

HOUSE BILL REPORT

ESB 5721

As Passed House - Amended:

April 14, 2025

Title: An act relating to enhancing consumer protections for automobile insurance coverage.

Brief Description: Enhancing consumer protections for automobile insurance coverage.

Sponsors: Senators Stanford, Valdez, Hasegawa, Riccelli, Alvarado, Nobles, Orwall, Slatter, Trudeau and Wellman.

Brief History:

Committee Activity:

Consumer Protection & Business: 4/1/25, 4/2/25 [DPA].

Floor Activity:

Passed House: 4/14/25, 96-1.

Brief Summary of Engrossed Bill (As Amended by House)

- Requires every automobile insurance policy effective on or after January 1, 2026, to include a right to an appraisal to resolve disputes regarding the value and amount of loss on a damaged vehicle.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: Do pass as amended. Signed by 11 members: Representatives Walen, Chair; McClintock, Ranking Minority Member; Abbarno, Berry, Donaghy, Fosse, Kloba, Morgan, Reeves, Ryu and Santos.

Minority Report: Do not pass. Signed by 2 members: Representatives Steele and Volz.

Minority Report: Without recommendation. Signed by 2 members: Representatives Dufault, Assistant Ranking Minority Member; Corry.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Megan Mulvihill (786-7304).

Background:

The Office of the Insurance Commissioner (OIC) has the power and duty to enforce Washington's insurance laws and regulations, including the form and content of insurance contracts. The Insurance Code specifies the categories of information that must be contained in an insurance contract, including the type of risk that is being insured against, the amount of the premium, the starting date of the insurance coverage, and the period during which the insurance coverage is effective. Every person in Washington who operates an automobile must be insured under a motor vehicle liability policy, a liability bond, a certificate of deposit, or be self-insured. Where a person is insured under a motor vehicle liability policy, the policy must include the name and address of the insured, the coverage provided by the policy, the premium charged, the policy period, and the limits of liability.

When a motor vehicle is damaged and an insurance claim is filed, the insurance company has the right to decide whether a vehicle is repairable or if the vehicle is considered a total loss. Total loss means either the vehicle is not repairable or it costs more to repair than it is worth. When a vehicle is deemed a total loss, the insurer has three methods to adjust and settle the claim: (1) replace the vehicle; (2) a cash settlement; or (3) an appraisal if the insurer and the insured fail to agree and the insurance policy contains an appraisal provision. The appraisal process may vary based on the motor vehicle insurance policy.

Washington law provides a cause of action against an insurer for unreasonable denial of a claim for coverage or payment of benefits to recover actual damages, costs, and attorney's fees.

Summary of Amended Bill:

Every automobile insurance policy that includes first-party coverage for physical damage effective on or after January 1, 2026, must include a right to an appraisal to resolve disputes between the insurer and the insured regarding the actual cash value and amount of loss on the damaged vehicle.

The appraisal clause must include specified language instructing the appraisal process as follows:

- Either party may make a written demand for an appraisal, and within 10 days, each party must select a competent and disinterested appraiser and notify the other party of its selection.
- Each appraiser must appraise the loss, make separate findings, and exchange their completed appraisals. If the appraisers do not agree on the losses, they must submit their differences to a competent and disinterested umpire.
- If the appraisers do not select an umpire within 15 days, either appraiser may notify

- the OIC to identify a registered competent and disinterested umpire.
- Appraisers must make their appraisals within 30 calendar days of being selected. If more than 30 days are needed, the appraiser must provide a reasonable basis to the other appraiser before 25 days have passed and document the reason for the extension in their file.
 - The amount of loss must be determined either by agreement of the appraisers or by agreement of one appraiser and the umpire. The agreement is binding.
 - Each party is responsible for their appraisal expense and equally responsible for the cost of the umpire.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is a good consumer protection bill that will allow folks who have fallen between the cracks to have a dispute resolution pathway that does not involve hiring a lawyer or contacting the regulator. This will help avoid additional delays and costs. The language as drafted incentivizes the insurer to do their duty. If a dispute does occur, it sets forth the resolution process. Differences in repair costs often happen, but the likelihood of the policyholder invoking the appraisal process is only going to happen if the valuation differences are worth the appraisal cost. Policyholders have to really have an excess difference in valuation to make the appraisal worth it. This policy is a timely and economical remedy that will help limit the number of days that policyholders are without a car and shops have to store a car. There are positive discussions happening to come to a potential agreement. While that agreement does not have everything that consumers want, it does offer more protections than are currently in place. Oregon has had a similar regulation since 2017, and their premiums are not higher than Washington. A dispute resolution pathway would allow for faster settlement.

