

Regular Session, 2012

HOUSE BILL NO. 613

BY REPRESENTATIVE JAMES

WORKERS COMPENSATION: Provides for approval of attorney fees in workers' compensation claims

1 AN ACT

2 To amend and reenact R.S. 23:1141(B) and 1143, relative to attorney fees in workers'
3 compensation disputes; to provide for the percentage of attorney fees permitted; to
4 provide for approval of attorney fees by a workers' compensation judge; and to
5 provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 23:1141(B) and 1143 are hereby amended and reenacted to read as
8 follows:

9 §1141. Attorney fees; privilege on compensation awards

10 * * *

11 B.(1) The fees of an attorney who renders service for an employee ~~coming~~
12 ~~under pursuant to~~ this Chapter shall not exceed twenty percent of the amount
13 recovered.

14 (2) The fees of an attorney representing the employer or insurer shall be
15 based upon work reasonably necessary to prosecute or defend claims by or against
16 the employer or insurer.

17 * * *

1 §1143. Excessive fees or solicitation of employment; penalty; withholding attorney
2 fees; approval by workers' compensation judge

3 A. Whoever exacts or receives a fee or gratuity for any services rendered on
4 behalf of a claimant ~~for compensation, employer, or insurer,~~ except in the amount
5 determined by the workers' compensation judge, or solicits the business of appearing
6 before the office on behalf of a claimant, employer, or insurer or makes it a business
7 to solicit employment for an attorney in connection with any claim for compensation
8 ~~under pursuant to this Chapter,~~ shall be fined not more than five hundred dollars or
9 imprisoned for not more than twelve months, or both.

10 B.(1) An attorney may withhold, as proposed attorney fees, a sum not to
11 exceed twenty percent of all amounts recovered in his trust account which funds
12 shall remain the property of the claimant, pending approval of such fees by the
13 workers' compensation judge. An attorney representing an employer or insurer may
14 withhold, as proposed attorney fees, all amounts received in a trust account pending
15 the approval of such reasonable fees by the workers' compensation judge.

16 (2) An application for approval of fees shall be filed by the attorney ~~within~~
17 no later than thirty days after the payment of the final weekly benefit, settlement of
18 the claim, or payment of the judgment, whichever occurs later. Otherwise the funds
19 shall be returned to the claimant, employer, or insurer. Application for approval of
20 a reasonable flat fee rate per case may be submitted for approval by the workers'
21 compensation judge by the attorney representing employers or insurers.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

James

HB No. 613

Abstract: Requires that attorneys representing employers or insurers obtain approval of reasonable attorney fees.

Present law provides that attorney fees for an attorney who represents an employee in a workers' compensation case shall not exceed 20% of the amount recovered, and must be approved by the workers' compensation judge.

Proposed law provides that attorney fees for an attorney who represents the employer or insurer in a workers' compensation case shall be based upon work reasonably necessary to prosecute or defend claims.

Present law prohibits the act of rendering services on behalf of a claimant, or soliciting business for an attorney, for a fee, in connection to any workers' compensation claim and provides for a fine of not more than \$500, or imprisonment for not more than 12 months, or both, for doing so.

Proposed law prohibits the act of rendering services on behalf of a claimant, employer, or insurer, or soliciting business for an attorney, in connection to a workers' compensation claim, and provides for a fine of not more than \$500, or imprisonment for not more than 12 months, or both, for doing so.

Present law allows an attorney to withhold a sum not to exceed 20% of all amounts recovered, in his trust account, for attorney fees pending approval of a workers' compensation judge.

Proposed law retains present law and further provides that the attorney representing the employer or insurer may hold attorney fees in his trust account pending approval of the workers' compensation judge.

Present law provides that an application for approval of fees shall be filed by the attorney within 30 days after the payment of the final weekly benefit, settlement of the claim, or payment of the judgment, whichever occurs first, and in the absence of such application, the funds shall be returned to the claimant.

Proposed law provides that no later than 30 days after the payment of funds, the funds shall be returned to the claimant, employer, or insurer.

Proposed law allows an attorney who represents employers or insurers to apply for approval from the workers' compensation judge of a reasonable flat rate fee per case.

(Amends R.S. 23:1141(B) and 1143)