

A Consumer's Guide to
Auto Insurance



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER



NORTH DAKOTA INSURANCE DEPARTMENT



Dear Fellow North Dakotan:

I am pleased to provide you with the Consumer's Guide to Auto Owners Insurance.

North Dakotans enjoy some of the lowest auto insurance rates in the country, but shopping for the right policy and understanding how it works can still be confusing. We have created this consumer guide using the most frequently-asked questions to our consumer hotline and we hope it will help you gain a better understanding of auto insurance.

As your state insurance department, we are here to help. We hope this guide will be a valuable resource to you; whether you are shopping for a new policy, reviewing your current policy or just have an auto insurance related question.

If you have additional questions, please feel free to contact us on our toll-free consumer hotline—1.800.247.0560—or visit us on the web at www.state.nd.us/ndins.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam W. Hamm". The signature is stylized and fluid.

Adam W. Hamm
Insurance Commissioner
North Dakota Insurance Department

Mission

It is the mission of the North Dakota Insurance Department to protect the public good by fairly and effectively administering the laws of North Dakota. We are committed to vigorous consumer protection efforts while fostering a strong, competitive marketplace that provides consumers with choices and access to high-quality insurance products and services at competitive prices. In pursuit of our mission, we will treat all of our constituencies with the highest ethical standards and respect they deserve.

Contact information

If you need to contact the North Dakota Insurance Department, you may call, fax, email or write, at:

Phone number:	701.328.2440
Fax:	701.328.4880
Consumer hotline:	1.800.247.0650
Email:	insurance@nd.gov
Address:	600 E. Boulevard Ave. Dept. 401 Bismarck, ND 58505-0320

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The insurance contract

What is auto insurance?

Insurance is a contractual agreement between an insurance company and an insured, which, in exchange for a premium, provides financial protection for risks associated with driving or owning an automobile.

What is the policy?

The insurance contract is called a policy and includes three distinct parts. First, the Declaration Page that lists what coverages are in effect and the dollar amount of coverage. Second, the Text of the contract that tells you who and what is covered and not covered. Third, the Endorsements section of the contract that changes, limits or modifies the text.

Who does the contract cover?

The personal auto policy provides coverage to the named insured, spouse and other relatives residing at home as well as anyone to whom the named insured has given permission to operate the vehicle.

Can a company cancel my contract?

Once an auto policy has been in force for 60 days, the insurance company may only cancel the policy for the following reasons:

- Nonpayment of premium.
- If the license or registration of the named insured or any other operator has been suspended, rescinded, canceled or revoked during the period.
- Fraud or material misrepresentation by the insured in applying for the policy, or in presenting a claim under the policy.
- The insured motor vehicle is mechanically defective.
- The named insured moves to a state where the insurer is not licensed to do business.
- Failure to pay membership dues or fees to an association, if membership in the association is a prerequisite to obtaining the insurance coverage.

The notice of cancellation must be given at least 20 days prior to the effective date of the cancellation with the exception of the nonpayment of premium which requires a 10-day notice. Notice must be sent to the insured's last known address.

What is the difference between a cancellation and a non-renewal?

A cancellation happens in the middle of the policy period. A non-renewal takes place at the anniversary or renewal date of the contract. Unlike cancellation, a company may non-renew a contract based upon underwriting criteria. Underwriting criteria are those specific requirements written into the company's program. Claims frequency and driving record are examples of underwriting criteria used by companies when deciding whether to renew or non-renew a policy. A company must give 30 days notice for a non-renewal. Both cancellation and non-renewal result in termination of the contract.

What if I don't pay my premium by the due date?

Property and casualty policies, including auto policies, are not required to have a grace period that allows for late payment of premium. The premium must be in the hands of the company on the date identified on the billing. If the premium is not received by that date, the policy automatically terminates. Some companies voluntarily allow grace periods without a lapse in coverage. Most companies, however, do not permit a grace period.

Mandated coverages

Do I have to buy auto insurance?

North Dakota state law requires that all motor vehicles registered and operated in the state carry certain minimum insurance coverages.

What coverages are required by the state?

The coverages and minimum limits mandated by law are:

Bodily injury liability: \$25,000 per person (the maximum amount payable to one person)/\$50,000 per accident (the maximum amount payable to all people injured in one accident). Bodily injury liability provides coverage for claims brought against you for bodily injury caused to another person through the operation of your vehicle.

Property damage liability: \$25,000 per accident. Property damage liability provides coverage for claims brought against you for damage caused to someone else's property through the operation of your vehicle. Also covers damage to a car you rent for personal use on a short-term basis.

Uninsured motorist coverage: \$25,000 per person/ \$50,000 per accident. Uninsured motorist provides you coverage for a bodily injury claim you would have against another driver who does not have insurance. This coverage does not pay for physical damage to your vehicle.

Underinsured motorist coverage: Underinsured motorist coverage must

be equal to the uninsured motorist coverage. Underinsured motorist provides you coverage for a bodily injury claim you would have against another driver whose liability coverage is less than your underinsured coverage.

Basic no-fault: \$30,000 per person. Basic no-fault provides you coverage for economic loss (such as medical expenses and work loss) as a result of an accidental injury in your auto without regard to fault. No-fault is also known as Personal Injury Protection or PIP.

What is the penalty for not complying with this law?

Driving without liability insurance is a class B misdemeanor and is punishable by a mandatory fine of at least \$150. Additionally, if you are involved in any accident, the state will assess 14 points against your drivers license, resulting in a suspension of your license.

Does my auto policy cover a car that I rent?

North Dakota law requires that the property damage liability coverage of your personal auto policy provide coverage in the event you cause damage to a vehicle you have rented for less than 30 days. Therefore, it would not be necessary for you to purchase the coverage for physical damage offered by the car rental agency.

If I don't carry collision insurance, will either no-fault or uninsured motorist coverage pay for damage to my car if I'm struck by an uninsured driver?

No, neither no-fault nor uninsured motorist coverage provides coverage for physical damage to your vehicle.

Does my auto policy cover me if I drive into another country?

Almost all auto policies limit coverage to the United States, its territories or possessions, Puerto Rico and Canada. If you are planning to drive into Mexico, check with your agent in advance. It may be necessary for you to buy Mexican insurance.

How can I insure my classic vehicle, which I have maintained and restored as original?

