

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER I: PROVISIONS APPLICABLE TO ALL COMPANIES

PART 919
IMPROPER CLAIMS PRACTICE

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AUTHORITY: Implementing Sections 154.5 and 154.6 of the Illinois Insurance Code [215 ILCS 5/154.5 and 154.6], and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401], Section 10 of the Voluntary Health Services Plans Act [215 ILCS 165/10], Section 25 of the Dental Service Plan Act [215 ILCS 110/25] and Section 5-3 of the Health Maintenance Organization Act [215 ILCS 125/5-3].

SOURCE: Filed June 17, 1974, effective July 1, 1974; amended at 2 Ill. Reg. 22, p. 77, effective May 22, 1978; new rules adopted at 3 Ill. Reg. 31, p. 93, effective August 4, 1979; old rules repealed 3 Ill. Reg. 32, p. 42, effective August 6, 1979; emergency amendment and codified at 7 Ill. Reg. 2755, effective February 28, 1983, for a maximum of 150 days; amended and codified at 7 Ill. Reg. 11489, effective October 1, 1983; amended at 10 Ill. Reg. 5125, effective March 17, 1986; amended at 13 Ill. Reg. 1204, effective January 11, 1989; amended at 26 Ill. Reg. 11,915, effective July 22, 2002.

Section 919.10 Authority

This Part is promulgated by the Director of Insurance (Director) pursuant to Sections 154.5, 154.6 and 401 of the Illinois Insurance Code [215 ILCS 5/154.5, 154.6 and 401], Section 10 of the Voluntary Health Services Plans Act [215 ILCS 165/10], Section 25 of the Dental Service Plan Act [215 ILCS 110/25] and Section 5-3 of the Health Maintenance Organization Act [215 ILCS 125/5-3], which empower the Director of Insurance . . . *to make reasonable rules and regulations as may be necessary for making effective . . .* the insurance and related laws of this State.

(Source: Amended at 26 Ill. Reg. 11,915, effective July 22, 2002)

FINAL ADOPTION

Section 919.20 Scope and Purpose

- a) This Part shall apply to all insurance companies authorized to transact in this State the kind or kinds of business described in Section 4, Class 1, Class 2 and Class 3 of the Illinois Insurance Code [215 ILCS 5/4] except fidelity and surety, ocean marine and worker's compensation; to all producers licensed under Article XXXI of the Illinois Insurance Code [215 ILCS 5/Art. XXXI]; to all Voluntary Health Service Plan Corporations; to all Dental Service Plan Corporations; to all Health Maintenance Organizations; and to any individual association, corporation, partnership, insurance company or other legal entity licensed under the Illinois Insurance Code which acts as a third party administrator. This Part shall apply to all claims handling activity occurring on or after the effective date of this Part and to all pertinent policy forms on file or hereafter filed with the Illinois Department of Insurance after the effective date of this Part.
- b) The purpose of this Part is to set forth minimum standards for the investigation and disposition of claims arising under contracts and certificates issued to residents of Illinois. The provisions of the Part establish the general criteria to be used by the Director in selecting companies to be examined and the minimum standards for record keeping to be followed by the companies subject to the Part. The various provisions of the Part are intended to define procedures and practices that committed with such frequency as to indicate a general practice will ultimately be the basis for a regulatory finding of unfair claims practices.

(Source: Amended at 26 Ill. Reg. 11,915, effective July 22, 2002)

Section 919.30 Examinations

- a) Each company's claim files for policies or certificates on Illinois risks are subject to examination and inspection by the Director of Insurance or by his duly appointed designees. Examples of the criteria which may be used to determine the frequency of examinations include but are not limited to:
- 1) High ratio of written complaints to premium volume or units of exposure or enrollment;
 - 2) Examination of a percent of a particular market;
 - 3) Examination of a particular specialty line for which claims handling, underwriting or marketing practices or procedures raise questions of compliance with any insurance laws or rule;
 - 4) Examination of a particular company whose practice or procedure for the handling of claims, underwriting or the marketing of policies raise questions of compliance with any insurance laws or rules.
- b) Each company shall maintain claim data that should be accessible and retrievable for examination by the Director. A company shall be able to provide the claim number, line of coverage, date of loss and date of payment of the claim, date of denial, or date claim closed without payment. This data must be available for all open and/or closed files for the current year and the two preceding years. The examiners' review may include but need not be limited to an examination of the following claims:
- 1) Claims Closed With Payment;
 - 2) Claims Denied;
 - 3) Claims Closed Without Payment;
 - 4) First Party Automobile Total Losses; and/or Subrogation Claims.
- c) Detailed documentation shall be contained in each claim file in order to permit reconstruction of the company's activities relative to each claim file.

