

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1359 (Delegate Impallaria)
Economic Matters

Insurance - Motor Vehicle Damages - Claims for Repairs and Repair Service
Facilities

This bill makes a number of substantive changes to the law governing motor vehicle damage adjusters, appraisers, and related insurance practices.

Fiscal Summary

State Effect: The bill would not directly affect State finances or operations.

Local Effect: The bill would not directly affect local finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Definition of Comparable Charges: The law governing motor vehicle damage adjusters and appraisers is altered to state that it does not require an insurer to pay for an amount for motor vehicle repair services or products necessary to properly and fairly repair a motor vehicle that is greater than the *substantiated* usual and customary charges for equivalent services charged by similar contractors or shops that • *are not under contract with the insurer in a direct repair program or other similar program*; and • *are located within a reasonable geographic or trade area of the address of the repair service facility chosen by the claimant or insured.*

Repeal of Permissible Requirement for Appraisals: The bill states that the law does not prohibit an insurer from *offering an option* for a claimant or an insured to obtain an appraisal by driving a damaged motor vehicle to a facility that is owned or leased by or under contract to the insurer and is used exclusively for damage appraisals, *unless the claimant or insured has received a written estimate from or entered into an agreement with another facility for repair of the damage.*

Choice of Repair Facility and Disclosure: The bill permits a claimant or insured to choose any repair service facility for the repair or replacement of property damage to a motor vehicle. A repair service facility that has a contractual relationship with an insurer under a direct repair program or other similar program must disclose the relationship to the claimant or insured prior to providing a repair service or product.

Prohibited Acts by Adjusters, Appraisers, and Insurers: The bill adds agents of insurers to the list of individuals currently prohibited from engaging in specific acts regarding motor vehicle damage appraisals and repairs. The bill also adds several prohibited acts, stating that adjusters and appraisers, as well as insurance producers, agents, and employees may not • slander, defame, or make false representations about a contractor or repair shop in order to persuade a claimant or insured not to use the contractor or repair shop for a repair service or product; • recommend another contractor or repair shop to a claimant or insured who has already indicated an intent to use a particular contractor or repair shop; or • delay, or represent that there will be a delay, in processing a claim or completing a repair service solely because a claimant or insured did not choose a contractor or repair shop recommended by the adjuster, appraiser, or insurance producer.

The bill prohibits an insurer from • using a published, industry-accepted estimating manual without using the estimating manual's estimating system in its entirety to appraise a motor vehicle or determine reimbursement for a repair service or repair product; • refusing to pay adequate compensation for body repair and paint materials used in a motor vehicle repair if the charges for the materials can be substantiated through the use of an industry-accepted material calculator; or • refusing to pay, limit, or discount charges for repairs made by a repair service facility chosen by a claimant or insured that are determined using an industry-accepted estimating manual's system in its entirety based on the charges that would have been incurred if the repairs had been made by a repair service facility under contract with or recommended by the insurer.

Penalties and Liability: The bill specifies that the existing punishment for violations of the law governing motor vehicle damage adjusters and appraisers applies to adjusters, appraisers, insurance producers, and agents or employees of insurers. In addition, an insurer that intentionally violates the bill is subject to • a civil penalty of up to \$5,000 for each violation; and • denial, suspension, or revocation of any license held under the State

law governing motor vehicle damage adjusters and appraisers. An insurer that accepts financial responsibility for the above civil penalty is liable for three times the amount of the civil penalty.

Current Law/Background: Current State law does not require an insurer to pay for an amount for motor vehicle repair services or products necessary to properly and fairly repair a motor vehicle that is greater than the usual and customary charges for equivalent services charged by similar contractors or shops located within a reasonable geographic or trade area of the address of the claimant or insured. State law does not prohibit an insurer from requiring a claimant or an insured to obtain an appraisal by driving a damaged motor vehicle to a facility that is owned or leased by or under contract to the insurer and is used exclusively for damage appraisals.

Under current law, an adjuster, appraiser, or insurance producer or employee of an insurer may not • recommend the use of a specific repair service or source for the repair or replacement of property damage to a motor vehicle without informing the claimant or insured that the claimant or insured does not have to use the recommended repair service or source; • require that an appraisal or repair be made in a specific repair shop; • require that a claimant or insured use a specific contractor or repair shop for a repair service or repair product; or • intimidate, coerce, or threaten a claimant or insured to use a specific contractor or repair shop for a repair service or repair product. In addition, an adjuster or appraiser may not accept a gratuity or other form of remuneration from a repair service for recommending that repair service to a claimant or insured.

Small Business Effect: The bill's provisions would allow greater freedom for consumers to visit a motor vehicle repair facility of their choice, many of which are small businesses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Automobile Insurance Fund, Maryland Insurance Administration, Department of Legislative Services

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