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RTA:

A RAY OF LIGHT TO WARM CONSUMERS

**ABAT NEEDS YOU
AT THE CAPITOL**

How Two Shop Owners Grew a
**FRIENDSHIP &
PARTNERSHIP**

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RTA:

**A RAY OF LIGHT
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Getting in a car crash tends to be a traumatic experience for any driver, but when their insurance carrier – the entity sworn to make them whole after an accident – adds insult to injury by under-indemnifying them for the claim, many vehicle owners find themselves shivering with apprehension as to how they’re going to get their car repaired or afford a replacement. But then a ray of light appears amidst the clouds for those who learn that they have the ability to contest value through their policy’s

Appraisal Clause without being forced to pursue costly litigation.

Unfortunately, few consumers realize they have the Right to Appraisal (RTA), and tragically, some insurers have removed this protection from their policies to the detriment of policyholders. Texans first saw this attack against their rights in 2015 when the Texas Department of Insurance (TDI) allowed State Farm to eliminate RTA from its policies in the Lone Star State, and since then, several additional carriers have submitted policy change



applications requesting approval from TDI to remove the RTA for repair procedure disputes from their policies.

“You can tell the Appraisal Clause works and is fair because more insurance companies are removing Right to Appraisal from their policies,” notes ABAT Lobbyist Jacob Smith (Longleaf Consulting). “Only two percent of all policyholders with denied claims are willing to fight it in court, and when they do, carriers have the funding to simply wait them out.”

Ware Wendell, executive director of consumer advocacy

group Texas Watch, agrees that RTA is vital for protecting consumers from under-indemnification. “Consumers need a mechanism to ensure safe repairs will be made to their vehicle after a loss. Fair appraisal gives them the ability to bring things before an independent expert – the appraiser – who can determine the correct cost of the repair according to the original equipment manufacturer’s specifications.

“We advocate for the consumer, and we want to make sure consumers have the ability to take their vehicle to a repair shop of their choice, free from intimidation or influence by the insurance industry,” he adds. “Once the repair professionals have the vehicle, we want to make sure they can do the job the right way without pressure from insurance adjusters to cut corners. Fair appraisal can help to make this happen.”

While mandatory RTA is absolutely necessary to protect consumers, it’s not necessarily anti-insurer, according to Robert McDorman (Auto Claim Specialists). “This is not a one-sided initiative. It’s designed to protect both parties – the insurer and the insured. The Right to Appraisal solves problems in an amicable way.”

“It is a fair bill for any party. The same right that the consumer has is the same right that the insurance company has,” Smith explains. “What we’re asking for is already in 97 percent of all auto policies in the state; we’re just asking that it is mandated in *all* policies so people don’t have to guess if they have this dispute resolution in their particular policy. The Appraisal Clause is not something that’s unique to the auto industry; it’s in a lot of insurance policies. It’s a great process that brings in a third-party umpire to determine who was accurate and who wasn’t.”

“The goal is simply to provide a fair and level playing field for the consumer, which they typically don’t have without going through the burdensome process of suing their carrier,” he continues. “If insurance companies are operating in good faith, they never even have to worry about the Appraisal Clause. Insurance is not a free market; it’s a mandate. We don’t get to negotiate what’s in those contracts; we get to choose from various levels we’re offered. Consumers don’t have many tools in their toolbox, and no one wants to go into litigation – especially over a few thousand dollars. But those few thousand could mean a part on the vehicle that impacts an individual’s safety. If we can ensure safety and a level playing field for the consumer, then we’ve done our jobs.”

Wendell believes, “All drivers should have the right to fair appraisal, allowing either party to begin the process and providing reasonable deadlines to avoid delay. This will help to resolve property damage claims promptly and safely.”

“Appraisal *has* to be fixed in Texas,” Smith insists. “It’s going to be one of the biggest issues this session on multiple fronts from multiple organizations.”

