



MATTHIESEN, WICKERT & LEHRER, S.C.  
Hartford, WI ❖ New Orleans, LA ❖ Orange County, CA  
❖ Austin, TX ❖ Jacksonville, FL ❖ Boston, MA  
Phone: (800) 637-9176  
[gwickert@mw-law.com](mailto:gwickert@mw-law.com)  
[www.mw-law.com](http://www.mw-law.com)

## AUTOMOBILE FIRST-PARTY TOTAL LOSS AND SALVAGE TITLE LAWS IN ALL 50 STATES

When and whether a vehicle involved in a collision is considered “totaled” or a “total loss” for *first-party insurance claim purposes* or for purposes of *handling salvage and branding titles of vehicles which are considered “salvage”* are two different but related concepts and practices within the insurance industry which are often conflated. This can cause a great deal of angst and confusion for consumers and even many insurance professionals. Lawyers who do not practice in this area can also become lost navigating the maze of rules and regulations regarding the act of “totaling” a vehicle and the resulting responsibilities and ramifications with regard to salvage. However, it doesn’t need to be that complicated. A “total loss” is a function of the insurance policy and the particular insurance company’s practices regarding when to pay a total loss as opposed to paying for repairs to a damaged vehicle. A total loss is not instantly considered salvage.

Every state has their own title-branding laws and requirements and some of them leave it up the insurance company. In most states the law defines damage thresholds as a function of requirements for salvage title laws only. In other words, the state may require a salvage title if damage exceeds a certain threshold, however carriers can declare a total loss at any at any level of damage. In other words, the total threshold laws do not bind insurance companies adjusting auto property loss claims. For example, in a state with a 80% salvage title threshold, a vehicle’s repairs may be at 75% of market value, but the carrier, after taking salvage value into consideration, finds that the repair is not economically feasible and declares the vehicle to be a total loss. In such an instance, the vehicle could go to the salvage auction as a total loss, yet it would retain a clean title under state law, as it remains below the salvage title threshold.

### *First-Party Total Loss Claims*

In insurance parlance, the phrase “Total Loss” in a first-party claim setting simply means that the cost of repairing a vehicle, plus projected supplements, projected diminished resale value, and projected rental costs, exceeds the Actual Cash Value (ACV) of the pre-accident vehicle less the projected proceeds of selling the damaged vehicle for salvage. This is known as an “*Economic Total Loss*.” If the vehicle is badly damaged and beyond repair, it is known as a “*Constructive Total Loss*.” To determine the ACV of a vehicle, it is compared to similar vehicles being sold in the area, private databases such as Kelley Blue Book are referenced, or an appraiser is used. To that amount the insurance company sometimes adds sales tax, title, and registration fees. Insurance companies sometimes have their own formulas for determining when to “total” a vehicle. Some do so if a vehicle’s repairs are found to be at 51% of the vehicle’s value, and others use a figure as high as 80%. Much depends on the language of the insurance policy involved. For example, typical language found in an auto insurance policy under *Part D – Coverage For Damage To Your Auto*, might read as follows:

*Our limit of liability for loss will be the lesser of the:*

1. Actual cash value of the stolen or damaged property;
2. Amount necessary to repair or replace the property with other of like kind and quality; or
3. Amount stated in the Declarations of this policy.

Another example of policy language regarding total losses is as follows:

*We will pay the cost to physically repair the auto or any of its parts up to the actual cash value of the auto or any of its parts at the time of the collision. The most we will pay will be either the actual cash value of the auto or the cost to physically repair the auto, whichever is less. We will, at our option, repair the auto, repair or replace any of its parts, or declare the auto a total loss. If, the repair of a damaged part will impair the operational safety of the auto, we will replace the part.*

Therefore, the policy language of a typical policy will usually allow the insurer to consider a vehicle to be a “total loss” if:

1. The damage to the vehicle is so severe that it can’t be repaired safely;
2. The repairs will exceed the value of the vehicle itself, or
3. The amount of damage is so severe that state regulations require the vehicle to be declared a total loss.

The insurance company will then pay to its insured the ACV of the vehicle, plus applicable state fees and taxes, if provided for in the policy language, less any deductible owed. (Note: A chart entitled “*Recovery of Sales Tax After Vehicle Total Loss In All 50 States*” can be found [HERE](#).) The policy language usually dictates what is owed. If the vehicle is owned free and clear, the payment is made to the insured. If the vehicle is leased, the leasing company is usually paid. If the vehicle is financed and the lender is listed on the policy or on the title, the financing company is usually paid first. If the settlement exceeds the balance of the loan, the insured receives the balance. If the settlement is less than what is owed, the insured will be responsible for paying the rest of the loan balance. In those situations, the availability of “gap insurance” comes into play. Gap insurance is an optional car insurance coverage that helps pay off your auto loan if your car is totaled or stolen and you owe more than the car’s depreciated value. Gap insurance is also known as “loan/lease gap coverage.” It covers the owner if he or she is the original borrower or leaseholder on a new vehicle. Gap insurance helps pay the gap between the depreciated value of the vehicle and what the owner still owes on the car.

