

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1619/P2dn
PJK:sac:ph

March 6, 2013

I'm sorry; I must have misunderstood your original drafting instructions. I thought that you wanted to add the sentence about a consumer's right to choose a repair facility to a substitute amendment to 2007 AB 353 (LRBs0202). However, since you want to remove the substantive provisions of that substitute amendment, I must make more changes than requested in the redraft instructions:

1. A title that references repair practices would be inappropriate because the new section is not about repair practices.
2. I am unable in this draft to retain the subsection relating to scope (sub. (1)), because the draft no longer applies, on its face, to an insurer, as the substitute amendment did.
3. It also does not make sense to retain the subsection relating to inapplicability to glass repair practices (sub. (4)), because the single statement that is left is consistent with s. 632.37. Keeping sub. (4) would, I think, raise questions and doubts about the meaning of s. 632.37.

The problem with the one sentence that is left is that it does not have any real meaning. It's similar to a statement that one would see in a constitution, not in statutes. A constitutional provision (such as the equal protection clause or the due process clause) needs to be construed by a court to determine whether a particular action violates it or not. The single substantive statement in this draft does not prohibit, require, or authorize any particular action on the part of anybody. If someone were to ask me what the legal significance of the draft is, I would have to say that I do not know.

Since the new section in the draft is about consumer rights, and not, on its face, about regulating the insurance industry, I placed it back in ch. 100. However, since you wanted OCI to enforce it, I added the new section to s. 601.41 (1), as well as to the penalty provisions in s. 601.64.

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