

Nebraska Department of Insurance
Guidance Document
IGD - - C4

Title: Payment of Special Costs on Property Losses

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The subject of payment or non-payment of special costs, such as sales tax, luxury tax, and other applicable taxes or surcharges, on property losses, including total losses, has come to the attention of the Nebraska Department of Insurance "NDOI."

The purpose of insurance is indemnification to put one back into the position they were in before the loss. This indemnification principle applies not only to first-party claims but also to third-party claims where statutes and case law apply instead of contractual obligations.

The NDOI believes that insurers must pay special costs whether a first-party or third-party settlement is involved. In Nebraska, there is no sales tax imposed on vehicles used for common or contract carrier purposes. This exemption is found in NEB.REV.STAT. §77-2704.50. Special costs related to sales tax must be paid on commercial vehicles if they are subject to sales tax under Nebraska law.

For a stated-value policy, payment of special costs would not prompt payment above a policy's stated value amount. The following guidelines may help:

1. Insurers must pay special costs on loss settlements only if the property is replaced. The insurer must pay special costs based on the lower of the pre-loss value or the cost of the replacement property.
2. The settlement does not need to include a special costs payment if the person has not replaced the property.
3. When the actual replacement occurs, the insured can submit a request for reimbursement as required by the policy for a supplemental payment.
4. Special costs are not owed by the insurer if the actual cash value settlement amount has met the stated value shown on the declarations page of a stated value policy.

The Insurance Complaint Division will answer questions about this guidance document at 877-564-7323.