

2015 -- H 5607 SUBSTITUTE A

=====
LC001485/SUB A/3
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - MOTOR VEHICLE GLASS REPAIR
AND REPLACEMENT

Introduced By: Representatives Lima, and Serpa

Date Introduced: February 25, 2015

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"

2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 38.5

4 MOTOR VEHICLE GLASS CONSUMER PROTECTION ACT

5 **5-38.5-1. Short title.** -- This chapter shall be known and may be cited as the "Motor
6 Vehicle Glass Consumer Protection Act."

7 **5-38.5-2. Purpose.** -- By enacting this chapter, it is the intent of the general assembly to
8 protect consumers of motor vehicle glass repair and replacement services through the licensing
9 and regulation of motor vehicle glass repair shops.

10 **5-38.5-3. Definitions.** -- As used in this chapter, the following terms shall have the
11 following meanings unless the context clearly specifies otherwise:

12 (1) "Department" means the Rhode Island department of business regulation, and the
13 official actions, duties and responsibilities of its director, deputy directors, employees or
14 authorized designees.

15 (2) "Director" means the director of the Rhode Island department of business regulation,
16 department officials or authorized individuals designated by the director to take official actions.

17 (3) "Person" means individuals, associations, partnerships, firms and corporations, and
18 the officers, directors and employees of a corporation.

1 (4) "Motor vehicle glass repair" means the business or act of repairing or replacing
2 damaged or undamaged glass in motor vehicles for compensation.

3 (5) "Motor vehicle glass repair shop" means a person or entity which, for compensation,
4 or with the intention or expectation of receiving the same, repairs or replaces or undertakes to
5 repair or replace motor vehicle glass.

6 (6) "Licensed motor vehicle glass repair shop" means a motor vehicle glass repair shop
7 which has a current valid license for motor vehicle glass repair issued under this chapter.

8 (7) "Unlicensed motor vehicle glass repair shop" means a motor vehicle glass repair shop
9 that does not have a current valid license issued under this chapter, that has had its license
10 revoked or suspended, or that has surrendered its license under this chapter.

11 **5-38.5-4. Duties of the department of business regulation.** – (a) The department shall
12 issue licenses as provided for in this chapter; and shall authorize the transfer of licenses and the
13 establishment of new offices for previously licensed motor vehicle glass repair shops.

14 (b) Within one year of the effective date of this chapter, the department shall issue a
15 motor vehicle glass repair license, without payment of fee, to any holder of a limited glass license
16 for motor vehicle glass installation issued by the department who submits an application as
17 outlined in this chapter; persons grandfathered under this subsection must be compliant with all
18 provisions of this chapter within one year of the effective date of this chapter, or such license
19 shall be revoked by the department.

20 (c) The department shall, in its discretion, conduct oversight of motor vehicle glass repair
21 shops, including:

22 (1) Acting on complaints from consumers and law enforcement officials; and

23 (2) Revoking, suspending, or taking other disciplinary actions with respect to facilities,
24 corporations, or persons licensed under this chapter.

25 (d) The department may adopt reasonable rules and regulations for the licensing of motor
26 vehicle glass repair shops, similar to other collision repair shops.

27 (e) The department may establish, adopt, amend, and rescind rules, regulations,
28 procedures, standards for sanitary, hygienic, and healthful conditions for work premises and
29 facilities used by motor vehicle glass repair shops as necessary to carry out the provisions of this
30 chapter.

31 (f) The department may establish minimum requirements for the certification of motor
32 vehicle glass repair technicians consistent with current vehicle glass standards established by
33 American National Standards Institute (ANSI) related to repair of laminated automotive glass and
34 auto glass replacement and other recognized national or corporate training programs.

1 (g) Notwithstanding any provision or law to the contrary, this chapter shall not prohibit or
2 restrict the installation or repair of motor vehicle glass by an auto body repair shop licensed by
3 the department.

4 **5-38.5-5. Practices for which license is required.** – (a) An annual license shall be issued
5 by the department to persons meeting the qualifications set by the department and paying the
6 required fees.

7 (b) No person shall engage in motor vehicle glass repair, or advertise or represent in any
8 form or manner that he, she, or it is a motor vehicle glass repair shop, unless such person
9 possesses a current valid license to operate or conduct a motor vehicle glass repair shop issued
10 under this chapter.

11 (c) Any motor vehicle glass repair to be performed in the state shall be performed by a
12 licensed motor vehicle glass repair shop pursuant to this chapter.