- d) For those companies who do not maintain hard copy files, claim files must be accessible from cathode ray tube (CRT) or micrographics and capable of duplication to hard copy.

(Source: Amended at 13 Ill. Reg. 1204, effective January 11, 1989)

FINAL ADOPTION

Section 919.40 Definitions/Explanations

Code means the Illinois Insurance Code [215 ILCS 5].

Company refers to any licensee of the Department of Insurance, including health maintenance organizations.

Days for the purpose of this Part, means calendar days.

Department means the Illinois Department of Insurance.

Director means the Director of the Illinois Department of Insurance.

Documentation shall mean all pertinent communications, transactions, notes and work papers. All such communications, transactions, notes and work papers shall be properly dated and compiled in sufficient detail in order to allow for the reconstruction of all pertinent events relative to each claim file. Documentation shall include but not be limited to bills, explanations of benefits and worksheets.

First Party means any individual, corporation, association, partnership, or other legal entity asserting a contractual right to payment under an insurance policy or insurance contract arising out of the contingency or loss covered by such policy or contract.

Insured shall mean, for the purposes of life, accident and health insurance or other health care or service plans, the party named on a contract as the individual, corporation or association with legal rights to the benefits provided by such contract. This includes certificate holders or subscribers to a group contract and enrollees of a health maintenance organization, any other type of health care or service plans, or third party administrator. For purposes of property and casualty insurance, the party named on the contract is the insured.

Non-Original Manufacturer means any manufacturer other than the manufacturer of the original part.

Notice of Availability of the Department of Insurance as required by this Part shall be no less informative than the following:

Part 919 of the Rules of the Illinois Department of Insurance requires that our company advise you that if you wish to take this matter up with the Illinois Department of Insurance, it maintains a Consumer Division in Chicago at 100 W.

Randolph Street, Suite 15-100, Chicago, Illinois 60601 and in Springfield at 320 West Washington Street, Springfield, Illinois 62767.

Notification of Loss shall mean communication, as required by the policy or that is otherwise acceptable by the insurer, from a claimant or insured to the insurer which identifies the claimant or insured and indicates that a loss has occurred or is about to occur.

Pertinent Communication as used in Section 154.6(b) of the Code [215 ILCS 5/154.6(b)], shall include all correspondence, regardless of source or type, that is materially related to the handling of the claim.

Policy, for the purpose of this Part, shall mean a policy, certificate or contract issued to Illinois residents, including a certificate of enrollment into a health maintenance organization or any other type of health care or service plan.

Private Passenger Automobile refers to vehicles insured under a policy of automobile insurance as defined in Section 143.13 of the Code [215 ILCS 5/143.13].

Prompt Investigation as used in Section 154.6(c) of the Code [215 ILCS 5/154.6(c)], shall apply to all activities of the company related directly or indirectly to the determination of liability based on claims under the coverage afforded by the policy and shall be evidenced by a bonafide effort to communicate with all insureds and claimants where liability is reasonably clear within 21 working days after a notification of loss. Evidence of such bonafide effort to communicate with insureds and claimants shall be maintained in the company's claim files.

Reasonable Promptness as used in Section 154.6(b) of the Code [215 ILCS 5/154.6(b)], shall mean a maximum of 15 working days from receipt of communication from a claimant or insured.

Replacement Crash Parts, for purposes of this Part, means sheet metal or synthetic parts, e.g., plastic, fiberglass, etc., which constitute the exterior of a motor vehicle, including inner and outer panels.

Representative shall include any person expressly authorized to act on behalf of the insurer and any employee of the insurer who acts or appears to act on behalf of the insurer in matters relating to claims, including but not limited to independent contractors while performing claim services at the direction of the company.

Settlement of Claims as used in Section 154.6(c) of the Code [215 ILCS 5/154.6(c)], shall pertain to all activities of the company or its representatives, relating directly or indirectly to the determination of the extent of liabilities due or potentially due under coverages afforded by the policy, evidence of such activities to be maintained in the company's claim files.

