BULLETIN 98-2

TO: All Insurers Licensed to Sell Automobile Coverage in South Dakota

FROM: Darla L. Lyon, Director, S.D. Division of Insurance

DATE: January 28, 1998

RE: Claims for Loss of Market Value of Repaired Vehicle

Questions have recently arisen as to whether loss of market value is a compensible element of damages in South Dakota when a motor vehicle has been repaired after an accident.

It is settled law in South Dakota that damages are limited to the cost of repair or replacement *only* if the vehicle can be placed in substantially the same condition it was in immediately prior to the damage. *See* Grubbs v. Foremost Ins. Co., 141 N.W.2d 777 (SD 1966). Evidence of a diminution in market value is admissible in South Dakota to show that the vehicle has not been placed in substantially the same condition by repair. As long as this case law exists you must abide by this authority in settling claims.

All inquiries concerning this bulletin should be addressed to:

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