

Consumer Legal Guide



Your Guide to Automobile Insurance and Accidents



ILLINOIS STATE

BAR ASSOCIATION

ASK A LAWYER

WHAT TYPES OF COVERAGES ARE AVAILABLE?

Generally, automobile insurance policies provide liability coverage to protect you from the financial losses—i.e. vehicle repair costs, medical bills, and fees for legal services—associated with an automobile accident that results from your negligent operation of a vehicle. This liability coverage is typically divided into two general types: bodily injury coverage, which covers the costs associated with the injury or death to another person involved in the accident, and property damage coverage, which covers damage to another person's car or property including fences, buildings, utility poles, signs, and trees. For additional premiums, you may also purchase additional physical damage coverage to help pay for the damage to your own vehicle. Physical damage coverage is also divided into two types: collision coverage, which pays for the damage to your vehicle caused by colliding with another vehicle or an object or by rolling the vehicle over, and comprehensive coverage, which covers the damage to your vehicle resulting from occurrences other than collisions, i.e. hail, falling tree limbs, vandalism, or theft. Additionally, medical payments coverage pays for medical and/or funeral expenses if you or any passenger in your vehicle are injured or killed in an automobile accident, even if you are the driver at fault.

AM I REQUIRED TO HAVE AUTOMOBILE INSURANCE?

Yes. Illinois law prohibits a person from operating, registering, or maintaining the registration of a motor vehicle that is not covered by a liability insurance policy; similarly, a vehicle owner may not allow another person to operate, register, or maintain registration of his or her motor vehicle unless it is covered by a liability insurance policy. Automobile insurance policies are required by Illinois law to provide a liability limit of no less than \$25,000 for bodily injury to or death of one person and no less than \$50,000 for bodily injury to or death of two or

more people in any one automobile accident. Further, it must provide a liability limit of no less than \$20,000 for injury to or destruction of another person's property.

Illinois law also requires automobile liability policies to provide a minimum level of uninsured motorist (UM) bodily injury coverage and underinsured motorist (UIM) bodily injury coverage; you may choose to purchase higher UM and UIM liability limits to cover claims that exceed the minimum level of coverage required. Uninsured motorist coverage is used to cover the costs associated with your injuries caused by a hit-and-run driver or an at-fault driver who has no automobile liability insurance. If you are involved in an accident with an at-fault driver who has an insurance policy but it is insufficient to compensate you for the injuries you sustained, underinsured motorist coverage pays the difference between your UIM limits and the liability limits of the at-fault driver if those limits are lower than your UIM limits.

HOW MUCH INSURANCE DO I HAVE? HOW MUCH SHOULD I HAVE?

The "Declarations" page of your policy should describe the types of coverage you have and the limits for each. You and your insurance agent should discuss your needs in order to determine the appropriate amount of coverage and continue to touch base at least once a year to make sure the coverage you have is still adequate. It is generally recommended that you have liability limits that are sufficient to protect your assets and income against collection. It is also advisable that you consider purchasing an "umbrella" policy to protect you in the event you are at fault in a catastrophic collision that results in a claim that exceeds the limits of your policy. More specifically, an umbrella policy is a type of supplemental insurance that increases normal automobile liability limits to a higher amount and is typically sold in increments of one million dollars for a relatively small additional premium. Keep in mind that the less liability coverage you have, the more you risk exposing your personal assets to a judgment for

money damages if you are sued. Your insurance company is not obligated to satisfy the amount of any judgment over the liability limits of your policy.

Additionally, with respect to UM and UIM coverage, your limits should be sufficient to pay all of your medical bills and future medical treatment, replace or supplement your income in the event that an accident results in injuries that impair your ability to work, and to provide you with the same amount of compensation for damages that you would have collected from the at-fault driver if they were fully insured for all of your losses.

WHAT SHOULD I DO IF I AM INVOLVED IN A MOTOR VEHICLE COLLISION?

First, you should call the police. Illinois law requires you to report any accident involving injuries or even a small amount of property damage. Illinois law further requires all drivers involved in an accident to give their name, address, and vehicle registration number to any other party involved. You should also get the names and addresses of any witnesses to the accident. After the accident, contact your insurance company as soon as possible. Check your insurance policy's section entitled "Conditions" or "Duties after Loss" for more details. You may also look at the Illinois Department of Insurance web page at <http://insurance2.illinois.gov/autoinsurance/autoinsurance.asp> for more information.

WHAT DOES MY INSURANCE COMPANY DO?

