South Dakota
Department of Revenue & Regulation
Division of Insurance

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BULLETIN 03-02

TO: All Property & Casualty Insurance Companies

FROM: Gary Steuck, Director
South Dakota Division of Insurance

DATE: December 11, 2003

RE: Loss of Value or Diminution of Value Claims

This bulletin replaces and supercedes Bulletin 98-2. There are essentially two types of potential loss of value or diminution of value claims: a first party and a third party claim.

The Division issued Bulletin 98-2, "Claims for Loss of Market Value of Repaired Vehicle," on January 30, 1998. That Bulletin interpreted Grubs v. Foremost Ins. Co., 141 N.W.2d 777 (SD 1966) and stated that the Division's position was that loss of market value is a compensable element of damages when a vehicle has been repaired after an accident. That Bulletin did not distinguish between first and third party claims.

A policyholder may claim that the vehicle's market value is less after it has been damaged, despite being adequately repaired, than its market value was before the damage occurred. The policyholder then claims that the insurer must pay for the difference in market value, referred to as a loss of value or diminution of value.

It is the Division's position that an insurer is not obligated to pay a first party claim for diminished value when a vehicle is completely repaired to its pre-loss condition when the language of the insurance policy does not require such payment to be made. An insurer would still have an obligation for such claims if the repairs do not substantively physically put the damaged property into its pre-loss condition.

This Bulletin does not alter the obligation to pay a third party claimant for a demonstrated loss of market value in a liability claim against a policyholder.

All inquiries concerning this Bulletin should be addressed to:

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