

Part I ADMINISTRATION OF THE GOVERNMENT

Title II EXECUTIVE AND ADMINISTRATIVE OFFICERS OF THE
COMMONWEALTH

Chapter 26 DEPARTMENT OF BANKING AND INSURANCE

Section 8G AUTO DAMAGE APPRAISER LICENSING BOARD; APPRAISERS;
LICENSING; DAMAGE REPORTS; SEAL

Section 8G. There shall be in the division of insurance an auto damage appraiser licensing board, hereinafter called the board, consisting of four persons to be appointed by the governor, two of whom shall be affiliated with the auto body repair industry, and two of whom shall be affiliated with insurance companies writing casualty insurance within the commonwealth, and one person to be appointed by the commissioner of insurance who shall not be affiliated with either the auto body industry or the insurance industry and who shall be the chairman of the board. A vacancy on the board shall be filled within 60 days from the date of the vacancy.

The board shall appoint an executive secretary and two secretaries and may expend for expenses and for such legal, investigative, clerical and other assistance such sums as may be appropriated therefor, provided, however, that all costs of administration and operation of said board shall be borne from licensing fees from motor vehicle damage appraisers.

Board members shall be entitled to traveling expenses and incidental expenses incurred by them in the performance of their duties.

The board shall have authority to license individuals to appraise damage to all motor vehicles arising out of motor vehicle damage claims. Such damage claim shall include but shall not be restricted to any set of circumstances for which claim may be made for damage to a motor vehicle under a motor vehicle policy of liability or physical damage coverage.

The board shall after notice and hearing in the manner provided in chapter thirty A adopt rules and regulations governing licenses under this section in order to promote the public welfare and safety.

Applications for registration as licensed motor vehicle damage appraisers signed and sworn to by the applicants, shall be made upon forms furnished by the board. Each applicant who shall furnish the board with satisfactory proof that he is eighteen years of age or over and of good moral character, that he possesses the educational qualifications required for graduation from high school or that he possesses relevant work experience deemed satisfactory by the board, shall, upon payment of one hundred dollars, be examined, and if found qualified by the board, be registered as a licensed appraiser of motor vehicle physical damage and entitled to a numbered certificate in testimony thereof, signed by the chairman of the board. An applicant failing to pass an examination satisfactory to the board, shall, after payment of a further fee of fifty dollars, be entitled to a reexamination after the expiration of six months from the date of the last examination. An applicant failing to pass an examination satisfactory to the board shall be allowed to review his examination.

The board shall prepare and make available to applicants a manual or instructions specifying in general terms the subjects which may be covered in any examination for such a license. The board shall give examinations at such times and places within the commonwealth as it deems necessary to serve the convenience of both the board and applicants.

Each licensed appraiser shall be issued a numbered license.

No appraiser shall complete an auto damage report unless he is duly licensed and unless it is on an approved form, and in a manner consistent with rules and regulations as shall be issued and amended from time to time by the board. Such forms shall be prenumbered and require an itemization of parts, labor and services necessary for repairs thereof, and shall be sworn to under the penalties of perjury and shall also include the appraiser's signature, license number, seal, fee charged and date the motor vehicle was examined.

Fees for auto damage reports shall be in amounts as scheduled by the board. Any such fee paid by a claimant may be included as part of the damage alleged and recoverable as payment by the insurer.

No person licensed under this section shall refuse to prepare and deliver a motor vehicle damage report.

On or about March first of each year, the board shall mail to each licensed appraiser an application for renewal. Such application shall be completed and returned to the board on or before the following first day of June. Each such application shall be accompanied by a renewal fee of fifty dollars. After verification of the facts stated on the renewal application the board shall issue a certificate of annual registration dated July first, and which shall expire on June thirtieth of the year following. Any holder

of a certificate of registration who fails to renew his application within sixty days after notification by the board that his license has expired, shall before again engaging in the practice of a licensed appraiser within the commonwealth, be required to re-register, pay a fee of fifty dollars, and may be required by the board to be reexamined.

Every holder of a license shall have it for display on his person. A new license to replace such license lost, destroyed or mutilated, shall be issued by the board upon payment of a fee of twenty dollars, and such license shall be stamped or marked "duplicate".

Every licensed appraiser shall have a seal of a design authorized by the board. All auto damage reports prepared by him shall be stamped with the impression of such seal. No licensed appraiser shall impress his seal on any motor vehicle damage reports unless his license is in full force and unless he is the sole author of such motor vehicle damage reports.

A roster showing the names and last known places of business of all licensed appraisers shall be prepared by the board during the month of November of each year. Copies of such roster shall be placed on file with the state secretary and furnished to the public on request.

The appraiser shall leave a legible copy of his appraisal with the repair shop selected to make the repairs at the time he inspects the vehicle, which appraisal shall contain the name of the insurance company ordering it, if any, the insurance file or claim number, the number of the appraiser's license and the proper identification number of the vehicle being inspected. All unrelated or old damage should be clearly indicated on the appraisal.

If the appraiser and the repair shop fail to agree on a price for repairs, the appraiser shall not obtain a competitive estimate from another repair shop unless the owner of such other shop, or his authorized agent, either of which shall be a licensed appraiser, has inspected the vehicle and prepared an itemized estimate of repairs to be performed. No such competitive estimates shall be obtained by the use of photographs, telephone calls or in any manner other than a personal inspection.

No appraiser or insurer shall request or suggest that repairs be made in a specified repair shop.

Every appraiser shall reinspect damaged motor vehicles when supplementary allowances are requested by repair shops within two days of a request.

The board shall promulgate regulations for all drive-in claim and appraisal facilities to ensure that they all possess equipment necessary to properly and effectively appraise motor vehicle damage losses or claims. No insurance company or employee, agent or insurance agency or representative thereof shall coerce or use any tactics the purpose of which is to prevent insureds or claimants from seeking damage reports on repairs from their own repair shop rather than utilizing a company appraisal drive-in facility.

No person licensed under this section shall have any interest in any damage report prejudicial to or in conflict with his professional interest therein.

The board, after due notice and hearing, shall revoke any license issued by it and cancel the registration of any person who pleads guilty to or is convicted of a fraudulent automobile damage report as a result of a court judgment and said license shall not be reinstated or renewed nor shall said

person be relicensed. The board, after due notice and hearing, shall cancel for a period not exceeding one year, any license issued by it to, and cancel the registration of, any person who has been shown at such hearing to have been guilty of fraud, deceit, gross negligence, incompetence or misconduct or conflict of interest in the preparation or completion of any motor vehicle damage report, or that the holder of such license has permitted or suffered his official seal to be affixed to any auto damage report not prepared by him. Any such person shall, before again engaging in the practice of licensed appraiser within the commonwealth, be required to re-register and pay a fee of fifty dollars and be re-examined by the board.

Whenever an appraiser determines that a motor vehicle is damaged such that (a) it may no longer meet the safety standards established by the registrar of motor vehicles under section seven A of chapter ninety; or (b), it may no longer comply with the motor vehicle emission standards established by the commissioner of the department of environmental protection under section 142M of chapter one hundred and eleven, then the appraiser shall remove the certificate of inspection from the vehicle and no new certificate of inspection shall be issued for such vehicle unless, upon reinspection of the vehicle pursuant to section seven V of said chapter ninety by an approved inspection station, such vehicle meets said safety standards and is otherwise in compliance with motor vehicle emission standards. The registrar of motor vehicles shall establish rules and regulations for the enforcement of this paragraph.