The repair shop fully disassembles the vehicle to assess the damage, and submits a repair plan with documentation to the policyholder and the insurer. Then the shop often waits 3 to 10 days for a response. These delays happen again and again and are usually routine. The delays force customers to exhaust their insurance plan's rental car coverage. Many times the repair plans are rejected, which often leaves out necessary procedures to safely repair the vehicle. The explanations that policyholders receive are vague when claims are rejected by the insurance company. Consumers are often forced to pay out of pocket for a repair. Vehicles are only safe if repaired correctly and to manufacturer standards. Washingtonians should be able to choose a repair shop that they trust.

There are many examples of policyholders fighting with an insurance company over claims, with the insurance company undervaluing a claim and, in some instances, half or three-times less than what an appraiser determines. In some cases, the insurance company does not send anyone out to look at the vehicle, and instead demands photos and then undervalues the cost. In other cases, the insurance company may rely on the opposing appraiser to provide the photos, repair plans, and data without doing the work themselves. Without an appraisal process, consumers have to hire public adjusters or lawyers, which can be cost-prohibitive. It can take months to get compensation, and in some cases, the consumer is still owed money. In one instance, the insurance company charged a policyholder twice for salvage, twice for sales tax, and twice for the deductible, and the policyholder had to hire a lawyer to become whole. In another instance, a consumer used the insurance company's authorized repair shop for the repairs, but then the consumer went to another repair shop to have the vehicle double-checked. The vehicle was not fixed, as there was frame damage, and the consumer had to fight the insurance company for multiple months. This is an unfair practice for policyholders who pay their premiums on time every month. The current law requires the insurer to pay for any harm that they have caused, but those laws are unenforceable because the policyholder has to get a lawyer and pay thousands of dollars out of any potential settlement. The legislation will not increase costs because when there is a fee-shifting provision where the loser has to pay the winner's fees, the business gets honest really quickly. If the insurance company acts right, there's no harm done and no fees to be paid. The state needs to stop protecting big businesses and hold insurance companies accountable for their actions.

(Opposed) None.

(Other) The insurance companies are opposed to the bill as written as it does not align with the incentives the way it should to allow for fair and fast resolutions. The legislation represents significant and unnecessary changes in the law and will lead to increased costs and higher premiums. The insurance companies are supportive of an amendment, and there are good conversations happening to discuss how to make this better. There is concern over a mandated policy with a fee-shifting, or a loser-pays provision, triggered at a relatively low amount. This is a major cost driver. Auto insurance is already undergoing a lot of changes. Due to the rapid increase in the cost of vehicles, severity of accidents, and high-traffic fatalities, the claims paid out are bigger and more wide-ranging. For example, the repairs themselves have increased. The average cost for an insurance repair has gone from \$3,200 to \$6,000. The bodily injury claims have gone from \$15,000 to \$25,000. The bill should be amended so the state does not contribute to increased rates that are more than consumers can afford.

Persons Testifying: (In support) Justin Morgan; David Forte, Office of the Insurance Commissioner; Pat LePley, Washington State Association for Justice; Rose Gundersen, WA Retail Association; Nour Aioub; Jon Baer; Patrick Schallert; Justin Lewis, Accurate Auto Body; LoraJo Hatch-Thorp; and Jeff Butler, Insurance claims expert.

(Other) Kris Tefft, American Property Casualty Insurance Association; Brandon Vick, National Association of Mutual Insurance Companies; and Kenton Brine, Northwest Insurance Council.

Persons Signed In To Testify But Not Testifying: None.