

CALIFORNIA CODE OF REGULATIONS
TITLE 10. INVESTMENT
CHAPTER 5. INSURANCE COMMISSIONER
SUBCHAPTER 7.5. UNFAIR OR DECEPTIVE ACTS OR PRACTICES
IN THE BUSINESS OF INSURANCE
ARTICLE 1. FAIR CLAIMS SETTLEMENT PRACTICES REGULATIONS

§ 2695.8. Additional Standards Applicable to Automobile Insurance.

[SUBDIVISIONS (a) THROUGH (e) ARE UNCHANGED.]

(f) If partial losses are settled on the basis of a written estimate prepared by or for the insurer, the insurer shall supply the claimant with a copy of the estimate upon which the settlement is based. The estimate prepared by or for the insurer shall be of an amount which will allow for repairs to be made in a workmanlike manner. If the claimant subsequently contends, based upon a written estimate which he or she obtains, that necessary repairs will exceed the written estimate prepared by or for the insurer, the insurer shall:

(1) pay the difference between the written estimate and a higher estimate obtained by the claimant; or,

(2) if requested by the claimant, promptly provide the claimant with the name of at least one repair shop that will make the repairs for the amount of the insurer's written estimate. The insurer shall cause the damaged vehicle to be restored to its condition prior to the loss at no additional cost to the claimant other than as stated in the policy or as otherwise allowed by law. The insurer shall maintain documentation of all such communications; or,

(3) reasonably adjust any written estimates prepared by the repair shop of the claimant's choice and provide a copy of the adjusted estimate to the claimant.

(A) No survey of auto body repair labor rates conducted by an insurer may be employed to adjust claims pursuant to this subdivision unless it satisfies the following criteria:

(i) The survey must comply with Cal. Code Regs., tit. 10, § 2698.91.

(ii) The survey must not reflect labor rates charged by auto body shops under any direct repair program subject to section 758 of the California Insurance Code.

(iii) The survey must be limited to auto body shops that meet all equipment requirements for auto body repair shops pursuant to Cal. Code Regs., tit. 16, § 3351.5.

(iv) The sample size of the survey must be adequate to provide a statistically significant representation of the geographic area in which the body shop is located.

(v) to (?) – SUBJECT TO FURTHER DISCUSSION OF CRITERIA WHICH MUST BE SATISFIED BY A SURVEY USED TO ADJUST RATES.

(B) A labor rate survey conducted by an insurer and employed to adjust claims pursuant to this subdivision shall not be the sole determinant in determining labor rates. Insurers shall also take the following factors into consideration:

(i) Whether the nature of the vehicle repair requires employment of personnel whose level of expertise justifies payment at higher than the prevailing auto body rate, as defined by Cal. Code Regs., tit. 10, § 2698.91(b);

(ii) to (?) – SUBJECT TO FURTHER DISCUSSION OF CRITERIA OTHER THAN PREVAILING LABOR RATES WHICH SHOULD BE CONSIDERED WHEN ADJUSTING LABOR RATES.

[SUBDIVISIONS (g) THROUGH (k) ARE UNCHANGED.]

Authority cited: Sections 790.10, 12921 and 12926, Insurance Code; Section 3333, Civil Code; and Sections 11152 and 11342.2, Government Code. Reference: Sections 758.5, 790.03(c) and 790.03(h)(3), Insurance Code; and Section 9875, Business and Professions Code.