HOUSE DOCKET, NO. 226 FILED ON: 1/9/2019

HOUSE . . . . . No. 901

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce J. Ayers

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 adoption of the accompanying bill:

An Act relative to arbitration for automobile insurance property damage.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Bruce J. Ayers	*1st Norfolk*	*1/9/2019*

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HOUSE . . . . . No. 901

By Mr. Ayers of Quincy, a petition (accompanied by bill, House, No. 901) of Bruce J. Ayers relative to arbitration with insurance companies for property damages to motor vehicles. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *479* OF 2017-2018.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act relative to arbitration for automobile insurance property damage.

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

SECTION 1. Section 191A of Chapter 175 of the General Laws is hereby amended by striking the second subparagraph of paragraph one thereof, and inserting in its stead, the following:—

If the named insured, or the repairer chosen by the insured to make repairs to the vehicle, and the company fails to agree as to the amount of loss, each shall, on the written demand of the other made within 90 days after receipt of proof of loss by the company, submit to binding arbitration as to the amount of the loss. The party demanding arbitration shall select a competent and disinterested licensed auto damage appraiser as an arbitrator and shall identify the appraiser in its demand. The other party shall thereafter select a competent and disinterested licensed auto damage appraiser as a second arbitrator and shall identify the appraiser to the party demanding

arbitration within 5 working days of receipt of the demand for arbitration. The 2 chosen arbitrators shall choose another competent and disinterested licensed auto damage appraiser, who shall then serve as an umpire. If the 2 arbitrators chosen by the parties cannot agree upon an umpire within 5 working days after being appointed, then either party may file a petition for appointment of the umpire with the division of the district court department of the trial court for the district within which either the vehicle owner or the repair shop chosen to make repairs is located. Such petition shall be accompanied by a filing fee in the amount of the usual filing fee for a complaint, as well as a list of not less than 3 competent and disinterested licensed auto damage appraisers and a summary of the qualifications of each such listed appraiser. At the time of filing such petition, the court shall schedule same for hearing, such hearing to be held within 7 days of the filing. The petitioner shall forthwith serve notification of the date and time of hearing and a copy of the petition and submitted list of appraisers upon the other chosen arbitrator by hand delivery or by certified mail. Such other chosen arbitrator shall also submit a list of not less than 3 competent and disinterested licensed auto damage appraisers and a summary of the qualifications of each such listed appraiser. At the scheduled hearing, the court shall appoint an umpire from the lists submitted. Such hearing shall be held on an informal basis, utilizing the rules of evidence applicable to cases heard under the procedure established by section 21 of chapter 218. Within 5 working days of selecting the umpire, the 2 initially chosen arbitrators shall also independently appraise the loss, such appraisals to be made at a reasonable time and place. Each arbitrator shall itemize the cost of repair, or shall state in writing the actual cash value of a vehicle appraised as a total loss. The arbitrators shall then attempt to agree as to the amount of the loss. If the 2 chosen arbitrators shall fail to agree within 5 working days after making their appraisals, they then shall submit their appraisals to the umpire within three

working days of the expiration of the said 5 day period. The umpire, within 5 working days of receiving the arbitrators' appraisals, shall make an award, rendered by selecting one of the 2 appraisals as submitted by the arbitrators. An award in writing of any 2 shall determine the amount of loss. Such decision shall be binding upon the parties. Within 5 working days of the umpire's decision, the insurer shall make payment on the award accordingly. The named insured and the company shall each pay their own chosen arbitrator and shall bear equally the expenses of the umpire. An insurer that fails to comply with the provisions of this section shall be deemed to have engaged in unfair claims settlement practices in violation of section 3(9) of chapter 176D.