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New rights when your car is totaled

(Salem) — When Chris’s older sports model BMW was totaled in a collision, he began a two-month long, bewildering process of trying to negotiate the amount he should receive from his insurer for the car. The first offer, which was supposed to be based on the fair market value of the car before the damage, seemed low to Chris.

In the end, his automobile insurance company paid about \$1,000 more than originally offered. But the Beaverton resident said he spent that much on the appraisals that resulted in the final offer. “After all the time and money I spent, it was a wash,” he said.

House Bill 2190, which took effect Jan. 1, 2010, will help consumers like Chris by giving them more information and leverage when negotiating a settlement for their totaled cars. The Department of Consumer and Business Services’ Insurance Division brought the bill to legislators in the 2009 session based on the hundreds of calls and complaints it receives annually from consumers whose cars are totaled.

“Consumers often feel like they have no power when negotiating with insurance companies over totaled cars – they disagree with the offer but they receive little information about how the company determined the value,” said State Rep. Paul Holvey, (D-Eugene), who chairs the House Consumer Protection Committee. “This new law gives consumers some of the tools they need to pursue a fair deal.”

The new law requires insurance companies to do the following:

- Give car owners a written notice that explains total loss, including how car values are determined and what to do if the owner disagrees with an insurer’s offer.
- Give consumers the valuation or appraisal reports used to set the vehicle’s value. Currently, a consumer must ask for a copy. (Chris, for example, said the company’s first offer was based on other vehicles that were not comparable to his damaged car.)
- Pay car owners the amount not in dispute while negotiations over value continue. For example, if an insurer offers \$4,000 and the car owner seeks \$5,000, the insurer must pay the \$4,000 upfront.
- Reimburse consumers for reasonable appraisal costs. This applies when the owner has the right to an appraisal and the final appraised value is greater than the insurer’s last offer.

“Having insurers pay the undisputed amount is particularly important because many people need to buy a new car right away to get to work,” said Teresa Miller, administrator of the Insurance Division. “This fact of life forces some consumers to give up any thoughts of researching their vehicle’s value and negotiating a settlement.”

Chris was able to borrow a car after his 30-day rental reimbursement period ended while he negotiated his vehicle’s value, something not all consumers can do. When his case bogged down, Chris called the Insurance Division’s consumer advocates to complain that his insurer was not returning his phone calls. After the division contacted the insurer, Chris said a regional manager contacted him and he received prompt service from then on. He received payment for his total loss vehicle more than 60 days after the accident.

More information

The Insurance Division's consumer advocates are available to consumers with questions or complaints about insurance issues. Consumers can be reached toll-free at 888-877-4894 or 503-947-7984 in the Salem area.

A fact sheet explaining more about total loss is available at: http://insurance.oregon.gov/consumer/consumer-tips/4845-4_vehicle-total-loss.pdf

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