

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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BILL DRAFT 2017-MLz-182 [v.7] (11/09)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
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Short Title: Clarify Oversight Authority/Auto Appraisers.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE ROLE OF THE DEPARTMENT OF INSURANCE AND
3 DIVISION OF MOTOR VEHICLES REGARDING MOTOR VEHICLE APPRAISERS,
4 AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON STRATEGIC
5 TRANSPORTATION PLANNING AND LONG TERM FUNDING SOLUTIONS.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 20-279.2 reads as rewritten:

8 "§ 20-279.2. ~~Commissioner~~**Commissioners to administer Article; appeal to court.**

9 (a) ~~The~~Except for G.S. 20-279.21(d1), the Commissioner shall administer and enforce
10 the provisions of this Article and may make rules and regulations necessary for its
11 administration and shall provide for hearings upon request of persons aggrieved by orders or
12 acts of the Commissioner under the provisions of this Article. The Commissioner of Insurance
13 shall administer and enforce the provisions of G.S. 20-279.21(d1) and may make rules and
14 regulations necessary for its administration.

15 (b) Any person aggrieved by an order or act of the Commissioner of Motor Vehicles
16 requiring a suspension or revocation of ~~his~~the person's license under the provisions of this
17 Article, or requiring the posting of security as provided in this Article, or requiring the
18 furnishing of proof of financial responsibility, may file a petition in the superior court of the
19 county in which the petitioner resides for a review, and the commencement of ~~such a~~the
20 proceeding shall suspend the order or act of the Commissioner pending the final determination
21 of the review. A copy of ~~such~~the petition shall be served upon the Commissioner, and the
22 Commissioner shall have 20 days after ~~such~~-service in which to file answer. The appeal shall be
23 heard in said county by the judge holding court in said county or by the resident judge. At the
24 hearing upon the petition the judge shall sit without the intervention of a jury and shall receive
25 ~~such~~any evidence ~~as shall be~~ deemed by the judge to be relevant and proper. Except as
26 otherwise provided in this section, upon the filing of the petition herein provided for, the
27 procedure shall be the same as in civil actions.

28 The matter shall be heard de novo and the judge shall enter ~~his~~an order affirming the act or
29 order of the Commissioner, or modifying same, including the amount of bond or security to be
30 given by the petitioner. If the court is of the opinion that the petitioner was probably not guilty
31 of negligence or that the negligence of the other party was probably the sole proximate cause of
32 the collision, the judge shall reverse the act or order of the Commissioner. Either party may
33 appeal from ~~such~~the order to the Supreme Court in the same manner as in other appeals from



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the superior court and the appeal shall have the effect of further staying the act or order of the Commissioner requiring a suspension or revocation of the petitioner's license.

No act, or order given or rendered in any proceeding hereunder shall be admitted or used in any other civil or criminal action."

SECTION 2. G.S. 20-279.21 reads as rewritten:

"§ 20-279.21. "Motor vehicle liability policy" defined.

...

(d1) Such motor vehicle liability policy shall provide an alternative method of determining the amount of property damage to a motor vehicle when liability for coverage for the claim is not in dispute. For a claim for property damage to a motor vehicle against an insurer, the policy shall provide that if:

(1) The claimant and the insurer fail to agree as to the difference in fair market value of the vehicle immediately before the accident and immediately after the accident; and

(2) The difference in the claimant's and the insurer's estimate of the diminution in fair market value is greater than two thousand dollars (\$2,000) or twenty-five percent (25%) of the fair market retail value of the vehicle prior to the accident as determined by the latest edition of the National Automobile Dealers Association Pricing Guide Book or other publications approved by the Commissioner of Insurance, whichever is less, then on the written demand of either the claimant or the insurer, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days after the demand. The appraisers shall then appraise the loss. Should the appraisers fail to agree, they shall then select a competent and disinterested appraiser to serve as an umpire. If the appraisers cannot agree upon an umpire within 15 days, either the claimant or the insurer may request that a magistrate resident in the county where the insured motor vehicle is registered or the county where the accident occurred select the umpire. The appraisers shall then submit their differences to the umpire. The umpire then shall prepare a report determining the amount of the loss and shall file the report with the insurer and the claimant. The agreement of the two appraisers or the report of the umpire, when filed with the insurer and the claimant, shall determine the amount of the damages. In preparing the report, the umpire shall not award damages that are higher or lower than the determinations of the appraisers. In no event shall appraisers or the umpire make any determination as to liability for damages or as to whether the policy provides coverage for claims asserted. The claimant or the insurer shall have 15 days from the filing of the report to reject the report and notify the other party of such rejection. If the report is not rejected within 15 days from the filing of the report, the report shall be binding upon both the claimant and the insurer. Each appraiser shall be paid by the party selecting the appraiser, and the expenses of appraisal and umpire shall be paid by the parties equally. For purposes of this section, "appraiser" and "umpire" shall mean a person licensed under G.S. 58-33-26 and G.S. 58-33-30 and who as a part of his or her regular employment is in the business of advising relative to the nature and amount of motor vehicle damage and the fair market value of damaged and undamaged motor vehicles.

...

(o) An insurer that fails to comply with ~~subsection~~ subsections (d1) or (m) of this section is subject to a civil penalty under G.S. 58-2-70."

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SECTION 3. This act is effective when it becomes law.