

11 NCAC 04 .0418 TOTAL LOSSES ON MOTOR VEHICLES

The commissioner shall consider as prima facie violative of G.S. 58-63-15(11) the failure by an insurer to adhere to the following procedures concerning settlement of covered "total loss" motor vehicle claims when such failure is so frequent as to indicate a general business practice:

- (1) If the insurer and the claimant are initially unable to reach an agreement as to the value of the vehicle, the insurer shall base any further settlement offer not only on published regional average values of similar vehicles, but also on the value of the vehicle in the local market. Local market value shall be determined by using either the local market price of a comparable vehicle or, if no comparable vehicle can be found, quotations from at least two qualified dealers within the local market area. Additionally, if the claimant represents that the vehicle actually owned by him was in better than average condition, the insurer shall give due consideration to the condition of the claimant's vehicle prior to the accident.
- (2) Where the insurer has the right to elect to replace the vehicle and does so elect, the replacement vehicle shall be available without delay, similar to the lost vehicle, and paid for by the insurer, subject only to the deductible and to the value of any enhancements acceptable to the insured.
- (3) If the insurer makes a deduction for the salvage value of a "total loss" vehicle retained by the claimant, the insurer, if so requested by the claimant, shall furnish the claimant with the name and address of a salvage dealer who will purchase the salvage for the amount deducted.
- (4) If a written statement is requested by the claimant, a total loss payment by an insurer shall be accompanied by a written statement listing the estimates, evaluations and deductions used in calculating the payment, if any, and the source of these values.
- (5) When a motor vehicle is damaged in an amount which, inclusive of original and supplemental claims, equals or exceeds 75 percent of the preaccident actual cash value, as such value is determined in accordance with this Rule, an insurance carrier shall "total loss" the automobile by paying the claimant the preaccident value, and in return, receiving possession of the legal title of the salvage of said automobile. At the election of the claimant, or in those circumstances where the insurance carrier will be unable to obtain an unencumbered title to the damaged vehicle then the insurance carrier shall have the right to deduct the value of the salvage of the total loss from the actual value of the vehicle and leave such salvage with the claimant subject to the insurance carrier abiding by Subparagraphs (3) and (6) of this Rule. No insurer, adjuster, appraiser, agent, or any other person shall enter into any oral or written agreement(s), by and between themselves, to limit any original or supplemental claim(s) so as to artificially keep the repair cost of a damaged vehicle below 75% of its preaccident value, if in fact such original and any supplemental claim(s) exceed or would exceed 75% of the vehicle's preaccident value.
- (6) The insurer shall be responsible for all reasonable towing and storage charges until three days after the owner and storage facility are notified in writing that the insurer will no longer reimburse the owner or storage facility for storage charges. Notification to the owner shall include the name, address, and telephone number of the facility where the vehicle is being stored. Notification to the storage facility shall include the name, address, and, if available, telephone number of the owner. No insurer shall abandon the salvage of a motor vehicle to a towing or storage service without the consent of the service involved. In instances where the towing and storage charges are paid to the owner, the check or draft for the amount of such service shall be payable jointly to the owner and the towing or storage service.

*History Note: Authority G.S. 58-2-40; 58-63-65;
Eff. December 15, 1979;
Amended Eff. April 1, 1993; April 1, 1989; July 1, 1986.*