Third Party refers to any individual, corporation, association, partnership, or other legal entity asserting a claim against any individual, corporation, partnership, or other legal entity insured under a policy.

(Source: Amended at 26 Ill. Reg. 11,915, effective July 22, 2002)

FINAL ADOPTION

Section 919.50 Required Practices for all Insurance Companies

- a) The company shall affirm or deny liability on claims within a reasonable time and shall offer payment within 30 days after affirmation of liability, if the amount of the claim is determined and not in dispute. For those portions of the claim which are not in dispute and for which the payee is known, the company shall tender payment within said 30 days.
 - 1) On first party claims if a settlement of a claim is less than the amount claimed, or if the claim is denied, the company shall provide to the insured a reasonable written explanation of the basis of the lower offer or denial within 30 days after the investigation and determination of liability is completed. This explanation shall clearly set forth the policy definition, limitation, exclusion or condition upon which denial was based. Notice of Availability of the Department of Insurance shall accompany this explanation.
 - 2) Within 30 days after the initial determination of liability is made, if the claim is denied, the company shall provide the third party a reasonable written explanation of the basis of the denial.
- b) No company shall deny a claim upon information obtained in a telephone conversation or personal interview with any source unless such telephone conversation or personal interview is documented in the claim file.
- c) The company's standards for claims processing shall be such that notice of claim and proofs of loss submitted against one policy issued by that company shall fulfill the insured's obligation under any and all similar policies issued by that company and specifically identified by the insured to said company to the same degree that the same form would be required under any similar policy. If additional information is required to fulfill the insured's obligation under other similar policies, the company may request the additional information. When it is apparent to the company that additional benefits would be payable under an insured's policy upon receipt of additional proofs of loss from the insured, the company shall communicate to and cooperate with the insured in determining the extent of the company's additional liability.
- d) The company shall adopt a written claim processing standard and methodology by July 1, 2003, which will allow the company to process a death or endowment or other claim being presented against a life insurance or accidental death or

dismemberment policy; however, companies selling group life insurance policies or credit life insurance policies for which the company does not maintain records of the certificate holders shall be exempt from the requirements of this subsection (d). With the exception of the requirements of subsection (d)(3), this subsection (d) does not require the company to capture, identify or maintain any data in addition to that which is ordinarily captured, identified or maintained by the company for policies subject to the requirements of this subsection (d).

1) Required Search Criterion.

The company shall perform an electronic or manual search of all its records when a claim is filed to determine if any other life insurance policies exist that may provide death, endowment, maturity or other benefits due to the death of the named insured, or endowment of an existing policy or any accidental death and dismemberment policies that would provide additional death benefits. At the completion of the electronic or manual search, the company shall pay all verified benefits, by a claimant or identified through the above search, as is required by subsection (a) of this Part. The company shall investigate additional policy files identified by the search, for which liability is not immediately verified, and a determination of liability completed no later than 6 months following the claim filing date. The search shall include:

- A) First and last name (shall include, in addition to all exact first and last name matches with no middle name or middle initial, all policies containing the first and last name and any middle name or initial or any other designation, such as Jr., III, etc.);
- B) First initial, middle name and last name;
- C) First and middle initial and last name.

2) Optional Search Criterion.

The policies the company has identified utilizing the search criterion established in subsection (d)(1), which require further investigation to determine liability, may be limited (or eliminated) by adding any one or all of the following informational field(s) to the search results yielded pursuant to subsection (d)(1):

- A) Date of birth and every date prior to and after the date of birth, plus or minus two years;

- B) Sex/Gender (the absence of this information in the policies being searched does not permit the company to eliminate that record from the pool of policies being searched);
- C) Social Security number, if available and to the extent permitted by law, or any other identifiable number, established for identification purposes by the company. Companies are only permitted to use a Social Security number, or other identifiable number, to limit or eliminate the unverified search results yielded pursuant to subsection (d) when the actual Social Security number, or other identifiable number, does not match. The absence of a Social Security number, or other identifiable number, in the policies being searched does not permit the company to eliminate that record from the pool of policies being searched;
- D) Any policy not eliminated by the addition of the informational fields to the search in subsections (d)(2)(A), (B) and (C) shall be investigated and either affirmed or denied as a valid benefit based on a review of whether the insured is the same insured as the original claim and thus subject to payment by the company.

