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DOWN BUT NEVER OUT

**WHY THE APPRAISAL CLAUSE
WILL ALWAYS MATTER**

PLUS:

- A Message from ABAT: We Still Won
- June Meeting Announcement
- Texas Auto Body Trade Show Update

WHAT DID THE APPRAISAL CLAUSE BILL HEARING REVEAL?

Dear Mr. McDorman:

I operate a collision facility in Southeast Texas. I listened to your testimony last month before the Committee on Insurance in support of House Bill 2534. During your testimony, you stated that your average negotiated increase in total loss settlements for your clients is \$3,600 and that the increased settlement often leads to vehicles being repaired. Also, as I understood from your testimony, your average settlement increase on repair procedure under-indemnification claims is over 35 percent. At the end of the hearing, Committee Chairman Oliverson asked about data supporting your surprising statements.

I heard Joe Woods of the American Property Casualty Insurance Association testify that the Appraisal Clause was designed for the appraisers and the umpire to come up with a deal that makes the parties happy, and that the valuation difference is only between \$500 and \$700 in most cases. From our experience, I found his testimony to be completely off the mark. What information did you supply the Committee on Insurance, and what did it reveal about your testimony and the support of House Bill 2534?

This is a great observation of the hearing and an excellent question. It was an honor for me to be allowed to speak before the Committee on Insurance in April in regard to House Bill 2534 and the idea of a mandatory Right of Appraisal for motor vehicle insurance policies. I was a little surprised when I heard Mr. Woods' testimony claiming that the Appraisal Clause was designed for the appraisers and the umpire to "come up with a deal that makes the parties happy." This could not be further from the truth. The appraisers are required to issue loss statements and exchange and discuss them. Only if they cannot agree on a value are their loss statements turned over to an umpire. In my extensive experience, there has rarely been a need for an umpire. Should an umpire be called into play, the agreement becomes binding on the parties upon any two of the three agreeing on the loss.

In response to Mr. Woods' claim that the valuation difference is only between \$500 and \$700 in most cases, your observation is absolutely on point. This too could not be further from the truth. After my testimony, I went back and revised our numbers based upon claims from Texas only, which is something I had not looked at before. Our average settlement increase over the carrier's final offer for Texas claims is \$3,523, and we have increased settlement values in some cases by \$20,000 to \$30,000. These calculations are

from our database for 758 total loss claims we have settled in Texas over the past several years. (This constitutes ALL worked claims over this period, not picking and choosing them.)

Committee member Ramon Romero stated that he would be concerned if the average settlement increase was as I stated. Committee Chairman Tom Oliverson echoed this sentiment, stating that if the majority were off by \$3,600, "that's significant to me, too." When asked by Representative Romero if he found it concerning that insurers were off by an average of \$3,600, Jon Schnautz of the National Association of Mutual Insurance Companies (NAMIC) replied that he did. The information supporting my testimony on total loss claims was supplied to the Committee on Insurance on or about April 29.

During my testimony, I also stated that the average negotiated increase in repair procedure dispute claims that we have handled is more than 35 percent, and that we often uncover unsafe repair procedures in the insurance carriers' discounted repair estimates. By nature, I am always conservative in my projections. Unlike the total loss and inherent diminished value claims we handle (where we can generate a report showing the settlement details of each at the stroke of a key), the repair procedure dispute claim types require me to manually go through our database to retrieve the data. These types of claims are very technical and require a great deal of experience to handle. At the end of our audit of these types of claims from Texas insureds only, we found the average under-indemnification to be an astonishing 90 percent! The information supporting my testimony on repair procedure claims was supplied to the Committee on Insurance on or about May 10.



Robert is a recognized Public Insurance Adjuster and Certified Vehicle Value Expert specializing in motor vehicle-related insurance claim resolution. Robert can be reached at (800) 736-6816, (817) 756-5482 or via email at AskTheExpert@autoclaimspecialists.com.

House Bill 2534 was created to detour this type of under-indemnification and the potentially unsafe discounted repair plans issued by the inexperienced insurance appraiser. Please note that State Farm has restricted its insureds from invoking the Right of Appraisal in contest of loss disputes on repairs regardless of whether the written repair estimate constitutes an unsafe repair. Thus, the 90 percent settlement increase we see does not include State Farm insureds who have disputes over the repair methodology used by that company. Since State Farm insureds have no recourse, we can only imagine the magnitude of their under-indemnification. Bill 2534 was designed to correct this by requiring State Farm's policy to allow the parties to invoke the Right of Appraisal when a loss dispute arises over the repair methodology of the covered vehicle.

I would also like to comment on the task assigned to the insurers' counsel to determine the percent of claimants who invoke appraisal. I am sure that this is a very small percent, but that in no way reflects upon the importance of this bill. What it does reflect upon – and very poorly, I may add – is the lack of

candor between the insurers and their policyholders in regard to those policyholders' rights in loss disputes. I have talked to thousands of insureds over the years, and I have yet to hear from a single one who was told by their carrier about their right to invoke appraisal. The percent of insureds who request appraisal is currently small because hardly anyone knows about this right. This is something that publicity from this bill can hopefully help to change. On April 27, the House Insurance Committee voted 5-4 in favor of this legislation.

Please call me should you have any questions relating to the policy or covered loss. We have most insurance policies in our library. Always keep in mind a safe repair is a quality repair, and quality equates to value. I thank you for your question and look forward to any follow-up questions that may arise.

Sincerely,
Robert L. McDorman
TXA

The image shows a tablet displaying the FindPigtails.com website. At the top left of the tablet screen is a pigtail connector icon with the text "FindPigtails.com". To the right of the tablet is a glowing sphere composed of many small car icons. The website interface includes a search bar with the text "Search for any automotive connector by VIN, model year, part number or other keyword". Below the search bar are navigation links: "Terminal Search", "Shop", "Resources", "Today's Deal", and "Contact Us". A large yellow text overlay reads "350,000 pigtails" and "Connector, Pigtail? Ride with us!". Below this are three dropdown menus for "Make", "Model", and "Year", each with "Please select" as the current value. There are two red buttons: "LOOKUP BY MODEL YEAR" and "LOOKUP BY VIN". A chat window is open on the right side of the tablet, titled "Chat with us now" and "Pigtail Pro Customer Support". The chat window shows a "Chat started" message and a customer service message: "We're here to help, just let us know!". Below the chat window is a text input field with the placeholder "Type a message here." and a "zendesk" logo. At the bottom right of the tablet screen, the text "Live-Chat, Now!" is displayed. The background of the entire image is a blurred view of a car's engine compartment with various wires and components.