

REQUIREMENTS FOR REPAIR OF VEHICLE OR PROPERTY DAMAGE BY INSURER IN TEXAS

Applicable Statute	Requirement
REPAIR OF MOTOR VEHICLES	
Texas Insurance Code Section 1952.301 (a)	<p>An insurer may not directly or indirectly limit the insurer's coverage under a policy covering damage to a motor vehicle by:</p> <ul style="list-style-type: none"> (1) Specifying the brand, type, kind, age, vendor, supplier, or condition of parts or products that may be used to repair the vehicle; or (2) Limit the claimant of the policy from selecting a repair person or facility to repair damage to the vehicle. <p>Note: To ensure compliance with this requirement the insurer should notify the claimant of the use of after-market parts since the claimant is permitted to object to the use of after-market parts. If the claimant accepts the use of after-market parts their acceptance of the use of after-market parts should be expressly included in any written release and/or settlement.</p>
Texas Insurance Code Section 1952.301 (b)	In settling a liability claim by a third-party against an insured for property damage claims by the third-party, an insurer may not require the third-party claimant to have repairs made by a particular repair person or facility or to use a particular brand, type, kind, age, vendor, supplier, or condition of parts of products.
Texas Insurance Code 1952.302	The following are prohibited in connection with the repair of damage to a motor vehicle covered under an automobile insurance policy. An insurer, employee or agent of an insurer,

	<p>insurance adjuster, or an entity that employs an insurance adjuster may not:</p> <ul style="list-style-type: none"> (1) Solicit or accept a referral fee or gratuity in exchange for referring a beneficiary or third-party claimant to a repair person or facility to repair the damage; (2) State or suggest, either orally or in writing, that a claimant must use a specific repair person or facility or a repair person or facility on a preferred list compiled by the insurer; or (3) Restrict the right of the claimant to choose a repair person or facility by requiring the claimant to travel an unreasonable distance to repair the damage.
<p>Texas Insurance Code Section 1952.303 (a)</p>	<p>A contract between an insurer and a repair person or facility, including an agreement under which the repair person or facility agrees to extend discounts for parts or labor to the insurer in exchange for referrals by the insurer, may not result in a reduction of coverage under an insured's automobile insurance policy.</p>
<p>Texas Insurance Code Section 1952.304</p>	<p>An insurer may not prohibit a repair person or facility from providing a claimant with information that states:</p> <ul style="list-style-type: none"> (1) The description, manufacturer, or source of the parts used; and (2) The amounts charged to the insurer for the parts and related labor.
<p>Texas Administrative Code Section 5.501</p>	<p>Requires an insurer to provide a notice to the claimant who makes a claim regarding damage to a vehicle. The required notice specifies that a claimant has the right to select where a motor vehicle is repaired, and parts used for repairs. The notice also specifies that an insurer is not required to pay more than a reasonable amount for such repairs and parts.</p>

<p>Notes 1 and 2 See: https://www.tdi.texas.gov/bulletins/2011/cc25.html</p>	<p>NOTE 1: Notice, either oral or written, that implies the claimant may be responsible for paying for certain repair costs if the claimant chooses a repair facility that is not on the insurer's list of preferred repair facilities may conflict with the Texas Insurance Code and Texas Administrative Code because it would indirectly limit the coverage under the policy by discouraging the claimant from selecting a repair facility is not on the insurer's list. Nothing in the required notice or statutory language suggests that the "reasonable amount" for repairs be based on the amount charge by or the parts used by a limited number of insurer preferred repair facilities.</p> <p>Note 2: It is an unfair claim settlement practice for an insurer to pay a claimant an amount for the repair of the vehicle, including parts, that is not a reasonable amount for repairing or replacing the property with other of <i>like kind and quality</i>, or is not sufficient to make the repairs necessary for the manufacturer to honor the vehicle warranty.</p>
<p>CERTAIN CONSUMER ACTIONS RELATED TO CLAIMS FOR PROPERTY DAMAGE</p>	
<p>Texas Insurance Code Section 542A.002 (a)</p>	<p>Except as provided by Subsection (B), this chapter applies to an action on a claim against an insurer or agent, including:</p> <ul style="list-style-type: none"> (1) An action alleging breach of contract; (2) An action alleging negligence, misrepresentation, fraud, or breach of a common law duty; or (3) An action brought under: <ul style="list-style-type: none"> (A) Subchapter D, Chapter 541; (B) Subchapter B, Chapter 542; or (C) Subchapter E, Chapter 17, Business & Commerce Code.

<p>Texas Insurance Code Section 542A.002(b)</p>	<p>This chapter does not apply to an action against the Texas Windstorm insurance Association or to an action relating to or arising from a policy ceded to an insurer by the Texas Windstorm Insurance Association under Subchapter O, Chapter 2210. This chapter applies to an action that relates to or arises from a policy renewed under Section 2210.703.</p>
<p>Texas Insurance Code Section 542A.004</p>	<p>Not later than the 30th day after receiving a presuit notice given under Section 542A.003(a), a person to whom notice if given may send a written request to the claimant to inspect, photograph, or evaluate, in a reasonable manner and at a reasonable time, the property that is the subject of the claim. If reasonably possible, the inspection, photography, and evaluation must be completed not later than the 60th day after the date the person receives the presuit notice.</p>
<p>Texas Insurance Code Section 542A.005</p>	<p>A person against whom an action to which this chapter applies is pending may file a plea in abatement not later than the 30th day after the date the person files an original answer in the court in which the action is pending if the person:</p> <ul style="list-style-type: none"> (1) Did not receive a presuit notice complying with Section 542A.003; or (2) Requested under 542A.004 but was not provided a reasonable opportunity to inspect, photograph or evaluate the property that is subject of the claim.