13 **5-38.5-6. Applications for licenses.** – (a) Application for motor vehicle glass repair shop
14 licenses shall be made to the department of business regulation in any form the department
15 requires and shall be accompanied by the required fee and evidence of financial responsibility. In
16 the application, the department:

17 (1) Shall require the name and address of the applicant and of any person having financial
18 interest, direct or indirect, in the business to be conducted by the applicant, identify at least one
19 natural person who is in charge of the operations of the applicant, and such other information as
20 the director shall require;

21 (2) May require information relating to the applicant's financial standing, the applicant's
22 business integrity, whether the applicant has an established place of business, whether the
23 applicant is properly able to conduct the business of a motor vehicle glass repair shop, and any
24 other pertinent information consistent with the safeguarding of the public interest in the locations
25 in which the applicant proposes to engage in business, all of which may be considered by the
26 department in determining whether the granting of that application is in the public interest.

27 (b) A person applying for licensing or renewal as a licensed motor vehicle glass repair
28 shop shall:

29 (1)(i) Maintain a physical place of business within the state at which it has indoor
30 facilities suitable to perform motor vehicle glass repair services and from which it may lawfully
31 dispatch mobile service vans with the intention of performing glass repair services on a mobile
32 basis; or

33 (ii) If providing motor vehicle glass repair services on a mobile-only basis, have access to
34 indoor facilities licensed or subject to regulation under chapters 38, 38.3, or 38.5 of title 5 or

1 chapter 5 of title 31 at which services must be performed indoors during inclement weather, in
2 accordance with the resin and adhesive manufacturer instructions, as well as ANSI standards.

3 (2) If using a mobile service van, register and insure such van as a commercial vehicle;

4 (3) If providing motor vehicle glass repair services, possess and maintain in working
5 order the equipment necessary to provide motor vehicle windshield glass stone chip repair;

6 (4) If providing motor vehicle glass repair services, possess and maintain the equipment
7 necessary to perform motor vehicle glass replacement services;

8 (5) Obtain all required local, state and federal licenses and permits, including a state sales
9 tax identification number and a federal tax identification number;

10 (6) Not subcontract or sublet motor vehicle glass repair services to any other person or
11 entity not in the employ of the licensed motor vehicle glass repair shop unless such person or
12 entity is also a duly licensed motor vehicle glass repair shop.

13 **5-38.5-7. Duration of license - Renewal.** – (a) The department shall determine the term
14 of each license issued pursuant to this chapter and may issue multi-year licenses with a fee for
15 each year of licensure paid in full at issuance or renewal; provided, however, no license shall
16 remain in force for a period in excess of three (3) years. All licenses shall be issued for the twelve
17 (12) month period commencing on January 1 of each year, and the fee thereafter shall be at the
18 full annual rate specified in § 5-38.5-8, regardless of the date of application or issuance of that
19 license.

20 (b) Any fee for the initial issuance or renewal of a license issued pursuant to this chapter
21 shall be determined by multiplying the current annual fee by the term of initial licensure or
22 renewal. The total fee for the entire term of licensure or renewal shall be paid at the time of
23 application for the license or renewal. The license shall be renewed upon payment of the renewal
24 fee

25 **5-38.5-8. License fee.** – The license fee for each year shall be three hundred dollars
26 (\$300). If an applicant desires to do business in more than one location, he, she, or it shall pay a
27 separate fee of three hundred dollars (\$300) for each location authorized by the department. For
28 the purposes of this section, the term "location" means a physical place of business at which a
29 licensed motor vehicle glass repair shop has indoor facilities suitable to perform motor vehicle
30 glass repair services, and shall not apply to locations where a licensed motor vehicle glass repair
31 shop provides services on a mobile basis.

32 **5-38.5-9. Licenses – Content and display.** – (a) The license of motor vehicle glass
33 repair shop shall specify the name of the holder of that business and the location at which
34 business is conducted, shall not be transferable, may be exercised only by the person whose name

1 appears on the license, and must be conspicuously displayed at that location. The license number
2 shall appear on all business communications, estimates, signs, business cards, and other written
3 documentation relating to that business.

4 (b) No unlicensed motor vehicle glass repair shop shall display in its place of business
5 any license or copy or facsimile of a license, nor shall it in any manner state that it is, or hold
6 itself out to be, a licensed motor vehicle glass repair shop.

7 (c) Prior to its expiration date, a license may be suspended or revoked by the department
8 in accordance with the procedure and on the grounds set forth in this chapter, or may be
9 terminated by voluntary surrender by the license holder.

10 (d) Upon the expiration, termination or surrender of a license, the licensee shall deliver
11 the license to the department who shall cancel the license and endorse the date of expiration,
12 termination, or surrender on the certificate.

13 (e) The department shall open to public inspection either by keeping on file in convenient
14 form or by publishing on the department's website a list of names and addresses of all motor
15 vehicle glass repair shops licensed by the department, and the names of all persons whose
16 licenses have been revoked, suspended or surrendered and the specific time for which such
17 suspension, revocation or surrender became effective.

