

SB165: Insurance Claims Cooperation

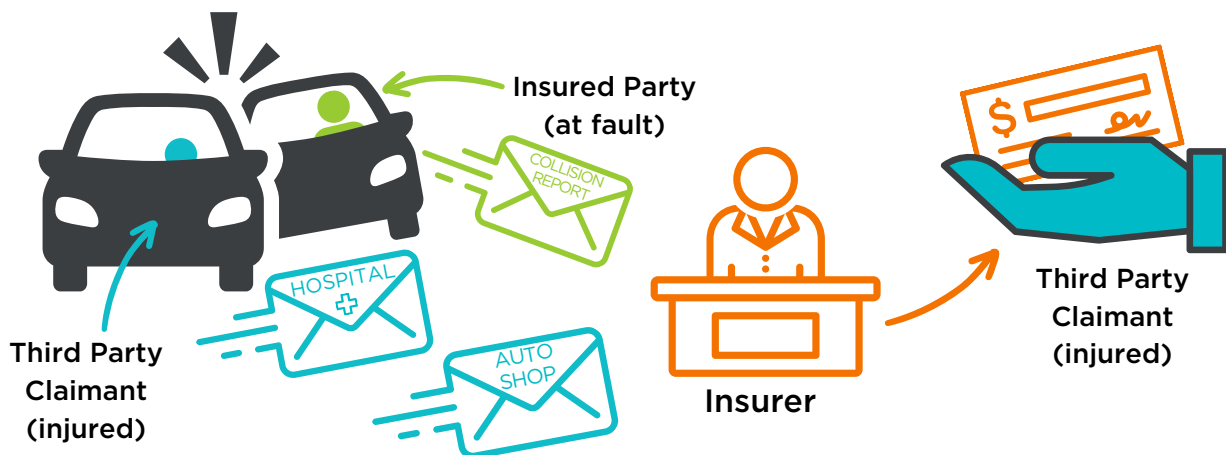
SB165 will enhance cooperation, reduce litigation, and eliminate the incentive to "set up" an insurance company for bad faith cause of action.

Duty to Cooperate

In current statute, there are no obligations for an injured claimant (the third party claimant) to cooperate with the insurance company as it adjusts the claim. SB165 would establish this affirmative duty to provide the insurance company with information necessary to investigate and evaluate an insurance claim. Insurance companies have statutory obligations to investigate claims timely and reasonably and to settle claims promptly where liability is reasonably clear. An insurance company's ability to fulfill its obligations is hindered by the failure or refusal of claimants to cooperate - this bill merely codifies a duty to cooperate by all parties.

Affirmative Defense

Since insurance companies have a statutory obligation investigate claims timely and reasonably, they may be subject to a bad faith claim if they delay. However, if the insured or third-party claimant refuse to cooperate, the insurance company is unable to meet the statutory duty without essential important information. Some lawyers may encourage their client to be uncooperative in order to set up a bad faith claim and extract more money from the insurer. SB165 allows an insurance company to raise the claimant's lack of cooperation in the company's defense.



Remove duplicative Common Law bad faith tort claim

MCA 33-18-242 currently provides a statutory remedy for a third-party claimant if an insurance company fails to settle claims promptly, fairly and equitably. SB 165 ends the duplicative court-created tort of common law bad faith for third-party claimants. No such claim exists for the insured party.

SB236: Set Standards for Time-Limited Demands

SB236 implements requirements for time-limited demand letters to promote fair and reasonable settlements of claims.

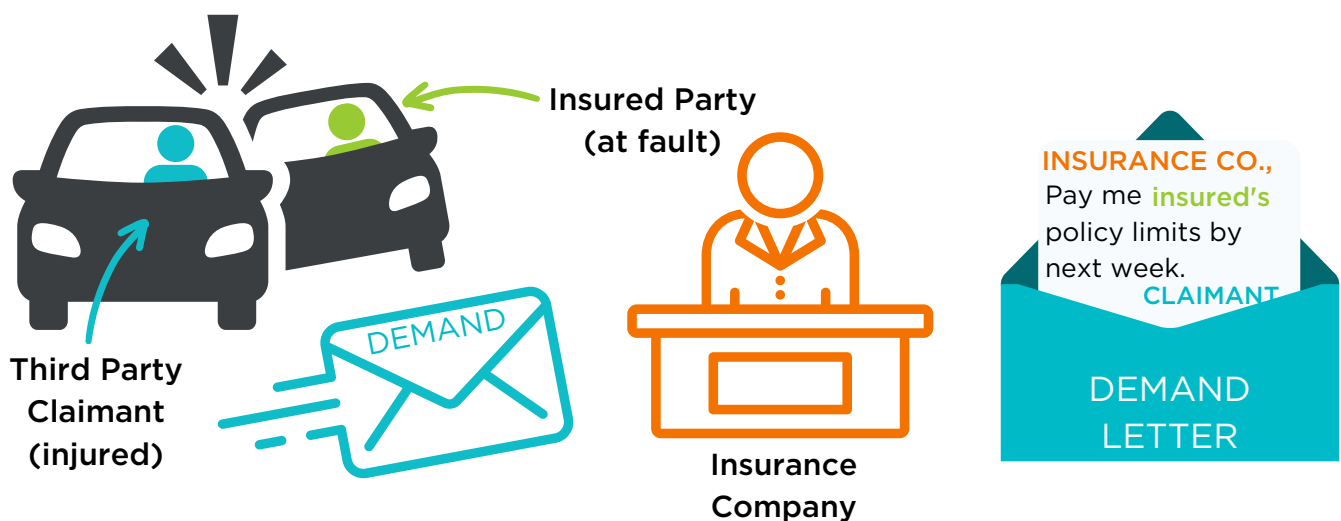
When attempting to extract money beyond an insurance claim, lawyers for an injured party (also called the third-party claimant) often send a letter demanding the full insurance policy limits while holding back documentation necessary to substantiate the demand.

