

## DIMINISHED VALUE CLAIMS: **TEXAS**

### **SUMMARY**

#### **Texas Claims**

**Statute of Limitations:** 2 years

**Third Party Diminished Value Claim:** Yes

**First Party Diminished Value Claim:** No, most insurance policies will exclude diminished value

**Texas Property Damage Minimum Limits:** \$25,000 in coverage

**Uninsured Motorist Coverage for Diminished Value:** Yes, diminished value is covered when you're struck by an uninsured driver and a hit and run with physical contact. You must file a police report as well. \$250 deductible applies.

**Underinsured Motorist Coverage for Diminished Value:** Yes

**Texas Small Claims Court Limit:** \$20,000, attorney representation and appeals are permitted

**Diminished value claims** in Texas are recoverable for third-party claimants who are not at-fault for the accident. A previously damaged vehicle is less valuable compared to a similar vehicle with a clean history. This loss in market value is known as diminished value, and it is recoverable in Texas through a diminished value claim. If the other driver was uninsured, you can also file a diminished value claim with your own insurance company.

#### **TEXAS DIMINISHED VALUE LAW**

The general rule for damages to personal property is that a plaintiff is entitled to an award of the difference between the reasonable market value immediately before and immediately after the injury to the property. *Central Freight Lines, Inc. v. Naztec, Inc.*, 790 S.W.2d 733, 734 (Tex. App.—El Paso 1990, no writ)

Market value is defined as the price that the property would bring if it were offered for sale by a willing but not obligated seller and purchased by a willing but not obligated buyer. *Exxon Corp. v. Middleton*, 613 S.W.2d 240, 246 (Tex. 1981).

Texas Standard Pattern Jury Instructions

Where repairs do not completely restore the former value of the property, a plaintiff may also recover the difference between the value before the occurrence and the value after repairs.

c. Difference in market value.

Consider the difference, if any, in the market value of the vehicle in question immediately before the occurrence in question and immediately after the necessary repairs were made to the vehicle.

Texas law states that you must disclose any accidents when selling a car. Once a potential buyer is made aware of an accident, most buyers aren't willing to pay full market price and a car that's been involved in an accident.

Like most states, insurance companies in Texas are not required to pay first-party Texas diminished value claims because of the language and terms of the standard Texas personal auto insurance policy.

The Texas Department of Insurance has confirmed this in COMMISSIONER'S BULLETIN # B-0027-00 that states: An insurer also may be obligated to pay a third-party claimant for any loss of market value of the claimant's

automobile, regardless of the completeness of the repair, in a liability claim that the third-party claimant may have against a policyholder. Further, an insurer may be obligated to pay a first party claimant under the uninsured/underinsured motorist coverage provisions of the policy, for any loss of market value of the first party claimant's automobile, regardless of the completeness of the repair. Texas Uninsured Motorist Property Damage Claims

The minimum amount of property damage coverage a person is required to carry in Texas is only \$25,000. Once all the property damage expenses such as repair costs, rental bills, and diminished value exceed the at-fault person's available policy limit, you are eligible for diminished value compensation under your own UM/UIM Property Damage coverage. Uninsured/Underinsured Motorist (UM/UIM) Property Damage coverage will pay your expenses and diminished value from an accident caused by an uninsured motorist, a motorist who did not have enough property damage liability coverage, or a hit-and-run driver.

#### **HOW TO FILE A DIMINISHED VALUE CLAIM IN TEXAS**

**Step 1.** Obtain proof of your car's diminished value. You must supply evidence that you have lost value. An independent, unbiased appraisal will provide the documentation necessary to determine the diminished value of a vehicle.

**Step 2.** Submit your documentation (diminished value appraisal) and demand letter for review.

The ideal time is right after you get your vehicle repaired. The sooner you file your diminished value claim, the better. Typically, if the accident wasn't your fault, you would file a diminished value claim with the at-fault driver's insurance company. It's covered under their property damage liability.

**Step 3.** Settle your claim.

The role of the claims adjuster is to negotiate the lowest possible settlement for the insurance company. They will either accept your claim, offer a lower settlement, or deny the claim.