18 **5-38.5-10. Grounds for denial, suspension, or revocation of licenses. –** The department
19 may deny an application for license or suspend or revoke a license after it has been granted, for
20 any of the following reasons:

21 (1) On proof of unfitness of the applicant to do business as a motor vehicle glass repair
22 shop;

23 (2) For any misstatement by the applicant in his or her application for a license;

24 (3) For any failure to comply with the provisions of this chapter or with any rule or
25 regulation promulgated by the department;

26 (4) For defrauding any customer;

27 (5) For dismantling any motor vehicle glass without the written authorization of the
28 motor vehicle owner;

29 (6) For refusing to surrender any motor vehicle to its owner upon tender of payment of
30 the proper charges for towing, storage, and work done on that motor vehicle;

31 (7) For having indulged in any unconscionable practice relating to the business as a motor
32 vehicle glass repair shop;

33 (8) For willful failure to perform work as contracted for;

34 (9) For failure to comply with the safety standards of the industry;

1 (10) For the purchase of used vehicle parts from unlicensed entities; or

2 (11) For failure to comply with the requirements of displaying of licenses or notices
3 required by this chapter.

4 **5-38.5-11. Procedure for suspension or revocation of license.** – No license shall be
5 suspended or revoked except after a hearing before the department or a hearing officer appointed
6 by the department. The hearing shall be conducted in accordance with the administrative
7 procedures act, chapter 35 of title 42. The order to suspend or revoke that license shall not be
8 effective for ten (10) days after written notice has been sent to the licensee.

9 **5-38.5-12. Right to appeal.** – Any licensee or applicant for license or other person in
10 interest being aggrieved by the final order or decision of the department of business regulation
11 has the right to appeal, pursuant to the administrative procedures act, chapter 35 of title 42.

12 **5-38.5-13. Records; repair bills - Disclosure.** – (a) Every licensed motor vehicle glass
13 repair shop shall maintain records for each motor vehicle upon which motor vehicle glass repair
14 services have been performed, showing the usage of all glass parts, major accessory parts,
15 including moldings and major hardware component parts, and the adhesive system used in the
16 motor vehicle glass repair. The record shall also include the brand, product number or name and
17 lot and batch numbers for the adhesive system product used. The record shall be maintained for
18 thirty-six (36) months or for so long as a warranty on the motor vehicle glass repair service
19 performed is in effect, whichever is longer.

20 (b) Each repair bill shall:

21 (1) Contain the motor vehicle glass repair shop license number or if providing motor
22 vehicle glass repair services on a mobile-only basis, contain the license number of the facility or
23 facilities where work is to be performed during inclement weather;

24 (2) Contain an itemized listing of the usage of all glass parts, major accessory parts,
25 including moldings and major hardware component parts, and the adhesive system used in the
26 motor vehicle glass repair;

27 (3) Include the brand, product number or name and lot and batch numbers for the
28 adhesive system product used;

29 (4) Include a certification under the penalties of perjury that the repairs to a particular
30 vehicle have actually been made and were completed by a licensed shop and certified technician
31 as determined by the department; and

32 (5) Advise the consumer of post-repair practices and the appropriate drive away time that
33 may be necessary to insure safe operation of the vehicle.

34 (c) Upon request of a consumer, a licensed motor vehicle glass repair shop shall disclose

1 all information relating to the charges for repair or replacement services, including the amount of
2 the charges, the identification and line item charges for the parts provided and verification of the
3 parts used, regardless of whether the amount is paid by the consumer or billed to the consumer's
4 insurance company.

5 **5-38.5-14. Responsibility of licensee for acts of agents.** – If a licensee is a firm or
6 corporation, it is sufficient cause for the suspension or revocation of a license that any officer,
7 director, or trustee of the firm or corporation or any member, in the case of a partnership, has
8 been found by the department of business regulation guilty of any act or omission which would
9 be cause for refusing, suspending, or revoking a license to that party as an individual. Each
10 licensee shall be responsible for the acts of any salesperson or any person acting as the agent for
11 that licensee, and for the acts of any salesperson, estimator, or other employee acting as the agent
12 for that licensee.

13 **5-38.5-15. Reimbursement fee.** – The director of the department may assess a motor
14 vehicle glass repair shop for reimbursement of the department's actual expenses for the
15 investigation and hearing of significant motor vehicle glass repair shop matters. An assessment
16 may be sought in the event that a motor vehicle glass repair shop does not prevail after a final
17 judicial appeal.

18 **5-38.5-16. Prohibited practices.** – (a) No licensed motor vehicle glass repair shop or
19 other person shall:

20 (1) Advertise for motor vehicle glass repair services in the state without including its
21 license number issued by the department as part of the advertisement.

22 (2) Make any false or fraudulent statement in connection with any motor vehicle glass
23 repair or attempt to collect for a motor vehicle glass repair; or without lawful authority, prevent
24 the owner of a motor vehicle from recovering the same.

