

HOUSE No. 900

By Mr. Ayers of Quincy, petition of Bruce J. Ayers relative to arbitration with insurance companies for property damages to motor vehicles. Financial Services.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO ARBITRATION FOR AUTOMOBILE INSURANCE PROPERTY DAMAGE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 191A of Chapter 175 of the General Laws, as so
2 appearing in the 2004 Official Edition, is hereby amended by
3 striking the second subparagraph of paragraph one thereof, and
4 inserting in its stead, the following:—

5 If the named insured, or the repairer chosen by the insured to
6 make repairs to the vehicle, and the company fails to agree as to the
7 amount of loss, each shall, on the written demand of the other made
8 within 90 days after receipt of proof of loss by the company, submit
9 to binding arbitration as to the amount of the loss. The party
10 demanding arbitration shall select a competent and disinterested
11 licensed auto damage appraiser as an arbitrator and shall identify the
12 appraiser in its demand. The other party shall thereafter select a
13 competent and disinterested licensed auto damage appraiser as a
14 second arbitrator and shall identify the appraiser to the party
15 demanding arbitration within 5 working days of receipt of the
16 demand for arbitration. The 2 chosen arbitrators shall choose another
17 competent and disinterested licensed auto damage appraiser, who
18 shall then serve as an umpire. If the 2 arbitrators chosen by the par-
19 ties cannot agree upon an umpire within 5 working days after being
20 appointed, then either party may file a petition for appointment of
21 the umpire with the division of the district court department of the
22 trial court for the district within which either the vehicle owner or
23 the repair shop chosen to make repairs is located. Such petition shall
24 be accompanied by a filing fee in the amount of the usual filing fee

25 for a complaint, as well as a list of not less than 3 competent and dis-
26 interested licensed auto damage appraisers and a summary of the
27 qualifications of each such listed appraiser. At the time of filing such
28 petition, the court shall schedule same for hearing, such hearing to
29 be held within 7 days of the filing. The petitioner shall forthwith
30 serve notification of the date and time of hearing and a copy of the
31 petition and submitted list of appraisers upon the other chosen arbi-
32 trator by hand delivery or by certified mail. Such other chosen arbi-
33 trator shall also submit a list of not less than 3 competent and
34 disinterested licensed auto damage appraisers and a summary of the
35 qualifications of each such listed appraiser. At the scheduled
36 hearing, the court shall appoint an umpire from the lists submitted.
37 Such hearing shall be held on an informal basis, utilizing the rules of
38 evidence applicable to cases heard under the procedure established
39 by section 21 of chapter 218. Within 5 working days of selecting the
40 umpire, the 2 initially chosen arbitrators shall also independently
41 appraise the loss, such appraisals to be made at a reasonable time
42 and place. Each arbitrator shall itemize the cost of repair, or shall
43 state in writing the actual cash value of a vehicle appraised as a total
44 loss. The arbitrators shall then attempt to agree as to the amount of
45 the loss. If the 2 chosen arbitrators shall fail to agree within 5
46 working days after making their appraisals, they then shall submit
47 their appraisals to the umpire within three working days of the expi-
48 ration of the said 5 day period. The umpire, within 5 working days
49 of receiving the arbitrators' appraisals, shall make an award, ren-
50 dered by selecting one of the 2 appraisals as submitted by the arbi-
51 trators. An award in writing of any 2 shall determine the amount of
52 loss. Such decision shall be binding upon the parties. Within 5
53 working days of the umpire's decision, the insurer shall make pay-
54 ment on the award accordingly. The named insured and the company
55 shall each pay their own chosen arbitrator and shall bear equally the
56 expenses of the umpire. An insurer that fails to comply with the pro-
57 visions of this section shall be deemed to have engaged in unfair
58 claims settlement practices in violation of section 3(9) of chapter
59 176D.