

Enrolled
House Bill 2190

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Consumer and Business Services)

CHAPTER

AN ACT

Relating to valuations under motor vehicle liability insurance; creating new provisions; and amending ORS 742.466.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 and 3 of this 2009 Act are added to and made a part of the Insurance Code.

SECTION 2. When an insurer declares a motor vehicle a total loss and offers to make a cash settlement to an insured or third-party owner of the motor vehicle, the insurer shall provide the insured or third-party owner:

- (1) Any valuation or appraisal reports relied upon by the insurer to determine value; and
- (2) A written statement in a form provided by the Director of the Department of Consumer and Business Services that includes:
 - (a) Information about total loss, vehicle valuation and the duties of the insurer; and
 - (b) The manner in which and under what circumstances the insured may contact the Insurance Division of the Department of Consumer and Business Services.

SECTION 3. (1) An insurer shall pay the insured or third-party owner of a motor vehicle the amount of the motor vehicle's value that is not in dispute if the insurer declares the motor vehicle a total loss and the insurer and the insured or third-party owner are unable to agree on the value of the motor vehicle. Acceptance of payment of the undisputed amount neither waives the rights of the insured or third-party owner under the policy nor prevents the insured or third-party owner from pursuing a claim for additional amounts. Payment of the undisputed amount by the insurer does not waive any rights of the insurer under the policy.

(2) An insurer is not obligated to pay the undisputed amount under subsection (1) of this section until the insured or third-party owner of the motor vehicle:

- (a) Agrees to execute documents sufficient to transfer ownership of the motor vehicle to the insurer; and
- (b) Authorizes the insurer, at the insurer's expense, to move the motor vehicle to a disclosed location selected by the insurer, where the motor vehicle will remain available for inspection and evaluation for not fewer than 14 calendar days.

(3) After the expiration of the 14-day period under subsection (2) of this section, the insurer may proceed with the salvage sale of the motor vehicle.

SECTION 4. ORS 742.466 is amended to read:

742.466. (1) In the event of a dispute between the insurer and insured under a motor vehicle liability policy concerning coverage for physical damage, if the policy contains a provision authorizing the insured to obtain an independent appraisal by a disinterested party of the physical damage, that provision shall apply.

(2) When a motor vehicle liability policy contains a provision for resolving a dispute through appraisal of a motor vehicle insured under the policy, the insurer shall reimburse the insured for the reasonable appraisal costs if the final appraisal decision under the policy provision is greater than the amount of the insurer's last offer prior to the incurrence of the appraisal costs.

[2] (3) If a motor vehicle liability policy does not contain a provision described in subsection (1) of this section, then notwithstanding any other provision of the policy, any resolution of the dispute shall be subject to rules adopted by the Director of the Department of Consumer and Business Services.

SECTION 5. (1) Section 2 of this 2009 Act applies to a determination of loss made on or after the effective date of this 2009 Act.

(2) Section 3 of this 2009 Act and the amendments to ORS 742.466 by section 4 of this 2009 Act apply to motor vehicle liability insurance policies issued or renewed on or after the effective date of this 2009 Act.

Passed by House February 24, 2009

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Chief Clerk of House
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Speaker of House

Received by Governor:

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Approved:

.....M,....., 2009

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Governor

Passed by Senate March 30, 2009

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President of Senate

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State