

1 incident to the transfer of evidence of ownership of the motor
2 vehicle paid, at no cost to the insured other than any deductible
3 provided in the policy. The offer and any rejection thereof shall
4 be documented in the claim file; or

5 2. An insurer may elect a cash settlement based upon the actual
6 cost, less any deductible provided in the policy, to purchase a
7 comparable motor vehicle, including all applicable taxes, license
8 fees and other fees incident to a transfer of evidence of ownership,
9 or a comparable motor vehicle. Such cost may be determined by:

- 10 a. the cost of a comparable motor vehicle in the local
11 market area when a comparable motor vehicle is
12 currently or recently available in the prior ninety
13 (90) days in the local market area,
- 14 b. one of two or more quotations obtained by an insurer
15 from two or more qualified dealers located within the
16 local market area when a comparable motor vehicle is
17 not available in the local market area, or
- 18 c. the cost of a comparable motor vehicle as quoted in
19 the latest edition of the National Automobile Dealers
20 Association Official Used Car Guide or monthly edition
21 of any other nationally recognized published
22 guidebook.

23 B. 1. If the insurer and the claimant are unable to agree on
24 the amount of the loss as determined pursuant to paragraph 2 of

1 subsection A of this section, the insurer or the claimant may demand
2 an appraisal of the loss. In this event, each party shall select a
3 competent and impartial appraiser. The two appraisers shall select
4 an umpire to decide any differences in determining the amount of the
5 loss. Each appraiser shall state separately the actual cash value
6 of the vehicle and the amount of loss. If the appraisers fail to
7 agree, each appraiser shall submit their differences to the umpire.
8 An award in writing by any two appraisers shall determine the amount
9 payable, which shall be binding subject to the terms of the
10 insurance policy.

11 2. The insurer and the claimant shall each be responsible to
12 pay for its chosen appraiser. The insurer and the claimant shall be
13 equally responsible for the expenses of the appraisal and the
14 umpire.

15 C. If a first party motor vehicle total loss is settled on a
16 basis which deviates from the methods described in subsection A of
17 this section, the deviation shall be supported by documentation
18 giving particulars of the condition of the motor vehicle. Any
19 deductions from such cost, including, but not limited to, deduction
20 for salvage, shall be measurable, discernible, itemized and
21 specified as to dollar amount and shall be appropriate in amount.
22 The basis for such settlement shall be fully explained to a first
23 party claimant.

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1 ~~C.~~ D. If liability for motor vehicle damages is reasonably
2 clear, insurers shall not recommend that third party claimants make
3 claims pursuant to the third party claimants' own policies solely to
4 avoid paying claims pursuant to such insurer's insurance policy or
5 insurance contract.

6 ~~D.~~ E. Insurers shall not require a claimant to travel
7 unreasonably either to inspect a replacement motor vehicle, obtain a
8 repair estimate or have the motor vehicle repaired at a specific
9 repair shop.

10 ~~E.~~ F. Insurers shall, upon the request of a claimant, include
11 the deductible of a first party claimant, if any, in subrogation
12 demands. Subrogation recoveries shall be shared on a proportionate
13 basis with a first party claimant, unless the deductible amount has
14 been otherwise recovered. No deduction for expenses shall be made
15 from a deductible recovery unless an outside attorney is retained to
16 collect such recovery. The deduction shall then be made for only a
17 pro rata share of the allocated loss adjustment expense.

18 ~~F.~~ G. If an insurer prepares an estimate of the cost of
19 automobile repairs, such estimate shall be in an amount for which it
20 reasonably may be expected that the damage can be repaired
21 satisfactorily. An insurer shall give a copy of an estimate to a
22 claimant and may furnish to the claimant the names of one or more
23 conveniently located repair shops, if requested by the claimant.

24

1 ~~G.~~ H. If an amount claimed is reduced because of betterment or
2 depreciation, all information for such reduction shall be contained
3 in the claim file. Such deductions shall be itemized and specified
4 as to dollar amount and shall be appropriate for the amount of
5 deductions.

6 ~~H.~~ I. An insurer or its representative shall not require a
7 claimant to obtain motor vehicle repairs at a specific repair
8 facility. An insurer or its representative shall not require a
9 claimant to obtain motor vehicle glass repair or replacement at a
10 specific motor vehicle glass repair or replacement facility. An
11 insurer shall fully and promptly pay for the cost of the motor
12 vehicle repair services or products, less any applicable deductible
13 amount payable according to the terms of the policy. The claimant
14 shall be furnished an itemized priced statement of repairs by the
15 repair facility at the time of acceptance of the repaired motor
16 vehicle. Unless a cash settlement is made, if a claimant selects a
17 motor vehicle repair or motor vehicle glass repair or replacement
18 facility, the insurer shall provide payment to the facility or
19 claimant based on a competitive price, as established by that
20 insurer through market surveys or by the insured through competitive
21 bids at the insured's option, to determine a fair and reasonable
22 market price for similar services. Reasonable deviation from this
23 market price is allowed based on the facts in each case.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 ~~I.~~ J. An insurer shall not use as a basis for cash settlement
2 with a first party claimant an amount which is less than the amount
3 which an insurer would pay if repairs were made, other than in total
4 loss situations, unless such amount is agreed to by the insured.

5 ~~J.~~ K. An insurer shall not force a claimant to execute a full
6 settlement release in order to settle a property damage claim
7 involving a personal injury.

8 ~~K.~~ L. All payment or satisfaction of a claim for a motor
9 vehicle which has been transferred by title to the insurer shall be
10 paid by check or draft, payable on demand.

11 ~~L.~~ M. In the event of payment of a total loss to a third party
12 claimant, the insurer shall include any registered lienholder as
13 copayee to the extent of the lienholder's interest.

14 ~~M.~~ N. As used in this section, "total loss" means that the
15 vehicle repair costs plus the salvage value of the vehicle meets or
16 exceeds the actual cash value of the motor vehicle prior to the
17 loss, as provided in used automobile dealer guidebooks.

18 ~~N.~~ O. An insurer shall not offer a cash settlement as provided
19 in paragraph 2 of subsection A of this section for the purchase of a
20 comparable motor vehicle and then subsequently sell the motor
21 vehicle which has been determined to be a total loss back to the
22 claimant if the insurer has determined that the repair of the
23 vehicle would not result in the vehicle being restored to operative
24 condition as provided in Section 1111 of Title 47 of the Oklahoma

1 Statutes unless the claimant specifies in writing or via an
2 electronic signature that the claimant understands that the motor
3 vehicle shall be titled as a "junked vehicle".

4 SECTION 2. This act shall become effective November 1, 2012.

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6 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 04/16/2012 - DO
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