The liability coverage in your policy in most cases does two things for you. First, your insurance company will hire and pay for a lawyer to defend you in a claim or lawsuit arising out of a vehicle accident. Second, the company will, up to your policy limits, pay for property damage and injuries to others caused by your negligent operation of a vehicle. Furthermore, if you have additional coverage, your insurance company will pay for other costs covered by that ad-

ditional coverage so long as you comply with the conditions of your policy.

If you are involved in an accident, you must cooperate with your insurance company. Failure to cooperate may result in your company refusing to pay any money to you or to protect you if others make a claim against you. You should promptly respond to any reasonable request for documents, such as medical and repair bills, a copy of the police report, and so forth. You should also furnish a recorded statement if your insurance company requests it.

THE INSURANCE COMPANY FOR THE OTHER DRIVER WANTS TO TAKE MY STATEMENT. IS THAT A GOOD IDEA?

No law requires you to give a statement to the other party's insurance company. Because few lawyers would recommend giving a statement to the other insurance company without consulting a lawyer first, or having one present during the interview, you may wish to call a lawyer at this time. You may also wish to contact your own insurance company about the other company's request for a statement.

WHAT SHOULD I DO IF THE OTHER INSURANCE COMPANY WANTS TO SETTLE MY CLAIM?

If you claim that the other driver was at fault and should pay for your injuries and damage, you should carefully consider the value of your claim. If the other insurance company offers you a settlement, are you fully prepared to exchange all of your rights, including the right to have a jury determine the amount of compensation to which you are entitled, for the settlement amount offered? If you have not retained a lawyer to pursue your claim, you may nevertheless wish to consult one at this point regarding your settlement decision.

In deciding whether to settle your claim, it is important to keep in mind that an at-fault driver must compensate you for the following: medical bills reasonably incurred or which will be reasonably necessary in the future, pain and suffering, lost wages, disability, disfigurement, and emotional damages. On the other hand, you are not entitled to compensation for your frustration or inconvenience, telephone calls, fuel costs, the cost of bringing a suit, or any lawyer's fees you may incur while pursuing your claim.

**THE OTHER DRIVER'S
INSURANCE COMPANY WANTS
ME TO SIGN PAPERWORK
BEFORE SETTLING
MY CLAIM. SHOULD I SIGN?**

Before you receive compensation for your claim, the other driver's insurance company will require you to sign a document usually called a "release," which sets forth the terms of the settlement agreement with the at-fault party and his or her insurance company. More specifically, if you sign the release, you agree that in exchange for receiving monetary compensation, you promise not to further press your claim (by filing a lawsuit or otherwise) against the at-fault party. With rare exception, once you sign a release, you cannot attempt to collect any additional compensation from the at-fault party or their insurance company in connection with the incident involved in your original claim for any reason—even if, for example, you continue to incur additional medical bills. It is very important to read the release and to understand its terms before signing it. If you don't understand what the release says, don't sign it—contact a lawyer for help.

**WHAT HAPPENS IF I
SUFFER AN INJURY OR
DAMAGE CAUSED BY AN
UNINSURED DRIVER?**

First, contact your insurance company to report the accident and cooperate with its inves-

tigation in every way. You will want to confirm that you have UM coverage and determine its limits. If you have your own liability insurance (as you should since every vehicle is required by law to have it in Illinois), then your policy will have a minimum of \$25,000 of UM coverage for bodily injury or death to one person and \$50,000 for bodily injury or death to two or more persons. If your own liability limits are higher than \$25,000/\$50,000, your UM limits will be the same as your liability limits unless you specifically rejected the additional UM coverage or specifically selected lower UM limits. With respect to damage to your own vehicle, if you have purchased collision coverage, it will pay for the repair costs. If your policy does not include collision coverage, however, it must then provide UM property damage coverage to compensate you for the damage to your vehicle in an amount equal to the actual cash value of your vehicle or \$15,000, whichever is less, subject to a \$250 deductible.

In order to receive compensation for the damages you suffered at the hands of the uninsured driver, you will have to assert a claim against your own insurance company under your UM coverage. That means you are, at least to some extent, at odds with your own insurance company, who will investigate your claim and evaluate the damage to you and your property. You may wish to contact a lawyer to learn more about your rights.

WHAT IF THE OTHER DRIVER HAS SOME INSURANCE, BUT NOT ENOUGH TO COVER MY LOSSES?

