

Consumer Legal Guide

**Your Guide to
Automobile
Insurance and
Accidents**



**ILLINOIS STATE
BAR ASSOCIATION**

WHAT TYPES OF COVERAGES ARE AVAILABLE?

Generally, automobile insurance policies provide Bodily Injury and Property Damage Liability coverage, which protects you in the event your negligent operation of a vehicle injures another person or damages another's property. For additional premiums you may also purchase coverage for Collision, Comprehensive, and Medical Payments. Collision coverage pays for damage to your vehicle caused by hitting a vehicle or an object or rolling the vehicle over. Comprehensive coverage applies to damage done to your vehicle by other occurrences, for example, damage from hail or falling tree limbs. Medical Payments coverage pays for medical bills incurred by individuals riding in your vehicle who are injured in an accident.

A minimum level of coverage for Uninsured Motorist and Underinsured Motorist is required by Illinois law to be provided by your policy, and you may choose to have higher levels of these coverages. Uninsured Motorist coverage applies when an uninsured driver causes damage to your vehicle or injures you or your passengers. Underinsured Motorist coverage applies when the driver of another vehicle has insurance but not enough to compensate you for damage to your vehicle or for injuries sustained by you or others in your vehicle.

AM I REQUIRED TO HAVE AUTOMOBILE INSURANCE?

Yes. Illinois law provides that no person shall operate, register or maintain registration of, and no owner shall permit another person to operate, register or maintain registration of, a motor vehicle designed for use on a public highway unless the motor vehicle is covered by a liability insurance policy. The limits required are no less than \$20,000 for bodily injury to or death of one person and not less than \$40,000 because of bodily injury to or death of two or more persons in any one motor vehicle accident. Further, there must be a liability coverage limit of not less than

\$15,000 for injury to or destruction of property.

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

The “Declarations” page of your policy describes 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. You should talk with your agent on at least an annual basis to make sure the coverage you have is adequate. It is generally recommended that your liability limits be 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. Keep in mind that the less liability coverage you have, the more likely it will be that your personal assets could be exposed to a judgment for money damages. Your insurance company is not obligated to satisfy the amount of any judgment over the liability limits of your policy.

Your limits for Uninsured and Underinsured Motorist coverages should be sufficient to replace or supplement your income in the event you cannot work, and it should pay you for the damages you would have collected from an at-fault driver.

An “Umbrella” policy is a type of supplemental insurance that increases normal automobile liability limits to a higher amount. Umbrella policies are typically sold in increments of one million dollars for a relatively small additional premium.

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

First, you should call the police. Illinois law requires you to notify the police if there are any injuries or if there is even a small amount of property damage. You should get informa-

tion from any other drivers involved in the accident, including names, addresses, and insurance company information. You should always have proof of insurance in your vehicle. 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 Financial and Professional Regulation, Division of Insurance web page at <http://www.ins.state.il.us/> for more information.

WHAT DOES MY INSURANCE COMPANY DO?

The Liability coverage in your policy 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 the policy limits, pay for property damage and injuries to others caused by your negligent operation of a vehicle.

As long as you comply with conditions of the policy, your insurance company will pay for the damage done to your vehicle under either the Comprehensive or Collision coverages and for the medical bills for you or others in your vehicle under the Medical Payments coverage.

The Underinsured Motorist coverage pays for injuries sustained by those in your vehicle in the event the at-fault driver does not have an adequate amount of coverage. Uninsured Motorist coverage applies when the at-fault driver has no insurance at all.

WHAT DO I TELL MY INSURANCE COMPANY AFTER AN ACCIDENT OR INCIDENT?

You must cooperate with your insurance company. Failure to cooperate may result in your insurance 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 prepared to exchange all of your rights, including the right to have a jury determine the value of your case, for the amount offered? If you have not retained a lawyer for making your claim, you may nevertheless wish to speak with a lawyer in making this 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, pain and suffering, lost wages, disability, disfigurement and emotional damages.

On the other hand, the insurance company does not compensate you for your frustration or inconvenience, telephone calls, fuel costs, the cost of bringing a suit or any lawyer's fees you may incur.

THE OTHER DRIVER'S INSURANCE COMPANY WANTS ME TO SIGN PAPER WORK 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." The Release sets forth the terms of the settlement agreement with the at-fault party and their insurance company: 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. It is very important to read the Release and to understand the terms before signing. If you don't understand what the Release says, don't sign it—contact a lawyer for help.

