COMMONWEALTH OF MASSACHUSETTS
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DIVISION OF INSURANCE

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BULLETIN 2011-14

To: Insurance Companies that Solicit, Negotiate, Sell or Renew Motor Vehicle Insurance Policies in Massachusetts

From: Joseph G. Murphy, Commissioner of Insurance

Date: July 20, 2011

Re: Claims Valuation Provisions in Motor Vehicle Insurance Policies

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This Bulletin is being issued to provide guidance to insurance companies that solicit, negotiate, sell or renew motor vehicle insurance policies in Massachusetts about upcoming changes to required language in claims valuation provisions in motor vehicle insurance policies. This Bulletin applies to all motor vehicle insurance policies issued or renewed in Massachusetts on or after April 1, 2012.

211 CMR 133.05(1), which governs the determination of actual cash value of a damaged motor vehicle, requires that whenever the appraised cost of repair of the vehicle plus the probable salvage value of the vehicle may be reasonably expected to exceed the actual cash value of the vehicle, the insurer shall determine the vehicle's actual cash value. The insurer's determination shall be based on a consideration of all of the following factors:

(a) The retail book value for a motor vehicle of like kind and quality, but for the damage incurred;

(b) The price paid for the vehicle plus the value of prior improvements to the motor vehicle at the time of the accident, less appropriate depreciation;

(c) The decrease in value of the motor vehicle resulting from prior unrelated damage which is detected by the appraiser; and

(d) The actual cost of purchase of an available motor vehicle of like kind and quality but for the damage sustained.

It is important for consumers to understand the criteria under which their insurer will determine the actual cash value of their damaged vehicle. In the interest of promoting transparency to affected consumers, therefore, all insurers shall be required to include the specific language as to the determination of actual cash value as set forth in 211 CMR 133.05(1), or substantially similar language, in the motor vehicle insurance policy contract, or as a mandatory endorsement to the standard motor vehicle insurance policy contract offering property damage liability, collision, limited collision, or so-called comprehensive coverage.

Filing Requirements

Insurers should review the General Filing Instructions in SERFF (the System for Electronic Rate and Form Filing) for the latest filing instructions and information regarding filing materials with the Division of Insurance ("Division").

Insurers shall not be permitted to offer, issue or renew motor vehicle insurance policies in Massachusetts on and after April 1, 2012 unless appropriate forms have been placed on file with the Division in compliance with this Bulletin. The Division will use its full array of enforcement tools if it determines that prohibited practices are occurring in the motor vehicle insurance marketplace.

If you have any questions regarding this Bulletin, please contact Edward Charbonnier, Director of Policy Form Review at (617) 521-7481.