

Filing an Auto Claim with Your Own Insurance Company

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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 your vehicle is damaged or stolen, one of the first things you may have to do is file an insurance claim. Even if another driver caused the damage, you have the option to file the claim with either your own insurance company if you have the appropriate coverages (a "**first-party**" claim) or the other driver's insurance company (a "**third-party**" claim).

Insurance laws differ with regard to first and third party claims, so it is important that you understand your rights and duties in both cases. In a first party claim, you have a direct contract that requires your insurance company to fulfill all the conditions stated in your policy. In a third party claim, you do not have a direct contract with the insurance company and their primary obligation is to their own policyholder.

This fact sheet discusses your rights and duties when you file a **first-party claim** with your own insurance company. For information on third-party claims, see our [Filing an Auto Claim with Another Driver's Insurance Company](#) fact sheet.

What Must I Do after a Loss?

- Immediately report all losses directly to your insurance agent or company.
- Immediately report a loss to the police if your vehicle is damaged by a hit-and-run driver, or if you suspect vandalism or theft. Without a police report, your company could deny your claim.
- Show the damaged vehicle to the company before having it repaired.
- Protect your vehicle from further damage. If you don't, your company could refuse to pay for any subsequent damage. For example, if you don't cover a broken windshield and rain damages the upholstery, your company could refuse to pay for the damaged upholstery.
- Cooperate with the insurance company's investigation. If you don't cooperate, your company could deny your claim.
- Review the section of your insurance policy that describes your duties and other possible requirements (sometimes called "Conditions" or "Duties After A Loss").

What Information Must I Give My Company?

- A copy of any legal document you receive as a result of an accident.
- A sworn proof of loss describing the date of loss, how it happened, for what purpose the vehicle was being used, etc. If you don't submit a required proof of loss within the time period required in your policy, your company could deny your claim.
- Your company may also ask for other documents related to the claim, such as medical and automobile repair bills, a copy of the police report, bill of sale for the vehicle, etc.
- Documents for an examination under oath (e.g. tax documents, medical bills, etc.). If required, you must submit to an exam under oath. If you don't, your company could deny your claim.

When Will My Insurance Company Contact Me?

Illinois insurance rules require your insurance company to communicate with you within **21 working days** after they are notified of the loss.

How Many Repair Estimates Must I Submit?

Your insurance company may ask for several estimates. There is no law that states how many estimates you must submit or that limits the number the company can ask for.

What about Storage Fees?

If your vehicle is undriveable following an accident and it is towed to a storage facility, the storage facility will charge you a daily storage fee. Your insurance company must give you reasonable notice before they stop paying for auto storage charges to give you time to move the vehicle and avoid additional storage charges.

May I Choose My Own Repair Shop?

Yes. You are not required to use your company's suggested repair shop. However, if your repair shop charges more than the company's suggested shop, you may have to pay the difference.

Can My Insurance Company Deduct for "Betterment"?

Yes. If your vehicle is being repaired with newer parts, your company doesn't have to pay for the "betterment." For example, if your vehicle's muffler is five years old, your insurance company would have to replace it with a five-year old muffler. If a five-year old muffler can't be found, the repair shop could use a new muffler, but you'd have to pay the difference.

Can My Insurance Company Deduct for Things Like Unrepaired Damage or Rust?

Yes. Your insurance company may deduct an unlimited amount from the value if your vehicle has old, unrepaired collision damages. They may also deduct an additional amount up to \$500.00 for wear and tear, missing parts and rust. Your company must itemize and specify the dollar amounts of those deductions.

Do I Have to Accept Replacement Crash Parts?

No. Although insurance companies aren't required to use original equipment manufacturer (OEM) replacement parts, such as GM or Ford, you have the final choice of which parts will be used to fix your vehicle. However, if your company wants to use non-OEM parts, and you request more expensive OEM parts, you may have to pay the difference.

How Will My Company Determine the Value of My Vehicle?

Companies normally use published guide books or computerized sources to determine your vehicle's retail value. To make sure you receive the highest value possible, give your insurance company complete information about your vehicle's condition, options and mileage.

Can My Company Replace My Vehicle?

Yes, as long as the replacement vehicle is:

- comparable to your damaged or stolen vehicle: that is, the replacement is of the same manufacturer, same model year, similar body style, options and price range, in as good or better overall condition; and
- available for your inspection at a licensed dealer within a reasonable distance from your home.

If your damaged or stolen vehicle is four years old or newer, the company must buy the replacement vehicle through a licensed dealer unless you waive this requirement in writing.

Does My Insurance Company Have to Pay Off My Car Loan?