3) Companies shall also, as a part of their claim processing standard and methodology, inquire on every claim form filed with the company for death benefits, about other names by which the insured may have been known, such as maiden name, hyphenated name, nickname, derivative form of first and/or middle name or an alias. If the filer of the claim form includes such additional name information on the claim form or addendum (see subsection (d)(3)(A)), the company shall include this information as a part of its search criterion, consistent with the requirements of subsection (d)(1), to determine whether additional policies exist.

- A) The information required to be collected by this subsection (d)(3) may be acquired by the company using an addendum attached to the claim form.
- B) Beginning July 1, 2003, the information required to be collected by this subsection (d) must be a part of the claim form and not attached to the claim form as an addendum.

- 4) Claim records shall be maintained that demonstrate that the insurer has followed the processing and methodology procedures required by this Part.

(Source: Amended at 26 Ill. Reg. 11,915, effective July 22, 2002)

FINAL ADOPTION

Section 919.60 Improper Practices or Procedures for all Insurance Companies

- a) No company shall indicate to an insured on a payment draft, check or in any accompanying letter that said payment is “final” or “a release” of any claim unless the policy limit has been paid or there is a bonafide dispute either over coverage or the amount payable under the policy.
- b) No company shall make any statement, written or oral, requiring an insured to complete a proof of loss in less time than is provided in the policy.
- c) No company shall make any statement requiring an insured to give written notice of loss within a specified time so that the company is relieved of its obligations under a policy if such time limit is not complied with, unless such a statement is made after the insured’s unreasonable failure to give written notice.
- d) No company shall request or require any insured to submit to a polygraph examination. The use of examinations under oath, sworn statements or similar procedures shall not be so restricted, if authorized under the applicable insurance contracts.

(Source: Amended at 13 Ill. Reg. 1204, effective January 11, 1989)

Section 919.70 Required Claims Practices - Life, Accident and Health Companies

a) Required Practices.

- 1) If a claim remains unresolved for 45 days from the date it is reported, the company shall provide the insured or, when applicable, the insured's beneficiary, with a reasonable written explanation for the delay. In credit or mortgage claims, the notice must be provided to the debtor/insured in addition to the policyholder. Notice of availability of the Department of Insurance shall accompany the written explanation to the insured beneficiary.
- 2) If a company is under contract for direct filing of claims either with a provider or another carrier on behalf of the insured, the requirement for acknowledgment of claims or notice requirements are waived provided the insured has otherwise received prior notice of such arrangements. If a claim remains unresolved for more than 90 days from the date the administrator provides notice to the company, the notice of delay, as specified in subsection (a)(1), shall be required. Nothing in this Section shall waive the written notice requirement for denial of a claim.
- 3) A disability claim settlement on a lump sum basis shall be accompanied with a written explanation of the basis of the settlement including a comparison of the different modes of settlement.

b) Improper Practices or Procedures.

- 1) No company shall settle a claim involving both a covered and non-covered condition, on a percentage basis of contributing loss, unless said percentage is reasonable under the circumstances and the insured is provided with written explanation. The basis for settlement must be maintained in the file.
- 2) No company shall undertake any activity that has the effect of misrepresenting policy provisions or otherwise unduly influencing the insured to settle a disability claim on a lump sum basis.

(Source: Amended at 26 Ill. Reg. 11,915, effective July 22, 2002)

Section 919.80 Required Claim Practices - Private Passenger Automobile - Property and Casualty Companies

- a) All companies shall report vexatious or unreasonable delay findings by a court of law to the Director within 30 days after such findings and enclose with that report a copy of said findings and penalties, if any, pursuant to Section 155 of the Code [215 ILCS 5/155].
- b) Unreasonable Delays.
- 1) The period used in computing the “median payment period” shall mean the period measured from the date of notification of loss to the date of final payment or the rendering of the repaired automobile to the insured or third party claimant.
 - 2) An unreasonable delay to pay automobile collision claims exists when the median payment period exceeds 40 calendar days. If a first party physical damage automobile claim remains unresolved for more than 40 calendar days from the date it is reported, the company shall provide a reasonable written explanation for the delay to the insured. Notice of Availability of the Department of Insurance shall accompany the written explanation.
 - 3) An unreasonable delay to pay automobile property damage liability claims exists when a median payment period exceeds 60 calendar days. If an automobile property damage liability claim remains unresolved in excess of 60 calendar days from the date it is reported, the company shall provide a reasonable written explanation for the delay to the third party claimant. Notice of Availability of the Department of Insurance shall accompany the written explanation.
 - 4) Written explanations under subsection (b)(2) and (3) shall be considered reasonable if they exhibit a rational basis for the delay and are not frivolous.
- c) Total Loss Vehicle Claims.

