



HOUSE BILL 205: Veh. Property Dmg./Determining Amt. of Loss.

2019-2020 General Assembly

Committee: House Judiciary
Introduced by: Rep. Torbett
Analysis of: Third Edition

Date: May 3, 2019
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OVERVIEW: *House Bill 205 would modify the method for determining the amount of property damage to a motor vehicle in a claim under a motor vehicle liability policy when liability for coverage for the claim is not in dispute.*

CURRENT LAW:

In a negligence claim for property damage to a motor vehicle resulting from an accident, the measure of damages is the difference between the vehicle's fair market value immediately before and immediately after the accident.

Each motor vehicle liability policy must provide the following procedure for determining the amount of vehicle damage when: 1) liability for coverage is not in dispute; 2) a claimant and insurer fail to agree on the difference in fair market value before and after an accident; and 3) the difference in their respective amounts exceeds the lesser of \$2,000 or 25% of the fair market retail value of the vehicle prior to the accident:

- Upon the demand of either party, the claimant and insurer shall each select a competent and disinterested appraiser 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, or if they cannot agree on one, a magistrate judge may select the umpire.
- The appraisers shall then submit their appraisals to the umpire, and the umpire then shall prepare a report determining the amount of the loss and report to 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.
- 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.

BILL ANALYSIS: House Bill 205 would make the following changes to this procedure:

- The process would be available when the difference between the claimant's and insurer's respective diminished value amounts is more than \$500, rather than the current threshold of the lesser of \$2,000 or 25% of the vehicle's pre-accident fair market value.
- The disinterested appraisers chosen by each party would be required to exchange their appraisals within 35 days of the demand that initiated the process.
- An appraiser who fails to comply with the prescribed procedure would be subject to a civil penalty.

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- If the appraisers agree on the amount of the loss, their agreement would be filed with the claimant and the insurer.
- The parties would not be permitted to reject the determination established either by agreement of the appraisers or by the report of the umpire, which would be binding.

EFFECTIVE DATE: This act would become effective October 1, 2019, and would apply to policies issued, renewed, or amended on or after that date.

* *Staff Attorney Howard Marsilio substantially contributed to this summary.*