No. Most insurance policies require your company to pay your vehicle's **actual cash value**. If your vehicle's value is less than your car loan, you must pay the difference. If this happens to you, you should ask your lender about **substitution of collateral**.

In this scenario, your lender agrees to accept title to your replacement vehicle in place of the title to your totaled or stolen vehicle, and you continue making payments as if your previous vehicle was never totaled or stolen. Lenders aren't required to do this, but many times, if you've been timely in your loan payments and you find a substantially similar vehicle, lenders will agree to this arrangement.

I Found a Car Just Like Mine but It Costs More than What My Company Gave Me for My Car. What Can I Do?

If you **can't find** a **comparable** vehicle within 30 days of receiving a cash settlement for your total loss vehicle, but you find one that costs more, your company will have to:

- Pay you the difference;
- Negotiate a lower cost for the vehicle;
- Buy the car for you, even at a lower negotiated price;
- Find a substantially similar vehicle for you for the amount they offered; or
- Invoke the Appraisal Clause of your policy (See below, “My Company and I Can’t Agree on the Amount of My Loss. What Can I Do?”)
- This requirement does not apply if the cash settlement was based on the value of a replacement vehicle that you rejected.

Does My Company Owe for Taxes, Title and Transfer Fees?

Possibly. If, **within 30 days of a cash settlement**, you can prove that you bought or leased another vehicle, your company must reimburse you for the applicable taxes, title and transfer fees as follows:

- If you bought a vehicle whose value is **less than** the settlement amount, your company must reimburse you for the amount you actually paid;
- If you bought a vehicle whose value is **more** than the settlement amount, your company must reimburse you only for the taxes, title and transfer fees based on the settlement amount.
- If you bought a vehicle after refusing your company’s offer of a replacement vehicle, your company must reimburse you only up to the applicable replacement flat tax.

My Vehicle is a Total Loss. May I Keep It Anyway?

It depends on how old your vehicle is. To minimize “chop shop” crime, Illinois law lets you keep a totaled vehicle only if it is **nine years old or older**, or if the vehicle has incurred only hail damage that does not affect the operational safety of the vehicle. In that case, your insurance company may, but is not required to let you keep your vehicle. If you have a newer vehicle, you must give the vehicle and clear title to your insurance company before they can settle your claim. Refer to our fact sheet [Total Loss Auto Claims with Your Insurance Company \(Rule 919 Exhibit A – Rights of Recourse\)](#) for more information.

Do I Have to Pay a Deductible?

If you chose a deductible when you bought your policy, your company will deduct that amount from the settlement each time you submit a claim. Keep in mind that insurance companies consider it to be insurance fraud if your repair shop offers to increase your repair estimate to help you recover the cost of your deductible.

May I Rent a Car?

It depends. If your vehicle is **stolen**, most insurance policies will reimburse you for the cost of a rental vehicle starting 48 hours after the theft, as long as you report the theft to the police and your insurance company. Check your policy for the dollar limits.

For **non-theft claims**, most automobile policies don't provide for a rental vehicle unless you bought additional Rental Car coverage for more premium.

Does My Insurance Company Have to Pay for the Special Equipment on My Vehicle?

Probably not. Most automobile policies only cover items that were **permanently installed** in your vehicle by the original manufacturer. Specialized equipment such as conversion van upgrades, car phones, stereo systems, etc. probably aren't covered unless you bought special coverage for more premium.

Does My Insurance Company Have to Pay for the Damaged Child Safety Seat in My Vehicle?

Effective June 2, 2000, Illinois law requires that insurance for private passenger automobiles must include coverage for the replacement of child safety seats if those seats were in use at the time of the accident.

I Had Personal Property in My Vehicle When It Was Damaged/Stolen. Is It Covered?

Probably not. Automobile insurance policies only pay for auto-related equipment. If you had personal items, such as clothing, luggage, gifts, etc. that were stolen from or damaged while in your vehicle, your policy may not pay for them, or may pay only a limited amount. However, if you have a homeowners or renters insurance policy, your personal property may be covered under that policy.

My Company and I Can't Agree on the Amount of My Loss. What Can I Do?

- If you and your insurance company can't agree on the amount of the **physical damage loss** to your vehicle, either of you may request an appraisal as explained in your policy. Here is how the appraisal process works:
- You choose and pay for an appraiser to represent you.
- The company will choose and pay for an appraiser to represent them.
- The two appraisers will select a neutral third-party umpire (for whom you and your company split the cost, if necessary).
- Both appraisers will give their estimates of the loss.
- If the appraisers can't agree, they will submit their differences to the umpire, and a decision by any two of the three is binding.

For More Information

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