Some companies may agree to insure a classic, well maintained auto on a stated value basis. To do this the company adds an endorsement to the policy for a stated amount of coverage based upon an appraisal of the vehicle. While the endorsement helps in establishing the value of a vehicle prior to an accident, the company still owes only the actual cash value of the vehicle at the time of loss, up to the stated value.

Can I get coverage for an antique auto?

Yes. Some companies specialize in providing coverage for antique autos. A good place to start when looking for this coverage is to contact antique car clubs or associations.

Does my insurance cover me if I damage a car I am test-driving?

When you drive a vehicle you do not own, the standard auto policy will provide the same coverage for physical damage that you have on your own insured vehicle. If the owner of the vehicle has physical damage coverage, the owner's coverage is primary. Your insurance is considered secondary, providing coverage for damage only in excess of the owner's coverage.

When you drive a vehicle you do not own, the standard auto policy will provide liability coverage for bodily injury or property damage you cause to a third party. This coverage is also excess, which means if the owner of the vehicle has liability coverage for the vehicle, the owner's coverage is primary. If the owner does not carry insurance your policy becomes primary. One exception to this is when you are test-driving a vehicle from a garage/car dealer operation, then your liability is primary.

Does my insurance cover me if I borrow a car from someone when my car is in for repairs?

When you borrow a vehicle because your personal auto is broken down or in for repairs, the standard auto policy will treat it as a non-owned vehicle (temporary substitute) and provide the same physical damage that you have on your own insured vehicle. If the owner of the vehicle has physical damage coverage, the owner's coverage is primary. Your insurance is considered secondary, providing coverage for damage only in excess of the owner's coverage.

The liability coverage of the borrowed vehicle would be primary covering you as a permissive driver under the owner's policy. If the owner does not carry insurance, your policy becomes primary. One exception to this is when you are driving a vehicle from a garage/car dealer operation—then your liability is primary.

Optional coverages

What coverages, other than the minimum requirements, can I buy?

Insurance companies do offer higher liability, uninsured, underinsured and no-fault benefits as an option. You can also purchase the following non-mandatory coverages:

Collision coverage: Provides coverage for physical damage to your vehicle that is caused by colliding with some other vehicle or object, or on overturning the vehicle. It pays regardless of who causes the accident.

Comprehensive coverage: Provides coverage for physical damage to your vehicle caused by items other than collision such as theft, fire, vandalism, hail, falling objects or hitting an animal.

Towing: Provides coverage to reimburse you for towing expenses involved in an emergency situation.

Death and dismemberment: Provides accidental death and dismemberment coverage.

GAP coverage: Provides payment to your lender for the difference between the amount of your auto loan and the actual cash value payment, if your vehicle is either stolen or a total loss.

Does the bank need to be listed on the policy?

For a financed car, generally, the borrower is required by the bank to provide adequate security in the form of insurance coverage on the property used as collateral for the loan. Your agreement with the bank/lienholder determines whether or not it is necessary to put the bank/lienholder on the policy. If you do not insure the car, the lienholder may buy special insurance and add the cost to your loan. This is called forced placed insurance. The cost of this insurance is typically higher than you would pay if you bought your own policy through a standard carrier. Also, forced placed insurance does not provide liability coverage on your behalf.

What are deductibles?

A deductible is the amount of the claim that you agree to pay or the part that is deducted from your claim check. Comprehensive and collision coverages generally have deductibles.

Rating

What factors go into determining my automobile insurance premium?

Auto insurance premiums vary considerably depending on risk, coverages and vehicle type. Over the years, North Dakota consistently has had one of the lowest average auto insurance premium rates out of all 50 states and the District of Columbia. Generally, premiums are based on:

- The amounts and types of coverage you buy. Generally, the higher the limits and the broader the coverage, the higher the premium.
- Your driving record. Accidents or traffic violations can result in higher

premiums.

- Your age, gender and marital status. For example, young, single male drivers generally pay more than any other group.
- Where you live. The state is divided into territories for rating purposes. Generally people in metropolitan areas pay more than those in less congested areas.
- How you use your car. The more you drive, the more you pay.
- The type of car you drive. It costs more to repair some cars than others and companies charge accordingly.
- Your credit history. Consumers with a poor credit history (financial stability score) might be charged a higher premium than a consumer with a good credit history. For more information about the use of credit information in personal insurance, please see "Insurance and Your Credit Score" on page 22 in this guide.
- Your claims history. Consumers with recent and/or frequent claims will likely pay higher premiums than a consumer without a claims history.

For more information about the use of claims history for personal lines, please see "Loss History Reports—CLUE and A-PLUS" on page 28 in this guide.

How do companies determine what rates to charge the consumer?

When you buy insurance, you receive financial protection in case you become involved in an accident. Therefore, the insurance company must charge rates that will allow them to pay losses and operating expenses (with a reasonable amount for profit). In order to do this, the company uses statistical information to calculate the expected loss cost per vehicle. The company then adds to this its operating expenses and profits to arrive at a final rate.

Do companies give any discounts?

Yes. Company discounts may include a good student discount, accident-free discount, anti-theft device discount, defensive driving discount, multivehicle discount and airbag or antilock brake discounts.

What courses qualify for defensive driving discounts?

Please contact the North Dakota Highway Patrol for current course listings at ndhpinfo@nd.gov or 701.328.2455.

If I have an accident, will my rates go up?

Following an accident for which you were determined to be responsible companies generally add a surcharge to your policy premium. In most instances, the surcharge will remain on your policy for a three-year period. The surcharge will not be added midterm but will be added at the next renewal. The law requires a company disclose its underwriting and rating procedures applicable to accident surcharges and loss of discounts before or at the time of issuance of a policy. Surcharges cannot be assessed as a result of a comprehensive coverage claim, when your vehicle was legally parked when the damage occurred or when a claim has been paid on a rental vehicle coverage claim.

Can a company require me to pay a fee in addition to the rate?

Some companies may have a policy fee in addition to the rate. If you obtain your insurance by virtue of being a member of a certain organization or association, the dues or fees to that organization may be a prerequisite to obtaining the auto insurance.

Why does the company include all licensed drivers in my household when rating my policy?

Motor vehicle liability insurance is mandated by law. Court cases have determined that this obligation extends to all family members in the household. This means that the insurance company would be required to provide coverage in the event of a claim. Therefore, the company rates for all potential drivers. Unfortunately, one bad driver in the household can negatively impact the rates for the rest of the family.

