

Regular Session, 2010

HOUSE CONCURRENT RESOLUTION NO. 220

BY REPRESENTATIVE SCHRODER

A CONCURRENT RESOLUTION

To create an advisory committee to study the feasibility of authorizing public adjusters to charge consumers on a contingency fee basis for loss adjustment services.

WHEREAS, public adjusters are professional authorities on loss adjustments who assist policyholders by analyzing damages, assembling claims support data, and reviewing the policyholder's coverage for a full analysis and adjustment of a claim; and

WHEREAS, public adjusters are advocates for policyholders who are employed to maximize the amount of recovery after a covered loss; and

WHEREAS, in Louisiana, public adjusters investigate, appraise, or evaluate first-party claims and report to the policyholder in relation to the coverage that is provided by an insurance contract insuring the property of the policyholder; and

WHEREAS, public adjusters serve the necessary purpose of assisting policyholders in navigating the complex details of adjusting a loss, including inventory appraisals and property evaluations; and

WHEREAS, public adjusters often represent policyholders who have suffered a significant financial loss, and the policyholder may not have the ability to pay an hourly rate; and

WHEREAS, the contingency fee structure provides a wider array of policyholders with access to professional adjusting services; and

WHEREAS, under a contingency fee system, public adjusters charge policyholders a percentage of the insurance settlement or proceeds of the claim; and

WHEREAS, approximately forty-five other states authorize public adjusters to charge a contingency fee; and

WHEREAS, Louisiana is the only state that prohibits public adjusters from entering into a contingency fee contract with a percentage fee; and

WHEREAS, permitting public adjusters to charge contingency fees aligns the interest of the public adjuster with that of the policyholder as the adjuster's recovery is predicated on a successful resolution of the claim; and

WHEREAS, the contingency fee system encourages public adjusters to work efficiently as their fee is contingent upon the quality of service they provide; and

WHEREAS, the hourly rate system is susceptible to manipulation and could allow public adjusters to overwork claims and charge for claims that have no merit; and

WHEREAS, capping the contingency fee further ensures that a public adjuster's incentives are aligned with the consumer's interests so that the policyholder is protected from the inherent conflict of interests in the hourly rate system; and

WHEREAS, the hourly rate system requires policyholders to pay for services regardless of the success of the claim, and many consumers may not hire a public adjuster for fear that the outcome of the claim may not be significant enough to justify such hiring; and

WHEREAS, the contingency fee system provides the Division of Licensing and Market Compliance, within the Department of Insurance, with a readily ascertainable method of determining the legitimacy of the fees charged by public adjusters; and

WHEREAS, the department would no longer have to expend time and resources to determine the reasonableness of the fees charged.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby create an advisory committee to undertake all necessary studies to determine the feasibility of authorizing public adjusters to charge consumers on a contingency fee basis for loss adjustment services and make recommendations to the House Committee on Insurance and Senate Committee on Insurance.

BE IT FURTHER RESOLVED that the advisory committee shall be comprised of the following members:

- (1) The commissioner of insurance or his designee.
- (2) The president of the Louisiana State Bar Association or his designee.
- (3) The chief executive officer of the Independent Insurance Agents of America or his designee.
- (4) The president of the American Association of Public Adjusters or his designee.

(5) The president of the National Association of Public Insurance Adjusters or his designee.

(6) A member appointed by the governor to represent licensed public adjusters in Louisiana.

(7) A member appointed by the Louisiana Association of Justice.

(8) A member appointed by the Louisiana Association of Defense Counsel.

BE IT FURTHER RESOLVED that for the purposes of this Resolution, the members of the advisory committee shall serve without compensation.

BE IT FURTHER RESOLVED that the committee shall conduct research, meetings, and hearings as it deems appropriate, and shall complete its study and submit the report of its findings and recommendations to the House Committee on Insurance and Senate Committee on Insurance prior to February 1, 2011.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE