

General Rights for Texas Policyholders

This is a summary of your general rights as an insured. Texas law gives you certain rights regarding your insurance. This summary identifies your rights specified by rule or by state statute, but it does not include all your rights. Also, some exceptions to the rights are not listed here. If your agent, company, or adjuster tells you that one of these rights does not apply to you, contact TDI Consumer Protection at 1-800-252-3439 (463-6515 in Austin) (111-1A), P.O. Box 149091, Austin, TX 78714-9091. For a list of the specific law(s) and/or rule(s) summarized in each item of this Bill of Rights, or if you have questions or comments contact the Office of Public Insurance Counsel at 333 Guadalupe, Suite 3-120, Austin, TX 78701 (512-322-4143) or <http://www.opic.state.tx.us>.

This summary of your rights does not address your responsibilities. Your responsibilities concerning your insurance can be found in your policy. Failure to meet your obligations may affect your rights.

Getting information from the Department of Insurance and Your Insurance Company

1. **INFORMATION FROM TDI.** You have the right to call TDI free of charge at 1-800-252-3439 or 463-6515 in Austin to learn more about:

- your rights as an insurance consumer;
- the license status of an insurance company or agent;
- the financial condition of an insurance company;
- the complaint ratio and type of consumer complaints filed against an insurance company;
- use of credit information by insurance companies, including which insurance companies use it and access to each company's credit scoring model;
- an insurance company's rates filed with the state;
- an insurance company's underwriting guidelines (subject to exemptions in the Public Information Act, also known as the Open Records Act);
- the Texas FAIR Plan, designed to help consumers who have been denied coverage by at least two insurance companies;
- Helpinsure.com, a service to help Texans shop for homeowners insurance;
- the Market Assistance Program (MAP) at 1-888-799-MAPP (6277), designed to help those in underserved areas obtain insurance; and
- other consumer concerns.

You can also find some of this information on the TDI website at <http://www.tdi.state.tx.us>.

2. **INFORMATION FROM YOUR INSURANCE COMPANY.** You have the right to a toll-free number to call your insurance company free of charge with questions or complaints. You can find this number on a notice accompanying your policy. This requirement does not apply to small insurance companies.

What you should know before you buy insurance

3. **PROHIBITED STATEMENTS.** Your insurance company or agent is prohibited from making false, misleading, or deceptive statements to you relating to insurance.

4. **EXPLANATION OF DENIAL.** Upon request, you have the right to be told in writing why you have been denied coverage. The written statement must fully explain the decision, including the precise incidents, circumstances, or risk factors that disqualified you. It must also state the sources of information used.

NOTE: The obligation to provide a written explanation applies to insurance companies directly. An independent agent does not have a specific duty to quote the lowest possible rate to a consumer or to provide a written statement explaining why the agent did not offer the consumer the lowest possible rate.

5. **RIGHT TO PRIVACY.** You have the right to prevent an insurance company, agent, adjuster or financial institution from disclosing your personal financial information to companies that are not affiliated with the insurance company or financial institution. Some examples are income, social security number, credit history and premium payment history.

If you apply for a policy, the insurance company or financial institution must notify you if it intends to share financial information about you and give you at least 30 days to refuse. This refusal is called “opting out.” If you buy a policy, the insurance company or financial institution must tell you what information it collects about you and whether it intends to share any of the information, and give you at least 30 days to opt out. Agents and adjusters who intend to share your information with anyone other than the insurance company or financial institution must give you similar notices.

You can opt out at any time. Your decision to opt out remains in effect unless you revoke it.

These protections do not apply to information:

- publicly available elsewhere;
- insurance companies or financial institutions are required by law to disclose; or
- insurance companies or financial institutions must share in order to conduct ordinary business activities.

What you should know about cancellation and nonrenewal

Cancellation means that **before the end** of the policy period the insurance company:

- terminates the policy;
- reduces or restricts coverage under the policy; or
- refuses to provide additional coverage to which you are entitled under the policy.

Refusal to renew and **non-renewal** mean the policy terminates **at the end** of the policy period.

The **policy period** is shown on the declarations page at the front of your policy.

6. **CHANGE IN MARITAL STATUS.** If your marital status changes, you have the right to continue your insurance coverage. You have a right to a new policy in your name that has coverages which most nearly approximate the coverages of your prior policy, including the same expiration date. The insurance company cannot date the new policy so that a gap in coverage occurs.

7. **EXPLANATION OF CANCELLATION OR NONRENEWAL.** Upon request, you have the right to a written explanation of an insurance company's decision to cancel or non-renew your policy. The written statement must fully explain the decision, including the precise incidents, circumstances, or risk factors that disqualified you. It must also state the sources of information used.

