



DIMINISHED VALUE CLAIMS: WEST VIRGINIA

SUMMARY West Virginia 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

West Virginia Property Damage Minimum Limits: \$25,000 in coverage

Uninsured Motorist Coverage for Diminished Value: Yes, it is required with a minimum of \$25,000 in coverage. It includes coverage for hit and run drivers with physical contact between the vehicles.

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

West Virginia Small Claims Court Limit: \$10,000, attorney representation and appeals are permitted

If your vehicle was damaged in an accident in the state of West Virginia and underwent repairs, its resale value is likely to be less than what it was before the crash. This loss in market value is known as diminished value, and it is recoverable in West Virginia through a diminished value claim filed with the at-fault party's insurance company. If the other driver was uninsured, you can also file a diminished value claim with your own insurance company.

WEST VIRGINIA DIMINISHED VALUE LAW

Ellis v. King 400 S.E.2d 235 (1990) Supreme Court of Appeals of West Virginia

The Court held that damages are not limited to the cost of repairs actually made where it is shown that they did not put the property in as good condition as it was before the injury, and it would have cost a larger sum to do so. In such cases, the cost of the repairs made plus diminution in value of the property will ordinarily be the proper measure of damages." Id. at § 436. If, after repair, the damaged vehicle cannot be returned to its condition prior to the accident, we believe that damages for diminution in value are recoverable.

Not all damage to a vehicle would allow the plaintiffs to recover for diminution in value. First of all, there must be actual proof that the value was diminished following repair. [6] Secondly, we require that the damage be structural, something that is integral to the structure of the vehicle.

For example, if an automobile is sideswiped and, as a result, the right front panel of the car must be replaced, diminution in value *239 would not be permitted. However, if the frame of a car is damaged and would affect the future use of the vehicle even after repair, then diminution in value is recoverable. Finally, we note that only a vehicle with significant value prior to the accident is subject to recovery. Frankly, a vehicle that is so old or in such poor condition as to have minimal value will not be subject to recovery for loss or diminution in value.

HOW TO FILE A DIMINISHED VALUE CLAIM IN WEST VIRGINIA

Step 1. Prove your loss. 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 proof to the insurance company. You'll need to submit a diminished value appraisal and demand letter to the at-fault insurance company for review.

Step 3. Claim settlement. Once you submit a diminished value appraisal report, most insurance companies will make a settlement offer. The insurance company may pay the claim in full, make a lower offer, or deny the claim.

Negotiate until they get firm with their offer. If you're having trouble with the insurance company, you may need to consider legal action against the responsible party.

