

SB1268



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1268

Introduced 2/10/2009, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-305.2

Amends the Illinois Vehicle Code. Raises a motor vehicle renter's maximum liability for actual and reasonable costs incurred by the loss due to theft of the rental motor vehicle up to its fair market value immediately before the loss occurred using a commonly and commercially accepted method to establish a fair market value (rather than \$2,000); deletes provisions relating to a failure to exercise ordinary care. Provides that if the estimate of repair exceeds \$3,500, then, prior to any repairs being initiated, the insurer of the renter or the renter shall be allowed 72 hours from the date of notice to inspect the damaged vehicle and obtain another estimate of repair on the damaged vehicle. Effective July 1, 2009.

LRB096 04078 AJT 14117 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Section 6-305.2 as follows:

6 (625 ILCS 5/6-305.2)

7 Sec. 6-305.2. Limited liability for damage.

8 (a) Damage to private passenger vehicle. A person who rents
9 a motor vehicle to another may hold the renter liable to the
10 extent permitted under subsections (b) through (d) for physical
11 or mechanical damage to the rented motor vehicle that occurs
12 during the time the motor vehicle is under the rental
13 agreement.

14 (b) Limits on liability. The total liability of a renter
15 under subsection (a) for damage to a motor vehicle may not
16 exceed all of the following:

17 (1) The lesser of:

18 (A) Actual and reasonable costs that the person who
19 rents a motor vehicle to another incurred to repair the
20 motor vehicle or that the rental company would have
21 incurred if the motor vehicle had been repaired, which
22 shall reflect any discounts, price reductions, or
23 adjustments available to the rental company; or

1 (B) The fair market value of that motor vehicle
2 immediately before the damage occurred, as determined
3 in the customary market for the retail sale of that
4 motor vehicle; and

5 (2) Actual and reasonable costs incurred by the loss
6 due to theft of the rental motor vehicle up to its fair
7 market value immediately before the loss occurred using a
8 commonly and commercially accepted method to establish a
9 fair market value \$2,000; provided, however, that if it is
10 ~~established that the renter or an authorized driver failed~~
11 ~~to exercise ordinary care while in possession of the~~
12 ~~vehicle or that the renter or an authorized driver~~
13 ~~committed or aided and abetted the commission of the theft,~~
14 ~~then the damages shall be the actual and reasonable costs~~
15 ~~of the rental vehicle up to its fair market value, as~~
16 ~~determined by the customary market for the sale of that~~
17 ~~vehicle.~~

18 For purposes of this subsection (b), for the period prior
19 to June 1, 1998, the maximum amount that may be recovered from
20 an authorized driver shall not exceed \$6,000; for the period
21 beginning June 1, 1998 through May 31, 1999, the maximum
22 recovery shall not exceed \$7,500; and for the period beginning
23 June 1, 1999 through May 31, 2000, the maximum recovery shall
24 not exceed \$9,000. Beginning June 1, 2000, and annually each
25 June 1 thereafter, the maximum amount that may be recovered
26 from an authorized driver shall be increased by \$500 above the

1 maximum recovery allowed immediately prior to June 1 of that
2 year.

3 (c) Multiple recoveries prohibited. Any person who rents a
4 motor vehicle to another may not hold the renter liable for any
5 amounts that the rental company recovers from any other party.

6 (d) Repair estimates. A person who rents a motor vehicle to
7 another may not collect or attempt to collect the amount
8 described in subsection (b) unless the rental company obtains
9 an estimate from a repair company or an appraiser in the
10 business of providing such appraisals on the costs of repairing
11 the motor vehicle, makes a copy of the estimate available upon
12 request to the renter who may be liable under subsection (a),
13 and ~~or~~ the insurer of the renter, if known by the rental
14 company, and submits a copy of the estimate with any claim to
15 collect the amount described in subsection (b). If the estimate
16 of repair exceeds \$3,500, then, prior to any repairs being
17 initiated, the insurer of the renter or the renter shall be
18 allowed 72 hours from the date of notice to inspect the damaged
19 vehicle and obtain another estimate of repair on the damaged
20 vehicle.

21 (e) Duty to mitigate. A claim against a renter resulting
22 from damage or loss to a rental vehicle must be reasonably and
23 rationally related to the actual loss incurred. A rental
24 company shall mitigate damages where possible and shall not
25 assert or collect any claim for physical damage which exceeds
26 the actual costs of the repair, including all discounts or

1 price reductions.

2 (f) No rental company shall require a deposit or an advance
3 charge against the credit card of a renter, in any form, for
4 damages to a vehicle which is in the renter's possession,
5 custody, or control. No rental company shall require any
6 payment for damage to the rental vehicle, upon the renter's
7 return of the vehicle in a damaged condition, until after the
8 cost of the damage to the vehicle and liability therefor is
9 agreed to between the rental company and renter or is
10 determined pursuant to law.

11 (g) If insurance coverage exists under the renter's
12 personal insurance policy and the coverage is confirmed during
13 regular business hours, the renter may require that the rental
14 company must submit any claims to the renter's personal
15 insurance carrier as the renter's agent. The rental company
16 shall not make any written or oral representations that it will
17 not present claims or negotiate with the renter's insurance
18 carrier. For purposes of this Section, confirmation of coverage
19 includes telephone confirmation from insurance company
20 representatives during regular business hours. After
21 confirmation of coverage, the amount of claim shall be resolved
22 between the insurance carrier and the rental company.

23 (Source: P.A. 90-113, eff. 7-14-97.)

24 Section 99. Effective date. This Act takes effect July 1,
25 2009.