



# Illinois Insurance Facts

Illinois Department of Insurance

## Total Loss Auto Claims with Your Insurance Company

### (Rule 919 Exhibit A – Rights of Recourse)

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*Note: This information was developed to provide consumers with general information and guidance about insurance coverages and laws. It is not intended to provide a formal, definitive description or interpretation of Department policy. For specific Department policy on any issue, regulated entities (insurance industry) and interested parties should contact the Department.*

When you are involved in an automobile accident, one of the first things you may have to do is file a claim with your insurance company for damages to your vehicle. If your car is a total loss, this procedure can sometimes be confusing. The Department of Insurance has established regulations (50 Illinois Administrative Code, Part 919) to protect you when you file an insurance claim with your own insurance company. It is also important that you read your policy carefully so that you clearly understand your responsibilities.

Your automobile insurance policy requires both you and your insurance company to follow certain steps after a loss occurs. This fact sheet summarizes those requirements and outlines your rights. If the insurance company declares your car a total loss, they must provide you the following information within **seven (7) days**.

### Your Duties Following An Auto Insurance Loss

1. You must immediately report all losses directly to your insurance producer or company.
2. If you suspect theft or vandalism, you must also report it immediately to the police. If you fail to do so, your company may deny your claim.
3. You must protect your automobile from further damage. For example, if you fail to cover a broken windshield and the upholstery is damaged by rain, your company can refuse to repair the seat.
4. Most insurance policies require that, within 91 days after the loss, you must submit a sworn proof of loss. A sworn proof of loss usually states the date of loss, how it happened, and for what purpose the automobile was being used. If you fail to submit a proof of loss, your company may deny your claim.
5. You must cooperate with the insurance company, submit to examination under oath if so requested, and show them the damaged property. If you fail to cooperate your company may deny your claim.
6. You should review the Conditions section of your policy for other possible requirements.

## **Your Insurance Company's Duties**

When you file an automobile insurance claim, your insurance company has three options:

1. Replace the damaged or stolen property;
2. Repair the damaged property; or
3. Pay for the loss in cash.

Insurance Department regulations require the company to follow certain standards for each option.

### **Replacement**

If the insurance company elects to replace your vehicle, the replacement must be a specific make and model comparable to your totaled vehicle, and it must be available in as good or better overall condition than your totaled vehicle. Replacement vehicles must be purchased through licensed dealers. Vehicles that are not more than three years old must be warranted.

If you reject a replacement vehicle, the insurance company must pay only the amount it would have otherwise paid for the replacement vehicle including applicable taxes, transfer and title fees. The company must offer you the replacement vehicle and you must reject the offer.

### **Cash Settlement**

If the insurance company elects to make a cash settlement for your totaled vehicle, they must first determine its retail value. Companies normally use guidebooks or computerized data marketed by various sources.

If your vehicle is not listed in one of these sources, the company can use written dealer quotes. Ordinarily, however, newspaper advertisements are not acceptable sources of market value.

### **Payment of Sales Tax**

If within 30 days of a cash settlement, you can prove that you have purchased another vehicle, the company must pay the applicable sales tax, transfer and title fees in an amount equivalent to the value of the total loss vehicle. If you purchase a vehicle with a market value less than the amount previously settled upon, the company must pay you only the amount of sales tax that you actually incurred and include transfer and title fees. Your insurance company must give you written notice of this procedure.

### **Betterment Deductions**

The insurance company is allowed to make deductions from the retail value if your automobile has old, unrepaired collision damages. There is no limit to the amount of the deduction. The insurance company can also make deductions for wear and tear, missing parts and rust, but the maximum deduction may not exceed \$500.00. All deductions must be itemized and specified as to dollar amount.

## Retaining Your Totaled Vehicle

In an effort to minimize automobile “chop shop” crime, the Illinois Vehicle Code does not permit you the right to retain the salvage once the insurance company has deemed your automobile a total loss. There are only two instances that you may be able to retain your vehicle: 1) if the vehicle has incurred only hail damage that does not affect the operational safety of the vehicle, or 2) if the vehicle is nine (9) model years of age or older.

### Right of Recourse

If you cannot locate a replacement vehicle within 30 days of receiving a cash settlement, you may have some additional rights under your insurance contract.

If you cannot purchase a substantially similar vehicle for the market value determined by the company, but you have located a substantially similar vehicle that costs more, the following procedure(s) shall apply:

1. The company shall either pay you the difference between the original settlement and the amount of the substantially similar vehicle which you have located or attempt to purchase this vehicle for you; or
2. The company shall locate a comparable vehicle for you at the market value determined by the company at the time of settlement; or
3. The company shall conclude the loss settlement as provided under the appraisal section of the insurance policy.

Your insurance company must give you written notice of this procedure once your vehicle has been determined a total loss. This chart should assist you in determining the retail value of an average automobile. The value of your automobile may differ if certain options are not listed in a guidebook or if your automobile has excessive wear and tear or old unrepaired damage.

Details	Value
Make of Automobile	
Model	
Engine Size	
Type Transmission (Auto/Standard)	
Power Steering	
Power Brakes	
Power Windows	
Air Conditioner	
Vinyl Roof	
Cruise Control	
Tilt Wheel/Telescope Wheel	
Power Locks	
Power Seats	
AM/FM Radio	
Stereo/Tape	
Rear Defog	

Mileage: Low/High	
Subtotal	
Minus Deductible	
Total	

### **For More Information**

Call our Consumer Services Section at (312) 814-2427  
or our Consumer Assistance Hotline toll free at (866) 445-5364  
or visit us on our website at <http://insurance.illinois.gov>

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