

120-2-52-.06 Total Loss Vehicle Claims.

If the insurer determines the insured vehicle to be 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 insurer may elect to pay a cash equivalent settlement or replace the insured vehicle. The insurer shall use one of the following methods:

(a) Cash Equivalent Method. The insurer may elect to pay a cash equivalent settlement based upon the actual cost less any deductible provided in the policy, to purchase a comparable automobile by the same manufacturer, same model year, with similar body style, similar options and mileage, including all applicable taxes, license fees and other fees incident to the transfer of ownership of a comparable automobile. The amount payable on taxes, license fees, and transfer fees shall be limited to the amount that would have been paid on the totaled, insured vehicle at the time of settlement. Such cost shall be based on one or more of the following methods:

1. The cost of two or more comparable automobiles in the local market area, defined in this subsection as fifty (50) miles from the county seat where the insured vehicle was principally garaged, when comparable automobiles are available or were available within the last thirty (30) days to consumers in the local market area. These sources may include dealer's sales price, any established printed automobile sales publication or newspaper.
 2. The cost of two (2) or more comparable automobiles in areas proximate to the local market area defined in this subsection as 100 miles from the county seat where the insured vehicle was principally garaged, including the closest major metropolitan area within or without the state, that are available or were available within the last thirty (30) days to consumers when comparable automobiles are not available in subparagraph (a)1. above. These sources shall include the same as in subparagraph (a)1. above.
 3. One of two or more quotations obtained by the insurer from two or more licensed dealers located within the local market area defined in this subparagraph as 50 miles from the county seat where the insured vehicle was principally garaged, when the cost of comparable automobiles are not available in subparagraphs (a)1. and 2. above.
 4. Any source for determining statistically valid fair market values that meet all of the following criteria which may be in electronic or printed format:
 - (i) The source shall give primary consideration to the values of vehicles in the local market area, or may consider data on vehicles outside the area when comparable vehicles have not been available for data collection in the local market area.
 - (ii) The source's database shall produce values for at least 85% of all makes and models for at least the last fifteen (15) model years, taking into account the values of all major options for such vehicles.
 - (iii) The source shall produce fair market values based on current data available from the area surrounding the location where the insured vehicle was principally garaged or a necessary expansion of parameters (such as time and area) to assure statistical validity.
- (b) Replacement Vehicle Method. The insurer may elect to replace the insured vehicle, including all applicable taxes, license fees, and other fees necessary to transfer ownership. The following requirements and standards shall apply if the insurer elects the replacement vehicle method:

1. The replacement vehicle must be comparable to the insured vehicle in that it is the same manufacturer model, same or newer model year, similar body style, similar options and mileage as the insured vehicle and in good overall condition.
2. The replacement vehicle shall be available for inspection by the insured within fifty (50) miles of the insured's residence or further if agreeable to the insured.
3. The insurer's claim file shall contain a full description of the replacement vehicle, including, but not limited to, the vehicle identification number and the schedule of options.
4. A replacement vehicle of the same or newer model year must be available for purchase through a licensed dealer or through an established printed sales publication.
5. In the event that a replacement vehicle meeting the requirements in subparagraphs 1. through 4. above is not available, the cash equivalent method should be used.
6. If the insured rejects a replacement vehicle, the option to replace the insured vehicle may not be exercised. The rejection shall be documented in the claim file. The insurer need only pay the amount it would have otherwise paid if the insured had accepted the replacement vehicle, including the applicable taxes, license fees, or other fees to transfer ownership.
7. If the insured selects another vehicle substantially similar in value, the insurer may either replace the insured vehicle with this substitute, or only pay the amount it would have otherwise paid if the insured had accepted the replacement vehicle, including the applicable taxes, license fees or other fees to transfer ownership.

Authority O.C.G.A. Secs. 33-2-9, 33-34-8. **History.** Original Rule entitled "Total Loss Vehicle Claims" adopted. F. Mar. 29, 1994; eff. Apr. 18, 1994.