When the insured vehicle has been determined a total loss, and the insurance policy provides for the adjustment and settlement of first party vehicle claims on the basis of actual cash value or replacement, the company shall establish a procedure to provide the insured with, at a minimum, the information contained in

Exhibit A of this Part within 7 days after this determination, and shall follow one of the following methods:

- 1) The company may elect to replace the insured vehicle, providing that it is:
 - A) Comparable in that it will be by the same manufacturer, same year, similar body style, and similar options and price range as the insured vehicle and in as good or better overall condition and available for inspection at a licensed dealer within a reasonable distance of the insured's residence. The file must contain a description of the replacement vehicle, including the vehicle identification number and a schedule of options.
 - B) Replacement vehicles of the current model plus the 3 previous model years must be purchased through licensed dealers. This requirement may be waived in writing by the insured. The signed waiver must be maintained in the file.
 - C) Once the replacement vehicle is located, the insured shall be advised of the location of the vehicle and the replacement value, including the applicable taxes, license and transfer fees. In the event the insured elects a cash settlement instead of such replacement vehicle, the company need pay only the amount it would have otherwise paid on the replacement vehicle. As a condition precedent to this method of settlement, the company must first offer the replacement vehicle to the insured and the insured must reject the offer. Evidence of such must be apparent in the file.
 - D) In the event that a replacement vehicle meeting the requirements of subsection (c)(1)(A) is not available or the insured rejects a replacement vehicle or the insured wants another available vehicle substantially similar in value, the option to replace the insured vehicle may be exercised provided the company has the insured's written waiver in the claim file that the acceptance of another vehicle is of his or her own free will and choice. The company need pay only the amount it would have otherwise paid on the replacement vehicle, including the applicable taxes, and transfer fees.

- 2) The company may elect to pay a cash settlement. The company shall use one of the following methodologies to determine the market value of the insured vehicle: The cash settlement may be based upon the retail value of the vehicle as determined from one of the following sources:
- A) A source or sources which are published on a regular basis, at least once every 2 months, and contain the average retail, wholesale and finance value for all makes and models for at least each of the last 5 model years, as well as a listing and price for all major options; or
 - B) An electronically computerized source or sources:
 - i) That compute statistically valid retail values, including all major options and equipment, and applicable allowances for mileage and condition, for at least 85% of all makes and models for at least each of the last 15 model years;
 - ii) By which the retail value so generated shall be based on data from the area immediately surrounding the location where the insured vehicle was principally garaged and such value shall be based upon data compiled on at least 1.5 million passenger vehicles;
 - iii) That compile, maintain and provide, upon request, a record of valuations and monthly summaries of the average retail value, option value, and mileage for each general metropolitan area for the preceding 24 month period.
 - C) The settlement may be based upon an electronically computerized service. Such settlement must include at least 2 currently available vehicles from licensed dealers in Illinois or 2 vehicles that have been sold by licensed dealers in Illinois, one of which was sold within the past 30 days and one of which was sold within the past 90 days. The location of the licensed dealer for each available or recently sold vehicle shall be within 50 miles of the general metropolitan area where the data is gathered. The name and location of the licensed dealers, as well as the vehicle identification numbers (VINs), shall be maintained in the claim file. If the electronically computerized service does not include a sufficient

number of vehicles to satisfy the requirements of this subsection (c)(2)(C), the service may provide an average from at least 2 published sources that comply with subsection (c)(2)(A).

