

MATTHEW N. WRIGHT, MEMBER
PA HOUSE OF REPRESENTATIVES
ROOM 415, SOUTH OFFICE BLDG.
HOUSE BOX 202020
HARRISBURG, PA 17120-2020
PHONE: (717) 787-8581
FAX: (717) 772-2468

760 N. WOODBOURNE ROAD
LANGHORNE, PA 19047
PHONE: (215) 757-8538
FAX: (215) 757-8510
E-mail: mwright@pahousegop.com



House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Robert Nyes, Executive Director
Independent Regulatory Review Commission
333 Market Street - 14th Floor
Harrisburg, PA 17101

Dear Commissioners:

I am opposed to implementation of the Insurance Commissions Final Rule making to Title 31, Chapter 62, Section 62.1 to 62.4 known as the Motor Vehicle Physical Damage Appraisers Act

The Appraisers Act is intended to be a "Consumer Protection" law ensuring that consumers have fair and impartial representation to have their automobile properly repaired. I believe aspects of this proposed final rule weaken the legislative intent and may in some cases directly overstep the Appraisers Act.

1. Opposed to the definition change and inclusion of "Predamaged Condition."

Currently the insurer is to "return the motor vehicle to its same condition just prior to the damage". This is conceptually making the insured vehicle whole again. The Appraisers job is to ensure that the insured vehicle ends up in the same condition as before. If original equipment manufactured parts were damaged, then the insured has a right to original replacement parts or an assurance that the *after market* parts are proven to be of same quality and performance. It is my understanding that there is no testing procedure that assures or certifies *after market* parts as to quality and performance. The definition of "Predamaged Condition" as similar "function and appearance" endorses the use of uncertified parts. The insured could receive inferior products which undermines the intent of the law.

2. After Market Warranty concerns.

It is unclear to me what will happen to the warrantees of the vehicle and/or equipment systems when a particular damaged component is replaced with an *after market* part. Through the new endorsed use of *after market* parts, the part may have a warranty but may void the manufactures system warranty. This may decrease the value of the vehicle which in turn does not return the vehicle to its same condition. This issue needs to be clarified prior to regulation acceptance and implementation.

3. Opposed to "steering" customers.

It has long been accepted that the Insurer and Appraiser can not steer customers to particular repair facilities. It is clear that the Commission's inclusion of disclosure requirements recognizes and allows insurers to provide facility recommendations (steering). This is clearly a violation of the long standing legislative intent.

4. Are brokers, company agents, independent agents, and employees of each allowed to recommend repair facilities?

It is commonly accepted that the Legislative intent is to prohibit steering of any kind. It is unclear to me whether through the lack of clear language or the use of vague statements, that other entities involved in the process may or may not be prohibited from steering. These concerns and questions are sufficient for me to request the Independent Regulatory Review Commission deny the Insurance Commission Final Form Regulation Proposal.

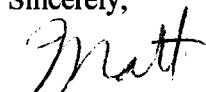
5. Appraiser Conflict of Interest.

I believe there is a fundamental flaw in the Act and exasperated in the regulation. The appraiser's role is to represent the insured in obtaining timely, fair and impartial repair to their damaged vehicle. They negotiate on behalf of the insured with the repair facility and insurer. But how can a appraiser be fair and impartial if they are employed or contracted and paid by the insurer. The appraisers livelihood depends on staying in favor with the insurer. Insurers use bonuses and incentives in compensating appraisers. It remains unclear what criterion is used by an insurer to pay a bonus. Common sense would dictate that appraisers are strongly influenced by the wishes of the insurer and may not represent the interests of the insured or produce "fair and impartial decisions".

6. Do Appraisers have to actually view the damaged vehicle?

It is not clear to me under the new regulations whether an appraiser will have to personally inspect a damaged vehicle. It is accepted that appraisers shall actually inspect a damaged vehicle, but new proposed language implies the possibility of using descriptions of damage as a basis for submitting a claim and using electronic signature as authorization. This appears to be contrary to the intent of the Act - *ensuring the proper repair*. How does the insured have confidence that proper repairs will be authorized?

Sincerely,


Matthew N. Wright