Why are the rates for young drivers so much higher than for adults?

Insurance rates are based upon statistics. Traditionally, less experienced drivers have shown significantly higher losses resulting in higher rates. Your premiums may not be affected when your teen gets a learner's permit, but will increase when a driver's license is obtained. Check with your agent or company to find out when the teen needs to be added to your policy.

Can an insurance company exclude a driver from my policy?

The law permits an insurance company to issue a policy with a driver exclusion. The law also allows the company to issue a policy with minimum limits of coverage for a specified driver while maintaining higher limits for all other drivers. A company is not required to exclude a driver, but may do so according to its underwriting program.

Is there anything I should be aware of before switching companies?

When you make application for insurance to a new company, by law, they have a right to underwrite your application. The company may cancel your coverage within the first 60 days if you do not meet their underwriting guidelines. Therefore, any recent change in driving records, credit history or claims history could result in cancellation.

How can a company charge more premium than the agent quoted me?

As described earlier, there are many different factors involved in rating a policy. The agent's quote is an estimate based on information you provide. The actual premium is determined by the company after reviewing all the information including Motor Vehicle Reports, insurance credit scores and claims reports. When shopping, it is important that all questions are answered truthfully and completely, including any traffic tickets or accidents. The wrong information may result in an incorrect price quotation and/or rejection of your coverage. Remember, the actual premium may be more or less than the quoted estimate.

Why does the insurance company need my Social Security number?

Similar to other financial service providers like banks and credit unions, an insurance company uses your personal information for a variety of purposes including verification and record keeping. Just like financial service providers, the insurance company and insurance agents are bound by state and federal privacy laws and may not release your personal information to others without your permission except as allowed by law.

What is credit scoring?

Credit scoring refers to a system by which some companies use an individual's credit experiences—such as bill paying history, the number and types of accounts they have, late payments, collection actions, outstanding debts and the age of their accounts—in determining whether to sell insurance to the individual or what rate to charge the individual.

Why is a credit score used in rating auto insurance?

Statistical and insurance companies have done analyses comparing individuals' credit scores with insurance loss history, and have found a significant correlation between the two. This information is claimed to be predictive of future loss experience, thus making it a useful tool for companies to use in matching drivers to a proper premium level.

Do all companies have the same standards for writing an insurance policy?

No. There are three basic tiers when writing automobile insurance: non-standard, standard and preferred. They can be described as follows, starting with the most expensive:

Non-standard: May include drivers with less experience, drivers with a high amount tickets or accidents, drivers with a reckless or drunk-driving history and drivers with a poor credit score.

Standard: Includes the average driver who uses family-type vehicles who has a reasonably clean driving record and a good credit score.

Preferred: Insures low-risk drivers with clean records over the past three years and a good credit score. This market has the cheapest premiums.

Companies' underwriting requirements vary. If an insurance company declines your application, do not give up. Keep shopping! Different companies have different requirements for accepting drivers for coverage. A company is not required by law to sell you automobile insurance if you do not meet their underwriting requirements.

What is high risk insurance?

Some companies specialize in writing individuals who have a history of claims, accidents or a bad driving record. These are commonly referred to as high risk or non-standard companies. In addition to applying the normal rating factors, they also base the rate upon your record.

What is assigned risk insurance?

Individuals who are unable to obtain insurance through standard carriers or through non-standard (high risk) insurance can apply to the North Dakota Automobile Insurance Plan for coverage. This organization is also known as the assigned risk plan. When you cannot get auto insurance through regular channels, your agent should be able to assist you in making application to the assigned risk plan. The application is sent to the plan manager who then assigns the application to a specific company. The company must issue a policy according to plan rules and rates. The plan's premiums are very expensive, therefore it should only be used as a last resort. Your agent can access the manual and application information at www.aipso.com/nd.

What is an SR-22 Financial Responsibility filing?

Certain violations such as a DUI, driving under suspension, refusal of a chemical test or driving without insurance will by law result in the

suspension or revocation of your driver's license. In these cases the State Drivers License Division of the Department of Transportation is required to have the individual show proof of future financial responsibility for a period of one year. This may be in the form of liability insurance, a cash deposit in the amount of damages if an accident was involved, or a cash bond in the amount of \$25,000. Drivers seeking to satisfy this future financial responsibility requirement may do so by having their auto insurance company file a SR-22 Financial Responsibility filing (SR-22 is the form name) with the state. Generally, only those companies writing non-standard auto (high risk) insurance provide this certification form.

What is a certificate of motor vehicle liability insurance?

When a driver has been convicted of driving without liability insurance, the law requires that the individual show proof of liability insurance to the Drivers License Division of the Department of Transportation for a period of 3 years. Insurance companies can file with the state using the Certificate of Motor Vehicle Liability Insurance form published by the Drivers License Division for this purpose. The state does not require that an insurance company use an SR-22 form for this purpose.

Claims

Does the North Dakota Insurance Department set auto rates? No. The North Dakota Insurance Department regulates, but does not set, auto insurance rates. Each company decides what rate it needs to charge. As the regulator, the Department reviews the company's proposed rates for compliance with state law. If a company wants to change rates, it must file supporting data with the Department. The Department reviews that data to ensure that the rates are justified.

How do I file a claim?

Depending upon whether you have bought your insurance through an agent or directly from an insurance company will determine the first step in filing a claim. If you have an agent, notify your agent as soon as possible. Your agent will take your claim information, file it with the company to start the claim process and advise you what to expect next. If you do not have an agent, the company will have a toll-free claims number to call to report your claim.

If you or your passengers were injured, or you believe you may have been injured (even if slightly), call your agent or company. Under North Dakota law, your auto's no-fault coverage is primary, regardless of fault.

To make a claim against another party, contact the agent or company for that party to put them on notice. They will take your claim information and file it with their company to start the claim process.

What happens next, after I have filed a claim?

The type of accident will determine what steps the claims department of your company will take next. If the claim involves personal injury to you or your passengers, you will be required to complete a claim form. A claim form requires you to provide a detailed description of the accident, the extent and type of injuries, employer information if work will be affected, the name of the treating physician and a medical release to allow the company to receive pertinent medical evidence.