- D) If the insured vehicle is not quoted in the source or sources used by the company, the company shall then base the settlement upon at least two written dealers' quotations. The company shall furnish the names and locations of the dealers used to determine the market value to the insured, and a copy of the dealers' quotations.
- E) In subsection (c)(2) (A), (B), (C) and (D) above, the claim file shall contain documentation of how the market value of the insured automobile was determined.
- F) Right of Recourse - If within 30 days after the receipt of the claim draft, the insured cannot purchase a comparable vehicle in excess of such market value, the company will reopen its claim file and the following procedure(s) shall apply:
- i) The company may locate a comparable vehicle by the same manufacturer, same year, similar body style and similar options and price range for the insured for the market value determined by the company at the time of settlement. Any such vehicle must be available through licensed dealers; or
 - ii) The company shall either pay the insured the difference between the market value before applicable deductions and the cost of the comparable vehicle of like kind and quality which the insured has located, or negotiate and effect the purchase of this vehicle for the insured; or
 - iii) The company may elect to offer a replacement in accordance with the provisions set forth in subsection (c)(1); or
 - iv) The company may conclude the loss settlement as provided for under the appraisal section of the insurance contract in force at the time of loss. This appraisal shall be considered as binding against both parties, but shall not preclude or

waive any other rights either party has under the insurance contract or at common law.

- v) The company is not required to take action under this subsection (c)(2)(F) if its documentation to the insured at the time of settlement included written notification of the availability and location of a specified and comparable vehicle of the same manufacturer, same year, similar body style and similar options in as good or better condition as the total loss vehicle which could have been purchased for the market value determined by the company before applicable deductions. The documentation shall include the vehicle identification number.
- 3) Provisions applicable to subsection (c)(1) and (c)(2).
- A) If a replacement vehicle is provided, the company is required to pay the applicable sales tax and transfer and title fees.
 - i) If a cash settlement is provided, and if within 30 days after the receipt of the settlement by the insured, the insured has purchased or leased a vehicle, the company is required to reimburse the insured for the applicable sales taxes and transfer and title fees incurred on account of the purchase or lease of the vehicle, but not exceeding the amount payable on account of the value of the total loss vehicle. If the insured purchases or leases a vehicle with a market value less than the amount of the settlement, then the company is required to reimburse only the amount of the applicable sales tax and transfer and title fees incurred by the insured. If the insured cannot substantiate such purchase and the payment of such taxes and fees, by submission to the company of appropriate documentation within 33 days after the receipt of settlement, the company shall not be required to reimburse the insured for the sales taxes or transfer or title fees. In lieu of this reimbursement procedure, the company may directly pay the required amounts of sales taxes; and transfer and title fees to the insured at the time of settlement. With respect to leased vehicles, sales taxes and transfer and title fees shall be deemed to be incurred by the

insured at the time the lease is entered into, but only if such sales taxes and transfer and title fees are included in the cost of the lease or are paid directly by the insured.

- ii) Any form required by the company for applying for the reimbursement must be furnished by the company with either the notice or at the time of settlement.
- B) Deductions of the kind commonly referred to as “get ready to go” and “dealer prep”, or dealer preparation, charges are prohibited.
- d) Practices Concerning Travel, Loss of Use, Storage/Towing and Betterment, Replacement Crash Parts and Automobile Repairs.
 - 1) Unreasonable Travel.
 - A) The company shall not require the insured or claimant to travel unreasonably to inspect a replacement vehicle, nor shall the company require the insured or claimant to locate a replacement vehicle.
 - B) The company shall not require the insured or claimant to travel unreasonably either to obtain a repair estimate or to have the vehicle repaired at a specific repair shop that is recommended by the company.
 - C) The Department will consider availability and cost consideration in determining reasonable travel requirements.
 - 2) Loss of Use. In automobile property damage liability claims in which liability is reasonably clear, the company shall pay for the reasonable and necessary costs, in direct proportion to the extent of its liability, incurred in the rental of another automobile provided that the loss of use claim is submitted and substantiated. In those cases where the company pays a flat rental amount per day, week or month, it must disclose to the claimant where the claimant can obtain a vehicle for the amount of its payment.
 - 3) Storage and Towing. The company shall provide reasonable notice to an insured prior to termination of payment for automobile storage charges and document such notice in the claim file. Reasonable notice shall

constitute sufficient notice to the insured to allow them to remove the vehicle from storage prior to the termination of payment. Unless the company has provided an insured with the name of a specific towing company prior to the insured's use of another towing company, the company shall pay any and all reasonable towing charges irrespective of the towing company used by the insured. A company shall make no advance charge deductions for storage and towing charges unless excessive charges have resulted from the insured's own actions. The company shall itemize each advance charge deduction and maintain in the claim file documentation of the reasons and dollar amounts involved in each deduction. Any determination of reasonable towing charges shall consider policy coverage as well as the cost and distances involved in each claim.