25 (3) Knowingly submit a claim to an insurer or a third-party administrator for vehicle glass
26 repair, replacement or for related-services:

27 (i) If the vehicle glass was not damaged prior to repair or replacement;

28 (ii) If the services were not provided;

29 (iii) Showing work performed in a geographical area that in fact was not the location
30 where the services were provided and that results in a higher payment than would otherwise be
31 paid to the person by the policyholder's insurer;

32 (iv) Without having authorization by the owner, lessee, or insured driver of the vehicle
33 for the repair of the vehicle;

34 (v) Showing work performed on a date other than the date the work was actually

1 performed and resulting in a change of insurance coverage status; or
2 (vi) Making any other material misrepresentation related to any vehicle glass services
3 provided.
4 (4) Advise a policyholder to falsify the date of damage to the vehicle glass that results in
5 a change of insurance coverage for repair or replacement of the vehicle glass.
6 (5) Falsely sign, on behalf of a policyholder or another person, a work order, insurance
7 assignment form, or other related form in order to submit a claim to an insurer for vehicle glass
8 repair or replacement or for related services.
9 (6) Knowingly misrepresent to a policyholder or other person:
10 (i) The price of the proposed repairs or replacement being billed to the policyholder's
11 insurer; and
12 (ii) That the insurer has authorized the repairs or replacement of the glass of the insured
13 vehicle.
14 (7) Represent to a policyholder or other person that the repair or replacement will be paid
15 for entirely by the policyholder's insurer and at no cost or "free" to the policyholder unless the
16 insurance coverage has been verified by an authorized representative of the insurer.
17 (8) Add to the damage of vehicle glass before repair in order to increase the scope of
18 repair or replacement or encourage a policyholder or other person to add to the damage of vehicle
19 glass before repair.
20 (9) Perform work clearly and substantially beyond the level of work necessary to repair
21 or replace the vehicle glass to return the vehicle back to a safe pre-loss condition.
22 (10) Perform work as an unlicensed motor vehicle glass repair shop.
23 (11) Perform work inconsistent with standards established by the American National
24 Standards Institute (ANSI) related to repair of laminated automotive glass and auto glass
25 replacement.
26 (b) It is unlawful for a person who sells or repairs and replaces motor vehicle glass to
27 intentionally misrepresent the relationship of the licensed motor vehicle glass repair shop to an
28 insurer.
29 (c) A licensed motor vehicle glass repair shop, including any agent, contractor, vendor,
30 representative, or anyone acting on its behalf, must not:
31 (1) Threaten, coerce, or intimidate a person to file a claim for motor vehicle glass repair
32 or replacement.
33 (2) Engage in unfair or deceptive practices to induce a person to file a motor vehicle glass
34 repair claim.

1 (3) Induce a person to file a motor vehicle glass repair claim when the damage to the
2 motor vehicle glass is insufficient to warrant vehicle glass repair or replacement.

3 (4) Perform motor vehicle glass repair or replacement services under an insurance policy
4 without first obtaining insurer approval.

5 (d) A violation of this section is subject to enforcement under this chapter.

6 **5-38.5-17. Civil penalties for violations.** – In addition to every other power granted to
7 the department of business regulation, the department may fine a licensee not more than one
8 hundred dollars (\$100) for any violation or failure to comply with the provisions of this chapter or
9 with any rule or regulation promulgated by the department.

10 **5-38.5-18. Criminal penalties for violations – Injunctive relief.** – (a) Any person, firm,
11 or corporation required to be licensed under this chapter who conducts a motor vehicle glass
12 repair shop business without obtaining a license, or who after the denial, suspension, or
13 revocation of a license conducts that business, is guilty of a misdemeanor and shall, upon
14 conviction, be punished by a fine of not more than one thousand dollars (\$1,000), or
15 imprisonment for not more than one year, or both; for a second conviction, is guilty of a felony
16 and shall, upon conviction, be punished by a fine of not less than one thousand dollars (\$1,000)
17 and not more than five thousand dollars (\$5,000), or by imprisonment for not more than two (2)
18 years, or both; and for a third and subsequent conviction, is guilty of a felony and shall, upon
19 conviction, be punished by a fine of not less than five thousand dollars (\$5,000), or imprisonment
20 for not less than two (2) years nor more than five (5) years, or both. For the purposes of this
21 section, a plea of nolo contendere with probation shall be considered a conviction.

