



Mass Insurance Federation

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**STATEMENT OF
THE MASSACHUSETTS INSURANCE FEDERATION
TO THE AUTO DAMAGE APPRAISER LICENSING BOARD
IN CONNECTION WITH THE REVIEW OF
REGULATIONS 212 CMR 2.00**

May 4, 2016

The Massachusetts Insurance Federation (the “Federation”) submits this statement and accompanying documents to the Auto Damage Appraiser Licensing Board (the “ADALB” or the “Board”) in connection with the comprehensive review of the ADALB regulations, 212 CMR 2.00, being undertaken by the Board.

First, we want to introduce the Federation. The Federation is the leading advocate for the property/casualty industry in Massachusetts, consisting of 28 property and casualty insurance company members – 10 of whom are domiciled in the Commonwealth – and four national insurance trade associations who are associate members. Federation members write over 80% of the state’s private passenger automobile insurance premiums.

Secondly, we applaud the Board members for undertaking this comprehensive review of its regulations in conjunction with the Division of Insurance (the “Division”), pursuant to Governor Baker’s Executive Order No. 562 issued in March 2015. That Executive Order contains several important principles and requirements, which we assume will guide the Board in the process of reviewing its regulations. Several of those principles and requirements merit mention and emphasis:

- The costs of the regulation do not exceed the benefits that would result from it.
- Less restrictive and intrusive alternatives have been considered and found less desirable based on a sound evaluation of the alternatives.
- The regulation “does not unduly and adversely affect Massachusetts citizens . . . , or the competitive environment in Massachusetts.”

In addition, we note that the Executive Order also mandates that each agency “prepare in connection with any proposed, new regulation a business/competitiveness impact statement that will include a competitiveness review and assess disruptive economic impacts on . . . all potentially impacted entities, including . . . medium and large for profit enterprises.”



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These principles and requirements are essential aspects of the regulatory review process that the Board is undertaking. We also note that they been the principles guiding the changes we are recommending in the ADALB regulations.

Enclosed with this statement is a proposed revision of those regulations. Our proposal contains two major, substantive changes and a variety of other ones that are designed to bring greater clarity to the appraisal regulations. The two major substantive changes we are proposing are the following:

- **Increase in the Threshold at Which an Appraiser Must be Assigned.** The dollar threshold in 212 CMR 204(1)(a) should be increased from its current level of \$1,500.00 to \$5,000.00. A significant increase in this threshold is long overdue and has been discussed by the Board in the past. This proposed increase to the claim value threshold at which an insurer may elect not to assign an appraiser to appraise the damaged motor vehicle is warranted based on the continuing increase in costs associated with the repair of damaged motor vehicles since the threshold was changed from \$500 to \$1,500 in 2008. The practical effect of these increased costs, in the absence of a similarly rising threshold, is that insurers are required to incur additional expense, expend additional resources and consumers experience a longer timeframe for the resolution of claims for which licensed appraisers have been assigned to appraise vehicles with relatively minor damage. The increase in this threshold further is supported by the amendment made to Section 57A of Chapter 6C of the General Laws in OUTSIDE SECTION 14 of the of the FY 2016 Budget, which increased the thresholds for what constitutes a “minor” and “major” at-fault accident claim (excluding deductible) to more than \$1,000 and more than \$5,000 respectively. To the extent the increased value of contemporary motor vehicles and the associated costs to repair such vehicles when they are damaged warrants an increase in these accident designations, it follows that the claim payment threshold at which an insurer may elect not to incur the expense for, and consumers need not wait additional time for, the completion of an appraisal by a licensed auto damage appraiser should similarly be increased. If the threshold in 212 CMR 2.04(1)(a) remains \$1,500 despite the amendment to M.G.L. 6C, § 57A, insurers will be required to assign appraisers to a large percentage of what now constitute “minor” accidents.

- **Expressly Allow the Use Video and/or Digital Images.** The regulatory requirement that an appraiser “personally inspect” a damaged motor vehicle in order to conduct an appraisal of that vehicle dates back at least to 1996. Given the significant technological advances since that time in photography and videography, an appraiser’s review of and reliance on video or digital images of a damaged motor vehicle, as recorded or taken by another person, along with appropriate documentation of that video or those digital images, is a reasonable substitute for that appraiser being



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physically present for the review of the damaged vehicle. Moreover, these improved technologies are increasingly more available and affordable. In updating the requirement that an appraiser physically appear to view a damaged motor vehicle, appraisals will be completed more quickly, which will translate to the more expeditious resolution of claims. Moreover, the wide availability of quality video and photographic technology means that these more expeditious claim resolutions will not come at the cost of lower quality appraisals. This is not only a benefit to insurers in the form of reduced costs, but of significant benefit to consumers, who will have their claims resolved more quickly, without sacrificing quality service. This change also makes the regulations consistent with what the Division of Insurance (the "Division") has permitted for a number of companies' Direct Payment Plans. We note that the Board has previously recognized the appropriateness of the use of such digital or video images with documentation in Advisory Ruling 2014-01. While that ruling was rescinded in 2015, the rescission will not affect the continued use of video or digital imaging by the insurers that have received approval of amended Direct Payment Plans that incorporate that technology. We urge the Board to resume recognition of this necessary technological advance.

In all, the two principal changes we are proposing, along with the others contained in our revision of the regulations, will improve efficiency of the appraisal process. Moreover, they will, consistent with Executive Order No. 562, benefit Massachusetts drivers and improve the auto insurance competitive environment (including the appraisal and repair process) in Massachusetts.

The Federation looks forward to working with the Board to developing revisions to its regulations that will be beneficial to all the affected parties -- drivers, insurers, repair shops, as well as appraisers.

Respectfully submitted,

John P. Murphy
Executive Director