

Nancy Egan, Director of Government Affairs
Maryland Insurance Administration
200 St. Paul Place, Suite 2700
Baltimore, MD 21202

Re: Proposed Regulation 31.15.12 – SUPPORT

Dear Ms. Egan:

United Policyholders and the Consumer Federation of America are writing to register our strong support for Proposed Regulation 31.15.12 *et seq.* – Valuation of Motor Vehicles. The proposed regulation will facilitate fair settlements of total loss auto insurance claims and requires insurers engage in complete, open, and honest communications with their insureds regarding settlements in the event of a total loss. We appreciate the invitation and opportunity to submit these comments. The comments below are organized by section, substantive comments following each heading.

Section 02 – Definition: Substantially Similar Motor Vehicle

We believe the text of Section 02, specifically Subsection (B)(7) regarding the definition of *Substantially similar motor vehicle* which, *inter alia*, requires an insurer to replace a total loss with a comparable make and model, same year or more recent, same major options, condition substantially similar to pre-damaged condition, mileage, *not* adjusted for mileage, condition, options, is objective, reasonable, and good for consumers. What this clarification means is that policyholders who file a claim for total loss will receive the maximum benefit of their purchased insurance. Section 02 *et seq.* ensures that replacement automobile will more closely resemble *pre-loss condition*, rather than an overly depreciated value.

Section 03 – Duties of Insurer Following Determination of Total Loss Motor Vehicle

This section will help ensure that insurers meet uphold their obligation to deal with insureds in good faith and fairly during claims adjustment negotiations. Subsection 03(B) requires that once insurer determines total loss, it must, within 10 days, offer a cash settlement, or replace (policy dependent). Subsection 03(C) requires the insurer to offer a cash settlement within 30 days for a theft with no recovery. These requirements will promote the expeditious resolution of claims and mirror the Unfair Claims Settlement Practices Act and Model Regulation adopted by the National Association of Insurance Commissioners and a majority of states.

Section 04 – Cash Settlement

We support the idea that valuation should be based on a nationally recognized valuation manual, rather than an insurer's chosen valuation expert. The logic, of requiring, *inter alia*, that an insurer's minimum offer must be total of retail value, regardless of salvage value or fair market value of a four vehicle average, regardless of salvage, and *based on a nationally recognized valuation manual or that complies with the definition of "Substantially similar motor vehicle" as defined in Section 02(B)(7)* promotes fairness and transparency.

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Section 05 – Contents of Settlement Offer

We support the notion that verbal settlement offers must include, *inter alia*, the method of valuation, amount, explanation of calculations, and state that an insured may obtain further information in writing upon request. The offer must also advise the insured of the right to retain salvage, the right of rejection and counter-offer, and that rejection of counter offer requires a *written explanation* under Subsection 05(B). These are important requirements that ensure that communications between an insurer and its insured are complete and accurate with regard to the valuation of the vehicle and the settlement of the claim. Two of the most important aspects of a successful claim adjustment are good faith oral negotiations and a confirmatory paper trail preserving rights. This is not only favored in the law of contracts and the law of insurance, but is also good public policy.

Section 06 – Response By Claimant to Settlement Offer

We strongly support the proposition that insurers must, when rejecting a settlement offer proposed by an insured, respond in writing, with an *explanation in clear and understandable language*. One of the most confusing aspects of insurance for consumers is language found in policy forms and the legal terminology insurers and their representatives use during settlement negotiations. Clear rules that help insureds more understand the valuation of their claim and the terms of a settlement are sound public policy. In addition, we support Subsection C, which prohibits an insurer from terminating an insured's rental car (if provided for under the policy) until at least two days after the first (or third) party has received payment under a settlement offer. This common-sense measure prevents insureds (and injured parties) from finding themselves without transportation before a claim is settled – an issue that we hear about more consumers with regularity. This measure will also incentivize both parties to settle the claim fairly and judiciously.

About United Policyholders and Consumer Federation of America

United Policyholders (“UP”) is a non-profit 501(c) (3) organization, founded in California in 1991, that is a voice and an information resource for insurance consumers in all 50 states. UP does not sell insurance or accept funding from insurance companies. UP hosts a library of pro-policyholder *amicus curiae* briefs, news, consumer tips and information at www.uphelp.org, and is an official representative of consumer interests at the National Association of Insurance Commissioners.

We are joined on this letter by the Consumer Federation of America, an association of non-profit consumer organizations from across the U.S. that was established in 1968 to advance the consumer interest through research, advocacy, and education. Learn more at www.consumerfed.org.

Thank you again for the opportunity to comment on proposed regulation 31.15.12 and thank you in advance for your consideration of our comments. Please let us know if you have any questions.

Sincerely,

Amy Bach, Esq., Executive Director, United Policyholders
Tom Feltner, Director of Financial Services, Consumer Federation of America