

# Saving Money on Your Insurance

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TEXAS COMMISSIONER OF INSURANCE

## *Claims Against Another Driver's Insurance Company*

**T**HIRD-PARTY" claims against another driver's auto insurance company are a common source of complaints and inquiries to the Texas Department of Insurance (TDI).

A third-party claim occurs when another driver causes an accident and you look to his or her liability insurance to pay your auto repair, medical and other expenses. An auto liability policy obligates the insurance company to pay any amounts for which its policyholder is legally responsible as a result of an accident, up to the dollar limits of the policy.

Here are answers to some frequently asked questions about third-party claims:

**Q** How long does the other driver's insurance company have to pay my claim?

**A** There are no specific legal limits. A company is legally required to act in good faith and pay third-party claims promptly and fairly when liability is reasonably clear.

**Q** Must the other driver's insurer pay for a rental car while mine is being fixed?

**A** Yes. However, Texas courts have held that there is no such obligation if your car was "totaled" and is being replaced instead of repaired.

**Q** The other driver's company wants me to sign a release. How long can I delay?

**A** Don't sign until you are satisfied with your total settlement. You have two years after the accident to either settle your claim or file a lawsuit.

**Q** Can the other driver's insurance company delay paying for my car repairs to pressure me into signing a release on my injury claim?

**A** No. Texas law prohibits this unfair tactic. If it occurs, you have the right to file a formal complaint with TDI. An electronic complaint form is on our Web site, ([www.tdi.state.tx.us](http://www.tdi.state.tx.us)) You can get a printed form by calling **1-800-599-7467**.

**Q** How much can I claim for pain and suffering?

**A** There is no set formula for this. It is determined on a case-by-case basis.

**Q** Can the at-fault driver's insurance company tell me where to get my car fixed?

**A** No. Texas law prohibits companies from dictating a particular car-repair shop or requiring parts of a particular brand, type, age or condition.

**Q** The other driver claims he didn't cause our accident. I have two witnesses who say he did. The police did not investigate. What can I do?

**A** Make sure the other driver's insurance company and your insurer know about these witnesses and encourage the companies to take the witnesses' statements.

**Q** The other driver's insurance adjuster has submitted an estimate lower than the estimates I got from two different body shops. What are my options?

**A** You can challenge the adjuster's estimate by comparing it with the body shops' estimates. If you can't get satisfaction and you believe the company is treating you unfairly, you can file a complaint with TDI.

**Q** My car was totaled, and the other driver's insurance company based its offer on a "market survey." Do I have to accept the offer?

**A** A market survey involves checking newspaper ads, used car lots, auto trade magazines and dealerships for the average price of cars like yours in your area. You don't have to accept the offer. You can do your own survey and present it to the company for negotiation.

**Q** The other driver's insurer offered to pay \$35 a day for a rental car while my car is being fixed. But my car is a luxury model. Is \$35 all the company is obligated to pay?

**A** The company must pay for the "loss of use" of your damaged car. That means paying a reasonable amount for a rental car. There is no specific limit.

For more about your car insurance rights, call TDI's publications line, **1-800-599-SHOP** (7467) for a free copy of *Auto Insurance Made Easy* or view it on our Web site, [www.tdi.state.tx.us](http://www.tdi.state.tx.us) ★

### **Editors:**

- If you need further information, call: **Texas Department of Insurance Public Information Office (512) 463-6425**

*We welcome your questions and suggestions about this column.*