

## 212 CMR 2.04

### CODE OF MASSACHUSETTS REGULATIONS TITLE 212: AUTO DAMAGE APPRAISERS LICENSING BOARD CHAPTER 2.00: THE APPRAISAL AND REPAIR OF DAMAGED MOTOR VEHICLES

Current through March 23, 2007, Register #1074

#### 2.04: Procedures for the Conduct of Appraisals and Intensified Appraisals

##### (1) Conduct of Appraisals.

(a) Assignment of an Appraiser. Upon receipt by an insurer or its agent of an oral or written claim for damage resulting from a motor vehicle accident, theft, or other incident for which an insurer may be liable, the insurer shall assign either a staff or an independent appraiser to appraise the damage. Assignment of an appraiser shall be made within two working days of the receipt of such claim. However, the insurer may exclude any claim for which the amount of loss, less any applicable deductible, is less than \$500.00.

(b) Repair Shop Appraisal. All repair shops shall maintain one or more licensed appraisers in their employment for the purpose of preparing motor vehicle damage appraisals. No staff or independent appraiser shall knowingly negotiate a repair figure with an unlicensed individual or an unregistered repair shop.

(c) Contact with Claimant and Selection of Repair Shop. No staff or independent appraiser, insurer, representative of insurer, or employer of an independent appraiser shall refer the claimant to or away from any specific repair shop or require that repairs be made by a specific repair shop or individual. The provisions of 212 CMR 2.04(c) shall not apply to any approved direct payment plan pursuant to 211 CMR 123.00.

(d) Requirement of Personal Inspection and Photographs. The appraiser shall personally inspect the damaged motor vehicle and shall rely primarily on that personal inspection in making the appraisal. As part of the inspection, the appraiser shall also photograph each of the damaged areas.

(e) Determination of Damage and Cost of Repairs. The appraiser shall specify all damage attributable to the accident, theft, or other incident in question and shall also specify any unrelated damage. If the appraiser determines that preliminary work or repairs would significantly improve the accuracy of the appraisal, he or she shall authorize the preliminary work or repair with the approval of the claimant and shall complete the appraisal after that work has been done. The appraisers representing the insurance company and the registered repair shop selected by the insured to do the repair shall attempt to agree on the estimated cost for such repairs. The registered repair shop must

prepare an appraisal for the purpose of negotiation. No appraiser shall modify any published manual (*i.e.*, Motors, Mitchell or any automated appraisal system) without prior negotiation between the parties. Manufacturer warranty repair procedures, I-Car, Tec Cor and paint manufacturer procedures may also apply. Further, no appraiser shall use more than one manual or system for the sole purpose of gaining an advantage in the negotiation process.

If, while in the performance of his or her duties as a licensed auto damage appraiser, an appraiser recognizes that a damaged repairable vehicle has incurred damage that would impair the operational safety of the vehicle, the appraiser shall immediately notify the owner of said vehicle that the vehicle may be unsafe to drive.

The licensed auto damage appraiser shall also comply with the requirements of [M.G.L. c. 26, § 8G](#) the paragraph that pertains to the removal of a vehicle's safety inspection sticker in certain situations.

The appraiser shall determine which parts are to be used in the repair process in accordance with 211 CMR 133.00. The appraiser shall itemize the cost of all parts, labor, materials, and necessary procedures required to restore the vehicle to pre-accident condition and shall total such items. The rental cost of frame/unibody fixtures necessary to effectively repair a damaged vehicle shall be shown on the appraisal and shall not be considered overhead costs of the repair shop. ~~With respect to refinishing materials, if the formula of dollars times hours does not adequately reflect the cost of a particular repair a published manual or other form of documentation shall be used.~~ With respect to paint, paint materials, body materials and related materials, if the formula of dollars times hours is not accepted by a registered repair shop or licensed appraiser, then a published manual or other documentation shall be used unless otherwise negotiated between the parties.

All appraisals written under 212 CMR 2.00 shall include the cost of replacing broken or damaged glass within the appraisal. When there is glass breakage that is the result of damage to the structural housing of the glass then the cost of replacing the glass must be included in the appraisal in accordance with 212 CMR 2.04. The total cost of repairing the damage shall be computed by adding any applicable sales tax payable on the cost of replacement parts and other materials. The appraiser shall record the cost of repairing any unrelated damage on a separate report or clearly segregated on the appraisal unless the unrelated damage is in the area of repair.

If aftermarket parts are specified in any appraisal the appraiser shall also comply with the requirements of [M.G.L. c. 90, § 34R](#) that pertain to the notice that must be given to the owner of a damaged motor vehicle.

The appraiser shall mail, fax or electronically transmit the completed appraisal within five working days of the assignment, or at the discretion of the repair shop, shall leave a signed copy of field notes, with the completed appraisal to be mailed or faxed within five working days of the assignment. The repair shop may also require a completed appraisal at the time the vehicle is viewed. If the repair shop requires a completed appraisal, then the repair shop shall make available desk space, phone facilities, calculator and necessary manuals. A reasonable extension of time is permissible when intervening circumstances

such as the need for preliminary repairs, severe illness, failure of the parties other than the insurer to communicate or cooperate, or extreme weather conditions make timely inspection of the vehicle and completion of the appraisal impossible.

(f) **Determination of Total Loss** Whenever the appraised cost of repair plus the estimated salvage may be reasonably expected to exceed the actual cash value of a vehicle, the insurer may deem that vehicle a total loss. No motor vehicle may be deemed a total loss unless it has been inspected or appraised by a licensed appraiser nor shall any such motor vehicle be moved to a holding area without the consent of the owner. A total loss shall not be determined by the use of any percentage formula.

(g) **Preparation and Distribution of Appraisal Form.** All appraisers shall set forth the information compiled during the appraisal on a form that has been filed with the Board. Staff and independent appraisers shall, upon completion of the appraisal, give copies of the completed appraisal form to the claimant, the insurer, and the repair shop and shall give related photographs to the insurer.

(h) **Supplemental Appraisals.** If a registered repair shop or claimant, after commencing repairs, discovers additional damaged parts or damage that could not have been reasonably anticipated at the time of the appraisal, either may request a supplementary appraisal. The registered repair shop shall complete a supplemental appraisal prior to making the request. The insurer shall assign an appraiser who shall personally inspect the damaged vehicle within three working days of the receipt of such request. The appraiser shall have the option to leave a completed copy of the supplemental appraisal at the registered repair shop authorized by the insured or leave a signed copy of his or her field notes with the completed supplement to be mailed, faxed, electronically transmitted or hand delivered to the registered repair shop within one working day. The appraiser shall also give a copy of the completed supplement to the insurance company in a similar manner. A reasonable extension of time is permissible when intervening circumstances such as the need for preliminary repairs, severe illness, failure of the parties other than the insurer to communicate or cooperate, or extreme weather conditions make timely inspections of the vehicle and completion of the supplemental appraisal impossible.

(i) **Completed Work Claim Form.** If the insurance company does not have a direct payment plan or if the owner of the vehicle chooses not to accept payment under a direct payment plan then a representative of the insurer shall provide the insured with a completed work claim form and instructions for its completion and submission to the insurer.

(2) **Temporary Licensing.** The Board may grant at its discretion either an emergency or a temporary license to any qualified individual to alleviate a catastrophic or emergency situation for up to 90 days. The Board may limit the extent of such emergency authorization and in any event, if the situation exceeds 30 days, a fee determined by the Board shall be charged for all emergency or temporary licenses.