

By: Thompson

H.B. No. 2423

A BILL TO BE ENTITLED

AN ACT

relating to insurer and third party interests in certain motor vehicle repair facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2307.001, Subtitle A, Title 14, Occupations Code, is amended to read as follows:

Sec. 2307.001. DEFINITIONS. In this chapter:

(1) "Arm's length transaction" means the standard of conduct under which two parties having substantially equal bargaining power, each acting in its own interest, would negotiate or carry out a particular transaction.

(2) "Automotive glass work" means installing, maintaining, or repairing fixed or moveable glass in a motor vehicle.

(3) ~~[(2)]~~ "Claims center" means a location designated by an insurer where a claims adjuster, employee, or agent of the insurer performs an initial damage estimate on a vehicle under the terms of an insurance policy.

(4) ~~[(3)]~~ "Favored facility agreement" means an agreement between an insurer and a repair facility under which the insurer agrees to recommend, directly or indirectly, to its policyholders or other beneficiaries under the insurer's policies, that the policyholder or other beneficiary obtain repairs at that repair facility or in any other way agrees to influence its

1 policyholders or other beneficiaries under the insurer's policies  
2 to obtain repairs at that repair facility.

3 (5) "Automotive glass repair service" means a business  
4 that provides automotive glass work services.

5 (6) [~~(4)~~] "Insurer" means an insurer authorized by the  
6 Texas Department of Insurance to write motor vehicle insurance in  
7 this state, including a county mutual insurance company, a Lloyd's  
8 plan, and a reciprocal or interinsurance exchange if that insurer  
9 owns an interest in a repair facility in this state. The term  
10 includes an entity that is an affiliate of an insurer as described  
11 by Section 823.003, Insurance Code.

12 (7) [~~(5)~~] "Repair facility" has the meaning assigned  
13 by Section 2304.001.

14 (8) [~~(6)~~] "Support services" means basic services,  
15 provided nonspecifically, that are provided internally and to each  
16 affiliate or subsidiary, by an insurer, its parent company, or a  
17 separate affiliate created to provide basic corporate support. The  
18 term does not include a service related to the operation of a repair  
19 facility if that service would have no value, or minimal value to  
20 any other type of business.

21 (9) "Third party administrator" means any person who  
22 collects charges or premiums from or paid on behalf of, or who  
23 provides administrative services to or adjusts or settles claims  
24 by, residents of this state in connection with motor vehicle  
25 insurance coverage.

26 (10) [~~(7)~~] "Tied repair facility" means a repair  
27 facility in which an insurer owns an interest.

SECTION 2. Section 2307.002 is amended to read as follows:

Sec. 2307.002. INSURER AND THIRD PARTY INTERESTS. (a)

Except as provided by this section, an insurer may not own or acquire an interest in a repair facility.

(b) An insurer that owns an interest in a tied repair facility that was open for business, or on which construction had commenced, on April 15, 2003, may maintain that ownership interest and may operate that facility.

(c) An insurer may relocate a tied repair facility described by Subsection (b), but may not obtain an ownership interest in any additional facility not described by Subsection (b).

(d) Subsections (b) and (c) are applicable to an insurer only if the insurer and its tied repair facility are otherwise in compliance with this chapter.

(e) An insurer or third party administrator may not own or acquire an interest in an automotive glass repair service.

(f) The insurer or third party administrator shall not in any manner coerce or induce an insured to use an automotive glass repair service other than the insured's chosen service, if the insured has chosen a service.

(g) If an insurer or third party administration determines that a claimant's motor vehicle must be inspected before approving a claim for automotive glass work, the inspector must be a direct employee of the insurer or an independent party who is unrelated and unaffiliated with any automotive glass repair service. For the purposes of this subsection, "inspector" means a party who is engaged in the physical inspection of a claimant's vehicle for the

1 purposes of adjusting a claim.

2 (h) Subsections (e) through (g) do not apply to an insurer  
3 or third party administrator that owns or acquires an interest in a  
4 repair facility that engages in automotive glass work.

5 SECTION 3. This act takes effect September 1, 2011.