

HOUSE BILL REPORT

HB 1979

As Reported by House Committee On:
Consumer Protection & Business

Title: An act relating to the appraisal clause found in motor vehicle insurance policies.

Brief Description: Concerning the appraisal clause found in motor vehicle insurance policies.

Sponsors: Representatives Kirby and Leavitt.

Brief History:

Committee Activity:

Consumer Protection & Business: 1/24/22, 1/27/22 [DPS].

Brief Summary of Substitute Bill

- Defines "basic contract of motor vehicle insurance" and requires that such contracts include an express right to an appraisal to resolve disputes regarding the actual cash value and amount of loss on a damaged vehicle.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Kirby, Chair; Walen, Vice Chair; Ryu and Santos.

Minority Report: Do not pass. Signed by 3 members: Representatives Vick, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Corry.

Staff: Michelle Rusk (786-7153).

Background:

The regulation of insurance is governed by the Insurance Code (Code) in Title 48 RCW.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

The Office of the Insurance Commissioner (OIC) regulates insurance transactions in Washington, including the form and content of insurance contracts.

Insurance Contracts.

The Code specifies the categories of information that must be contained in an insurance contract, including the type of risk that is being insured against, the amount of the premium, the starting date of the insurance coverage, and the period during which the insurance is to continue. Every person in Washington who operates a motor vehicle must be insured under a motor vehicle liability policy, a liability bond, a certificate of deposit, or be self-insured. Where a person is insured under a motor vehicle liability policy, the policy must include the name and address of the insured, the coverage provided by the policy, the premium charged, the policy period, and the limits of liability.

Summary of Substitute Bill:

Motor Vehicle Insurance Contracts.

Unless an insurer certifies that it is not less favorable to the insured, every basic contract of automobile insurance must include a provision for the right to an appraisal to resolve disputes, between the insured and the insurer, regarding the actual cash value and amount of loss on a damaged vehicle. "Basic contract of motor vehicle insurance" means any motor vehicle insurance policy that includes first-party coverage for physical damage.

The appraisal clause must be included in the insurance contract and include the following:

- Either party may make a written demand for an appraisal, and within 10 days each party must select a competent appraiser and notify the other party of its selection.
- The selected appraisers must appoint a competent and disinterested umpire. If the appraisers do not appoint one within 15 days, either party may request that a judge select an umpire.
- The appraisers must then appraise the loss and submit their findings to the umpire if they are unable to agree.
- The amount of the loss will be determined by agreement of both appraisers or one appraiser and the umpire.
- Each party is responsible for expenses of the appraisal, and each party is equally responsible for the cost of the umpire, unless the the amount of the loss, as determined by the appraisal process, exceeds the amount of loss the insurer adjusted before the appraisal process by \$500 or more.
- If the appraised loss is \$500 or more than the amount of loss the insurer adjusted before the appraisal process, the insurer shall reimburse the reasonable cost of the appraisal process, reasonable attorneys' fees, and other necessary and actual costs.

This requirement applies to policies issued or renewed effective on or after January 1, 2023.

Substitute Bill Compared to Original Bill:

The substitute bill provides that an insurer must reimburse an insured for the costs of an appraisal process only if there is a difference of \$500 or more between the amount of loss the insurer adjusted before the appraisal process, and the amount of loss determined through the appraisal process.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) House Bill 1979 will hold insurers responsible for a fair settlement of a claim, and if an appraisal is needed and proves the insurance company didn't pay the full loss, the insurer will pay the loss, which is a fair solution. While many personal auto policies do provide an appraisal clause, there is no regulation requiring insurance companies to have an appraisal clause. Appraisals should be a fast and inexpensive alternative to litigation over whether the insurer is paying the reasonable cost of necessary repairs, and right now when policyholders prevail in an appraisal, they have to bring an independent action for bad faith claims to recover their appraisal charges, which is costly, risky, and time-intensive.

The bill's requirement will give consumers greater protections and avoid putting consumers in a "take it or leave it" position with an insurer. Direct repair facilities that work with insurance companies can be motivated to keep repair costs down, which oftentimes results in a dispute over the cost to properly and safely effectuate a repair. Data from 150 instances this year show that the appraisal value of cars prior to engaging in an appraisal process has been well below \$4,000 less than the appraisal value of the car. The cost-shifting provision is consistent with regulations already in place, and the proposed amendment triggering an insurer's obligation to reimburse when the difference is \$500 or more is okay because people shouldn't be encouraged to ding title insurance companies for a \$1 or \$10 difference.

(Opposed) House Bill 1979 creates an unfair process for evaluating disputed claims. As drafted, this bill is one-sided and unfairly incentivizes repair shops to fight on every claim where they don't get exactly what they ask for. This bill appears to be more directed to repair of vehicles rather than total loss claims, which are treated differently and may be getting conflated in these conversations. If the appraisal mechanism goes into effect during the cost of repair process it would produce a nightmare result. Insurers take their duties very seriously to return a damaged vehicle to precrash status. They approach the task with attention to safety, quality, and cost-effectiveness. The independent appraisal process sets up a no-risk incentive for auto repair facilities to potentially inflate repair estimates; there is

no language in the bill providing a consequence for a repair shop that takes an unreasonable position on its costs. It also creates concern relative to delays that the appraisal process can cause and additional costs, including storage costs, for vehicles in a long-term dispute. The consequence will be dramatically higher repair costs for a significant percentage of auto repair claims.

Persons Testifying: (In support) Representative Steve Kirby, prime sponsor; Paul Veillon, Galileo Law PLLC; Jon Noski, Office of the Insurance Commissioner; Mike Harber and Charlie Brown, Professional Automotive Repair Alliance; Sandra Lee; and Stephen Hansen.

(Opposed) Kenton Brine, NW Insurance Council; Jean Leonard, WA Insurers; and Mel Sorensen, American Property Casualty Insurance Association.

Persons Signed In To Testify But Not Testifying: None.