Typically, cars are “totaled” when the cost to repair the vehicle is higher than the ACV of the vehicle. However, it is not always practical to repair a vehicle, even if the cost of repair is less than its ACV. A vehicle worth \$4,000 requiring \$3,000 in repairs might be considered “totaled” by an insurer even though the cost of repair is less than its value before the accident. Insurance companies will typically consider such a vehicle to be a total loss, even though the repairs are only 75% of ACV or pre-damage value, or if the vehicle is stolen and not recovered. The damage threshold varies from company to company. An insurer will usually take possession of a totaled vehicle and obtain its title. If the owner is okay with the carrier totaling the vehicle but still wants to keep the vehicle, the carrier will pay its insured the ACV of the vehicle, minus any deductible that is due and the amount the vehicle could have been sold for at a salvage yard. It then will be up to the insured to make repairs and take care of any title issues.

### ***Total Loss Thresholds, Vehicle Title Branding, and Resale of Salvage Vehicles***

A “total loss” is a function of the insurance policy and an insurance company’s practices regarding when they declare a vehicle a total loss as opposed to paying to repair it, as a matter of policy. A “total loss” is not automatically considered salvage. Every state has its own title-branding laws and requirements, and some states leave that decision to the insurance company. The issue of “total loss” of a vehicle discussed above goes hand-in-hand with a state’s salvage/vehicle title branding laws and the two concepts are often conflated. When a vehicle is declared a total loss, the insurance company usually takes ownership of the vehicle. The title is transferred into the insurance company’s name, and it then sells the vehicle to a salvage dealer, who in turn sells it to an auto parts yard or a recycler. On occasion, the insured may want to keep the salvage vehicle for sentimental or financial reasons. In that case, the insurance company pays its insured the ACV less

the deductible and salvage value of the vehicle. Some states have salvage laws which prevent an insured from keeping a total loss vehicle. If the insured keeps the salvage vehicle, it should not be removed from the insurance policy until a rental vehicle is no longer being used and the vehicle is no longer registered in the insured's name. Many "totaled" vehicles are repaired and sold to the public after they are "totaled." Insurance companies are required to declare a car totaled and apply for a *salvage title* once damage reaches a certain point under a state's law.

Salvage laws help the public know what it is paying for when it buys a salvaged vehicle. The definition of a "salvage vehicle" differs from state to state. Generally, however, a salvage vehicle is one that has been in some sort of accident or had damage occur and has been declared a total loss due to that damage at some point in its history. It could also be as simple as a vehicle which was stolen and not recovered in a specified period of time. Often, it's not clear who has to declare the vehicle a total loss (the insurance company or the state, as in Minnesota, which has a "total loss" definition). Therefore, what qualifies as a salvage vehicle varies from state to state, but often overlaps with a "total loss" label from either the state or an insurer.

Depending on the type and extent of damage, the salvage buyers will occasionally have these cars repaired and will then attempt to sell them as a running vehicle. When insurance companies write off a vehicle as a "total loss", the law in most states requires the vehicle's title of ownership to be given a "brand." That brand permanently marks the car as damaged goods to all potential future owners, but there are ways for unscrupulous dealers to make the brand disappear. In the old days, it was literally done with chemicals. Today, photo-editing software and digital scanners are used to print new titles. There are no national titling laws. Cars can also simply be re-registered in different states until the brand falls away. According to the vehicle history provider *CarFax*, 800,000 cars in the U.S. — including at least 500 taxis — have been "title washed" to conceal their troubled histories.

Whether or not a vehicle is required to have a "salvage title" issued varies from state to state. In a small number of states, a salvage title is required if a vehicle is stolen and not recovered within 21 days. Arizona, Florida, Georgia, Illinois, Maryland, Minnesota, New Jersey, New Mexico, New York, Oklahoma, and Oregon use salvage titles to identify stolen vehicles. Not all total loss vehicles result in a DMV-reported branded title, however. For example, there will be no branded title if an insurance company's definition of "total loss" is different from that of the DMV's threshold requirement for a branded title, or when the owner of the vehicle is a self-insured company, such as a fleet or a rental car company.