If the claim involves physical damage to your vehicle under the comprehensive or collision coverage, your agent or company may give you the opportunity to meet with an adjuster to see the vehicle and prepare a damage estimate, ask you to submit estimates of damage from auto repair facilities or take the damaged vehicle to a preferred shop to obtain a repair estimate and fix the damage.

If the claim is against another insurance company involving bodily injury to you or physical damage to your vehicle you will be required to complete a claim form, or to make arrangements to have their adjuster meet with you to see the vehicle and prepare an estimate.

Can a company require me to have a car repaired at a specific repair shop?

No. You may have your vehicle repaired at the shop of your choice. The company may use one of three methods. The company may elect to settle your claim based upon the lowest of the estimates you have provided them. However, if you have the repairs done at the shop with the higher estimate, you could be responsible for the additional costs. The second method of settlement is to have the company adjuster prepare an estimate that you may take to any shop you desire. Generally, a body shop will honor the company's estimate. The third method involves you voluntarily agreeing to take the vehicle to a shop that your company has a special agreement with, known as a preferred shop. The company has agreed to let the preferred shop prepare the estimate and complete the repairs.

What is the difference between a damage appraiser and an adjuster?

A damage appraiser is trained to evaluate the cost of repairing damage to a vehicle. An adjuster can do damage appraisals, but generally also has the

authority to make claim settlement offers.

Can a company require a certain number of estimates?

The law does not require a certain number of estimates, nor does it prohibit the company from requesting estimates. It is reasonable for a company to have you obtain two estimates of damage. Companies may vary on their needs from as few as one to as many as three.

Does the company have a right to examine a damaged vehicle?

Yes. In order to determine the extent of damage it is important that the company be permitted to see the vehicle before repairs are made.

Can I require the company to replace my vehicle?

No. The personal auto policy is not a replacement policy. The policy is based upon the actual cash value (ACV) of the automobile. ACV is the replacement cost less depreciation, which most often is the current market value at the time of loss. Therefore, the company's obligation is to repair the car or pay based upon its actual cash value, not its replacement cost.

How do you determine the actual cash value of a vehicle?

Actual cash value (ACV) is what your car (rust, dents and all) was worth on the open market the moment before the accident. It is NOT what you owe on the car. It is NOT what you paid for it or for its parts. The insurance company can calculate your car's ACV by using any of the following:

- The average cost of two or more comparable cars (make, model, year, condition) available in your area within the past 30 days.
- The average of two or more quotes from local dealers.
- A pricing service that has information about auto prices in the local market (NADA, Kelly Blue Book, etc.)

Many people place a sentimental value on their own vehicle. Unfortunately, this is not a consideration when determining the value of a vehicle.

What is a total loss?

By law, if the cost to repair a vehicle is more than 75 percent of the actual cash value of the vehicle, the vehicle is then considered to be a total loss. The payment on a total loss would be the actual cash value less the deductible. Should you decide to keep your vehicle rather than turning it over to the company, the company would also deduct the salvage value of the vehicle from the actual cash value payment.

Can I choose to repair my car even if my company considers it to be totaled?

If the company has determined the vehicle is to be totaled it will make settlement in one of two ways: payment of actual cash value less deductible and take the car, or payment of actual cash value less deductible, less salvage value and you keep the car. You would be free to repair the vehicle with your payment but generally the payment would not be sufficient to cover all repairs. The company would not be obligated to pay any more.

Can I still carry full coverage on my totaled vehicle?

Most companies will let you continue to carry full coverage on your car even after a total loss settlement where you have kept the car. This is based upon the fact that there is still some residual value even without repairs and the fact you will be paying a premium. In some instances, your lender may still require you to carry full coverage as well.

Can I require all new parts on my vehicle?

Usual automobile policy language states that the insurance company's obligation for damage is the least of the cost to repair, replace or the actual cash value. If the damage is not repairable and instead requires replacement of the part, there is nothing in the policy, nor is there anything currently in state law, that requires the parts used be new or original manufacturer's equipment (OEM).

What are after-market parts?

After-market parts are vehicle replacement body parts manufactured by a company other than the original manufacturer. Companies are permitted to use these parts, as long as the quality is comparable to the manufacturer's parts.

What is the paintless dent repair method?

The paintless dent repair method is an alternative way for skilled technicians to pop out minor hail dents. When done this way, no painting is required, thereby resulting in dramatically lower claims costs. This method does not work on major dents, older paint faded cars and certain areas of cars where the technician cannot get access to. Company adjusters will use this method where appropriate. Many repair estimates will use both paintless and conventional methods to achieve a total repair.

How does the insurance company handle prior damage when processing a new claim?

The insurance policy does not cover damage that occurred prior to the

effective date of your policy. Your insurance policy provides coverage based on an occurrence that takes place while the policy is in force.

Therefore, each different occurrence is handled separately. For example, if your bumper was previously damaged before the accident, the company will deduct the cost of the bumper from your current claim settlement. In the event of a total loss, the insurance company will deduct any unrepaired damage left from a previous occurrence.

Can I take cash instead of repairing my car?

The policy provisions for loss settlement generally require the company to pay for the cost to repair. Many companies will pay you the cost even if you choose not to repair the vehicle.

What happens if the company adjuster misses something on the repair estimate/order?

In the event the repair shop finds that the company adjuster failed to take into consideration something at the time of the estimate, the repair shop should immediately contact the adjuster. The adjuster would meet with the repair shop to determine whether or not the damage is covered. If it is covered, the company would then issue a supplementary check for this additional cost.

Why does the company make the check for repairs out to me and the body shop?

The insurance company is under contract with you through the auto policy to repair your vehicle. To assure that the repairs are done, and to avoid any future claim problems (unrepaired damage), the company makes the check out to both of you. In addition, the company generally continues to insure your vehicle.

What is a branded title?

If you have had an accident with your vehicle and the damage exceeds \$8,000 or 40 percent of the total value (this does not include hail or normal wear and tear), the law requires that you report this when you sell or trade the vehicle. The vehicle title is then marked to show that it was previously damaged.

What is loss of value?

A loss of value is simply a reduction in the actual cash value (ACV) of your vehicle. A loss of value may occur when you sell or trade a vehicle with a branded title. In some instances, the owner of the vehicle with a branded title may receive less for the vehicle than he or she would have had

the vehicle not had a branded title, despite the fact that the vehicle has been repaired. Current state law does not require the payment by insurance companies of this loss in value if you have been paid for the cost of repairs or the vehicles actual cash value.

