

FAQ: Property Damage After a Car Accident

Q. I was involved in a car accident and my vehicle was damaged. How do I get it repaired?

A. The answer depends on the circumstances of the accident. If the other driver was at fault and has liability insurance coverage, the other driver's insurance company should pay for your damages. If the other driver was not at fault, or if the other driver did not have liability insurance coverage, your own insurance company may pay for the damages, depending on your coverage.

Q. Do I have a choice about who repairs my vehicle?

A. By law, you have the right to select where your vehicle is repaired and the parts used for repairs. Your legal rights regarding vehicle repairs are explained in sections 1952.301 to 1952.307 of the *Texas Insurance Code*.

Q. What damages will the insurance company pay?

A. Whether you are dealing with your own insurance company or the other driver's, they will typically either pay for the cost of repairs, or they will declare your vehicle a *total loss*. If your car is declared a total loss, the insurance company does not have to repair it and will owe the actual market value. Most insurance companies use an independent source to determine the vehicle's value. Insurance companies only owe the actual cash value and are not responsible for excess interest payments, if applicable. They do owe tax, title and license, and it is your responsibility to make sure that if you own your vehicle the title is in your name. Otherwise, the insurance company will make the check payable to the person whose name appears on the title. If you wish to keep your car, the insurance company will pay you the actual cash value less the salvage value (the average is 20 to 25 percent of its value.) The insurance company is under no obligation to provide you a rental car if they declare your car a total loss. Some insurance companies will voluntarily provide a rental car in a total loss situation, but only until they make you an offer on the car.

Q. Who pays for the storage and wrecker fees?

A. If a wrecker picks up your vehicle, it will usually be taken to a storage site and charges will begin to accrue. This rate is usually \$75 for the wrecker and \$10 per day for storage. The insurance company will pay for these charges if they accept liability on the claim. But they will only owe for *reasonable storage*. An insurance company will usually request permission to move your vehicle to a salvage yard if the vehicle is an obvious total loss. Never let your vehicle sit at a yard that assesses storage fees. Have the vehicle moved to a repair shop or to a free storage site as soon as possible.

Even if your vehicle is a total loss, a repair shop will also charge storage fees, so it is very important to follow up with the insurance company and repair shop on whether your car can be fixed, or if it will be declared a total loss. When the value of the repairs approaches 75 to 80 percent of the value of the vehicle, it is usually considered a total loss. A repair facility will charge storage on all vehicles they do not repair. If you do not have collision insurance and there is a liability question, it is always smart to have your car moved to a free site or ask the insurance company to move it to their salvage pool as soon as possible.

Do you have other questions about property damage after an accident, or about your legal rights? Contact Mark Hefter for more information.