- 4) Betterment deductions are allowable only if:
- A) The deductions:
 - i) Reflect a measurable decrease in market value attributable to the poorer condition of, or prior damage to, the insured vehicle;
 - ii) Are for prior wear and tear, missing parts and rust damage that is reflective of the general overall condition of the vehicle considering its age, any such deductions for this type of damage may not exceed \$500; and
 - iii) Are measurable, itemized, specified as to dollar amount and documented in the claim file; and
 - B) The company does not require the insured or claimant to supply parts for replacement.
- 5) Replacement Crash Parts.
- A) Purpose.

The purpose of this subsection (d)(5) is to set forth standards for the prompt, fair and equitable settlements applicable to automobile insurance with regard to the use of replacement crash parts. It is

intended to regulate the use of replacement crash parts in automobile damage repairs which insurers pay for on their insured's vehicle. It also requires that all replacement crash parts, as defined in this Section, be identified and be of the same quality as the original part.

B) Identification.

All replacement crash parts, which are subject to this Section and manufactured after March 17, 1986, shall carry sufficient permanent non-removable identification so as to identify its manufacturer. Such identification shall be accessible to the extent possible after installation.

C) Like Kind and Quality.

No insurer shall require the use of replacement crash parts in the repair of an automobile unless the replacement crash part is at least equal in like kind and quality to the original part in terms of fit, quality and performance. Insurers specifying the use of replacement crash parts shall consider the cost of any modifications which may become necessary when making the repair.

6) Vehicle Repairs.

If partial losses are settled on the basis of a written estimate prepared by or for the company, the company shall supply, upon request of the insured, a copy of the estimate upon which the settlement is based. The estimate prepared by or for the company shall be reasonable, in accordance with applicable policy provisions, and of an amount which will allow for repairs to be made in a workmanlike manner. If the insured subsequently claims, based upon a written estimate which he obtains, that necessary repairs will exceed the written estimate prepared by or for the company, the company shall review and respond promptly to the insured and provide the insured with the name of a repair shop that will make the repairs in a workmanlike manner. Failure of the company to so inform the insured of the name of such a repair shop shall require the company to provide written notice to the insured that any and all reasonable costs incurred for repair or replacement related to the partial loss in excess of the company's

estimate will be reimbursed by the company. The company shall maintain documentation of all such communications.

- 7) Required Practices - Fire and Extended Coverage Claims.
 - A) An unreasonable delay to pay claims on policies of fire and extended coverage insurance, as defined in Section 143.13 of the Code [215 ILCS 5/143.13], exists when a median payment period exceeds 40 calendar days.
 - B) If a claim on a policy of fire and extended coverage insurance, as defined in Section 143.13 of the Code [215 ILCS 5/143.13], remains unresolved for more than 75 calendar days from the date it is reported, or 25 calendar days after receipt of proof of loss, whichever is less, the company shall provide a reasonable written explanation for the delay to the insured. Notice of Availability of the Department of Insurance shall accompany the written explanation to the insured.
 - C) If partial losses are settled on the basis of a written estimate prepared by or for the company, the company shall supply upon request of the insured, a copy of the estimate upon which the settlement is based. The estimate prepared by or for the company shall be reasonable, in accordance with applicable policy provisions, and of an amount which will allow for repairs to be made in a workmanlike manner. If the insured subsequently claims, based upon a written estimate which he obtains, that necessary repairs will exceed the written estimate prepared by or for the company, the company shall review and respond promptly in writing to the insured in regard to his written estimate and provide the insured with the name of a repair shop or contractor that will make the repairs in a workmanlike manner. Failure of the company to so inform the insured of the name of a contractor shall require the company to provide written notice to the insured that any and all reasonable costs incurred for repair or replacement related to the partial loss in excess of the company's estimate will be reimbursed by the company.
- 8) Actual Cash Value Losses.