ABAT recognizes how important it is for Texas consumers’ cars to be repaired correctly and to pre-loss condition, and they understand that when there’s a value dispute with an insurer,

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RTA offers an invaluable means of resolving that dispute. During the past two legislative sessions, ABAT has supported legislation that would mandate the inclusion of the Appraisal Clause in all Texas insurance policies, ensuring that Texas drivers receive the full value of their vehicle in the event of a loss.

As a result of those efforts, both TDI and the Office of Public Insurance Counsel (OPIC) released reports in recent years which indicated the value of RTA (additional information available at grecopublishing.com/txa0223coverstory). Wendell sees these acknowledgements as progress in the right direction. “It shows that regulators understand the dangers to the public when drivers are unable to recover the correct cost of the repair under the terms of the insurance policy and our laws. We aren’t asking for drivers or repair professionals to be overpaid. We just want to make sure policyholders receive the verified and justified amount of money for their loss so their vehicle can be repaired safely.”

During the current legislation session, the association is throwing its weight behind Senate Bill 369. This proposed legislation, pre-filed in November 2024 by Senator Charles Schwertner (R-District 5) and referred to the Senate’s Business and Commerce Committee on February 3, includes similar goals and language as the bills proposed in the last two legislative sessions. First and foremost, it would mandate that all personal automobile insurance policies written in Texas “contain an appraisal procedure that complies with this subchapter.”

That procedure would permit the insured or insurer to demand an appraisal within 90 days from when “the insurer accepts liability and issues the insurer’s undisputed liability offer,” at which point, both parties would have 15 days to appoint an unbiased appraiser and share that appraiser’s identity with the other party. Those appraisers would collaboratively determine the true amount of the loss, but if they fail to agree upon the amount of loss, they would select an umpire to determine the true cost of repairs. (The bill is available in its entirety at bit.ly/RTA-SB369.)

“When a repair shop and the insurer cannot agree on the terms of a repair bill, it’s imperative that consumers be able to invoke RTA to ensure they are not being taken advantage of by greedy insurance carriers,” ABAT President Burl Richards stresses. “RTA puts the consumer back on equal footing and gives them an opportunity to have their car repaired properly. When an insurer refuses to pay for proper repairs, it hurts the vehicle owner and creates the potential to hurt others on our roadways! Yet, insurers are only interested in their own profits, and that’s also why they want to remove the Appraisal Clause from their policies, preventing consumers from being able to have a fair method for value disputes with their carrier. It’s not about the money; it’s about making change and hoping insurers will start treating people right.”

“SB369 is vital safety legislation that guarantees auto policyholders the right to a fair appraisal,” according to Wendell. “Reasonable deadlines and procedures are put into place under the bill to resolve disputes about the correct cost of the repair. It is crucial that this legislation pass into law this session. Fair

appraisal legislation made big progress last session at the Capitol. It is so important that we all push the legislation across the finish line this time and onto the governor’s desk for his signature in 2025. Now is the time to raise our voices for fair appraisal because it leads to safe repairs, and safe repairs save lives!”

“This appraisal issue is 100 percent a safety issue,” McDorman concurs. “Appraisal is about getting it right; it’s about finding the number. The Right to Appraisal should be mandatory. If there’s a loss dispute, it should be subject to appraisal. My unwavering position is that removing the Right to Appraisal on repair procedure disputes will be the enemy of a safe repair and become the stake in the coffin for safe roadways for us all.”

“ABAT will always do our utmost to protect consumer safety, including when they need us to protect their rights,” ABAT Executive Director Jill Tuggle asserts. “If insurers are permitted to remove the Appraisal Clause from their policies, it will also negatively impact the collision industry. When we allow insurance companies to self-police and manipulate the system, their accountability wanes, and shops are put under even more pressure to cut corners.”

In contrast, Tuggle asks shops, “Can you imagine getting paid for all OEM recommended procedures? Can you imagine using parts that all fit correctly and have been safety-tested and really are of like kind and quality? For too long, our industry has convinced ourselves that we don’t stand a chance against the insurance industry because they’re so much bigger than us, but our voices do MATTER.”

Later this month, ABAT will use their voices during its 2025 Collision Day at the Capitol (a recap of the event will appear in an upcoming edition of *Texas Automotive*, so stay tuned), and you’re invited to join in! But there’s still more to do.

“Everyone who cares about safety and protecting folks on Texas roads should support SB369,” Wendell weighs in. “It will ensure damaged vehicles are repaired properly and promptly. You can tell your lawmakers to support this legislation by going to texaswatch.org/campaigns/safe-repairs-save-lives. Take one minute to sign our petition. Lawmakers need to hear from you and not just the insurance lobbyists walking the hallways in the Capitol.”

“To protect consumers, we need to continue making some noise to alert legislators to this issue so they can help,” Smith urges. “We must protect consumers, and creating awareness is the best way to do that. Legislators want to hear about their constituents’ problems. Auto body shop owners are voters and their constituents, so you can make a difference by voicing your concerns!”

He encourages shops to contact their state representatives and senators, whose contact information can be found at wrm.capitol.texas.gov, to share their concerns and garner their support for SB369. **TXA**

THE IMPORTANCE OF MANDATORY RIGHT TO APPRAISAL TIME TRIGGERS

Dear Mr. McDorman,

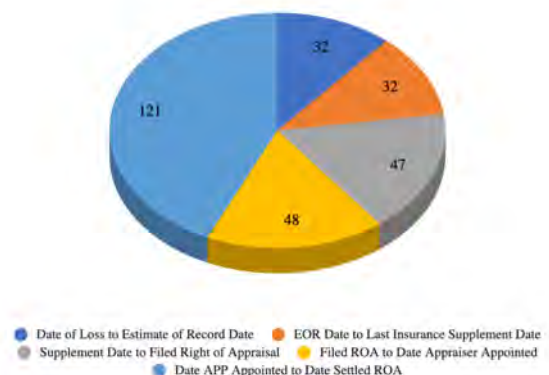
I own and operate a collision facility in North Texas. Your December article about Senator Charles Schwertner's Senate Bill 369 concerning mandatory appraisal rights in Texas mentioned time triggers in his appraisal bill. For repair procedure disputes, I believe I can see where these are a needed component of the bill. How do you view the importance of time triggers, and how do you see them helping insureds in loss disputes? Also, does Auto Claim Specialists keep data on typical cycle times for clients with claims going through appraisal? If so, can you share this with the readers so we can see how these compare with the time triggers in Senator Charles Schwertner's Bill?

Thank you for your comments and questions. We view the need for mandatory time triggers in the Right to Appraisal (RTA) bill as being essential. We do record the average time it takes for our clients' repair procedure claims to make it through the entire appraisal process, from date of loss to final settlement date. For repair procedure RTA disputes where claims do not require an umpire, our records show that from the date of loss to final settlement takes 280 days on average. It is broken down as follows: from date of loss until the carrier issues their estimate of record takes 32 days on average; from the estimate of record date until the last supplement by the carrier is issued also takes an average of 32 days; from the date of the last supplement is issued by the carrier until the RTA is invoked takes another 47 days; from the date the RTA is filed until the carrier appoints their independent appraiser takes 48 days; and finally, from the date the carrier appoints their independent appraiser until the appraisers agree on the amount of loss averages 121 days (see graph).

Senator Schwertner's bill contains critical time-sensitive triggers that prevent the harmful delays in the insurance claim process we see and deal with daily, as outlined above. As noted in the bill, should there be a dispute in the amount of loss, either party – the insurer or the insured – must invoke this RTA within 90 days after the insurer accepts liability and issues their undisputed liability offer. Also, it sets a timeline that requires the parties to appoint and name their appraisers no later than the 15th day after the appraisal is demanded. The bill requires that the appraisers agree on the amount of loss on or before the 30th day following the date both appraisers are appointed. The bill sets a drop-dead date on the timeline for which the appraisers must select an umpire if they cannot agree on the loss. The appraisers must choose an umpire on or before the 15th day after the date the appraisers determine an umpire is needed. Should the appraisers not be able to decide on an umpire, the insurer or the named insured may request that a court in the county in which the named insured resides select the umpire. The appraisers and umpire must determine the amount of loss not later than the 30th day after the date the umpire is selected.

