

**Vermont Department of Banking, Insurance, Securities
and Health Care Administration**

Insurance Division Bulletin #164

August 10, 2011

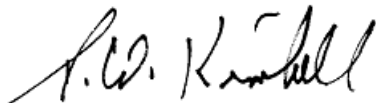
**Clarification of the Department's Position Concerning
Claims Made for Diminution of Value**

The purpose of this bulletin is to clarify the position of the Vermont Department of Banking, Insurance, Securities and Health Care Administration concerning claims made for diminished value stemming from physical damage to an automobile resulting from a covered event. Even when an automobile is completely repaired to its pre-damage condition, there may be a question as to whether the market value of the automobile after a complete repair has been made is less than its market value before the damage.

Vermont law prohibits any person from engaging in any trade practice which is determined to be an unfair or deceptive act or practice in the business of insurance. 8 V.S.A. § 4723. Such an act or practice may include not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear. 8 V.S.A. § 4724(9)(F).

It is the Department's position that as part of the duty to effectuate prompt, fair and equitable settlements of claims an insurer must, absent specific policy language in a claim made by an insured to the contrary, review and adjust a claim made for diminished value. When evaluating such diminished value claims, insurers must take into account all relevant information which would include, but not be limited to, all relevant information provided by an insured or third party claimant regarding a claim for diminution of value. While the Department has not mandated a particular method for adjusting such claims, insurers must be able to articulate a fair and equitable process and standards for such an adjustment.

Dated at Montpelier, Vermont, this 10th day of August, 2011.



Stephen W. Kimbell, Commissioner