

BILL ANALYSIS

C.S.H.B. 3154
By: Torres
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the statutory caps on the commission that a public insurance adjuster may receive do not adequately address the matter of whether sales taxes are accounted for in the calculation of the maximum allowable commission, nor do they adequately address the matter of whether such commission, if based on a percentage of the amount the insurer paid to resolve a claim, may be based on amounts paid, or any negotiable instrument issued, by the insurer before the date of the public insurance adjuster's contract with the insured. C.S.H.B. 3154 seeks to address certain matters relating to commissions paid to public insurance adjusters.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3154 amends the Insurance Code, in provisions setting a cap on the total commission received by a licensed insurance adjuster, to exclude sales tax from the computation of that total.

C.S.H.B. 3154 authorizes a licensed insurance adjuster to be paid a commission that is based, in part, on an amount paid by, or a negotiable instrument issued by, the insurer to an insured before the effective date of the public insurance adjuster's contract with the insured if the insurer obtains the insured's written consent to the payment. The bill caps such a commission at the lesser of 25 percent of the difference between the amount the public insurance adjuster obtained to resolve a claim on behalf of the insured and the amount the insurer initially offered to pay the insured to resolve the claim or 10 percent of the total amount paid by the insurer to resolve the claim.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3154 omits a provision included in the original authorizing a licensed insurance adjuster to receive compensation for services provided as a public insurance adjuster.

C.S.H.B. 3154 omits a provision included in the original specifying that, if the licensed insurance adjuster receives compensation in the form of a percentage of the total amount paid by an insurer to resolve a claim, such compensation is a percentage of the total amount paid by an insurer to resolve a claim after the date on which an insured is under contract with the licensed insurance adjuster.

C.S.H.B. 3154 omits provisions included in the original specifying that, for purposes of establishing the forms of and limits on a licensed insurance adjuster's compensation, an

insurance settlement is the amount paid by the insurer while the insured is under contract with the license holder for public insurance adjuster services and prohibiting compensation under a public insurance adjuster contract from including an amount paid by or negotiable instruments issued by the insurer before the date of the public insurance adjuster contract.

C.S.H.B. 3154 contains a provision not included in the original authorizing a licensed insurance adjuster to be paid a commission based, in part, on an amount paid by, or a negotiable instrument issued by, the insurer to an insured before the effective date of the public insurance adjuster's contract with the insured if the insurer obtains the insured's written consent to the payment.

C.S.H.B. 3154 contains a provision not included in the original capping such a commission at the lesser of 25 percent of the difference between the amount the public insurance adjuster obtained to resolve a claim on the insured's behalf and the amount the insurer initially offered to pay to resolve the claim or 10 percent of the total amount the insurer paid to resolve the claim.

C.S.H.B. 3154 omits provisions included in the original relating to the issuance of an emergency insurance adjuster license in the event of a catastrophe or emergency arising out of certain conditions or situations, requirements for a holder of such a license to register in a designated catastrophe area, revocation or suspension of such an emergency license for cause, notification by such a license holder of a change in employment, exemptions from certain statutory provisions, and related rulemaking requirements for the commissioner of insurance. The substitute omits provisions included in the original making conforming changes reflecting the added provisions for the issuance of an emergency insurance adjuster license.

C.S.H.B. 3154 includes a saving provision not included in the original.