 AN ACT

2 To amend and reenact R.S. 22:1703, the introductory paragraph of 1704(A), (A)(11), and
3 the introductory paragraph of (E) and (E)(5), relative to public adjuster fees; to
4 provide for certain fees; to provide for limitations on contracts or agreements
5 between public adjusters and insureds; to provide terms and conditions; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 22:1703, the introductory paragraph of 1704(A), (A)(11), and the
9 introductory paragraph of (E) and (E)(5) are hereby amended and reenacted to read as
10 follows:

11 §1703. Public adjuster fees

12 A. **Except as provided in R.S. 22:1704(C)(2), A a public adjuster may**
13 **charge who enters into a contract or arrangement with the an insured may**
14 **charge a reasonable fee that includes a full flat fee, an hourly fee, or a percentage**
15 **fee that is calculated as a percentage of the total amount paid by an insurer to**
16 **resolve a claim, or any other valuable consideration to another for services**
17 **rendered, and the fee shall not exceed ten percent over and above the disputed**

1 amount successfully paid by the insurer in order to resolve the claim. A public
 2 adjuster shall offer in the contract or agreement with the insured all three
 3 options that consists of a flat fee, an hourly fee, or a percentage of the fee. A
 4 public adjuster shall not solicit for or enter into any contract or arrangement between
 5 an insured and a public adjuster which provides for payment of a fee to the public
 6 adjuster which is contingent upon, or calculated as a percentage of, the amount of
 7 any claim or claims paid to or on behalf of an insured by the insurer and any such
 8 contract shall be against public policy and is null and void.

9 B. A public adjuster shall not pay a ~~commission, service fee,~~ **full flat fee, an**
 10 **hourly fee, or a percentage fee** or other valuable consideration to another for public
 11 adjusting in this state if that person is required to be licensed under this Part and is
 12 not so licensed.

13 C. A person shall not accept a ~~commission, service fee,~~ **full flat fee, an**
 14 **hourly fee, or a percentage fee** or other valuable consideration for public adjusting
 15 in this state if that person is required to be licensed under this Part and is not so
 16 licensed.

17 §1704. Contract between public adjuster and insured

18 A. Public adjusters shall ensure that all contracts for their services are in
 19 writing and contain the following terms:

20 * * *
 21 (11) ~~Full salary,~~ **The full fee, an hourly fee, a percentage fee,**
 22 ~~compensation, or other considerations~~ **other valuable consideration** the public
 23 adjuster is to receive for services.

24 * * *
 25 E. Prior to the signing of the contract, the public adjuster shall provide the
 26 insured with a separate disclosure document regarding the claim process that states
 27 **the following:**

28 * * *
 29 (5) The ~~salary,~~ **full flat fee, or the percentage fee, or** other **valuable**

1 consideration to be paid to the public adjuster is the obligation of the insured, not the
2 insurer.

3 * * *

4 Section 2. This Act shall become effective on January 1, 2023.

The original instrument was prepared by Beth O'Quin. The following digest, which does not constitute a part of the legislative instrument, was prepared by Ann S. Brown.

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.

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 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.

Effective on January 1, 2023.

(Amends R.S. 22:1703, 1704(A) (intro para) and (A)(11), and (E) (intro para) and (E)(5))

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.