



DIMINISHED VALUE CLAIMS: **OREGON**

SUMMARY Oregon Claims

Statute of Limitations: 6 years

Third Party Diminished Value Claim: Yes

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

Oregon Property Damage Minimum Limits: \$20,000 in coverage

Uninsured Motorist Coverage for Diminished Value: Yes, it's an optional coverage.

Underinsured Motorist Coverage for Diminished Value: Yes, it is an optional coverage

Oregon Small Claims Court Limit: \$10,000, attorney representation is not permitted

If you were involved in an accident in the state of Oregon and weren't at-fault, you could be eligible for a diminished value claim settlement. Due to favorable case law concerning the right to recover diminished value in Oregon as well as statute ORS 20.080, Oregon happens to be one of the best states in the country for getting compensated for your vehicle's loss in value due to a car accident.

OREGON DIMINISHED VALUE LAW

In Oregon, third-party claimants are entitled to a vehicle of the same value after the repair as they had before the accident, which means recovery for diminished value is allowed. In *Mock v. Terry*, if repairing the car does not return it to its previous value, then the difference must be made up in cash.

There are also court cases concerning first party claims such as *Gonzales v. Farmers*, that states insureds can be compensated for diminished value under their own insurance policy. Unfortunately, most auto insurance policies exclude coverage for first party diminished value making the ruling in this case of little value to you if you are trying to claim diminished value against your own policy.

However, there is an exception, if the at-fault party doesn't have insurance you may be eligible to file a diminished value claim under your own insurance policy (uninsured motorist property damage coverage).

If the accident was caused by an uninsured driver or hit and run driver, generally there is coverage under your uninsured motorist property damage for all sums which you are legally entitled to recover had the at-fault party had insurance. Your diminished value loss is one of those sums that you're legally entitled to recover.

ORS 20.080 is a statute that applies to all property damage and bodily injury claims that are less than \$10,000 and creates a right to recover attorney fees. The statute was enacted to pressure insurance companies into settling lower value claims, that if not handled appropriately, could turn relatively small claims into high risk, attorney fee cases.

The goal of ORS 20.080 is not necessarily to take small cases into litigation, but rather to motivate insurance companies to resolve the smaller cases.

HOW TO FILE A DIMINISHED VALUE CLAIM IN OREGON

Step 1. Proof of loss. It's your responsibility to prove the repaired vehicle is worth less than before the accident. An independent, unbiased appraisal will provide the documentation necessary to determine the diminished value of a vehicle.

Step 2. File a diminished value claim. By filing a diminished value claim through the at-fault party's insurance company, you can get back your car's lost value following an accident. The sooner you file your diminished value claim, the better. Submit the appropriate documents for review (diminished value appraisal and a 30-day demand letter that mentions ORS 20.080).

Step 3. Negotiate a settlement. Because diminished value claims are complex, the more documentation you have, the more you might experience success when making a claim.

Because of ORS 20.080, most diminished value claims in Oregon settle without the need to involve an attorney and without the need to go to court. Insurance companies handling Oregon diminished value claims are aware of the financial risks they face if they don't handle your claim fairly.

If you beat their low offer in court by even a penny, you collect your award plus costs, and your attorney collects their legal fees which can be many times higher than your actual diminished value loss.