22 (b) If the department has reason to believe that any person, firm, corporation, or
23 association is conducting a motor vehicle glass repair shop business without obtaining a license,
24 or who after the denial, suspension, or revocation of a license is conducting that business, the
25 department may issue its order to that person, firm, corporation, or association commanding them
26 to appear before the department at a hearing to be held not sooner than ten (10) days after
27 issuance of that order to show cause why the department should not issue an order to that person
28 to cease and desist from the violation of the provisions of this chapter. That order to show cause
29 may be served on any person, firm, corporation, or association named by any person in the same
30 manner that a summons in a civil action may be served, or by mailing a copy of the order,
31 certified mail, return receipt requested, to that person at any address at which that person has done
32 business or at which that person lives. If during that hearing the department is satisfied that the
33 person is in fact violating any provision of this chapter, the department may order that person, in
34 writing, to cease and desist from that violation. All hearings herein are governed in accordance

1 [with the administrative procedures act, chapter 35 of title 42. If that person fails to comply with](#)
2 [an order of the department after being afforded a hearing, the superior court for Providence](#)
3 [County has jurisdiction upon complaint of the department to restrain and enjoin that person from](#)
4 [violating this chapter.](#)

5 **5-38.5-19. Severability.** – [The provisions of this chapter are severable; and if any of the](#)
6 [provisions are held to be invalid, the decision of the court respecting that provision or provisions](#)
7 [shall not affect the validity of any other provision, which can be given effect without that invalid](#)
8 [provision.](#)

9 SECTION 2. Section 27-29-4 of the General Laws in Chapter 27-29 entitled "Unfair
10 Competition and Practices" is hereby amended to read as follows:

11 **27-29-4. Unfair methods of competition and unfair or deceptive acts or practices**
12 **defined.** -- The following are defined as unfair methods of competition and unfair and deceptive
13 acts or practices in the business of insurance:

14 (1) Misrepresentations and false advertising of policies or contracts. - Making, issuing,
15 circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or
16 statement, sales presentation, omission, or comparison misrepresenting the terms of any policy
17 issued or to be issued or the benefits, conditions, or advantages promised by any policy or the
18 dividends or share of the surplus to be received on any policy, or making any false or misleading
19 statement as to the dividends or share of surplus previously paid on any policy, or making any
20 misleading representation or any misrepresentation as to the financial condition of any insurer, or
21 as to the legal reserve system upon which any life insurer operates, or using any name or title of
22 any policy or class of policies misrepresenting the true nature of that policy or class of policies, or
23 making any misrepresentation to any policyholder insured in any company including any
24 intentional misquote of a premium rate, for the purpose of inducing or tending to induce the
25 policyholder to lapse, forfeit, or surrender his or her insurance, or misrepresenting for the purpose
26 of effecting a pledge or assignment of or effecting a loan against any policy, or misrepresenting
27 any policy as being share or stock;

28 (2) False information and advertising generally. - Making, publishing, disseminating,
29 circulating, or placing before the public or causing, directly or indirectly, to be made, published,
30 disseminated, circulated, or placed before the public in a newspaper, magazine, or other
31 publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or
32 television station, or in any other way, an advertisement, announcement, or statement containing
33 any assertion, representation, or statement with respect to the business of insurance or with
34 respect to any person in the conduct of his or her insurance business which is untrue, deceptive,

1 or misleading;

2 (3) Defamation. - Making, publishing, disseminating, or circulating, directly or
3 indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or
4 circulating of any oral or written statement or any pamphlet, circular, article of literature which is
5 false or maliciously critical of or derogatory to the financial condition of an insurer, and which is
6 calculated to injure any person engaged in the business of insurance;

7 (4) Boycott, coercion, and intimidation. - Entering into any agreement to commit, or by
8 any concerted action committing, any act of boycott, coercion, or intimidation resulting in or
9 tending to result in unreasonable restraint of, or monopoly in, the business of insurance;

10 (5) (i) False financial statements. - Knowingly filing with any supervisory or other public
11 official, or knowingly making, publishing, disseminating, circulating, or delivering to any person,
12 or placing before the public or causing directly or indirectly, to be made, published, disseminated,
13 circulated, delivered to any person, or placed before the public any false material statement of
14 financial condition of an insurer; or

15 (ii) Knowingly making any false entry of a material fact in any book, report, or statement
16 of any insurer or knowingly omitting to make a true entry of any material fact pertaining to the
17 business of the insurer in any book, report, or statement of the insurer;

18 (6) Stock operations and advisory board contracts. - Issuing or delivering or permitting
19 agents, officers, or employees to issue or deliver agency company stock or other capital stock, or
20 benefit certificates or shares in any common law corporation, or securities of any special or
21 advisory board contracts or other contracts of any kind promising returns and profits as an
22 inducement to insurance;

23 (7) (i) Unfair discrimination. - Making or permitting any unfair discrimination between
24 individuals of the same class and equal expectation of life in the rates charged for any policy of
25 life insurance or of life annuity or in the dividends or other benefits payable on any such policy or
26 life annuity, or in any other of the terms and conditions of the policy; or

