

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Robert F. Fennell

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to arbitration for automobile insurance property damage. .

PETITION OF:

NAME:

Robert F. Fennell

DISTRICT/ADDRESS:

10th Essex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 947 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO ARBITRATION FOR AUTOMOBILE INSURANCE PROPERTY DAMANGE. .

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority
of the same, as follows:*

1 SECTION 1. Section 191A of Chapter 175 of the General Laws, as so appearing in the 2000
2 Official Edition, is hereby amended by striking the second subparagraph of paragraph one thereof, and
3 inserting in its stead, the following:—
4 If the named insured, or the repairer chosen by the insured to make repairs to the vehicle, and the
5 company fails to agree as to the amount of loss, each shall, on the written demand of the other made
6 within ninety days after receipt of proof of loss by the company, submit to binding arbitration as to the
7 amount of the loss. The party demanding arbitration shall select a competent and disinterested licensed
8 auto damage appraiser as an arbitrator and shall identify the appraiser in its demand. The other party
9 shall thereafter select a competent and disinterested licensed auto damage appraiser as a second
10 arbitrator and shall identify the appraiser to the party demanding arbitration within five working days of
11 receipt of the demand for arbitration. The two chosen arbitrators shall choose another competent and
12 disinterested licensed auto damage appraiser, who shall then serve as an umpire. If the two arbitrators
13 chosen by the parties cannot agree upon an umpire within five working days after being appointed, then
14 either party may file a petition for appointment of the umpire with the division of the district court
15 department of the trial court for the district within which either the vehicle owner or the repair shop
16 chosen to make repairs is located. Such petition shall be accompanied by a filing fee in the amount of

17 the usual filing fee for a complaint, as well as a list of not less than three competent and disinterested
18 licensed auto damage appraisers and a summary of the qualifications of each such listed appraiser. At
19 the time of filing such petition, the court shall schedule same for hearing, such hearing to be held within
20 seven days of the filing. The petitioner shall forthwith serve notification of the date and time of hearing
21 and a copy of the petition and submitted list of appraisers upon the other chosen arbitrator by hand
22 delivery or by certified mail. Such other chosen arbitrator shall also submit a list of not less than three
23 competent and disinterested licensed auto damage appraisers and a summary of the qualifications of
24 each such listed appraiser. At the scheduled hearing, the court shall appoint an umpire from the lists
25 submitted. Such hearing shall be held on an informal basis, utilizing the rules of evidence applicable to
26 cases heard under the procedure established by section 21 of chapter 218. Within five working days of
27 selecting the umpire, the two initially chosen arbitrators shall also independently appraise the loss, such
28 appraisals to be made at a reasonable time and place. Each arbitrator shall itemize the cost of repair, or
29 shall state in writing the actual cash value of a vehicle appraised as a total loss. The arbitrators shall then
30 attempt to agree as to the amount of the loss. If the two chosen arbitrators shall fail to agree within five
31 working days after making their appraisals, they then shall submit their appraisals to the umpire within
32 three working days of the expiration of the said five day period. The umpire, within five working days of
33 receiving the arbitrators' appraisals, shall make an award, rendered by selecting one of the two
34 appraisals as submitted by the arbitrators. An award in writing of any two shall determine the amount of
35 loss. Such decision shall be binding upon the parties. Within five working days of the umpire's decision,
36 the insurer shall make payment on the award accordingly. The named insured and the company shall
37 each pay their own chosen arbitrator and shall bear equally the expenses of the umpire. An insurer that
38 fails to comply with the provisions of this section shall be deemed to have engaged in unfair claims
39 settlement practices in violation of section 3(9) of chapter 176D.