Salvage vehicles which are repaired and the "salvage title" is removed or replaced with a "rebuilt salvage" brand so that a buyer knows that the vehicle has been purchased as salvage, repaired, passed an inspection, and has been deemed as safe to drive. The salvage information contained in the chart below is directly from the American Association of Motor Vehicle Administrators' website and is subject to change. While the procedure varies slightly from state to state, the insurance company will typically take ownership of the totaled vehicle (known as "salvage") and may obtain a "salvage title" for the vehicle. After it pays it's insured the pre-loss ACV of the vehicle and forwards the certificate of ownership, license plates, and a required fee to the Department of Motor Vehicle (DMV), the DMV then issues a *Salvage Certificate* for the vehicle. In some cases, the vehicle is repaired, re-registered with the DMV, and then classified as a "revived salvage" or "salvaged" vehicle. Of course, if the insured wants to keep the "totaled" vehicle, the insurance company will deduct the value of the salvage from the claim payment. The detailed laws and regulations regarding whether a vehicle is considered a total loss and what sort of branding or titling requirements follow, are in place in order to avoid fraud which often occurs when total loss vehicles do not get classified as salvage by insurers and other sellers or are not appropriately branded, and are not properly and swiftly reported into the appropriate state and federal databases by those entities, such as auto auctions that are handling the vehicles prior to their being offered for resale. Unscrupulous buyers of salvage vehicles often take advantage of an undocumented damage status to then offer these cars for resale to an unsuspecting public, including instances of title-skipping, where the seller - which in many cases is a major insurance company or salvage auction company, but also can include Internet focused "junk-my-car" solicitation companies, tow-to-acquire companies, charity organizations, and other companies that buy used and salvage vehicles from the public for resale – engages in a practice of title skipping to hide its part in the chain of ownership of the total loss vehicle.

In some states, such as Florida, if the vehicle's repair costs exceed 80% of its pre-accident ACV, it is considered a salvage vehicle. In other states, such as Minnesota, the vehicle becomes a salvage vehicle when the insurance company declares it to be a "total loss" and the vehicle is worth at least \$5,000 and is less than six -years-old. This means that in some states, a vehicle worth less than \$5,000 or older than six years cannot be deemed salvage, making those who buy vehicles which fit this description open to fraud and unsafe vehicles. In most states, vehicles which carry a salvage title may not be registered and driven on public roads. In order to resell the vehicle and operate it on the public roadways, the title must be "rebranded" with a "rebuilt salvage" brand.

The National Motor Vehicle Title Information System (NMVTIS) is a system that allows the titling agency to instantly and reliably verify the information on the paper title with the electronic data from the state that issued the title. NMVTIS is designed to protect consumers from fraud and unsafe vehicles and to keep stolen vehicles from being resold. Insurance carriers are required to provide NMVTIS with information on every salvage vehicle obtained, including total loss vehicles. The Department of Justice recognizes that many state laws have differing requirements and definitions of terms such as "salvage." The NMVTIS requirements do not alter these state laws and the state laws do not prevail over federal definitions and requirements. However, as stated in the NMVTIS regulations, a determination of total loss under a state law will trigger the requirement for an insurance company to report a total loss vehicle. The information reported to NMVTIS is not required to be used by any future state that titles a vehicle included in an insurance carrier report.

### ***Total Loss Threshold (TLT)***

A Total Loss Threshold (TLT) is the dollar amount or percentage of value that triggers an automobile's being declared a "total loss" by the insurance company. In determining whether a vehicle is subject to a state's salvage title laws, insurance companies will calculate the *Total Loss Ratio* (cost of repairs/actual cash value) and then compare the resulting ratio/percentage to limits set and/or established by state law. The *Total Loss Ratio* is also sometimes referred to simply as the *damage ratio*. Some states have pre-determined percentages which dictate by law how high this damage ratio needs to be in order to be able to declare a vehicle a "total loss" and be eligible for a salvage title or certificate. This is referred to as the *Total Loss Threshold* (TLT). In order to total a vehicle, the damage ratio must exceed the state-established TLT percentage. States frequently dictate this TLT as part of legislating salvage titles and it varies from state to state. A car with damage totaling 75% of its value is totaled in New York, but considered repairable in Texas, where the threshold is 100%. As an example, in Wisconsin, § 342.065(1)(c) reads as follows:

*(c) If the interest of an owner in a vehicle that is titled in this state is not transferred upon payment of an insurance claim that, including any deductible amounts, exceeds 70% of the fair market value of the vehicle, any insurer of the vehicle shall, within 30 days of payment of the insurance claim, notify the department in writing of the claim payment and that the vehicle meets the statutory definition of a salvage vehicle, in the manner and form prescribed by the department.*

In addition, Wis. Stat. § 340.01(55g) provides the definition of a salvage vehicle: "Salvage vehicle" means a vehicle less than seven-years-old that is not precluded from subsequent registration and titling and that is damaged by collision or other occurrence to the extent that the estimate or actual cost, whichever is greater, of repairing the vehicle exceeds 70% of its fair market value." Many states have exceptions to these rules for older vehicles which tend to complicate the issue.