27 (ii) Making or permitting any unfair discrimination between individuals of the same
28 class and of essentially the same hazard in the amount of premium, policy fees, or rates charged
29 for any policy or contract of accident or health insurance or in the benefits payable under any
30 policy or contract, or in any of the terms or conditions of that policy, or in any other manner;

31 (iii) Making or permitting any unfair discrimination between individuals or risks of the
32 same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling,
33 or limiting the amount of insurance coverage on a property or casualty risk because of the
34 geographic location of the risk, unless:

1 (A) The refusal, cancellation, or limitation is for a business purpose that is not a pretext
2 for unfair discrimination; or

3 (B) The refusal, cancellation, or limitation is required by law or regulation;

4 (iv) Making or permitting any unfair discrimination between individuals or risks of the
5 same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling,
6 or limiting the amount of insurance coverage on a residential property risk, or the personal
7 property contained in the residential property risk, because of the age of the residential property,
8 unless:

9 (A) The refusal, cancellation, or limitation is for a business purpose that is not a pretext
10 for unfair discrimination; or

11 (B) The refusal, cancellation, or limitation is required by law or regulation;

12 (v) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage
13 available to an individual because of the sex or marital status of the individual; nothing in this
14 subsection shall prohibit an insurer from taking marital status into account for the purpose of
15 defining persons eligible for dependent benefits; or

16 (vi) To terminate, or to modify coverage, or to refuse to issue or refuse to renew any
17 property or casualty policy solely because the applicant or insured or any employee of either is
18 mentally or physically impaired; provided, that this subsection shall not apply to accident and
19 health insurance sold by a casualty insurer and, provided that this subsection shall not be
20 interpreted to modify any other provision of law relating to the termination, modification,
21 issuance or renewal of any insurance policy or contract;

22 (8) (i) Rebates. - Except as otherwise expressly provided by law, knowingly permitting
23 or offering to make or making any policy or agreement as to the policy other than as plainly
24 expressed in the policy issued on it, or paying or allowing or giving or offering to pay, allow, or
25 give, directly or indirectly, as inducement to the policy, any rebate of premiums payable on the
26 policy, or any special favor or advantage in the dividends or other benefits on the policy, or any
27 valuable consideration or inducement not specified in the policy, or giving, selling, or purchasing
28 or offering to give, sell, or purchase as inducement to the policy, or in connection with the policy,
29 any stocks, bonds, or other securities of any insurance company or other corporation, association,
30 or partnership, or any dividends or profits accrued on the security, or anything of value not
31 specified in the policy;

32 (ii) Nothing in subdivision (7) of this section or paragraph (i) of this subdivision shall be
33 construed as including within the definition of discrimination or rebates any of the following
34 practices:

1 (A) In the case of any contract of life insurance policies or life annuity, annuities paying
2 bonuses to policyholders or abating their premiums in whole or in part out of surplus accumulated
3 from nonparticipating insurance; provided, that any bonuses or abatement of premiums shall be
4 fair and equitable to policyholders and for the best interests of the company and its policyholders;

5 (B) In the case of life insurance policies issued on the industrial debit plan, making
6 allowance to policyholders who have continuously for a specified period made premium
7 payments directly to an office of the insurer in an amount which fairly represents the saving in
8 collection expenses; and

9 (C) Readjustment of the rate of premium for a group insurance policy based on the loss
10 or expense experience under it, at the end of the first or any subsequent policy year of insurance
11 under the policy, which may be made retroactive only for the policy year;

12 (9) (i) Free choice of insurance producer or insurer. - When any person, firm, or
13 corporation engaged in the business of lending money on the security of real or personal property,
14 or in the business of negotiating, purchasing, selling, or holding loans on the security of real
15 property, or in the business of building, selling, or financing the sale or purchase of real property,
16 or any trustee, director, officer, agent, or other employee of that person, firm, or corporation,
17 requires that property insurance be procured for the property, the borrower, debtor, or purchaser
18 shall have free choice of insurance producer and insurer through or by which the insurance is to
19 be placed or written, subject only to the right of the builder, creditor, lender, or seller:

20 (A) To require evidence, to be produced at a reasonable time prior to commencement or
21 renewal of risk, that the insurance providing reasonable coverage has been obtained in an amount
22 equal to the amount required by the builder, creditor, lender, or seller;

23 (B) To require insurance in an insurer authorized to do business and having a licensed
24 resident insurance producer agent in this state; and

25 (C) To refuse to accept insurance in a particular insurer on reasonable grounds related to
26 solvency;