What are my car rental rights?

If you carry full coverage on the vehicle that is damaged, some companies will cover the cost of renting a replacement vehicle for the time that your vehicle is in the repair shop and unavailable to you. Some companies require that you have a rental reimbursement endorsement on your policy before they will pay. Check with your agent on how your policy would respond. *Note: Most companies will not reimburse for a car rental if you have another personal vehicle available to you to use in place of the damaged vehicle and any reimbursement will be limited to rental of a similar type vehicle.*

If you have a claim against a third party for damage to your car then the cost of renting a replacement vehicle while your car is unavailable to you will generally be covered by the other party if the other party is found to be liable. *Note: In these situations, it is important to inform the claims personnel handling the claim that you are renting a vehicle. This will help avoid any misunderstandings and potential gaps in coverage or payment.*

What is comparative fault?

North Dakota law provides that the degree of fault or responsibility for an accident can be apportioned on a percentage basis among all the parties involved. This percentage is the amount each party contributed to causing the accident. The amount either party can recover in damages is reduced by the percentage of fault attributable to that party. However, a party cannot recover any damages if the percentage of fault he or she is assessed for the accident is as great as the combined fault of all other parties who contributed to the accident.

Comparative fault example #1: Two drivers collide at an open intersection. It is determined that driver #1 is 80 percent responsible and driver #2 is 20 percent responsible. Driver #2 may recover 80 percent of his damages from driver #1 but driver #1 would receive no payment from driver #2.

Exception: The damages recovered may not be diminished in proportion to the amount of contributing fault if the party seeking

damages:

- Is involved in a motor vehicle accident in which two parties are at fault;
- Is seeking direct physical property damage of not more than \$5,000 and indirect damages (such as rental, storage, and loss of value) of not more than \$1,000; and
- Is seeking damages against a party whose percentage of fault exceeds 50 percent.

Comparative fault exception example #2: Two drivers collide in an open intersection. Driver #1 receives \$2,000 in direct property damage. Driver #2 receives \$4,000 in direct physical property damage and \$1,000 in indirect damages. It is determined that driver #1 is 55 percent responsible and driver #2 is 45 percent responsible. Driver #2 can recover \$5,000 from driver #1 without a reduction for the percentage of fault attributable to driver #2. However, driver #1 cannot recover any damages from driver #2.

How soon must a company settle a claim?

There is not a set time provided for the settlement of a liability or physical damage claim, as many factors must be considered when investigating an accident. It is in the best interest of the company to investigate any loss promptly so that valuable evidence is not lost or destroyed and so that incurred costs, such as storage and any loss-of-use obligations do not become excessive.

What should I do if I am having a disagreement with my company over a claim?

If you have made every attempt to work with company claims department personnel and continue to have a disagreement, you should then discuss the matter with your agent to determine if any further resolution can be made. If unsuccessful, call the North Dakota Insurance Department at 1-800-247-0560. We will determine whether we can be of assistance to you and will advise you of the available alternatives.

What is insurance fraud?

Some examples of fraud are:

- Collecting or trying to collect from an insurance company for a loss that never occurred.
- Including the right fender in a claim for an accident that only involved the left fender.

- Inflating a theft claim by exaggerating the value of the stereo in your car.
- Filing a claim for damages that you deliberately caused to your car.
- Providing false information about your driving record, address, car or other details on an insurance application.
- Committing insurance fraud is a class C felony and can be sufficient grounds for a company to deny and/or cancel coverage.

Insurance fraud hurts us all. Contact the Insurance Department if you know of or suspect insurance fraud is being or has been committed.

Consumer tips

What can I do to get the lowest possible rate?

Shop around. Since insurance rates are based upon experience, it is beneficial to shop around to determine which company is offering the best rate. Start by finding an agent or company representative that you trust.

Improve your credit. Since your rate can be affected by your credit score, making changes that improve your score will help lower your rate.

Consider adjusting your coverages. For example, you might elect to use a higher deductible to bring your rates down.

Drive defensively. Defensive driving prevents the possibility of having an accident and/or claim. Drivers who voluntarily attend an approved defensive driving course are eligible by law for a discount on their premium. Please contact the North Dakota Highway Patrol for more information at 701.328.2455 or visit www.nd.gov/ndhp.

Read your policy. Discuss any questions you may have with your agent so you can fully understand the coverages and obligations under the policy. An auto insurance policy is a legal contract.

What should I do if I am involved in an auto accident?

- Call for medical help if needed.
- Call the police and remain at the scene.
- Get the name, address, phone number, driver's license number and insurance company of any individuals involved in the accident.
- Get the names and addresses of any witnesses.
- Write down the details of the accident.
- Notify your agent or company of the accident.

What should I do if I have a complaint or question about my auto contract?

If you still have a question after discussing your concerns with your agent and/or company, you may contact the North Dakota Insurance Department for advice.

If you have a complaint against either the company or an agent, please contact the Department to find out how to submit a complaint. You may fax, mail or email a completed complaint form to the Department.

Does the Insurance Department provide any specific information on auto rates?

The North Dakota Insurance Department publishes the results of an Auto Rate Cost Comparison Survey of the major auto insurance carriers on annual basis. The results are available at the Department's website or contact the Department for a copy.

Insurance and your credit score

Many personal auto insurance companies look at consumer credit information to decide:

- Whether to issue or renew an insurance policy, and
- How much premium to charge for insurance.

This information will help you understand how insurance companies use your credit information and how this business practice affects how much you pay for insurance.

Can an insurance company look at my credit information without my permission?

Yes. The Federal Fair Credit Reporting Act (FCRA) and state law, permit insurance companies to look at your credit information without your permission. The law also requires that insurer to notify you within three days that they have obtained your credit information.

The federal law may be found at
www.ftc.gov/os/statutes/031224fcra.pdf.

The state law may be found at
www.legis.nd.gov/cencode/t261c251.pdf.

How do I know if an insurance company is using my credit information?

Under state law, the insurance agent or company must disclose to you at the time of application whether they use credit information for underwriting or rating. If you have not made application recently, you may ask your company or agent if they use credit information. If credit information is used for underwriting, ask them how it affects your eligibility for coverage. If credit information is used for rating, ask them how it affects your insurance premium. Finally, you should also ask if they will check the credit information of other people insured on your policy, such as family members, and how they will affect your policy.