When state law does not dictate a TLT, an insurance company must determine internally when a vehicle becomes a total loss. This means that the insurance company applies a Total Loss Formula (TLF), which is usually set forth in the policy and sometimes governed by state law. It should also be noted that in some TLT states, rental costs are also considered in determining whether a vehicle is a constructive total loss.

### ***Total Loss Formula (TLF)***

When a TLT is not dictated by the state, an insurance company might apply its own internal TLT or percentage, or simply default to something known as the *Total Loss Formula* (TLF). However, this internal TLF cannot be less than the TLT determined by state law. This TLF can be summarized or expressed as follows:

***Cost of Repair + Salvage Value > Actual Cash Value.***

The vehicle is a total loss when the ACV is equal to or less than the cost of repairs plus the salvage value. If the sum of the first two quantities is greater than the ACV, the car can be declared a total loss. As an example, a damaged 2002 Toyota Echo with 185,000 miles in good condition has an ACV of approximately \$2,800. Total repair costs are estimated at \$2,000, for a damage ratio of 72%. This car would be considered a total loss in Arkansas, where the TLT is 70%, but not in Florida where the TLT is 80%. In Illinois, the TLF would be used and, if the salvage were worth \$700, the car would not be totaled (\$2,000 + \$700 < \$2,800). Of course, states utilizing the TLF rely on and defer to the judgment and opinions of licensed appraisers. In determining ACV, insurers often use data unavailable to the consumer. This information is often obtained through subscription to a private database of car values - the largest provider being CCC Information Services, used by the top 50 insurers across the country.

***50-State Chart***

The preceding introduction and the following chart will hopefully help remove some of the confusion over when a car is considered “totaled” in a first-party insurance claim and when it is rendered a “salvage vehicle” for which certain duties arise under state law. However, if there are questions, claims professionals should refer to their company rules and procedures, applicable insurance policy language, and even legal counsel before making a decision to total a vehicle. This chart is for informational purposes only and should not be construed as legal advice.

**Please note that this chart concerns itself with state laws dealing with first-party insurance claims involving total losses as well as when a salvage title or other branding is required by state motor vehicle title laws. The chart has nothing to do with the tort damages owed by a third-party tortfeasor whose negligence caused the collision to the vehicle owner.**

STATE	SALVAGE / TOTAL LOSS RULE	STATUTORY AUTHORITY	COMMENTS
ALABAMA	Total Loss Threshold (75%) For both first-party insurance claim and salvage vehicles. A salvage, also known as total loss, vehicle is when a total loss occurs and an insurance company pays a claim for a vehicle that is damaged more than 75% of FMV.	Ala. Stat. § 32-8-87(d) Ala. Admin. Code § 482-1-125-.08	A salvage vehicle (total loss) occurs when an insurance company or any other person pays or makes other monetary settlement to a person when a vehicle is damaged and the damage to the vehicle is greater than or equal to 75% of the fair market value of the vehicle prior to the damage. Vehicle is “salvage” when (1) frame or engine removed and not immediately replaced, or (2) when insurer has paid a total loss on vehicle. Insurer buys the vehicle from insured for the FMV of the salvage and then applies to the state for salvage title.

STATE	SALVAGE / TOTAL LOSS RULE	STATUTORY AUTHORITY	COMMENTS
ALASKA	<p>Total Loss Formula (TLF)</p> <p>A vehicle is a total loss when the ACV is equal to or less than the cost of repairs plus the salvage value.</p>	<p>Duty of insurance company obtaining title to unrepairable vehicle.</p> <p>Alaska Admin. Code tit. 2, § 92.170.</p>	<p>The cost of repairing damage to the vehicle exceeds vehicle's worth or insured value. No statutory definition of "salvage vehicle." Vehicle is "wrecked vehicle" when so disabled that can't be used for primary function without substantial repair or reconstruction. Insurance company which "totals" vehicle must mark the word "junk" on the title and surrender the title to the state. This is true for either an "actual total loss" or a "constructive total loss."</p>
ARIZONA	<p>Total Loss Formula (TLF)</p> <p>A vehicle is a total loss when the vehicle's ACV is equal to or less than the cost of repairs plus the salvage value.</p>	<p>A.R.S. § 28-2091(T)(4)</p>	<p>The insurer determines if it is uneconomical to repair vehicle. It then is a salvage vehicle.</p>
ARKANSAS	<p>Total Loss Threshold (70%)</p> <p>A vehicle is a total loss when the cost of repairs plus the salvage value is at least 70% of the vehicle's actual cash value.</p>	<p>A.C.A. § 27-14-2301(6)(B)</p>	<p>Damage to vehicle greater than 70% of fair retail value prior to damage or vehicle is water damaged.</p>