The effect of signing a Release is to give up any further claims against the at-fault party and their insurance company arising out of the same occurrence. With rare exception, once you sign a Release, you can never collect any additional monies from the at-fault party or their insurance company for any reason—even if, for example, you continue to incur additional medical bills.

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

First, contact your insurance company and report the accident. Cooperate with the company in every way. You will want to confirm that you have Uninsured Motorist (UM) cov-

erage and determine the limits of that coverage. If you have your own liability insurance (and every auto is required by law to have it in Illinois), then your policy will have a minimum of \$20,000 of UM coverage for bodily injury or death to one person and \$40,000 for bodily injury or death to two or more persons. If your own liability limits are higher than \$20,000/\$40,000 then 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. As to property damage, if your own policy does not provide for collision coverage for your auto, it nevertheless will provide UM coverage for your property damage up to \$15,000 or the actual cash value of your auto, whichever is less.

At this juncture, you will assert a claim against your own insurance company under your UM coverage for the damages you suffered at the hands of the uninsured driver. That means you are, to some extent, at odds with your own insurance company, which will investigate the claim and your injuries or damage. 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 your losses exceed 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 Underinsured Motorist (UIM) coverage. For example, if the claim is worth \$50,000 but the individual who caused the accident has liability insurance for only \$20,000, then your insurance company will be responsible for paying the difference of \$30,000 (\$50,000 minus \$20,000 equals \$30,000) provided, however, that your own UIM limits are \$50,000 or more. If your UIM limits are only \$20,000, then you collect nothing in this situation. By law, the

UIM limits in your policy will be equal to your UM limits if your UM limits exceed the minimum \$20,000 for one person and \$40,000 for two or more persons. In other words, your decisions on Uninsured Motorist coverage limits will generally also control the amount of your Underinsured Motorist coverage limits.

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 the claim against you proceeds to a court judgment that exceeds the amount of your liability limits, then you would have 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 and perhaps 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.

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 lawyer of your own choosing at your own expense. Most often it is not necessary for you to hire your own lawyer. However, 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 Division of Insurance directly by calling its headquarters in Springfield at 217.782.4515 or in Chicago at 312.814.2420. You can also contact the Division through its web page: <http://www.idfpr.com/DOI/Complaints/Complaints.asp>.

The Division of Insurance will ask you to complete a form (available online) stating the nature of your complaint. When the Division receives your form, it will send you a postcard confirming receipt. Then, within four to six weeks, the Division will send you a letter to let you know whether or not it has been successful in resolving the dispute. The Division's addresses are:

Illinois Division of Insurance
320 West Washington Street
Springfield, Illinois 62767-0001.

Or

Illinois Division of Insurance
100 West Randolph Street, Suite 9-301
Chicago, Illinois 60601-3395.

Second, learn your rights by speaking with a lawyer. The lawyer may 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 \$15. Hours of operation are Monday through Friday, 9:00 a.m. to 2:00 p.m. Call toll-free 800-922-8757 or visit www.illinoislawyerfinder.com.

MORE INFORMATION

The Illinois Division of Insurance website provides additional information on the following issues at <http://www.idfpr.com/DOI/AutoInsurance/AutoInsurance.asp>

- Auto Insurance Shopping Guide
- Who needs automobile insurance
- Helpful tips when shopping for insurance
- Required auto insurance coverages
- Other coverages that may be required
- Optional coverages for additional premium
- Factors that may affect the premium
- Discounts that may be available
- Ways to lower your insurance costs
- Getting rate quotes
- If you can't find auto insurance
- Insurance complaint ratios
- Credit Information - how insurers use
- Definitions of insurance terms
- Teen drivers
- If your automobile insurance is cancelled
- If your automobile insurance is non-renewed
- Filing an auto claim with your insurance company
- Total loss auto claims with your insurance company

- Filing an auto claim with another driver's insurance company
- Driving in Mexico
- If you can't find auto insurance (Illinois Automobile Insurance Plan)

If you're looking for an Illinois lawyer, look to **IllinoisLawyerFinder.com**



IllinoisLawyerFinder.com is the Illinois State Bar Association's statewide lawyer directory on the Web. Search for lawyers by practice area, name, county or town.

Find a lawyer near you 24/7 on the Web at **IllinoisLawyerFinder.com** or call us from around the state at **217-525-5297** or **800-922-8757** Monday through Friday from 9:00 a.m. to 4:00 p.m.



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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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