

June 27, 1990

SUBJECT: INSURANCE

Circular Letter No. 7 (1990)
June 27, 1990

TO: ALL INSURERS LICENSED TO WRITE AUTO INSURANCE IN NEW YORK STATE

RE: PRIVATE PASSENGER AUTOMOBILE TOTAL LOSS CLAIM SETTLEMENTS

Section 3412(b) of the Insurance Law requires insurers to take possession of the salvage and certificate of title whenever a private passenger automobile is determined to be an actual or constructive total loss, except where the insured is permitted to retain the damaged auto in accordance with Regulation 64. Evidently, many insurers, in order to expedite payment of the claim, pay the claim prior to receipt of the title document. Yet some insurers have informed this Department that they are unable to dispose of salvage, because they cannot secure the title document after the claim has been paid. As a result, substantial storage charges must be paid by the insurer.

Since the title document is required to dispose of salvage promptly and properly, insurers should employ procedures to assure rapid receipt of the title document in order to comply with the Insurance Law. The following are suggested procedures:

- (1) If the insured possesses "clear title" free of all liens, the insurer may withhold payment of the claim, pending receipt of the endorsed title.
- (2) If the insured requires the insurance proceeds to pay off a loan and secure satisfaction of lien, the insurer may offer a partial payment sufficient to pay off the loan, and upon receipt of the satisfaction of lien and the endorsed title, pay any balance. If the balance of the loan exceeds the proceeds from the insurance settlement, the insured may be required to endorse the title prior to the insurer's claim payment.
- (3) If the insured has lost the title document, the insurer may offer the insured partial payment, of up to eighty percent of the amount payable, and pay the balance upon receipt of the properly endorsed duplicate-title document.

These suggestions are not intended to be exhaustive. Insurers should be guided by the claim practice principles and requirements of Regulation 64 in settling total loss claims.

Recognizing that many vehicle owners have either lost or never received the original title document, the Department of Motor Vehicles (DMV) has implemented the following procedures to expedite the delivery of original or duplicate titles in those circumstances where a vehicle owner has sustained a total loss:

- (1) If the original title document has not been issued, the vehicle owner should contact the DMV Title Bureau (518-449-3419), explain the situation, and request that title issuance be expedited in order that the claim may be settled;
- (2) If duplicate title is required, the quickest way to obtain it is for the vehicle owner to request it at the

local DMV office. The vehicle owner must complete an Application for Duplicate Title (MV-902), present proof of identification and address, and pay a \$ 10 fee. The duplicate title will be mailed from Albany on the following business day. This duplicate title request may also be mailed to the Title Bureau, New York State Department of Motor Vehicles, Empire State Plaza, Albany, New York 12228. If the request is mailed to Albany, it will be processed within 2 days of receipt, and the duplicate title will be mailed the following business day.

In accordance with the requirements of Regulation 64, insurers must pay total loss claims within 5 business days of receipt of the title document (3 business days if the title document is accompanied by a Proof of Loss), provided that all other obligations have been fulfilled by the claimant. Insurers have a duty to assist the claimant in processing the claim. This Department expects insurers to expeditiously advise claimants of these DMV procedures, in accordance with the verification requirements of Regulation 64, if advised that the claimant does not possess the title document.

If you have any questions regarding this Circular Letter, please contact:

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Very truly yours,

[SIGNATURE]

WENDY E. COOPER

ACTING SUPERINTENDENT OF INSURANCE