S T A T E O F N E W Y O R K

8085

2009-2010 Regular Sessions

I N A S S E M B L Y

May 4, 2009

Introduced by M. of A. BALL -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to choosing a preferred motor vehicle repairer and the cost of said repairs

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general business law is amended by adding a new section 198-c to read as follows:

S 198-C. PREFERRED MOTOR VEHICLE REPAIRER AND COST OF REPAIRS. (A) (1) NO AUTOMOBILE PHYSICAL DAMAGE APPRAISER SHALL RECOMMEND, REQUEST OR REQUIRE THAT APPRAISALS OR REPAIRS SHOULD OR SHOULD NOT BE MADE IN A SPECIFIED FACILITY OR REPAIR SHOP OR SHOPS.

(2) THE APPRAISER SHALL INCLUDE WITH THE APPRAISAL THE FOLLOWING NOTICE IN CLEAR AND CONSPICUOUS BOLDFACE TYPE OF AT LEAST 10 POINT TYPE:

PURSUANT TO NEW YORK STATE LAW, THE CONSUMER HAS A RIGHT TO CHOOSE THE REPAIR FACILITY TO COMPLETE REPAIRS TO A MOTOR VEHICLE; AND AN INSURANCE COMPANY MAY NOT INTERFERE WITH THE CONSUMER'S CHOICE OF REPAIRER.

(3) NO INSURANCE COMPANY DOING BUSINESS IN THIS STATE, OR AGENT OR ADJUSTER FOR SUCH COMPANY SHALL RECOMMEND, REQUEST OR REQUIRE ANY INSURED TO USE A SPECIFIC PERSON FOR THE PROVISION OF AUTOMOBILE PHYSICAL DAMAGE REPAIRS, AUTOMOBILE GLASS REPLACEMENT, GLASS REPAIR SERVICE OR GLASS PRODUCTS.

(4) AS USED IN THIS SECTION, "RECOMMEND, REQUEST OR REQUIRE" SHALL INCLUDE ANY ACT TO INFLUENCE A CONSUMER'S DECISION INCLUDING BUT NOT LIMITED TO (I) REDUCING THE AMOUNT OF DEDUCTIBLE OR PREMIUM OR OFFERING ADDITIONAL WARRANTIES IF THE CONSUMER CHOOSES A PREFERRED REPAIR FACILITY, OR (II) SUGGESTING THAT CHOOSING A FACILITY OTHER THAN A PREFERRED REPAIR FACILITY WILL RESULT IN DELAYS IN REPAIRING THE MOTOR VEHICLE, A LACK OF GUARANTY FOR REPAIR WORK OR ADDITIONAL COSTS TO THE INSURED, PROVIDED THAT AN INSURANCE COMPANY OR APPRAISER MAY PROVIDE AN INSURED

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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WITH AN ALPHABETICAL LIST OF ALL LICENSED REPAIRERS WITHIN THE ZIP CODE AND ADJOINING ZIP CODES OF THE INSURED'S ADDRESS.

(B) (1) ALL CLAIMS PAID BY AN INSURER, A HOLDING COMPANY OF AN INSURER OR A WHOLLY OWNED SUBSIDIARY OF AN INSURER FOR ANY LOSS TO MOTOR VEHICLES OR ANY CLAIM FOR DAMAGES TO MOTOR VEHICLES, SHALL BE PAID TO THE CLAIMANT BY CHECK, ELECTRONIC TRANSFER TO THE CLAIMANT OR OTHER MEANS THAT PROVIDE THE CLAIMANT IMMEDIATE ACCESS TO THE FUNDS.

(2) THE LABOR RATE FOR THE REPAIR OF DAMAGE TO A MOTOR VEHICLE THAT IS PAID BY AN INSURER, A HOLDING COMPANY OF AN INSURER OR A WHOLLY OWNED SUBSIDIARY OF AN INSURER TO THE CLAIMANT SHALL BE BASED ON THE USUAL AND CUSTOMARY RATE FOR SUCH REPAIRS. AS USED IN THIS PARAGRAPH, "USUAL AND CUSTOMARY RATE" SHALL MEAN THE LABOR RATE THAT THE GENERAL PUBLIC COMMONLY PAYS FOR SIMILAR REPAIRS ON SIMILAR VEHICLES IN THE SAME GEOGRAPHIC AREA OF THE STATE.

(3) ANY VIOLATION OF THE PROVISIONS OF THIS SECTION BY AN INSURER SHALL BE DEEMED AN UNFAIR OR DECEPTIVE INSURANCE PRACTICE.

S 2. This act shall take effect immediately.