Why do insurance companies use credit information?

Insurance companies have shown that information in a credit report can predict which consumers are likely to file insurance claims. They believe that consumers who are more likely to file claims should pay more for their insurance.

If I don't have a credit history, will it affect my insurance purchase?

Possibly. Not all insurance companies handle this situation the same way. Some companies will charge you more. Other companies will use other information, such as driving record or claims history, to decide whether to insure you or how much premium to charge. Sometimes an insurer will not be able to find a meaningful credit history for you. If you think you have a credit history but the insurer cannot find it, make sure your agent or insurance company has your correct name, address, Social Security number and birth date.

How do insurance companies use credit information?

Insurers can use your credit information to underwrite your insurance policy or to rate your insurance policy.

Underwriting. Underwriting is a process where an insurance company gathers information and decides whether or not you are eligible for their program.

Rating. Rating is a process that determines how much you pay for insurance.

What kind of credit information do insurance companies use?

Most companies that use credit information use an insurance credit score, which is also referred to as a financial responsibility score. An insurance credit score is calculated using information from your credit report.

Many insurance credit scores are weighted using recent credit information more heavily than old credit information. The factors used in many scoring models are:

- Public records (such as bankruptcy, collections, foreclosures, liens and charge-offs). Public records generally have a negative effect on your insurance credit score.
- Past payment history (the number and frequency of late payments and the days between due date and late payment date). Late payments tend to have a negative effect on your insurance credit score.
- Length of credit history (the amount of time you've been in the credit system). A longer credit history tends to improve your insurance credit score.
- Inquiries for credit (the number of times you've recently applied for new credit, including mortgage loans, utility accounts and credit card accounts). Shopping for new credit tends to have a negative effect on your insurance credit score. In North Dakota, companies have some restrictions on using recent multiple home or auto loan applications, consumer or insurance inquiries, and collections with a medical code in a negative manner.
- Number of open lines of credit (including the number of major credit cards, department store credit cards). Having too much credit tends to have a negative effect on your insurance credit score. However, it generally is not a good idea to cancel a credit account that you have had for a long time. A long credit history may help your score.
- Type of credit in use (such as major credit cards, store credit cards, finance company loans, etc). Major credit cards may be treated more favorably than other types of consumer credit, such as store credit card or loans from a finance company.
- Outstanding debt (how much you owe compared to your available credit). Too much outstanding debt tends to have a negative effect on your insurance credit score.

What is a good insurance credit score?

There is no single answer to this question. Generally, a good insurance credit score will translate to lower premiums. However, insurance companies use different scoring calculations, so different insurers will likely give you a different score. That is why it pays to shop around on a regular basis to make sure your premiums are competitive.

Is my premium based entirely on my insurance credit score?

No. Auto premiums are based on other factors as well as credit history. Your auto insurance premium is based on factors such as your driving record, the type of car you drive and where you live. Credit history is only one of a number of factors insurers use to rate your policy.

Must an agent or company tell me what my insurance credit score is?

No. In fact, the agent or company underwriter might not even know your score. Instead, all your agent or underwriter may know is that your score qualifies you for a particular rate or company within the group. Even if you know your insurance credit score, it may not be useful to you.

First, your insurance credit score is a snapshot in time, and a significant change in your credit activity or a creditor's report can change your score.

Second, insurance credit scores are not uniform among insurance companies. Insurance companies have different views on which factors are more important based on their experience and business practices. For example, one company might feel that public records are more important than past payment history. Another company might take the opposite view. How much weight a company gives each of the factors determines, to a large extent, your insurance credit score with that company.

If I don't know my score, and my score varies from company to company, how will I know if my credit history affects my insurance purchases?

Ask your insurance agent or insurance company. The Federal Fair Credit Reporting Act (FCRA) requires an insurance company to tell you if they take an adverse action because of your credit information. FCRA and state law defines adverse action to include denying or canceling coverage, increasing premiums, or changing the terms, coverage, or amount of coverage in a way that harms the consumer.

Examples of an adverse action include:

- Canceling, denying or non-renewing coverage.
- Giving the consumer a limited coverage form.
- Limiting benefits, such as eligibility for dividends.
- Issuing coverage other than that applied for.
- Not giving the consumer a rate as good as he or she would have

received without the use of credit information.

- Adding a premium surcharge.

If your insurer takes an adverse action due to your credit information, it must also tell you the name of the national credit bureau that supplied the information. You are also entitled to a free copy of your credit report from the credit bureau that supplied the credit information.

In addition, state law further requires the company to provide up to four specific factors that influenced the adverse action. These reasons should help you know what to look for when you review your credit report.

What can I do if there is incorrect information in my credit report?

Tell the credit bureau. If you report an error, the credit bureau must investigate the error and get back to you within 30 days. The credit bureau will contact whoever reported the information.

Credit information is often reported by banks, credit card companies, collection agencies or a court clerk. If the investigation shows the information is wrong or if there is no proof it is true, the credit bureau must correct your credit record.

You can ask the credit bureau to send a notice of the correction to any creditor or insurer that has checked your file in the past six months.

Once the errors are corrected, it is a good idea to get a new copy of your credit report several months later to make sure the wrong information has not been reported again.

You should also get a copy of your credit report from the other national credit bureaus, which are listed below. If you correct an error on one report, it will not fix incorrect information on the other reports. If the information in your credit report is correct, the credit bureau will not change it.

However, the FCRA lets you file a 100-word statement explaining your side of the story, and the credit bureau must include your statement with your credit information each time they send it out. Make sure your insurance company has a copy of your statement, and ask if it will take your statement into a court. The three national credit bureaus are:

Equifax	www.credit.equifax.com	1.800.685.1111
Experian	www.experian.com	1.888.397.3742
Trans Union	www.transunion.com	1.877.322.8228

Tell your insurance company. Don't wait until the credit bureau investigates the errors to contact your insurer. Tell your insurance company right away and ask if the errors will make a difference in your insurance. If the errors are big, tell your insurer that you are disputing the information and ask if they will wait to use your credit information until the errors are corrected. Small errors may not have much effect on your credit score. If the errors are big, it can make a significant difference in your premium.

How can I improve my insurance credit score if I have been adversely affected?

