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PLEASE REPLY TO NEW HAVEN

JOHN F. BUCKLEY, JR.
JOHN F. WYNNE, JR.

JOHN M. PARESE

February 10, 2011

Senator Joseph J. Crisco, Jr.,
State Representative Robert W. Megna
& Members of the Insurance and Real Estate Committee
Room 2800, Legislative Office Building
Hartford, CT 06106

Re: **Support for HB-5444**
An Act Concerning The Value of a Totaled Motor Vehicle

Dear Senator Crisco, Representative Megna and Members of the Committee:

I am an attorney and serve as legal counsel to the Auto Body Association of Connecticut (ABAC). I am quite familiar with the total loss process and its problems. Firstly, I would like to commend this Committee for bringing this issue to light and for its efforts to revise General Statutes § 38a-353. The current law as written enables insurers to artificially suppress total loss values and does so through private valuation companies unavailable to the general public or to public scrutiny.

While changes to § 38a-353 are undoubtedly needed, I fear the current draft legislation may be so ambiguous as to cause more harm than good. It is unclear, for example, as to what would qualify as "any publicly available sources". The proposed statute does not address how many sources may be used. Moreover, it is problematic to place the burden on the insured to come up with a publicly available source. Finally, consumers, auto sale businesses, auto repairers, and municipal taxing authorities all use and rely on the NADA for establishing vehicle values. It is essentially the only source in the industry universally used and widely recognized as reliable and fair. Getting away from the NADA is problematic for a number of reasons. Moreover, it is not fair to tax consumers on a value established by the NADA, or sell them used cars premised on the NADA, only to allow insurers to ignore the NADA in favor of the lowest possible source.

Instead, I would suggest revising the draft legislation to read as follows:

Whenever any damaged motor vehicle covered under an automobile insurance policy has been declared to be a constructive total loss by the insurer, the insurer shall, in calculating the value of such vehicle for purpose of determining the settlement amount to be paid to the claimant, use at least the average of the retail values given such vehicle by (1) the National Automobile Dealers Association used car guide; and (2) one other free publicly available automobile industry source. For purposes of this section,

Revising § 38a-353 as suggested accomplishes two things. First, it would allow for the continued use of NADA, which for the above-stated reasons is essential. Second, it would call for the average value of the NADA and another publicly available source, thereby affording more transparency and fairer and more accurate total loss valuations.

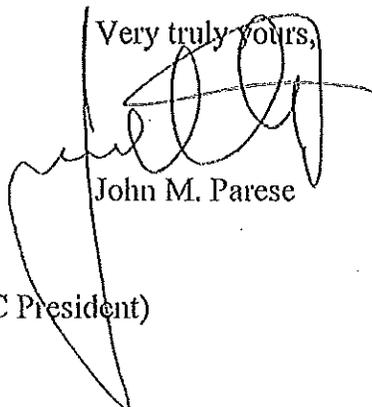
In addition, I would encourage the Committee to consider revising lines 18 through 25 of subsection (b) to provide for more time for a claimant to review and digest the insurer's total loss report. Currently, the law allows for the insurer to provide the claimant with the total loss report simultaneously with payment. This puts the claimant in the untenable position of researching, reviewing and negotiating after payment has been made. Instead, I would suggest the following revision:

(b) The insurer shall provide to the claimant, not later than three business days prior to the date the insurer pays the claimant the settlement amount for such vehicle, ...

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Thank you kindly for your consideration. If you have any questions or concerns or require anything further from me, please feel free to call me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'John M. Parese', is written over the typed name. The signature is stylized with loops and a long horizontal stroke.

John M. Parese

JMP/efk

c: Robert Skrip (ABAC President)