27 (ii) When any contractor or subcontractor is required to procure a surety bond or policy
28 of insurance with respect to any building or construction contract which is about to be, or which
29 has been bid or entered into, the contractor or subcontractor shall have free choice of insurance
30 producer and insurer through or by which the surety bond or insurance is to be written; provided,
31 that the owner or contractor shall have the right: (A) to require evidence, to be produced at a
32 reasonable time prior to commencement or renewal of risk, that the insurance providing
33 reasonable coverage has been obtained in an amount equal to the amount required by the builder,
34 creditor, lender, or seller; (B) to require insurance in an insurer authorized to do business and

1 having a licensed resident insurance producer in this state; and (C) to refuse to accept insurance in
2 a particular insurer on reasonable grounds related to solvency; provided, that the owner or
3 contractor shall have the right to approve the form, sufficiency, or manner of execution of the
4 surety bond or policy or insurance furnished by the insurance company or insurance producer
5 selected by the contractor or subcontractor;

6 (iii) No person who lends money or extends credit may:

7 (A) Solicit insurance for the protection of real property after a person indicates interest in
8 securing a first mortgage credit extension until that person has received a commitment in writing
9 from the lender as to a loan or credit extension;

10 (B) Unreasonably reject a policy furnished by the borrower for the protection of the
11 property securing the creditor lien. A rejection shall not be deemed unreasonable if it is based on
12 reasonable standards, uniformly applied, relating to the extent of coverage required and the
13 financial soundness and the services of an insurer. The standards shall not discriminate against
14 any particular type of insurer, nor shall the standards call for rejection of a policy because it
15 contains coverage in addition to that required in the credit transaction;

16 (C) Require that any borrower, mortgagor, purchaser, insurer, or insurance producer pay
17 a separate charge, in connection with the handling of any policy required as security for a loan on
18 real estate, or pay a separate charge to substitute the policy of one insurer for that of another. This
19 subsection does not include the interest that may be charged on premium loans or premium
20 advancements in accordance with the terms of the loan or credit document;

21 (D) Use or disclose, without the prior written consent of the borrower, mortgagor, or
22 purchaser taken at a time other than the making of the loan or extension of credit, information
23 relative to a policy which is required by the credit transaction, for the purpose of replacing the
24 insurance; or

25 (E) Require any procedures or conditions of duly licensed insurance producers or
26 insurers not customarily required of those insurance producers or insurers affiliated or in any way
27 connected with the person who lends money or extends credit;

28 (iv) Every person who lends money or extends credit and who solicits insurance on real
29 and personal property subject to paragraph (iii) of this subdivision shall explain to the borrower in
30 writing that the insurance related to the credit extension may be purchased from an insurer or
31 insurance producer of the borrower's choice, subject only to the lender's right to reject a given
32 insurer or insurance producer as provided in paragraph (iii)(B) of this subdivision. Compliance
33 with disclosures as to insurance required by truth in lending laws or comparable state laws shall
34 be compliance with this subsection;

1 (v) This requirement for a commitment shall not apply in cases where the premium for
2 the required insurance is to be financed as part of the loan or extension of credit involving
3 personal property transactions;

4 (vi) The commissioner shall have the power to examine and investigate those insurance
5 related activities of any person or insurer that the commissioner believes may be in violation of
6 this section. Any affected person may submit to the commissioner a complaint or material
7 pertinent to the enforcement of this section;

8 (vii) Nothing in this section shall prevent a person who lends money or extends credit
9 from placing insurance on real or personal property in the event the mortgagor, borrower, or
10 purchaser has failed to provide required insurance in accordance with the terms of the loan or
11 credit document;

12 (viii) Nothing contained in this section shall apply to credit life or credit accident and
13 health insurance.

14 (10) Notice of free choice of insurance producer or insurer. - Every debtor, borrower, or
15 purchaser of property with respect to which insurance of any kind on the property is required in
16 connection with a debt or loan secured by the property or in connection with the sale of the
17 property, shall be informed in writing by the builder, creditor, lender, or seller, of his or her right
18 of free choice in the selection of the insurance producer and insurer through or by which the
19 insurance is to be placed. There shall be no interference, either directly or indirectly, with the
20 borrower's, debtor's, or purchaser's free choice of an insurance procedure and of an insurer which
21 complies with the requirements of this section, and the builder, creditor, lender, seller, owner, or
22 contractor shall not refuse the policy tendered by the borrower, debtor, purchaser, contractor, or
23 subcontractor. Upon notice of any refusal of the tendered policy, the insurance commissioner
24 shall order the builder, creditor, lender, seller, owner, or contractor to accept the tendered policy,
25 if the commissioner determines that the refusal is not in accordance with the requirements of this
26 section. Failure to comply with an order of the insurance commissioner shall be deemed a
27 violation of this section;