When a company takes an adverse action, it is required to tell you the reason along with specific factors or attributes found in your credit history that negatively affected your score. Using this information and a copy of your credit report, you will be able to determine the attributes that negatively impacted your score and you can then begin to take steps as needed to change your credit profile.

Potential ways to improve your credit score:

- Don't try to fix your credit overnight. You could end up hurting your score. For example, your score may go down if you cancel a credit card that you have had for a long time.
- Don't pay someone to fix your credit history. Some credit repair firms promise, for a fee, to get accurate information taken out of your credit report. Accurate information cannot be deleted from your credit report. Some credit repair firms promise to fix your credit report by challenging information in it. They charge you a fee to do that. This is something you can do for yourself without paying the fee.
- Create a plan to improve your credit over time. Pay your bills on time. Pay at least the minimum balance due, on time, every month. If you cannot make a payment, talk to your creditor. Work to reduce the amount you owe, especially on revolving debt like credit cards.
- Limit the number of new credit accounts you apply for. Several applications for credit in a short time will usually lower your credit score.
- Keep at it. Your credit history will improve over time if you make changes now and continue to improve. If you manage your credit better, your credit score will improve over time.

Where can I go for help with credit problems?

If you cannot resolve your credit problems alone, a non-profit credit counseling organization may be able to help you. Non-profit counseling

programs are often operated by churches, universities, military bases, credit unions and housing authorities. You can also check with a local bank or consumer protection office to see if they have a list of reputable, low-cost financial counseling services.

Will my credit history haunt me forever?

Probably not. Credit history is just that—history. Once you find out what attributes of your credit history is affecting your insurance credit score, you can work to improve your record. If your premiums are high because of our credit history and you take steps to improve your record, you should:

- Ask your insurance company to re-evaluate your insurance credit score at renewal.
- Shop for new insurance at renewal to see if better prices are available.

Where can I get more information?

- Ask your insurance agent or company if they have educational material that explains how they use credit.
- Contact the N.D. Insurance Department by calling 1.800.247.0560 or searching our website at www.nd.gov/ndins.
- Contact the Federal Trade Commission for information about the FCRA or their consumer brochures on credit. Call 1.877.382.4357 or visit their website at: www.ftc.gov.
- Search the internet, but be sure the information you find explains how insurers (not lenders) use credit information.
- Contact your local Cooperative Extension Service for information about improving your credit history.

In North Dakota, insurance companies are prohibited from denying, canceling or non-renewing a policy solely on the basis of credit information, but may use credit information along with other underwriting factors to deny, cancel or non-renew a policy.

Loss history reports— CLUE and A-PLUS

Why do insurance companies need to know my loss history or the loss history of my property?

Insurance companies conduct a risk assessment of each applicant and property requesting coverage. The risk assessment tells a company whether

the risk presented by the applicant or property is acceptable to them based upon the company's underwriting guidelines and if acceptable what the premium should be for the risk presented. The guidelines and premiums charged are based generally upon historical statistical data. Statistically, it has been documented over time that individuals that have losses tend to have more losses.

Therefore, knowing the previous loss history of the applicant and property helps the company in determining the level of risk presented and the appropriate amount of premium to charge for that risk.

Does North Dakota law allow companies to use my loss history information?

Yes, it is generally recognized that insurance companies have a need to know about your previous loss history for underwriting and rating purposes. However, the law does restrict or prohibit the use by companies of some specific loss history information.

Does my loss history have any impact on my ability to get insurance or what I pay for insurance?

Yes, while all companies do not have the same underwriting guidelines or rating systems, generally most companies today do consider your loss history in determining whether to offer you insurance or not, and in determining how much premium to charge you. Knowing the type and frequency of losses you have had is a part of their risk assessment of you.

How does an insurance company determine my loss history or the loss history of my vehicle?

Insurance companies use several methods to gather your loss history:

- All companies ask for your loss history information when making application.
- Some companies may ask you to have your previous carrier send them your previous loss history.
- Some companies may request that an investigative consumer report be done to obtain your background history.
- Most companies will request a search of industry loss history databases for information of previous claims or losses.

How do I know if an insurance company is going to use my loss history information?

North Dakota law requires that a company inform you at the time of

application that they will consider your loss history in determining whether to decline, cancel, non-renew or surcharge a policy.

Does the law regarding personal insurance loss history information apply to all types of insurance?

No. The law is specifically limited to personal insurance, which is defined to include private passenger automobile and motorcycle policies.

What events are companies restricted or prohibited from using?

Companies may not consider the following for purposes of surcharging, declining, non-renewing or canceling personal insurance or a binder for personal insurance:

- An inquiry to your company about the level of coverage or whether a policy will cover a loss.
- An inquiry to your company regarding coverage for a loss if you never file a claim.
- A claim if the company does not investigate the claim or does not initiate any other claim activity (unless the claim involves deceptive practices by you).
- A claim if the company does not make a payment to you or on your behalf (unless the claim involves deceptive practices by you).
- A first party property claim caused by wind or hail if you have not had any other wind or hail claims in the past five years (unless the company can show that you failed to maintain the property and the failure contributed to the loss). *Note: if you have had more than one wind or hail claim in the past five years the company can use the second and third claims, etc.*
- Any claim that is over 10 years old (unless the company can show that you failed to maintain the property and the failure contributed to the loss).

What is a CLUE report?

CLUE report stands for Comprehensive Loss Underwriting Experience. This is the acronym associated with the loss history database managed by Choicepoint. Another common loss history database used by companies is known as A-PLUS and is managed by Insurance Services Office. The CLUE report is a loss history report. This report will show all losses (claims) made by you (by Social Security number), made on a specific vehicle (by Vehicle Identification Number) or made on a specific property

(by address).

What rights do I have if I feel the information in the CLUE report is not correct?

Under the Federal Fair Credit Reporting Act you are responsible for contacting the database manager of a contested loss history. You must then contact the company that made the erroneous entry and request that they have it corrected in the database. Once the correction is done you may request the insurance company to reconsider your application.

Who is responsible for correcting any errors in my loss history report?

You must get the insurance company that provided the incorrect information to the loss history database to correct the entry.

Do insurance companies use weather-related loss history information in underwriting or rating?

Generally companies use your previous loss history information in underwriting or rating your policy including losses related to weather such as wind and hail. However, there are some provisions in state law which limit the use of this type of loss information in certain circumstances. For example, companies can not use the first wind/hail loss in the previous five years to underwrite or rate auto and homeowners policies but may use subsequent losses within the five-year period.

