

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Stell DATE TYPED 2/21/05 HB 588/aHBIC

SHORT TITLE Unfair Settlement Practices Claim Requirement SB _____

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See Narrative		

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Corrections Department (CD)

Public Regulation Commission (PRC)

SUMMARY

Synopsis of HBIC Amendment

The House Business and Industry amendment to HB 588 clarifies that an insurer or its agents or authorized third party representative may use designated replacement products of designated manufacturers if these products are necessary for proper repair. They also may offer an explanation of the extent of an insurer's obligation under the insurance policy to its policyholder or to a third party claimant.

In addition the amendment requires an insurer or its agents or authorized third party representative to disclose to the insured or claimant either, prior to being referred to a third party representative or at first contact with the third party representative in connection with a glass claim arising under a motor vehicle insurance policy, that the third party representative is not the insurer and is acting on behalf of the insured. They must also disclose an ownership interest in any replacement or repair facility.

.Synopsis of Original Bill

House Bill 588 amends Chapter 59A, Article 16 NMSA 1978 to prevent insurance companies

from requiring the insured or claimant to use designated facilities, services, or products when there is a claim.

The insurer, its agents, or its contractors cannot, as part of settling or paying a claim:

- Require the insured or claimant to use designated replacement, repair facilities, services, or products of designated manufacturers;
- Use coercion or intimidation to make a claimant use a designated replacement or repair facility or designated products;
- Fail to disclose when there is a referral to a third party in a glass claim that the third party is not the insurer and is acting on the behalf of the insurer;
- Fail to disclose that the insured or claimant is under no obligation to use the replacement or repair facility or products recommended by the insurer; or
- Fail to disclose that the insurer or its third party representative has financial interest in the repair facility, if the insurer has such an interest.

The bill does not require the insurer to pay more than prevailing charges for motor vehicle repair services or products. The superintendent of insurance shall investigate any written complaints from an individual or repair facility related to this section. The insurance company is accountable for any violation of this Act by its third party representative.

Significant Issues

The PRC provided the following:

- In order to keep claim costs down, insurance companies routinely use “after market parts” and often contract with particular repair facilities. As long as the resulting repairs are done well and the parts used are of like kind and quality to the original parts, policyholders ultimately benefit from the reduction in premiums resulting from keeping repair costs down.
- The current industry practice is that if the insurance company picks the repair shop then the insurance company guarantees the quality of the work. If the claimant is given the right to pick, and does pick, the repair shop, then the insurance company should not be expected to guarantee the quality of the work.

FISCAL IMPLICATIONS

The AOC states that there will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes. This change has the potential to increase the workload of courts, thus requiring additional resources to handle the increase.

ADMINISTRATIVE IMPLICATIONS

Most, if not all, automobile insurance policies allow insurance companies to use “like kind and

quality” replacement parts. If this bill is interpreted to allow the claimant to demand that the original car manufacturer’s parts be used, then virtually all automobile insurance carriers writing in New Mexico would have to file revised policy forms with the Insurance Division for its review and approval.

DW/sb:lg