



# Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

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## BULLETIN 2013-1

TO: All Property and Casualty Insurance Companies Authorized to Write Business In Kansas

FROM: Sandy Praeger  
Commissioner of Insurance

DATE: November 20, 2013

RE: K.A.R. 40-1-34 - Compensation for Sales Taxes and Fees in Motor vehicle Total Loss Settlements

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The Kansas Insurance Department has recently received complaints from motor vehicle owners that companies are refusing to compensate for sales taxes and fees in settlements for total loss of motor vehicles. In response, the Department surveyed a number of companies and confirmed that the requirement that owners be compensated for sales taxes and fees was not uniformly followed. This Bulletin is issued to remind companies of their obligation to include sales taxes and fees in all settlements for motor vehicle total loss claims and to explain how settlements should be calculated.

When an insurer declares a motor vehicle to be a total loss, K.A.R. 40-1-34 requires the insurer to: (1) offer the owner a comparable replacement motor vehicle, “with all applicable taxes, license fees and other fees incident to transfer of evidence of ownership . . . .” or (2) pay the owner a cash settlement equal to the actual cost required to purchase a comparable motor vehicle “including all applicable taxes, license fees and other fees incident to transfer of evidence of ownership . . . .”

Therefore, when the insurer opts to settle a motor vehicle total loss claim by issuing the owner a cash settlement, the insurer must pay the owner the actual cash value of a comparable motor vehicle plus an amount equal to all state and local sales taxes that would be required to purchase a comparable motor vehicle plus an amount equal to all fees that would be incurred to title and register a comparable motor vehicle. The insurer must compensate for fees and sales taxes whether the company takes title to the totaled motor vehicle or the owner retains title to the totaled motor vehicle. Likewise, the insurer must compensate for fees and sales taxes whether the owner purchases and registers another motor vehicle or not.

The compensation for sales taxes must be calculated by multiplying the actual cash value of a comparable motor vehicle before the loss by the state and local sales tax rates imposed by law in effect in the locale where the motor vehicle was principally garaged on the date of loss. The compensation for fees must be based on the amount required by law to title and register a comparable motor vehicle on the date of the loss.

From the sum of the actual cash value of the motor vehicle and the amount required to compensate the owner for fees and sales taxes, the company shall subtract any applicable policy deductible and/or the salvage value of a totaled motor vehicle retained by the owner.

Questions should be directed to the Consumer Assistance Division, Kansas Insurance Department, 420 SW 9th Street, Topeka, Kansas 66612, by phone at 785-296-3071, or via email at [commissioner@ksinsurance.org](mailto:commissioner@ksinsurance.org).