28 (11) Using insurance information to detriment of another. - Whenever the instrument
29 requires that the purchaser, mortgagor, or borrower furnish insurance of any kind on real property
30 being conveyed or is collateral security to a loan, the mortgagee, vendor, or lender shall refrain
31 from disclosing or using any and all insurance information to his or her or its own advantage and
32 to the detriment of either the borrower, purchaser, mortgagor, insurance company, or agency
33 complying with the requirements relating to insurance;

34 (12) Prohibited group enrollments. - No insurer shall offer more than one group policy of

1 insurance through any person unless that person is licensed, at a minimum, as an insurance
2 producer. This prohibition shall not apply to employer-employee relationships, or to any of these
3 enrollments;

4 (13) Failure to maintain complaint handling procedures. - No insurer shall fail to
5 maintain a complete record of all the complaints it received since the date of its last examination
6 pursuant to the general laws providing for examination of insurers. This record shall indicate the
7 total number of complaints, their classification by line of insurance, the nature of each complaint,
8 the disposition of each complaint, and the time it took to process each complaint. For the
9 purposes of this subsection, "complaint" means any written communication primarily expressing
10 a grievance;

11 (14) Misrepresentation in insurance applications. - Making false or fraudulent statements
12 or representations on or relative to an application for a policy, for the purpose of obtaining a fee,
13 commission, money, or other benefit from any insurers, insurance producer, or individual person;
14 and

15 (15) Requiring that repairs be made to an automobile at a specified auto body repair shop
16 or interfering with the insured's or claimant's free choice of repair facility. - The insured or
17 claimant shall be promptly informed by the insurer of his or her free choice in the selection of an
18 auto body repair shop. Once the insured or claimant has advised the insurer that an auto body
19 repair shop has been selected, the insurer may not recommend that a different auto body repair
20 shop be selected to repair the automobile. An auto body repair shop may file a complaint with the
21 department of business regulation alleging a violation of this subdivision (15). Whenever the
22 department of business regulation has reason to believe that an insurer has violated this
23 subdivision (15), the department shall conduct an investigation and may convene a hearing. A
24 complaint filed by an auto body repair shop must be accompanied by a statement written and
25 signed by the insured or claimant setting forth the factual basis of the complaint, and the insured
26 or claimant must voluntarily appear and testify at any administrative proceedings on the
27 complaint.

28 (16) Requiring that motor vehicle glass repair be made at a specified motor vehicle glass
29 repair shop or interfering with the insured's or claimant's free choice of a licensed repair facility.
30 The insured or claimant shall be promptly informed by the insurer of his or her free choice in the
31 selection of a licensed motor vehicle glass repair shop. The insurer shall not require a person to
32 use or employ unfair or deceptive acts or practices, threaten, coerce or intimidate to induce a
33 person to use or select a particular licensed motor vehicle glass repair shop to provide motor
34 vehicle glass repair services. An insurer shall not knowingly contract with, refer motor vehicle

1 glass repair services to, or otherwise negotiate with an unlicensed motor vehicle glass repair shop,
2 as defined in chapter 38.5 of title 5. Once the insured or claimant has advised the insurer that a
3 motor vehicle glass repair shop has been selected, the insurer may not recommend that a different
4 motor vehicle glass repair shop be selected to repair the motor vehicle glass, and an insurer shall
5 not assign or dispatch the repair work or forward a related policy or policyholder's contact or
6 repair scheduling information to a different licensed motor vehicle glass repair shop without the
7 knowledge and consent of the insured. An insured may at any point in time elect to change the
8 insured's choice of licensed motor vehicle glass repair shop. However, an insurer authorized to
9 conduct business in the state may provide directly or through other means, including electronic
10 transmissions, specific truthful and non-deceptive information regarding the features and benefits
11 available to the insured under the policy to assist the insured in selecting a licensed motor vehicle
12 glass repair shop or scheduling a licensed motor vehicle glass repair shop to perform motor
13 vehicle glass repair, or enter into any preferred provider agreements and/or participate in direct
14 repair programs or direct repair networks with licensed motor vehicle glass repair shops. A motor
15 vehicle glass repair shop may file a complaint with the department of business regulation alleging
16 a violation of subsection (16) of this section. Whenever the department of business regulation has
17 reason to believe that an insurer has violated subsection (16) of this section, the department shall
18 conduct an investigation and may convene a hearing. A complaint filed by a motor vehicle glass
19 repair shop must be accompanied by a statement written and signed by the insured or claimant
20 setting forth the factual basis of the complaint, and the insured or claimant must voluntarily
21 appear and testify at any administrative proceedings on the complaint.

22 SECTION 3. This act shall take effect on January 1, 2016.

=====
LC001485/SUB A/3
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - MOTOR VEHICLE GLASS REPAIR
AND REPLACEMENT

- 1 This act would create a procedure for the licensing of motor vehicle glass repair or
- 2 replacement shops.
- 3 This act would take effect on January 1, 2016.

=====
LC001485/SUB A/3
=====