If the amount necessary to compensate you for your injuries exceeds the amount of insurance that covers the at-fault driver, your own insurance may have to pay the difference between the two policies under the terms of your UIM coverage. For example, if the claim is worth \$50,000 but the individual who caused the accident has liability insurance for only \$25,000, then your insurance company will be responsible for paying the difference of \$25,000

(\$50,000 minus \$25,000 equals \$25,000), provided, of course, that your own UIM limits are \$50,000 or more. If your UIM limits are only \$25,000, then you collect nothing in this situation. Your automobile insurance policy must provide UIM coverage under Illinois law only if your UM coverage limits exceed the minimum limits of \$25,000 for one person and \$50,000 for two or more persons. If you are entitled to UIM coverage, your UIM limits should be equal to the UM limits provided for in your policy. In other words, your decisions on UM coverage limits will generally control whether you are afforded UIM coverage, and if so, the amount of your UIM limits. UM and UIM are for your protection and not for other drivers. These coverages generally protect you and your family members even when they are passengers in other vehicles or as pedestrians who are hit by vehicles.

THE OTHER DRIVER OR ANOTHER PERSON CLAIMS I AM AT FAULT. WHAT DO I DO NOW?

Insurance policies require you to notify your agent or company in a prompt manner. Therefore, when you are served with a claim letter or a summons and complaint for a lawsuit, you should immediately contact your insurance agent or insurance company.

WHAT HAPPENS IF THE CLAIMS AGAINST ME EXCEED THE AMOUNT OF LIABILITY COVERAGE I HAVE?

Unfortunately, if someone brings a lawsuit against you to recover damages for an automobile accident that you caused and the court enters a judgment finding you liable for a total damage amount that exceeds the amount of your liability limits, you are required to pay the excess amount out of your own income or assets. If you do not have sufficient cash on hand

to pay the excess judgment, you may in some cases be forced to liquidate assets or be subject to garnishment of your wages. For this reason, you are encouraged to purchase insurance with sufficiently high liability limits to protect your assets and income from collection. If there is a real possibility that the claim exceeds your insurance limits, consider hiring your own lawyer to seek to force a settlement for the policy limits.

SHOULD I HIRE MY OWN LAWYER?

If your insurance company hires a lawyer to defend you against a claim or lawsuit, you will not have to pay for the services of that lawyer. You do, however, have the option of hiring an additional attorney of your own choosing at your own expense, unless there is a potential conflict of interest between your interests and the interests of your insurance company. The law places a duty on the insurer to notify you if they identify a potential conflict of interests. In most cases, hiring your own attorney is not necessary, but if you feel the lawyer hired by the insurance company is not adequately representing your interests or is compromising your position in some way, you should at least consult with another lawyer for advice on whether additional legal representation may be needed.

WHAT DO I DO WHEN I HAVE A DISPUTE WITH MY OWN INSURANCE COMPANY?

First, you should contact the Illinois Department of Insurance directly by calling its toll free consumer line at 866.445.5364. You can also submit a complaint to the Department online at <https://mc.insurance.illinois.gov/message-center.nsf>. Once the Department receives your complaint, it will notify you of the file number it has assigned to your case and send a copy of the complaint to your insurance company. Upon receiving a response from the insurer, an analyst will review it along with your complaint and decide what action, if any, should be taken. The

Department's addresses are:

Illinois Department of Insurance,
Springfield Office
320 W. Washington Street
Springfield, Illinois 62767

Illinois Department of Insurance,
Chicago Office
100 S. Michigan Ave., 19th Floor
Chicago, Illinois 60603.

Second, learn your rights by speaking with a lawyer, who may be able to assist you in resolving the dispute informally. If the dispute cannot be resolved informally, you may have to file a lawsuit against your own insurance company. Contact a lawyer to learn more.

ISBA LAWYER REFERRAL SERVICES

The Illinois State Bar Association sponsors an Illinois Lawyer Finder service that can refer you to a lawyer in your area. Lawyers in the service have agreed to provide an initial consultation for the first half-hour at a rate not to exceed \$25. Call toll-free 800-922-8757 or visit <http://ilf.isba.org/search.html>.

MORE INFORMATION

The Illinois Department of Insurance website provides additional information on the following issues at <http://insurance2.illinois.gov/autoinsurance/autoinsurance.asp>

- Auto Insurance Shopping Guide
- Comparative Negligence
- Credit Information – How Insurers Use
- Definitions
- Teen Drivers
- If Your Automobile Insurance is Cancelled
- If Your Automobile Insurance is Nonrenewed
- Filing an Auto Claim with Your Insurance Company

- Total Loss Auto Claims with Your Insurance Company (Rule 919 Exhibit A – Rights of Recourse)
- Filing an Auto Claim with Another Driver's Insurance Company
- Driving into Mexico
- Car Sharing Informational Memo

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This pamphlet is prepared and published by the Illinois State Bar Association as a public service. Every effort has been made to provide accurate information at the time of publication.

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