

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 660
Commerce Committee Substitute Adopted 5/12/09
House Committee Substitute Favorable 6/29/09
House Committee Substitute #2 Favorable 7/14/09
Fifth Edition Engrossed 7/16/09

Short Title: Auto Insurance/Diminution in Value.

(Public)

Sponsors:

Referred to:

March 19, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE AN ALTERNATIVE METHOD OF DETERMINING PROPERTY
3 DAMAGES AS A PART OF MOTOR VEHICLE LIABILITY INSURANCE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 20-279.21 is amended by adding a new subsection to read:
6 "§ 20-279.21. "Motor vehicle liability policy" defined.

7 ...
8 (d1) Such motor vehicle liability policy shall provide an alternative method of
9 determining the amount of property damage to a motor vehicle when liability for coverage for
10 the claim is not in dispute. For a claim for property damage to a motor vehicle against an
11 insurer, the policy shall provide that if:

12 (1) The claimant and the insurer fail to agree as to the difference in fair market
13 value of the vehicle immediately before the accident and immediately after
14 the accident; and
15 (2) The difference in the claimant's and the insurer's estimate of the diminution
16 in fair market value is greater than two thousand dollars (\$2,000) or
17 twenty-five percent (25%) of the fair market retail value of the vehicle prior
18 to the accident as determined by the latest edition of the National
19 Automobile Dealers Association Pricing Guide Book or other publications
20 approved by the Commissioner of Insurance, whichever is less, then on the
21 written demand of either the claimant or the insurer, each shall select a
22 competent and disinterested appraiser and notify the other of the appraiser
23 selected within 20 days after the demand. The appraisers shall then appraise
24 the loss. Should the appraisers fail to agree, they shall then select a
25 competent and disinterested appraiser to serve as an umpire. If the appraisers
26 cannot agree upon an umpire within 15 days, either the claimant or the
27 insurer may request that a magistrate resident in the county where the
28 insured motor vehicle is registered or the county where the accident occurred
29 select the umpire. The appraisers shall then submit their differences to the
30 umpire. The umpire then shall prepare a report determining the amount of
31 the loss and shall file the report with the insurer and the claimant. The
32 agreement of the two appraisers or the report of the umpire, when filed with
33 the insurer and the claimant, shall determine the amount of the damages. In



1 preparing the report, the umpire shall not award damages that are higher or
2 lower than the determinations of the appraisers. In no event shall appraisers
3 or the umpire make any determination as to liability for damages or as to
4 whether the policy provides coverage for claims asserted. The claimant or
5 the insurer shall have 15 days from the filing of the report to reject the report
6 and notify the other party of such rejection. If the report is not rejected
7 within 15 days from the filing of the report, the report shall be binding upon
8 both the claimant and the insurer. Each appraiser shall be paid by the party
9 selecting the appraiser, and the expenses of appraisal and umpire shall be
10 paid by the parties equally. If the umpire determines the amount of loss
11 exceeds the insurer's original estimate of diminution in fair market value, the
12 insurer shall pay the appraisers, the expenses of appraisal, and the umpire.
13 For purposes of this section, "appraiser" and "umpire" shall mean a person
14 who as a part of his or her regular employment is in the business of advising
15 relative to the nature and amount of motor vehicle damage and the fair
16 market value of damaged and undamaged motor vehicles.

17 "

18 **SECTION 2.** G.S. 7A-292 is amended by adding a new subdivision to read:

19 "**§ 7A-292. Additional powers of magistrates.**

20 In addition to the jurisdiction and powers assigned in this Chapter to the magistrate in civil
21 and criminal actions, each magistrate has the following additional powers:

22 ...

23 (15) To appoint an umpire to determine motor vehicle liability policy diminution
24 in value, as provided in G.S. 20-279.21(d1)."

25 **SECTION 3.** This act becomes effective August 1, 2010, and applies to motor
26 vehicle liability insurance policies issued or renewed on or after that date.