



AUTO BULLETIN NO. 1 (Reissued)

**TO: ALL INSURERS PROVIDING AUTOMOBILE INSURANCE COVERAGE
IN DELAWARE**

RE: DETERMINATION OF REPLACEMENT VALUE OF AUTOMOBILES

DATED: May 18, 1972 (Original)

Revised April 15, 1992

Reissued January 25, 2018

The purpose of this bulletin is to reinforce the guidance articulated in the two previous versions of this bulletin and to further clarify and interpret that guidance. This bulletin applies to both first party and third party claims, without regard as to whether the subject policy provides personal or commercial coverage.

This bulletin is being reissued because the Department continues to regularly receive complaints concerning the following three unfair automobile damage claims settlement practices, notwithstanding the fact that the Department has long and consistently viewed these practices as unfair:

- Unfair settlement offers for totaled vehicles;
- Basing a settlement offer on a valuation calculated using national rather than local market data; and
- Prematurely closing claims.

Title 18 of the Delaware Code at Section 2304(16)d, f and h, respectively, prohibits an insurer from:

- d. Refusing to pay claims without conducting a reasonable investigation based upon all available information;
- f. Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear; . . . [and]
- h. Attempting to settle a claim for less than the amount to which a reasonable person would have believed that person's own self was entitled by reference to written or printed advertising material accompanying or made part of an application. . . .

Additionally, 18 **Del. C.** § 2307(a) allows the Commissioner to call a hearing with respect to any person whom the Commissioner has reason to believe has been engaging in any unfair or deceptive act or practice, whether or not defined in 18 **Del. C.** §§ 2304 or 2305.

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Unfair settlement offers for totaled vehicles: As stated in the version of this bulletin that was issued on April 15, 1992, and restated here with emphasis added:

Where an adjustment involves the replacement value of an automobile, such adjustment shall be based on the fair market value at the time of loss of a like make, model, condition and equipped automobile. Should a dispute arise concerning value, the adjuster shall be prepared to substantiate his offer with the average quotation from three reputable used car dealer managers in the area of claimant's residence. . . .

If, in the conduct of his affairs an adjuster violates the above, he shall be subject to a fine or suspension or revocation of his license pursuant to the applicable section of the Insurance Code.

The Department recognizes that a claimant may rightfully elect to retain a salvage title to a totaled vehicle. In that event, the amount payable to the claimant should be reduced by the salvage bid obtained by the carrier.

Claims valuation: If the claimant and the carrier have a dispute as to the value of the totaled vehicle, the appraised value of the totaled vehicle should be derived from calculating the average of three quotations from three different, reputable, used car dealer managers in the area of claimant's residence. The only exception would be where the vehicle that is the subject of the claim is singularly unique so that the adjuster must widen the search for comparable vehicles in order to accurately calculate the value of the totaled vehicle.

Premature closure of claims: A claimant has the right to make a counteroffer to an insurer based on three appraisals obtained by the claimant. However, the claimant should not be required to put the claimant's life on hold during the negotiations with the claimant's insurer. Accordingly, a claimant may accept payment from an insurer of that portion of the claim that is not in dispute, without forfeiting, waiving, or losing any rights under the policy to continue to negotiate for a more favorable settlement.

Any questions, comments or requests for clarification concerning this Bulletin should be emailed consumer@state.de.us.

This Bulletin shall be effective immediately and shall remain in effect unless withdrawn or superseded by subsequent law, regulation or bulletin.



Trinidad Navarro
Delaware Insurance Commissioner

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