As you can see from comparing these time triggers in Senator Schwertner's bill to our historical average cycle times, just the decrease in time from filed RTA to the date appraisers are appointed (our historical 48 days versus the bill's 15 days) and from the date appraisers are appointed to the day appraisers agree on the amount of loss (our historical 121 days versus the bill's 30 days) would drop the total repair claim cycle time by 124 days, which is close to half the current average total cycle time! This would be a huge relief for insureds in Texas.

Average Repair Claim Cycle Times (Days)
(Claims Settled Without Umpire)



In addition to these time-sensitive triggers, Senator Schwertner's bill also contains a fee-shifting component that will also provide relief to Texas insureds. This component reads, "If, at the end of the appraisal process, the amount of loss is determined to be more than 10 percent greater than the amount of the insurer's last offer, the insurer shall refund the named insured's reasonable out-of-pocket expenses for the insured's appraiser's fees and expenses." To make it fair for the insurers as well, and prevent excessive, unnecessary appraisal demands, it states that if, at the end of the appraisal process, the appraisal award is more than 10 percent less than the amount the insurer last offered, the named insured shall pay the insurer appraiser's reasonable fees and expenses. We believe this is fair.

The under-indemnification in repair procedure claims in Texas is rampant. Most of the estimates and supplements we see for repair claims have many overlooked (by design) safety and OEM-required operations needed to restore the loss vehicle to its pre-loss condition

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Robert is a recognized Public Insurance Adjuster and Certified Vehicle Value Expert specializing in motor vehicle-related insurance claim resolution. Robert can be reached by phone at (800) 736-6816, (817) 756-5482 or via email at AskTheExpert@autoclaimspecialists.com.

Ask The Expert

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to the best of one's human ability. Limiting or removing the insured's right to appraise a repair procedure is a serious safety issue. The limitation or elimination of the RTA by the insurance carrier in a repair procedure dispute will be the nail in the coffin for safe roadways in Texas.

As I have written many times, we at Auto Claim Specialists understand your concerns about under-indemnification. Until legislators pass laws to make the Right to Appraisal mandatory in Texas for all motor vehicle policies, we have no choice but to continue to advise our clients who have been harmed and cheated by their insurance carriers to fight like the third monkey in line to get onto Noah's Ark when it has already begun to rain, and we will help. In my professional opinion, the more times these systematic under-indemnification schemes are exposed and monetary punishment is levied, the quicker change will come to help us all.

Our position at Auto Claim Specialists is that RTA should be a mandatory contractual right in every policy. For the 89th Texas Legislative panel, we have teamed up with lobbyist Andrew "Drew" Graham to educate lawmakers and help secure mandatory contractual appraisal rights for all insured Texans. We, the insureds, are many, and I am confident that if we join forces and all do what we can, we can be successful in securing our rights and our children's rights to contest insurance settlement offers that would result in underpayment of losses and/or shoddy and dangerous repairs.

The spirit of the Appraisal Clause is to resolve loss disputes

fairly and to do so in a timely and cost-effective manner. Invoking the Appraisal Clause removes inexperienced and biased carrier appraisers and claims handlers from the process, undermining their management's many tricks to undervalue the loss settlement and under-indemnify the insured. Through the Appraisal Clause, loss disputes can be resolved relatively quickly, economically, equitably and amicably by unbiased, experienced, independent third-party appraisers as opposed to more costly and time-consuming methods such as mediation, arbitration and litigation.

In today's world, regarding motor vehicle insurance policies, frequent changes in claim management and claim handling policies and non-standardized GAP Addendums, we have found it is always in the best interest of the insured or claimant to have their proposed insurance settlement reviewed by an expert before accepting. There is never an upfront fee for Auto Claim Specialists to review a motor vehicle claim or proposed settlement and give their professional opinion as to the fairness of the offer.

Please call me should you have any questions relating to the policy or covered loss. We have most insurance policies in our library. Always remember that safe repair is a quality repair, and quality equates to value. I thank you for your question and look forward to any follow-up questions that may arise.

Sincerely,
Robert L. McDorman
TXA



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