
A BILL FOR AN ACT

RELATING TO INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to address total
2 loss motor vehicle claims by requiring that:

3 (1) A replacement vehicle has approximately the same
4 mileage as the total loss vehicle; and

5 (2) Cash settlements be based on the market value of the
6 total loss vehicle within the State.

7 SECTION 2. Section 431:10C-310, Hawaii Revised Statutes,
8 is amended to read as follows:

9 "**§431:10C-310 Total loss motor vehicle claims:**

10 **replacement.** When an insurer elects under section 431:10C-309
11 to offer the insured a replacement vehicle as defined in section
12 431:10C-103, the insurer shall comply with the following
13 requirements:

14 (1) The claim file, which is maintained by the insurer,
15 shall contain a description of the replacement
16 vehicle, including the vehicle identification number
17 and a schedule of options;



- 1 (2) ~~[Replacement vehicles]~~ A replacement vehicle of the
2 current model plus the three previous model years
3 shall be purchased through a motor vehicle ~~[dealers]~~
4 dealer licensed under chapter 437~~[-]~~; provided that
5 the difference in mileage between the replacement
6 vehicle and the total loss vehicle shall not exceed
7 ten per cent. This requirement may be waived in
8 writing by the insured. The signed waiver shall be
9 maintained in the insurer's claim file;
- 10 (3) If the insurer offers a replacement vehicle to the
11 insured and the insured rejects the offer and elects a
12 cash settlement instead of the replacement vehicle,
13 the insurer need pay only the amount it would have
14 otherwise paid on the replacement vehicle. Evidence
15 of the insured's rejection shall be apparent in the
16 file; and
- 17 (4) If the insurer offers a replacement vehicle to the
18 insured and the insured rejects the offer and wants
19 another vehicle substantially similar in value, the
20 insurer need pay only the amount it would have
21 otherwise paid on the replacement vehicle. The
22 insurer shall maintain in the claim file the insured's



1 written waiver that the acceptance of another vehicle
2 is of the insured's own free will and choice."

3 SECTION 3. Section 431:10C-311, Hawaii Revised Statutes,
4 is amended by amending subsection (a) to read as follows:

5 "(a) When an insurer elects under section 431:10C-309 to
6 offer the insured a cash settlement for a total loss motor
7 vehicle claim, the following shall apply:

8 (1) The cash settlement shall be based upon the retail
9 value of the motor vehicle as determined from a source
10 or sources which are reflective of the market value of
11 the total loss vehicle[-] within the State.

12 (2) The use of licensed dealer quotations (when the
13 vehicle is available at the quoting licensed dealer's
14 lot[+] in the State) and newspaper advertisements may
15 be used in lieu of the source generally used by the
16 insurer, if the claim file reflects that the vehicle
17 was not quoted in the source generally used by the
18 insurer or the source was not reflective of the market
19 value. [~~Dealer~~] Licensed dealer quotations and
20 newspaper advertisements shall not be considered sole
21 sources reflective of market values. When licensed



1 dealer quotations are used, the vehicle identification
2 number shall be contained in the insured's claim file;

3 (3) Estimates from at least three licensed dealers may be
4 used when vehicles are not quoted in the source
5 usually used by the insurer and are not available for
6 replacement. [~~Dealer~~] Licensed dealer estimates shall
7 take into consideration the condition of the insured
8 vehicle prior to the loss; and

9 (4) The documentation of the determination of the total
10 loss vehicle market value shall be maintained in the
11 insurer's claim file.

12 For the purposes of this subsection, "licensed dealer"
13 means a dealer licensed under chapter 437."

14 SECTION 4. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect on July 1, 2012.

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INTRODUCED BY: Calvin K. Boy
BY REQUEST

JAN 13 2012



H.B. NO. 1823

Report Title:

Motor Vehicle Insurance; Replacement Vehicle; Cash Settlement

Description:

Requires a replacement vehicle to have approximately the same mileage as the total loss vehicle. Requires cash settlements to be based on the market value of the total loss vehicle within the State.

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