

PROPOSED REGULATION OF THE COMMISSIONER OF INSURANCE

LCB File No. R031-17

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: NRS 679B.130; and 686A.015

A REGULATION relating to automobile total loss settlements.

Section 1. NAC 686A.680 is hereby amended to read as follows:

1. When an ~~insurance policy provides for the adjustment and settlement of first party~~ *insurer of motor vehicles adjusts and settles an* automobile total loss ~~es on the basis of actual cash value or replacement with another of like kind and quality~~ *claim, the insurer shall apply* one of the ~~following~~ *valuation* methods ~~must be applied~~ *specified in paragraphs (a) and (b):*

(a) The insurer may elect to offer a replacement automobile which is a specific comparison automobile available to the ~~insured~~ *claimant*, with all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the automobile paid, at no cost other than any deductible provided in the *applicable* policy. The insurer may prorate license fees and limit payment to the unused period of the fees. The offer and any rejection of the offer must be documented in the claim file.

(b) The insurer may elect to make a cash settlement based upon the ~~actual~~ cost, less any deductible provided in the *applicable* policy, to purchase a comparable automobile including all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of a comparable automobile. The ~~cost~~ *minimum cash settlement* must be determined by ~~an evaluation of~~ *one of the following valuation methods:*

(1) The *average* cost of two or more comparable automobiles in the local market area which are currently available or were available within the most previous 90 days ~~to consumers in the local market area~~, *or if not available in the local area, in an area geographically proximate to the local market area*;

(2) ~~If the cost cannot be determined pursuant to subparagraph (1), the cost of two or more comparable automobiles that are currently available or were available in the most previous 90 days to consumers in areas, both within and without this State, which are geographically proximate to the local market area; or~~

~~(3) If the cost cannot be determined pursuant to subparagraph (1) or (2),~~ *The average of two or more quotations obtained by the insurer from two or more licensed dealers located within the local market area*; *or*

(3) The value obtained from a price guide for used vehicles approved by the Commissioner for the valuation of used automobiles available in an area geographically proximate to the local market area.

~~(c)~~2. When ~~a first-party~~ *an* automobile total loss is settled on a basis which deviates from the methods described in ~~paragraphs (a) and (b) of this~~ subsection *I*, the deviation must be supported by documents giving particulars of the condition of the automobile. Any deductions from the cost, including a deduction for salvage, must be measurable, discernible, itemized and specified as to the amount and must be appropriate in amount. *When determining the deduction for salvage, the insurer shall take into account the decrease in value caused by an inspection of the vehicle if the vehicle was in a drivable condition prior to the inspection and the repair or inspection facility is unable to restore the vehicle to the same drivable state as prior to the*

inspection. The basis for the settlement must be fully ~~explained~~ *disclosed* to the ~~first party~~ claimant.

~~2~~3. Where liability and damages are reasonably clear, an insurer may not recommend that a third-party claimant make a claim under his or her own policies solely to avoid paying claims under the insurer's insurance contract or policy.

~~3~~4. An insurer may not require a claimant to travel unreasonably to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop.

~~4~~5. An insurer shall, upon the claimant's request, include the first-party claimant's deductible, if any, in subrogation demands. A subrogation recovery must be shared on a proportionate basis with the first-party claimant, unless the deductible amount has been otherwise recovered. No deduction for expenses may be made from the deductible recovery unless an outside attorney is retained to collect the recovery. The deduction may then be for no more than a pro rata share of the allocated loss adjustment expense.

~~5~~6. If an insurer prepares an estimate of the cost of automobile repairs, the estimate must be in an amount for which it may be reasonably expected the damage can be satisfactorily repaired. The insurer shall give a copy of the estimate to the claimant and may furnish to the claimant the names of one or more conveniently located repair shops. Any such repair shop must be operated by a person having a license issued by the Department of Motor Vehicles, if such a license is required by NRS 487.610.

~~6~~7. When the amount claimed is reduced because of betterment or depreciation, all information supporting the reduction must be contained in the claim file *and fully disclosed to*

the claimant in writing. The deductions must be itemized and specified as to amount, and must be appropriate in amount.

~~{7}~~8. When the insurer elects to repair ~~{and designates a specific repair shop for automobile repairs:~~

~~—(a) The repair shop must be operated by a person having a license issued by the Department of Motor Vehicles, if such a license is required by NRS 487.610; and~~

~~—(b) T} *the automobile*, t~~he insurer shall cause the damaged automobile to be restored to its condition before the loss at no additional cost to the claimant, other than as stated in the *applicable* policy, within a reasonable time.

~~{8}~~9. The insurer may not use, as a basis for cash settlement with a ~~{first-party}~~ claimant, an amount which is less than the amount which the insurer would pay if repairs were made, other than in total loss situations, unless the amount is agreed to by the insured.