MEMORANDUM

July 29, 2019

To: Insurers, insurance producers, and adjusters transacting auto insurance in Oregon

From: Department of Consumer and Business Services, Division of Financial Regulation

Subject: Timely consumer disclosures regarding vehicle total loss

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Introduction

The Department of Consumer and Business Services, Division of Financial Regulation (DFR) is issuing this memorandum to remind auto insurers of their responsibility to provide required disclosures[1] regarding a vehicle total loss in a timely manner.

Background

ORS 742.554 states that:

> When an insurer declares a motor vehicle a total loss and offers to make a cash settlement to an insured or third-party owner of the motor vehicle, the insurer shall provide the insured or third-party owner:
>
> (1) Any valuation or appraisal reports relied upon by the insurer to determine value; and
>
> (2) A written statement in a form provided by the Director of the Department of Consumer and Business Services that includes:
>
> (a) Information about total loss, vehicle valuation and the duties of the insurer; and

[1] The total loss disclosure required under OAR 836-080-0240 can be found on the DFR website: https://dfr.oregon.gov/laws-rules/Documents/OAR/div80-0240_ex1.pdf.

(b) The manner in which and under what circumstances the insured may contact the Division of Financial Regulation of the Department of Consumer and Business Services.

The purpose of the statute is to provide transparency and give consumers the necessary tools to make informed decisions when faced with a vehicle total loss. Giving notice in a timely manner is an important element of the requirement. DFR has encountered instances where insurers failed to make the required disclosures until after the settlement offer. Such practices inhibit consumer choice and violate the insurance code.

Guidance to Insurers

ORS 742.554 requires that total loss disclosures be provided at the time “an insurer declares a motor vehicle a total loss and offers to make a cash settlement.” This means that when a settlement offer:

- Is made in writing, the disclosure must be provided simultaneously.
- Is communicated to the consumer orally, the disclosure must be provided in writing and mailed or delivered electronically within one business day.

Delaying the disclosure until after the settlement offer is a violation of 742.554 and may result in an enforcement action and civil penalties.