- A) When the insurance policy provides for the adjustment and settlement of losses on an actual cash value basis on residential fire and extended coverage as defined in Section 143.13 of the Code, the company shall determine actual cash value, except for instances in which the insured's interest is limited as set forth in subsection (d)(8)(B), as follows: replacement cost of property at time of loss less depreciation, if any. Upon the insured's request, the company shall provide a copy of the claim file worksheet(s) detailing any and all deductions for depreciation, including, but not necessarily limited to, the age, condition, and expected life of the property.
- B) In cases in which the insured's interest is limited because the property has nominal or no economic value, or a value disproportionate to replacement cost less depreciation, the determination of actual cash value as set forth in subsection (d)(8)(A) is not required. In such cases, the company shall provide, upon the insured's request, a written explanation of the basis for limiting the amount of recovery along with the amount payable under the policy.
- C) When the period within which the insured may bring suit under a residential fire and extended coverage policy is tolled in accordance with Section 143.1 of the Code [215 ILCS 5/143.1], the company, at the time it denies the claim, in whole or in part, shall advise the insured in writing of the number of days the period was tolled, and how many days are left before the expiration of the time to bring suit.

(Source: Amended at 26 Ill. Reg. 11,915, effective July 22, 2002)

Section 919.90 Improper Practices or Procedures - Property and Casualty Companies

- a) A claim shall not be denied on the basis of failure to exhibit property unless there is documentation of breach of the policy provisions in the claim file.
- b) No company shall make any statement, written or oral, requiring a liability claimant to complete a proof of loss form, accident description, or release of claim for damages, which indicates that the claimant's rights may be impaired if such forms are not completed within a specified time, unless such statement is given for the purpose of notifying the claimant of the provisions of the statute of limitations.
- c) No company shall advise liability claimants to make claims under their own policies in cases where liability is reasonably clear.
- d) No company shall fail to effect settlement on first party claims on the basis that responsibility for payment should be assumed by other persons or insurers.
- e) No company issuing a motor vehicle insurance policy covering damages to a motor vehicle shall abandon the salvage of a motor vehicle to a towing service and/or storage yard service in lieu of the towing and storage charges, without the agreed permission of the towing service or storage yard service.
- f) No company shall deny a claim for storage charges on actual cash value fire and extended coverage losses when the personal property limits have been exhausted, if coverage exists under additional living expense.

(Source: Amended at 13 Ill. Reg. 1204, effective January 11, 1989)

Section 919.100 Severability Provision

If any provision of this Part or an application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the other provisions or applications of this Part which can be given effect without the invalid provision or application shall not be thereby affected, and to this extent the provisions of this Part are severable.

(Source: Section 919.100 renumbered from Section 919.70 and amended at 7 Ill. Reg. 11489, effective October 1, 1983)

FINAL ADOPTION

Section 919.EXHIBIT A Total Loss Automobile Claims

1) Total Loss Claims

When you are involved in an automobile accident, one of the first things you may have to do is file a claim for damages to your vehicle. If your car is a total loss, this procedure can sometimes be confusing.

Your automobile insurance policy requires both you and your insurance company to follow certain steps after a loss occurs. This publication summarizes those requirements and outlines your rights.

The Illinois Department of Insurance has established regulations to protect you when you file an insurance claim. It is also important that you read your policy carefully so that you clearly understand your responsibilities.

If you still have questions, you can contact our Consumer Services Section at one of the following locations:

320 West Washington Street
Springfield, Illinois 62767
(217) 782-7446

OR

100 West Randolph Street, Suite 15-100
Chicago, Illinois 60601
(312) 917-2427

2) Your Duties

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.

3) 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.

4) Replacement

If the insurance company elects to replace your vehicle, the replacement must be a specific make and model comparable to your totalled vehicle, and it must be available in as good or better overall condition than your totalled vehicle. Replacement vehicles must be purchased through licensed dealers. Vehicles that are no 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.

If you desire a replacement vehicle of similar value, this replacement method is also permitted.

5) Cash Settlement

If the insurance company elects to make a cash settlement for your totalled vehicle, they must first determine its retail value. Companies normally use guide books 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.

6) 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.

7) 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.

8) Retaining Your Totalled 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 your automobile has been deemed a total loss by your insurance company. The insurance company must take possession of the vehicle, if the vehicle is eight model years or newer.

9) 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 procedures(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 your automobile.

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

The above figure represents an average automobile. Your automobile may be worth more or less than the above figure because of options on the automobile which are not listed in a guide book or because of the excessive wear and tear or old unrepaired damage to the automobile.

(Source: Added at 13 Ill. Reg. 1204, effective January 11, 1989)

FINAL ADOPTION