STATE	SALVAGE / TOTAL LOSS RULE	STATUTORY AUTHORITY	COMMENTS
CALIFORNIA	<p>Total Loss Formula (TLF)</p> <p>A vehicle is a total loss when the vehicle's ACV is equal to or less than the cost of repairs plus the salvage value.</p> <p>If the insurance company declares the vehicle a total loss, DMV can issue a Salvage Certificate.</p>	<p><i>Martinez v. Enter. Rent-A-Car Co.</i>, 13 Cal. Rptr.3d 857 (Cal. App. 2004).</p> <p>Cal. Veh. Code § 544. Cal. Veh. Code § 11515</p>	<p>A vehicle is a total loss where the cost of repair exceeds the vehicle value prior to the repair of the vehicle.</p> <p>"Total Loss" means either of the following:</p> <p>(a) A vehicle, other than a non-repairable vehicle, that has been damaged to the extent the insurance company considers it <u>uneconomical to repair</u>, and is not repaired; or</p> <p>(b) A vehicle determined to be uneconomical to repair, for which a total loss payment has been made by an insurer, whether or not the vehicle is subsequently repaired, if prior to or upon making the payment, the insurer obtains the agreement of the claimant to the amount of the total loss settlement, and informs the client that, pursuant to subdivision (a) or (b) of § 11515, the total loss settlement must be reported to the DMV, which will issue a salvage certificate for the vehicle.</p> <p>California defines a salvaged vehicle as one that has been either totally destroyed or damaged beyond what the insurance company is willing to pay to fix it, so the owner never gets the vehicle repaired. Depending on its condition, one of several things may happen to the car.</p> <p>The first of these is that the title is exchanged for a Salvage Certificate issued by the DMV.</p>
COLORADO	<p>Total Loss Threshold (100%) (repairs exceed retail FMV)</p>	<p>C.R.S. § 42-6-102 (17)(C)</p>	<p>The cost of repairing vehicle exceeds retail fair market value. Retail value is determined by sources accepted by the insurance industry, which is usually when cost of repair exceeds market value. Section 42-6-102 defines a "salvage vehicle" when repairs exceed retail FMV (functionally a 100% threshold).</p>
CONNECTICUT	<p>Total Loss Formula (TLF)</p>	<p>C.G.S.A. § 38a-353</p>	<p>Insurer must use NADA average and one additional approved source and constructive total loss is when cost to repair or salvage damage equals or exceeds the total value. Once declared "total loss" by insurer it is a "salvage vehicle."</p>
DELAWARE	<p>Total Loss Formula (TLF)</p>	<p>21 Del. C. § 2512</p>	<p>The insurer determines if vehicle is a total loss. It is then transferred as "salvage vehicle."</p>



STATE	SALVAGE / TOTAL LOSS RULE	STATUTORY AUTHORITY	COMMENTS
DISTRICT OF COLUMBIA	Total Loss Threshold (75%)	D.C. Code § 50-1331.01(12)(A)	Damage to vehicle exceeds 75% of retail value prior to the damage. No salvage law in D.C.
FLORIDA	<p>Total Loss in Florida involves when and under what circumstances a salvage title is required. “Salvage” means a motor vehicle or mobile home which is a <i>total loss</i>. A vehicle is a total loss when:</p> <p><u>Insured Vehicle</u>: When carrier pays the owner to replace the vehicle with one of like kind or when it makes payment upon theft of vehicle.</p> <p><u>Uninsured Vehicle</u>: When the cost, at the time of loss, of repairing or rebuilding the vehicle is <u>80%</u> or more of the cost of replacing the damaged motor vehicle with one of like kind.</p>	<p>F.S.A. § 319.30(1)(t)</p> <p>F.S.A. § 319.30(3)(a)(1)(a)(b)</p>	<p>However, the carrier can declare the vehicle a total loss depending on whether they believe settling for total loss requires less money than the cost of repair. It is a business decision. If insured and insurer agree to repair, rather than replace, vehicle is not total loss. However, if actual cost to repair exceeds 100% of replacement cost, vehicle must be branded “Total Loss Vehicle.” Therefore, the vehicle can be repaired up to 100% of ACV before branding of title is required by statute. The “80%” simply means that if the cost to repair a damaged vehicle is 80% of its value or more, then if the vehicle is declared a total loss by the insurance company, that the salvage title returned on the salvage will be a “Certificate of Destruction” in the insurer’s name and not eligible to be rebuilt. Section 319.30 (1) sets 80% for “total loss” when uninsured and (2) requires a Certificate of Destruction at ≥90% for certain late-model vehicles ≥\$7,500.</p> <p>Insurance company does not have to “total” a vehicle if the costs of the repairs exceed 80% of ACV. The statute doesn’t require it, but most companies used it as a rule of thumb.</p>
GEORGIA	<p>Total Loss Formula (TLF)</p> <p>When a car is totaled according to § 40-3-2, the insurance company must pay the vehicle’s pre-loss ACV.</p>	Ga. Code Ann. § 40-3-2 (11)	A vehicle is damaged to the extent that its restoration to an operable condition requires replacing two or more major component parts. This does not include any motor vehicle for which a total loss claim has been paid by an insurance company, which vehicle has sustained only cosmetic damage from causes other than fire or flood.
HAWAII	Total Loss Formula (TLF)	Haw. Rev. Stat. § 286-48	Insurer determines if a vehicle is repairable or whether it is a total loss, and must have material damage to vehicle’s frame, unitized structure, or suspension system, and cost of repairing damage exceeds market value.
IDAHO	Total Loss Formula (TLF)	Idaho Code § 49-123(2)(o)	Cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild.



