



## Testimony to the House Economic Matters Committee

### HB998: Baltimore City - Maryland Insurance Administration - Study on Diminished Value Within the Automobile Industry

Position: Favorable

March 16, 2023

The Honorable C.T. Wilson, Chair  
House Economic Matters Committee  
Room 231, House Office Building  
Annapolis, Maryland 21401  
cc: Members, House Economic Matters

Honorable Chair Wilson and members of the committee:

Economic Action Maryland (formerly the Maryland Consumer Rights Coalition) is a statewide coalition of individuals and organizations that advances financial justice and economic inclusion for Maryland consumers through research, education, direct service, and advocacy. Our 8,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland.

We are writing in support of HB998 which would require the Maryland Insurance Administration to conduct a study on diminished value within the automobile insurance industry.

Owning a car is expensive. While a car is typically one of the largest purchases a consumer will make, it depreciates in value once it is driven off the dealership lot.<sup>1</sup> The years, wear-and-tear, and mileage on a car all lower a vehicle's market value. After a car accident, a vehicle's value can lower even more. This diminished value, the difference in a car's market value before and after the accident, can be compensated through a first-party insurance claim or third-party claim against the at-fault party.<sup>2</sup> There are three types of diminished value:

- 1. Immediate Diminished Value:** This is the loss of value which results immediately after an accident before any repairs are made. It is the difference in market value immediately before and after an accident caused by an at-fault driver.
- 2. Inherent Diminished Value:** Also known as "residual diminished value", this refers to the loss of value of an automobile that remains after it is completely and professionally repaired. It is the loss of value that results from the simple fact that the vehicle has been in an accident. This type of diminished value is also known as "stigma damage." Given two identical vehicles on a car lot, the one never damaged is preferable to the one that has been damaged and repaired.
- 3. Repair-Related Diminished Value:** This refers to the additional loss of value to a vehicle that results from incomplete or poorly performed repairs. It could include simple cosmetic damages which remain after repair or major mechanical or structural deficiencies.

Inherent Diminished Value is the type of diminished value that is most common and most highly accepted. Maryland courts have determined in third-party cases that, "if [a] plaintiff can prove that after repairs his vehicle has a diminished market value, then he can recover in addition to the cost of repairs the diminution in market value, provided the two together do not exceed the diminution in value prior to the repair."<sup>3</sup> However, auto carriers have historically taken the position that current vehicle policies were never intended to cover diminished value and some have adjusted policy language to include diminished value exclusions, and clearly set forth that the definition of "loss" does not include any difference in the residual market value of the vehicle after repairs. There is a

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<sup>1</sup> <https://www.bankrate.com/insurance/car/diminished-value-claim/>

<sup>2</sup> <https://autoloss.com/diminished-value/maryland-diminished-value-claim/>

<sup>3</sup> <https://www.mwl-law.com/wp-content/uploads/2018/02/DIMINUTION-IN-VALUE-IN-ALL-50-STATES.pdf>



disparity among states regarding recovery of diminution in value in first-party cases, and most states do not require insurers to pay the diminished value as well as the cost of repair.

The purpose of the study proposed by HB998 is to examine how insurance companies in Maryland currently handle claims related to diminished value, and to determine if any changes or improvements could be made to the claims process in order to better protect consumers. The study would also examine how other states have addressed this issue and whether their approaches could be adopted in Maryland. This would lend greater transparency to the diminished claims process and ensure that consumers are better protected in not-at-fault accidents and better served by the insurance industry. The findings of the study would be used to inform any future legislative or regulatory action related to diminished value claims in Maryland.

For these reasons we support HB998, and urge a favorable report.

Respectfully,  
Isadora Stern  
Policy Manager