



House of Representatives

General Assembly

File No. 109

January Session, 2009

Substitute House Bill No. 6450

House of Representatives, March 19, 2009

The Committee on Insurance and Real Estate reported through REP. FONTANA, S. of the 87th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE SETTLEMENT AMOUNT ON TOTALLED MOTOR VEHICLES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-353 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) Whenever any damaged motor vehicle covered under an
4 automobile insurance policy has been declared to be a constructive
5 total loss by the insurer, the insurer shall [, in calculating the value of
6 such vehicle for purposes of determining the settlement amount to be
7 paid to the claimant, use at least the average of the retail values given
8 such vehicle by (1) the National Automobile Dealers Association used
9 car guide and (2) one other automobile industry source which has been
10 approved for such use by the Insurance Commissioner] settle such loss
11 with the claimant in accordance with subsections (b) to (d), inclusive,
12 of this section. For the purposes of this section, "constructive total loss"
13 means the cost to repair or salvage damaged property, or the cost to

14 both repair and salvage such property, equals or exceeds the total
15 value of the property at the time of loss.

16 (b) The insurer may offer to the claimant as a replacement motor
17 vehicle a specific motor vehicle in this state that is comparable to the
18 make, model and year of the motor vehicle that is the subject of the
19 claim, with all applicable taxes paid by the insurer and at no cost to the
20 claimant.

21 (c) If the insurer declines to offer a replacement motor vehicle as set
22 forth in subsection (b), the insurer shall pay a cash settlement to the
23 claimant, in accordance with the provisions of subsection (d) of this
24 section.

25 (d) To calculate the cash settlement amount under subsection (c) of
26 this section, the claimant shall select one of the following methods and
27 shall provide any necessary information to the insurer:

28 (1) The average retail price, including all applicable taxes, of a motor
29 vehicle that is (A) comparable to the make, model and year of the
30 motor vehicle that is the subject of the claim; and (B) available for
31 purchase from at least two different licensed motor vehicle dealers in
32 the claimant's local market area;

33 (2) The average of at least three prices quoted, in writing, by at least
34 three different licensed motor vehicle dealers, including all applicable
35 taxes, for a motor vehicle that is comparable to the make, model and
36 year of the motor vehicle that is the subject of the claim if such
37 replacement motor vehicle is not available for purchase in the
38 claimant's local market area; or

39 (3) The retail value given such vehicle by the National Automobile
40 Dealers Association used car guide or any other publicly available
41 automobile industry source that has been approved for such use by the
42 Insurance Commissioner.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	38a-353

Statement of Legislative Commissioners:

The provisions of subdivision (1) of subsection (d) of section 1 were rephrased for clarity.

INS *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Insurance Dept.	IF - Cost	Potential Minimal	Potential Minimal

Note: IF=Insurance Fund

Municipal Impact: None

Explanation

This bill could result in a potential minimal cost to the Department of Insurance ("DOI") due to an increased number of external arbitration reviews ("reviews"). The provisions of the bill relate to the settlement amount given by insurers to claimants with motor vehicles declared to be a constructive total loss (or "totaled"). The number of consumer complaints received by DOI related to totaled vehicle claims may increase due to the provisions of the bill, thereby increasing staff workload and prompting DOI to obtain reviews, after all other avenues of resolving these consumer complaints are exhausted. The external reviewer, American Arbitration Association (AAA), charges DOI \$500 per review. AAA performed 13 motor vehicle-related reviews for DOI in FY 08 at a cost of \$6,500. It is unknown how consumer complaint volume will be affected by the bill and how many of these complaints will require review.

The Out Years

DOI costs in future years may occur to the extent that consumer complaints related to totaled motor vehicle claims increase and prompt review.

OLR Bill Analysis

sHB 6450

***AN ACT CONCERNING THE SETTLEMENT AMOUNT ON
TOTALLED MOTOR VEHICLES.***

SUMMARY:

This bill allows an insurer, when it declares a covered damaged vehicle a “constructive total loss,” to offer the claimant, a replacement vehicle comparable to the totaled vehicle at no cost. (It is unclear what “comparable” means as the bill uses that term, e.g., whether the replacement must be similar in condition and mileage to the vehicle as it was immediately preceding the accident.)

If the insurer does not offer a replacement vehicle, then the bill requires it to pay the claimant a cash settlement. Current law requires an insurer to calculate the cash settlement amount based on certain auto industry sources. The bill modifies the calculation process by requiring the insurer to use the claimant’s choice of three methods (see below).

By law, a vehicle is a “constructive total loss” if the cost to repair or salvage it, or both, equals or exceeds the vehicle’s total value at the time of loss.

EFFECTIVE DATE: October 1, 2009

REPLACEMENT VEHICLE

Under the bill, the replacement vehicle the insurer offers must be a specific vehicle in Connecticut that is comparable to the make, model, and year of the totaled vehicle. The bill requires the insurer to pay all applicable taxes on the replacement vehicle.

CASH SETTLEMENT METHODS

If the insurer does not offer a replacement vehicle, the bill requires the claimant to (1) choose which of three methods the insurer must use to determine a cash settlement amount and (2) provide the insurer the information necessary to effectuate that choice. The three calculation methods are:

1. the average retail price and all applicable taxes for a vehicle that is (a) comparable to the make, model, and year of the totaled vehicle and (b) available to buy from at least two different licensed motor vehicle dealers in the claimant's local market area;
2. the average written price quote for a vehicle comparable to the make, model, and year of the totaled vehicle from at least three different licensed motor vehicle dealers and all applicable taxes if such a vehicle is not available to buy in the claimant's local market area (presumably from a licensed motor vehicle dealer, and it is unclear if a claimant would have to prove that one was not available to buy, or how he or she could prove it); or
3. the retail value from the National Automobile Dealers Association (NADA) used car guide or other publicly available auto industry source the insurance commissioner has approved for this purpose.

Current law requires an insurer to pay at least the average retail value provided in two sources: (1) the NADA used car guide and (2) one other auto industry source the insurance commissioner has approved for this purpose. Such sources incorporate a vehicle's condition, mileage, and other features when establishing a retail value.

The bill does not define "local market area."

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 14 Nay 4 (03/05/2009)