STATE	SALVAGE / TOTAL LOSS RULE	STATUTORY AUTHORITY	COMMENTS
ILLINOIS	Total Loss Formula (TLF)	625 I.L.C.S. § 5/3-117.1(b)	Insurer determines when vehicle is salvage/total loss. Total loss payment by carrier automatically makes vehicle salvage and makes insurer owner of vehicle; unless damage is from hail damage or a vehicle that is nine model years or older. In that event if the insurer and insured agree, insured can retain the vehicle. Vehicle is “salvage” when insurer makes total loss payment.
INDIANA	Total Loss Threshold (70%)	I.C. § 9-22-3-3	The cost to repair vehicle is greater than 70% of fair market value prior to damage or the insurer determines it is impractical to repair and makes total loss payment.
IOWA	Total Loss Threshold (70%)	I.C.A. § 321.52(4)(e)	Iowa used to define a salvage vehicle as one for which the cost of repair exceeds 50% of the FMV of the vehicle. But Iowa repair shops were losing money because of vehicles being totaled. As of 2021 and Senate File 230, Iowa now defines a “wrecked or salvage vehicle” as one “for which the cost of repair exceeds 70% of the fair market value of the vehicle.” Damage disclosure requirements kick in at 70%. If cost to repair vehicle is greater than 70% of ACV then the vehicle must have a damage disclosure on the title and it becomes “wrecked or salvage vehicle.” Practically speaking, salvage titles go hand-in-hand with the declaration of a total loss. Iowa law is silent with regard to a threshold at which a carrier must consider a vehicle a total loss. It is up to each carrier to determine at what point they will consider a vehicle to be a total loss.
KANSAS	Total Loss Threshold (75%)	K.S.A. § 8-197(b)(2)(B)	Cost to repair vehicle is 75% more than the fair market value at the time immediately before it was wrecked.
KENTUCKY	Total Loss Threshold (75%)	K.R.S. § 186A.520(1)(a)	Cost of parts and labor to rebuild vehicle to pre-accident condition exceeds 75% as set forth in NADA price guide.
LOUISIANA	Total Loss Threshold (75%)	La. R.S. § 32:702(13)	Damage equivalent to 75% or more of the market value as determined by NADA.
MAINE	Total Loss Formula (TLF)	29-A M.R.S. § 602(19)	Vehicle is “salvage” when insurer declares it a total loss or salvage title is issued. Owner transfers vehicle to insurer due to damage or owner determines it has no marketable value.