What you should know when you file a claim

8. **FAIR TREATMENT.** You have the right to be treated fairly and honestly when you make a claim. If you believe an insurance company has treated you unfairly, call the Department of Insurance at 1-800-252-3439 (463-6515 in Austin) or download a complaint form from the TDI at <http://www.tdi.state.tx.us>. You can complete a complaint form on-line via the Internet or fax it to TDI at 512-475-1771.

9. **SETTLEMENT OFFER.** You have the right to reject any settlement amount, including any unfair valuation, offered by the insurance company. You have the right to have your home repaired by the repair person of your choice.

10. **EXPLANATION OF CLAIM DENIAL.** Your insurance company must tell you in writing why your claim or part of your claim was denied.

11. **TIMEFRAMES FOR CLAIM PROCESSING AND PAYMENT.** When you file a claim on your own policy, you have the right to have your claim processed and paid promptly. If the insurance company fails to meet required claims processing and payment deadlines, you have the right to collect 18% annual interest and attorney's fees in addition to your claim amount.

Generally, within **15 calendar days**, your insurance company must acknowledge receipt of your claim and request any additional information reasonably related to your claim. Within **15 business days** (30 days if the company reasonably suspects arson) after receipt of all requested information, the company must approve or deny your claim in writing. The law

allows the insurance company to extend this deadline up to **45 days** if it notifies you that more time is needed and tells you why.

After notifying you that your claim is approved, your insurance company must pay the claim **within 5 business days**.

If your claim results from a weather-related catastrophe or other major natural disaster as defined by TDI, your insurance company may take 45 additional days to approve or deny your claim and 15 additional days to pay your claim.

12. **INFORMATION NOT REQUIRED FOR CLAIM PROCESSING.** You have the right to refuse to provide your insurance company with information that does not relate to your claim. In addition, you may refuse to provide your federal income tax records unless your insurer gets a court order or your claim involves lost income or a fire loss.

What you should know about prohibited discrimination

13. **PROTECTED CLASSES.** An insurance company cannot discriminate against you by refusing to insure you; limiting the amount, extent or kind of coverage available to you; charging you a different rate for the same coverage; or refusing to renew your policy:

- because of race, color, religion, gender, marital status, disability or partial disability, or national origin; or
- unless justified by actual or anticipated loss experience, because of age or geographic location.

14. **EQUAL TREATMENT.** Unless based on sound actuarial principles, an insurance company may not treat you differently from other individuals of the same class and essentially the same hazard. If you sustain economic damages as a result of such unfair discrimination, you have the right to sue that insurance company in Travis County District Court.

If your suit prevails, you may recover economic damages, court costs and attorney and necessary expert witness fees. If the court finds the insurance company knowingly violated your rights, it may award up to an additional \$25,000 per claimant.

You must bring the suit on or before the second anniversary of the date you were denied insurance or the unfair act occurred or the date you reasonably should have discovered the occurrence of the unfair act. If the court determines your suit was groundless and you brought the lawsuit in bad faith, or brought it for the purposes of harassment, you will be required to pay the insurance company's court costs and attorney fees.

What you should know about enforcing your rights

15. **FILING COMPLAINTS.** You have the right to complain to TDI about any insurance company and/or insurance matter and to receive a prompt investigation and response to your complaint. To do so, you should:

- call TDI's **Consumer Help Line** at 1-800-252-3439, in Austin 463-6515 for service in both English and Spanish;
- write to the Texas Department of Insurance, Consumer Protection (111-1A), P.O. Box 149091, Austin, Texas 78714-9091;
- e-mail TDI at ConsumerProtection@tdi.state.tx.us;
- fax your complaint to (512) 475-1771;
- download or complete a complaint form on line from the TDI website at <http://www.tdi.state.tx.us>; or
- call the TDI Publications/Complaint Form order line (24 hours) at 1-800-599-SHOP (7467), in Austin 305-7211.

NOTE: TDI offers interpreter services and publications in alternate formats. Persons needing more information in alternate layouts or languages can call the *TDI Consumer Help Line* listed above.

16. **RIGHT TO SUE.** If an insurance company violates your rights, you may be able to sue that company in court, including small claims court, with or without an attorney.

17. **BURDEN OF PROOF.** If you sue to recover under your insurance policy, the insurance company has the burden of proof as to any application of an exclusion in the policy and any exception to or other avoidance of coverage claimed by the insurer.

18. **REQUESTING NEW RULES.** You have the right to ask in writing that TDI make or change rules on any residential property insurance issue that concerns you. Send your written request to: Texas Department of Insurance, Attn: Commissioner (113-2A), P.O. Box 149104, Austin, TX 78714-9104.