

Settlement of Your Total Loss Automobile Claim

Everyone has either been involved in an automobile accident, or knows someone who has, and if your vehicle is determined to be a Total Loss by the insurance company, your questions and stress may be just beginning. What are my rights? What am I entitled to? Is the insurance required to pay off the loan on my vehicle? Am I entitled to a rental vehicle? Questions abound as your vehicle is towed away, never to be seen again, but the Consumer Relations Division, (CRD), Insurance Bureau is available to help relieve your stress and to help walk you through the claim process so that you receive a timely and fair settlement. The claims process for the handling of the Total Loss of your vehicle is closely monitored by the CRD Insurance Bureau to ensure the consumers of New Mexico are treated fairly and in accordance with regulations that govern all insurance companies. The CRD, Insurance Bureau is not authorized to act as your adjuster or attorney or to negotiate a settlement on your behalf, but we will provide you with valuable information that you can use to settle your claim yourself.

If an insurance company informs you that your vehicle has been declared a Total Loss, they are required to provide you copies of the estimates, which were used to determine that the repairs exceed the value of the vehicle. The insurance company is required to use the standard repair practices to return a damaged vehicle to a pre-loss condition and if the repairs exceed a high percentage of the value, they will deem the vehicle to be a Total Loss. Current New Mexico Guidelines mandate that you have the right to “retain the salvage” and the insurance company will decrease the settlement offer to reflect that you are retaining the vehicle. If you choose to retain the vehicle, the insurance company is required to “Brand” your title as “Salvage” and return the original title to you. If you choose not to retain the vehicle, the insurance company will provide you with the required Bill of Sale and other documents that are required so that the vehicle can be disposed of in accordance with current requirements.

The current guidelines require that any settlement offer on a vehicle deemed a Total Loss be based upon the Actual Cash Value or Fair Market Value of the vehicle. The Actual Cash Value and Fair Market Value are interchangeable terms and the current guidelines require an insurance company to base their settlement on what the vehicle is worth “on the current market.” The insurance company will conduct a market survey for comparable vehicles to determine the Actual Cash Value of your vehicle. The comparable vehicles should be within the same area you reside in order to maintain accuracy in the comparable vehicle figures. The insurance company has the right to make deductions for old damage on your vehicle as well as giving you credit for any after market add-on’s that may be on your vehicle. Generally, no credit is given for normal maintenance items such as new tires, new paint, etc. Once the value of your vehicle has been determined and accepted by you, the insurance company will add the State’s 3% Excise Tax, Title transfer fee and any unused registrations charges.

Many of the complaints received by the CRD Insurance Bureau relate to the “insurance company NOT paying off a vehicle loan”; the insurance company is NOT obligated to pay off any outstanding loans or liens you may have on your vehicle, they are only obligated to issue payment based upon the Fair Market Value of the vehicle. Numerous complaints involve the use of “comparable” vehicles listed on evaluations that are not within the home area of the involved vehicle. Insurance companies are required to complete the survey for the comparable vehicles within the area, but, in some cases no comparable vehicles can be located and the area of search may be increased.

If the claim you filed is being processed under your personal auto policy, and you purchased Rental Reimbursement Coverage, your insurance company will assist you in obtaining a rental vehicle. The CRD Insurance Bureau suggests checking your specific policy to determine the coverage’s you purchased. If the claim you filed is under a policy other than your own, or in some cases under your Uninsured/Underinsured Motorists Coverage, you may be entitled to “Loss of Use”, or its equivalent, from the time your vehicle is disabled until a fair settlement offer has been made by the insurance company.

The insurance company will provide you with a copy of the evaluation used to determine the Fair Market Value of your vehicle, and you should spend a few minutes verifying the information contained on the evaluation to ensure that the correct year, make, model, Vehicle Identification Number were used and that the accessory options and mileage calculations are correct, as this can have a dramatic effect upon the overall value of the vehicle.

If you disagree with the evaluation and settlement offer made by the insurance company, contact the company and relay your feelings. You will benefit if you can provide them with documentation to support your opinion on the Fair Market Value of the vehicle. Remember, the information obtained on the Internet or at a local car dealer, may not reflect the “Fair Market Value” of the vehicle, but the information may be used to assist in the overall evaluation and resulting settlement offer that you and the insurance company agree upon.

If you are unable to negotiate a settlement with the insurance company, or simply wish to discuss your particular situation contact the Insurance Division, Consumer Complaints Unit, 1120 Paseo de Peralta, Santa Fe, NM or phone us at 827-4592. You are also welcome to visit our web site at www.nmprc.state.nm.us/consumers/crdinsurance.htm