The original instrument was prepared by Hanna Gettys. The following digest, which does not constitute a part of the legislative instrument, was prepared by Dawn Romero Watson.

DIGEST

SB 458 Engrossed   2024 Regular Session   Bass

<u>Present law</u> provides that by written contract signed by his client, an attorney at law may acquire as his fee an interest in the subject matter of a suit, proposed suit, or claim in the assertion, prosecution, or defense of which he is employed, whether the claim or suit be for money or for property.

<u>Proposed law</u> provides that any contingency fee contract authorized by <u>present law</u> is absolutely null, void, and unenforceable as contrary to public policy if the contract includes any of the following:

(1)   A contingency fee in excess of 25% of the total amount of compensation received in the suit, proposed suit, or claim, reduced by: (a) the amount of a written settlement offer received by the client from an opposing party prior to the date of execution of the initial contract between the client and an attorney for representation in the matter; and (b) the amount of compensation received for property damage to a motor vehicle.

(2)   A contingency fee in a medical liability claim that exceeds 25% of the first $250,000 of compensation received and exceeds 10% of the total amount of compensation received in excess of $250,000.

<u>Proposed law</u> provides that proposed law shall apply exclusive of reasonable and customary costs, whether recovery is received by judgement, settlement, or otherwise, and regardless of the number of opposing parties.

<u>Proposed law</u> requires that the contingency fee contract between the attorney and his client provide that the client's net recovery shall exceed the attorney's fee.

<u>Present law</u> defines "fee" as the agreed upon fee, whether fixed or contingent, and any and all other amounts advanced by the attorney to or on behalf of the client, as permitted by the Rules of Professional Conduct of the Louisiana State Bar Association.

<u>Proposed law</u> provides that "reasonable and customary costs" shall be as permitted by the Rules of Professional Conduct of the Louisiana State Bar Association.

<u>Proposed law</u> provides that it shall be considered an exercise of the police powers of the state to protect the public health, safety and welfare of the people of the state from predatory practices. Provides that <u>proposed law</u> shall be known and may be cited as "Plaintiff Protection from Predatory Practices Law".

<u>Proposed law</u>, regarding legal malpractice insurance, provides that on and after August 1, 2024, any

insurance policy issued or renewed that provides legal malpractice coverage shall exclude coverage for any contingency fee contract between the attorney and his client that does not comply with the provisions of proposed law.

Proposed law provides that in the event of a claim on a policy issued or renewed in accordance with proposed law and the contract between the attorney and his client provides for a contingency fee, any liability shall not be compensable under the policy if the contract between the attorney and his client is not in compliance with proposed law.

Proposed law provides that any legal malpractice insurance policy issued or renewed on and after August 1, 2024, that is otherwise valid, which contains a condition or provision not in compliance with proposed law, shall not be rendered invalid, but shall be construed and applied in accordance with conditions and provisions as would have applied had the policy been in full compliance with proposed law.

Effective August 1, 2024, and shall apply to any contract executed on an after August 1, 2024, between an attorney and his client that includes a contingency fee as the attorney's fee.

(Amends R.S. 37:218; adds R.S. 22:1276)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill

1. Adds contingency fee contract requirements.

2. Adds requirements of legal malpractice insurance.

3. Defines "reasonable and customary costs".

4. Provides for applicability.