STATE	SALVAGE / TOTAL LOSS RULE	STATUTORY AUTHORITY	COMMENTS
MARYLAND	Total Loss Threshold (75%)	Md. Code, Transportation § 11-152 (a)(1)	Cost to repair vehicle exceeds 75% of the fair market value.
MASSACHUSETTS	Total Loss Formula (TLF)	M.G.L.A. 90D § 1	Insurer determines if it is uneconomical to repair the vehicle and the vehicle is not repaired.
MICHIGAN	Total Loss Threshold (75%)	M.C.L.A. §257.217c(2)(b)(i)	If the cost of repair, including parts and labor, is between 75% and 91% of the actual cash value, then a salvage title is given. It then is a “distressed vehicle.”
MINNESOTA	Total Loss Threshold (80%)*	M.S.A. § 168A.151(b)(c)(3)	*Damage to late model vehicle (newer than six-years-old) or high value vehicle (over \$5,000) exceeds 80% of its actual cash value.
MISSISSIPPI	Total Loss Formula (TLF)	M.C.A. § 63-21-33	Vehicle cannot be more than ten-years-old, have a value of less than \$1,500, or damage that requires replacement of five or few minor components. Also, applies to vehicle which requires replacement of more than five minor component parts according to insurer.
MISSOURI	Total Loss Threshold (80%)	Mo. Rev. Stat. § 301.010(51)(a)	Vehicle less than six-years-old and damaged exceeds 80% of the fair market value.
MONTANA	Total Loss Formula (TLF)	Mont. Code Ann. § 61-3-211	The insurer determines if the vehicle is a total loss. It is “salvage vehicle” if insurer decides it is uneconomical to repair, considering parts and labor.
NEBRASKA	Total Loss Threshold (75%)	Neb. Rev. Stat. § 60-171(7)(a)	“Salvage” means: (1) Late model vehicle damage exceeds 75% of the retail value at the time it was wrecked, damaged, or destroyed. “Late model vehicle” means a vehicle which has (a) a manufacturer’s model year designation of, or later than, the year in which the vehicle was wrecked, damaged, or destroyed, or any of the six preceding years; or (2) Voluntary designation by the owner by obtaining a salvage branded certificate of title, without regard to the damage to, age of, or value of the vehicle.
NEVADA	Total Loss Threshold (65%)	N.R.S. § 487.790(1)(b)	Vehicle damage exceeds 65% of the fair market value.
NEW HAMPSHIRE	Total Loss Threshold (75%)	N.H. Rev. Stat. Ann. § 261:22(VI)(b)	Cost for vehicle repair is 75% or more of its fair market value prior to being damaged.

STATE	SALVAGE / TOTAL LOSS RULE	STATUTORY AUTHORITY	COMMENTS
NEW JERSEY	Total Loss Formula (TLF)	N.J.S.A. § 13:21-22.3	Insurer determines if it is “economically impractical” to repair vehicle or cost of repairs is higher than the market value of the vehicle.
NEW MEXICO	Total Loss Formula (TLF)	N.M.S.A. § 66-1-4.16(C)	Insurer determines if it is uneconomical to repair vehicle.
NEW YORK	Total Loss Threshold (75%)	15 NYCRR § 20.20(c)(ii)	Cost for repair of vehicle made in 1973 or older is 75% or more of retail value prior to being damaged by a nationally recognized compilation of retail values.
NORTH CAROLINA	Total Loss Threshold (75%)	N.C.G.S.A. § 20-71.3(d)	The cost for vehicle repair is 75% or more of its fair market value prior to being damaged. Any vehicle totaled by insurance company must have title and registration card marked, “Total Loss Claim.”
NORTH DAKOTA	Total Loss Threshold (75%)	N.D.C.C. § 39-05-20.2 11 N.C. Admin. Code 4.0418	Vehicle damage exceeds 75% of retail value of vehicle determined by NADA. Glass and hail damage are excluded.
OHIO	Total Loss Formula (TLF)	Ohio Rev. Code Ann. § 4505.11(C)(1)	Insurer determines if it is economically impractical to repair vehicle.
OKLAHOMA	Total Loss Threshold (60%)	47 Okla. Stat. Ann. § 1111(C)(1)	Cost to repair damage to vehicle exceeds 60% of fair market value.
OREGON	Total Loss Threshold (80%)	O.R.S. § 801.527(3)	Damage to vehicle is equal to or more than 80% of retail market value.
PENNSYLVANIA	Total Loss Formula (TLF)	75 Pa. Cons. Stat. Ann. § 102	The extent of repairs to the vehicle would exceed the value of the repaired vehicle. Doesn’t include antique or classic cars.
RHODE ISLAND	Total Loss Threshold (80%)  (consumers may elect a total loss between 75% and 80% with written consent)	230 R.I. Code § 27-9.1-4 (Unfair Claims Practices)  R.I.G.L. § 31-46-1.1 (Salvage Vehicle Statute)	Insurer may not “total” vehicle if the cost to rebuild or reconstruct the motor vehicle to pre-accident condition is less than 80% of pre-accident FMV, unless the owner provides written agreement to the contrary.  It is the responsibility of insurance companies to evaluate and classify salvage. There are two (2) classifications of salvage vehicles: Classification A indicates the vehicle has extensive damage and is good for “parts only.” Classification B indicates the vehicle has considerable damage but is considered repairable. It will be the responsibility of insurance companies to evaluate and classify salvage.

