



# Kansas Insurance Department

Ken Selzer, CPA, Commissioner of Insurance

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## BULLETIN 2015-1

TO: All Property and Casualty Insurance Companies Authorized to Write Business in Kansas

FROM: Ken Selzer, Kansas Commissioner of Insurance

DATE: June 8, 2015

RE: K.S.A. 8-197 and 8-198 - Application of Kansas salvage vehicle title laws to motor vehicle damage claims

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Subsequent to our issuance of Bulletin 2004-8 (Valuation and Salvage Motor Vehicle Requirements – Documentation of Claim Files), K.S.A. 8-197 and K.S.A. 8-198 have been amended several times and industry practices have changed. This Bulletin is issued to update and clarify appropriate industry conduct when Bulletin 2004-8 is withdrawn. Effective immediately, Bulletin 2004-8 is withdrawn and replaced with Bulletin 2015-1.

1. K.S.A. 8-197(b)(2)(A), (B) and (C) define *salvage vehicle*. K.S.A. 8-197 requires an insurer to declare a motor vehicle a total loss when it is damaged to the extent that it is required to be designated a *salvage vehicle* in accordance with K.S.A. 8-197(b)(2)(B). The foregoing total loss requirement does not apply to a motor vehicle that has been damaged to the extent that it is required to be designated a *salvage vehicle* in accordance with K.S.A. 8-197(b)(2)(A).
2. K.S.A. 8-197(b)(2)(B) requires an insurer to designate a *late model vehicle* a *salvage vehicle* when the motor vehicle is a type required to be registered in Kansas and has been damaged to the extent that the total *cost of repairs* is 75% or more of the *fair market value* of the motor vehicle immediately preceding the damage included with the claim if the damage is not merely exterior cosmetic damage caused by windstorm or hail. As used in K.S.A. 8-197(b)(2)(B), *late model vehicle*, *fair market value* and *cost of repairs* are defined by K.S.A. 8-197(b)(6), (7) and (8) respectively.
3. In accordance with K.S.A. 8-197(b)(8), *cost of repairs* means the estimated or actual retail cost of parts and materials and a customary and reasonable hourly labor rate necessary to repair the damage included with the claim, but does not include any cost associated with tires, sound systems or sales tax on parts or materials. Therefore, when the estimated cost of the foregoing parts, materials and labor is less than, and the actual cost of the foregoing parts, materials and labor is equal to or more than, the 75% threshold referenced in K.S.A. 8-197(b)(2)(B), an insurer must utilize the actual cost to determine whether the motor vehicle must be designated a *salvage vehicle* in accordance with K.S.A. 8-197(b)(2)(B).
4. K.S.A. 8-198(d)(3) requires an insurer that makes a damage settlement for a motor vehicle that the insurer has designated a *salvage vehicle* in accordance with K.S.A. 8-197(2)(A)

or (B) but does not acquire ownership of the motor vehicle to notify the motor vehicle's owner of the owner's obligation to apply for a salvage title for the motor vehicle and to notify the Kansas Department of Revenue, Division of Vehicles, of the *salvage vehicle* designation in accordance with procedures established by the Division of Vehicles. Accordingly, an insurer must not send the foregoing notification to the Division of Vehicles until after the insurer has reached a settlement agreement with the motor vehicle's owner and has issued payment for the entire settlement amount.

5. In accordance with Section 4 of K.A.R. 40-1-34, an insurer's claim file is subject to examination by the Kansas Insurance Department and shall contain all claim related notes and work papers in sufficient detail that pertinent events and dates can be reconstructed. Accordingly, an insurer's claim file must contain: (1) copies of the notifications required by K.S.A. 8-198(d) and include notations of the date(s) the notifications were sent, and (2) documentation that shows that the motor vehicle satisfies the definition of *salvage vehicle* provided by K.S.A. 8-197(b)(2).

Questions should be directed to the Consumer Assistance Division, Kansas Insurance Department, 420 SW 9<sup>th</sup> Street, Topeka, Kansas 66612, by phone at 785-296-3071, or via email at [commissioner@ksinsurance.org](mailto:commissioner@ksinsurance.org).