In addition, the law prohibits companies from surcharging your auto policy based upon a comprehensive loss of any kind. This restriction is specific to surcharging but does not prevent them from non renewing your account based on this information subject to the 5 year rule for wind/hail losses.

Do insurance companies use automobile no-fault losses in underwriting or rating my auto policy?

No-fault coverage on your auto policy pays for accidental injury you might sustain in your moving auto regardless of who is at fault. Some companies do count a no-fault claim payment as a loss on your account if it reaches a certain dollar threshold.

How do I go about getting a copy of my loss history report (CLUE report or A-PLUS report)?

For the CLUE report contact the vendor Choicepoint at their website at www.choicepoint.com.

If you have been declined insurance because of information contained on an A-PLUS report or for copies of the report, please use the contact information below:

1-800-709-8842—This number was established for A-PLUS customer use. The number should be reported on all declination letters to consumers when an A-PLUS member insurance company has performed searches on the A-PLUS databases and as a result made considerations not to write new or renewal insurance coverage for a consumer.

1-800-627-3487—This number was established in compliance with the FACT Act (FACTA) that became effective Dec. 1, 2004. A consumer may call this number to request a free copy of their A-PLUS auto or property loss history report. This number is also published on the Insurance Services Office website at www.iso.com.

Consumers may also contact A-PLUS to request a loss history report by writing to:

A-PLUS Consumer Service Division
545 Washington Boulevard
Jersey City, NJ 07310-1686

If I have further questions regarding the use of my loss history by an insurance company, who can I call?

You may also contact the North Dakota Insurance Department at 701-328-2440 for assistance.

Glossary of insurance terms

Actual cash value: An amount equivalent to the replacement cost of lost or damaged property at the time of the loss, less depreciation.

Adjuster: A person who investigates and settles losses for an insurance carrier.

Agency: A firm that solicits insurance for one or more insurance carriers. It also may issue policies and adjust losses.

Agent: An insurance salesperson. An agent represents the insurance company, not the consumer. A) An independent agent usually represents two or more insurers in a sales and service capacity and is paid on a commission basis. B) An exclusive agent or captive agent represents only one company, usually on a commission basis.

Application: The request for insurance, giving information about the prospective policyholder.

Arbitration: A determination made by impartial experts of the value of property or the extent of damage. Arbitration is an alternative to litigation of matters in dispute.

Assigned risk plan: The North Dakota Automobile Insurance Plan is a state-supervised insurance plan available to persons who are unable to obtain such insurance coverage in the regular market. Individual policies are assigned to carriers based on the percentage of the market they share. The cost of this insurance is higher than the regular market.

Binder: A temporary insurance contract that provides proof of coverage until you receive a permanent policy. A binder is subject to payment of a premium.

Broker: An insurance salesperson who deals with agents and companies to find insurance for consumers. A broker represents the consumer, not the insurance company.

Cancellation: A termination of a policy before its normal expiration date.

Claim: A request for reimbursement for damages on an insured loss. Your claims to your company are first-party claims. Claims made by one person against another person's company are known as third-party claims.

Collision coverage: Optional insurance that pays for damage to your car caused by collision with another car or object, or by rolling the car over. It's frequently required if you have a car loan.

Comparative fault: A method of attributing fault to each party who contributed to causing an accident.

Comprehensive physical damage coverage: Optional insurance that pays for damage to your auto caused by things other than collision or rolling the car over such as fire, theft, vandalism, flood or hail.

Conditions: Part of an insurance policy that states your obligations and those of your insurance company.

Declarations page: The page your company sends as part of the policy which shows the terms, coverage limits, premium and endorsements.

Deductible: The amount you must pay from your own pocket for each claim.

Endorsement: A written or printed form attached to the policy that alters its provisions.

Exclusions: Specific situations or circumstances listed in your policy describing when coverage does not exist.

GAP insurance: Insurance coverage that pays to the lender the difference between what you owe on your auto loan and your car's actual cash value in the event of a theft or total loss.

Insured: The person and things covered by an insurance policy.

Insurer: A company which, in exchange for a fee, called a premium, agrees to pay all legitimate claims that may arise under your policy.

Lapsed policy: A policy that has terminated at renewal for non-payment of premium.

Liability: A legally enforceable financial obligation caused by negligence.

Liability insurance: Insurance that pays when you are liable for injuries to other persons or damage to their property.

Negligence: Failure to exercise a generally acceptable level of care and caution resulting in injury or damage to a third party.

No-fault insurance: A form of insurance available in many states under which each driver in an accident files claims for losses, such as medical expenses, with their own insurance company regardless of fault. Most states do allow the individual to sue the negligent party if the amount of damages exceeds a certain stated limit. (\$2,500 in North Dakota).

Non-renewal: When an insurer terminates the contract by electing not to renew the policy at the anniversary date.

North Dakota Insurance Guaranty Fund: A fund that pays an insurer's claims when the company is insolvent. All North Dakota licensed automobile insurance companies belong to the North Dakota Guaranty Fund.

Occurrence: An event that results in an insured loss.

Policy period: The amount of time an insurance contract or policy provides coverage.

Premium: The amount you pay for insurance.

Pro rata cancellation: Revocation of a policy by an insurance company that returns to the policyholder the unearned premium. There is no reduction for expenses already paid by the insurer for that time period.

Proof of loss: Documents that you give the insurer to support your request for payment of losses. The company uses the documents to determine whether and how much it will pay. Examples include written repair estimates and police reports.

Short rate cancellation: Cancellation by the insured of an insurance policy for which the returned unearned premium is diminished by administration costs incurred when the insurance company places the policy on its books.

Unearned premium: The portion of the premium for the remaining time period that the policy will not be in force.

Underwriter: An individual in an insurance company who determines what insurance risks will be accepted and on what terms.

Uninsured motorist protection: Covers the insured and family members if injured by a hit-and-run motorist or a motorist without liability protection, if the other driver is at fault. It does not pay for physical damage to your vehicle.

Unsatisfied judgment fund: A special fund which, subject to several restrictions, pays individuals for bodily injury arising out of the use of a motor vehicle for their damages if the individual obtains a judgment against the responsible party and is unable to collect on that judgment.

Notes

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