

CALIFORNIA CODE OF REGULATIONS
TITLE 10. INVESTMENT
CHAPTER 5. INSURANCE COMMISSIONER
SUBCHAPTER 9. INSURANCE FRAUD
ARTICLE 7. DIRECT REPAIR PROGRAMS
AND AUTO BODY REPAIR LABOR RATE SURVEYS

§ 2698.91. Auto Body Repair Labor Rate Surveys.

(a) An "auto body repair labor rate survey" is any gathering of information from auto body repair shops regarding what auto body repair labor rate the repair shops charge to ~~determine and set a specified prevailing auto body repair rate~~ in a specific geographic area.

(b) *For purposes of a survey conducted pursuant to section 758 of the California Insurance Code, "Prevailing prevailing auto body rate" means the rate determined and set by an insurer as a result of conducting an auto body labor rate survey of auto body repair shops in a particular geographic area and used by the insurer as a basis for determining the cost to settle automobile collision, physical damage, and liability claims for auto body repairs.*

(c) Any labor rate survey results reported to the Department of Insurance pursuant to Insurance Code section 758 shall include the following:

(1) The name *and address* of each auto body repair shop *responding to surveyed in* the labor rate survey;

(2) The *date the survey was completed; address of each auto body repair shop surveyed in the labor rate survey;*

(3) The total number of shops surveyed in the labor rate survey *and the total number of shops that responded to the survey for each geographic area surveyed;*

(4) The prevailing rate established by the insurer for each geographic area surveyed;

(5) A description of the specific geographic area covered by the prevailing labor rate reported.

(6) A description of the formula or method the insurer used to calculate or determine the specific prevailing auto body rate reported for each specific geographic area.

Any confidential information not required by this section should be removed from the labor rate survey results prior to submitting the survey to the Department of Insurance.

~~(d) Insurers shall send the results of their labor rate survey to the Market Conduct Division of the Department of Insurance.~~ *Insurers shall either conduct the survey in writing or maintain written records of the information gathered by any method other than writing. Upon request, the department shall have access to all records, data, computer programs, or any other information used by the insurer or any other source to determine geographic area labor rate information. This information will be held confidential pursuant to subdivision (f).*

~~(e) The Department of Insurance will make the reports available upon written request to the Custodian of Record pursuant to the Public Records Act.~~ *Insurers shall submit the results of their labor rate survey to the Department of Insurance within 30 calendar days of completing the survey. The Department shall designate the unit within the Department that will receive labor rate surveys. If an insurer conducts its survey on an ongoing basis and updates its survey data regularly, the survey shall be submitted no less than annually. In order for the Department to more effectively make survey information available to the public, the Department may require that a survey be submitted in a standard electronic or other format in order to publish survey data on the Department's public web site.*

(f) The Department will make the public portions of the survey reports available upon written request to the Custodian of Records pursuant to the California Public Records Act, Government Code section 6250 et seq. The additional non-public records and other information used by the insurer to conduct the survey shall not be the subject of a request pursuant to the California Public Records Act nor subject to other disclosure by the Department except where required to be disclosed pursuant to a valid subpoena or court order.

(g) The primary purpose of a survey submitted pursuant to Insurance Code section 758.5 and compliant with this section is to inform the public about the prevailing labor rates charged in a specific geographic area and to provide insurers with a starting point in negotiating labor rates with auto body repair shops.

(h) Nothing in these regulations shall preclude an insurer from voluntarily negotiating or contracting with an automobile repair facility for a specific labor rate.

(i) Nothing in these regulations shall require an insurer to conduct a labor rate survey.

Authority cited: Sections 758, 12921 and 12926, Insurance Code. Reference: Section 758, Insurance Code; sections 6250-6276.48, Government Code.