STATE	SALVAGE / TOTAL LOSS RULE	STATUTORY AUTHORITY	COMMENTS
<b>SOUTH CAROLINA</b>	Total Loss Threshold (75%)	S.C. Code Ann. § 56-19-480(G)	Cost of repairing the vehicle exceeds 75% of the fair market value of the vehicle.
<b>SOUTH DAKOTA</b>	Total Loss Formula (TLF)	S.D.C.L. § 32-3-51.19	The insurer or self-insurer determines a total loss.
<b>TENNESSEE</b>	Total Loss Threshold (75%)	T.C.A. § 55-3-211(9)(A)	Damage to vehicle equal to or more than 75% of retail market value as determined by current published retail costs.
<b>TEXAS</b>	Total Loss Threshold (100%) (100% of Adjusted Costs of Repair*)  *Costs of repair do not include cost of materials and labor for repainting the vehicle and sales tax on the total cost of repairs.	Tex. Transp. Code § 501.091(15)	If the total cost of repairs exceeds ACV of vehicle, then it is a salvage vehicle. A carrier may decide to total a vehicle when the damages are less than the actual cash value. Section 501.091(15) simply provides a damage threshold in which a vehicle will be considered totaled. Property is a “total loss” if a reasonably prudent uninsured owner, desiring to restore the property to its pre-loss condition, would not utilize that property for such restoration. <i>Canal Ins. Co. v. Hopkins</i> , 238 S.W.3d 549 (Tex. App. Tyler 2007).  When an insured auto is so damaged that it would cost more to repair than to replace, it is usually deemed a total loss. <i>Singleton v. Elephant Ins. Co.</i> , 953 F.3d 334 (5 <sup>th</sup> Cir. 2020).
<b>UTAH</b>	Total Loss Formula (TLF)	U.C.A. § 41-1a-1005	The insurer makes the decision whether a vehicle is declared a non-repairable vehicle. Or if two or more major components suffer major damage.
<b>VERMONT</b>	Total Loss Formula (TLF)	Vt. Stat. Ann. Tit. 23, § 2001(14)	The insurer makes decision whether a vehicle (less than 10-years-old) is declared a total loss.
<b>VIRGINIA</b>	Total Loss Threshold (75%)	Va. Code Ann. § 46.2-1602.1	Cost to repair late model vehicle exceeds 75% of ACV prior to vehicle being damaged, then vehicle is issued a non-repairable certificate or a salvage certificate.

STATE	SALVAGE / TOTAL LOSS RULE	STATUTORY AUTHORITY	COMMENTS
WASHINGTON	Total Loss Formula (TLF)	R.C.W.A. § 46.04.514	<p>Insurer determines whether cost of parts and labor plus salvage value has made it uneconomical to repair and vehicle must be more than six-years-old.</p> <p>“Total loss means that the insurer has determined that the cost of parts and labor, plus the salvage value, meets or exceeds, or is likely to meet or exceed, the “actual cash value” of the loss vehicle. Other factors may be considered in reaching the total loss determination, such as the existence of a biohazard or a death in the vehicle resulting from the loss.” Wash. Admin. Code § 284-30-320(18).</p>
WEST VIRGINIA	<p>Total Loss Threshold (75%)</p> <p>(Flood-damaged vehicles as defined by §17A-4-10(l)(2) will also constitute a total loss)</p>	W. Va. St. § 17A-4-10(a)	<p>Cost to repair vehicle is greater than 75% of market value determined by a nationally accepted used car value guide or meets the definition of a flood-damaged vehicle as defined in §17A-4-10(l)(2), which defines a flood-damaged vehicle as a vehicle that “was submerged in water to the extent that water entered the passenger or trunk compartment”</p>
WISCONSIN	Total Loss Threshold (70%)	<p>Wis. Stat. § 342.065(1)(c)</p> <p>Wis. Stat. § 342.06(1)(hr)</p>	<p>Damage exceeding 70% of fair market value will render vehicle less than seven model years old a salvage vehicle. This only applies “If the vehicle is less than 7-years-old, is damaged by collision or other occurrence to the extent that the estimated or actual cost, whichever is greater, of repairing the vehicle exceeds 30% of its fair market value and was transferred to an insurer upon payment of an insurance claim.”</p>
WYOMING	Total Loss Threshold (75%)	Wyo. Stat. § 31-2-106(v)	<p>For vehicle to be in pre-accident condition, labor to rebuild and parts exceed 75% of ACV of vehicle.</p>

These materials and other materials promulgated by Matthiesen, Wickert & Lehrer, S.C. may become outdated or superseded as time goes by. If you should have questions regarding the current applicability of any topics contained in this publication or any publications distributed by Matthiesen, Wickert & Lehrer, S.C., please contact Gary Wickert at [gwickert@mw-law.com](mailto:gwickert@mw-law.com). This publication is intended for the clients and friends of Matthiesen, Wickert & Lehrer, S.C. This information should not be construed as legal advice concerning any factual situation and representation of insurance companies and/or individuals by Matthiesen, Wickert & Lehrer, S.C. on specific facts disclosed within the attorney\client relationship. These materials should not be used in lieu thereof in any way.