It is not uncommon for these demand letters to set short time limits for acceptance and fail to include medical records, medical bills, repair estimates and other documentation that allows an insurance company to evaluate the extent of damages.

Lawyers use these tactics to pressure insurers to settle cases of questionable liability and damages. If the insurance company does not comply with these no-information demands, the claimant will seek to recover money beyond the policy limits.

SB236 establishes common-sense standards for time-limited demand letters.

- Demand letters sent must reasonably describe the claim and allow 60 days for acceptance.
- Claimants must provide reasonable records and information insurers need for timely, reasonable claims settlement.





LC932: Litigation Financing Consumer Protection

Third-Party litigation investors are investing in and interfering in litigation with no limits or checks on their behavior, leading to higher costs and less transparency in our courts.

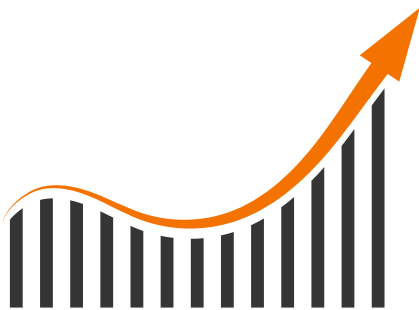
Third-party litigation financing is a shadowy, \$39 billion global industry of hedge funds, wealthy individuals, and sovereign wealth funds investing in lawsuits in exchange for a share of any potential recovery. With no transparency, it's difficult to know how bad the problem is here in Montana.

LC932 does not prohibit litigation investing, it simply introduces limits and reporting requirements to protect consumers and the integrity of our courts. This bill will

- Require third-party litigation financiers (TPLF) to register,
- Limit interest rates TPLFs can charge plaintiffs,
- Cap the share of recovery TPLFs can take from plaintiffs,
- Require TPLFs to disclose involvement to all parties, and
- Create TPLF liability for court-ordered costs or penalties against the plaintiff.

No limits exist as to the percentage of winnings a TPLF may take, meaning plaintiffs often recover less due to repayment of investors. With no limits or transparency on their actions, TPLFs are incentivized to push the plaintiff to not settle in hopes of a greater payout, even if the plaintiff would be better off settling faster.

Our courts are meant to serve justice fairly, not be a center for profiteering.



TPLF investors are putting our justice system at risk at the expense of our neighbors.



SB216: Product Liability Reform

SB216 implements common sense reforms to current product liability law, protecting manufacturers and Montana businesses.

Montana's product liability law is one-sided and outdated in its approach. Current statute treats manufacturers and retailers alike, even though they act in very different capacities. This bill will establish reforms to allow additional evidence and defenses necessary for the fair treatment of manufacturers and retailers.



Creates comparative fault defense

Allows product sellers to show that another party contributed to the injury.



Strengthens product misuse defense

Product sellers to use the defense that the product was used contrary to an express warning or instruction that came with the product.



Creates defense for government safety regulation compliance

If the product complied with mandatory government safety regulations and requirements, this bill would allow that as a defense in court.



Creates 10-year statute of repose

This addition recognizes that most products have a limited useful life and wear out, so it is defensible if the product is over 10 years old. Reasonable exceptions remain.




Allows innocent-seller defense

If a retailer sells a product unchanged from the manufacturer, the innocent seller should not be held liable - the liability rests with the manufacturer. Reasonable exceptions remain.



Adds defense of no safer alternative

Products innovate quickly, but if there was no safer alternative in existence at the time of sale, the seller can raise that defense.



SB93: Ballot Initiative Modernization

The recommended changes in SB93 are smart, sensible solutions to update and modernize the ballot measure process in Montana.

- Ballot-measure campaigns need to play by the same rules as candidate campaigns and start disclosing their donors when they file to get on the ballot.
- We need to close campaign-finance loopholes that allow ballot measure campaigns to delay filing campaign reports and then get off with a slap on the wrist when they file false reports or don't file a report at all.
- A lot of ballot measure proposals are simply frivolous or wildly radical ideas with no serious effort to follow through on them. But they waste taxpayer resources.
 - I-191 collected less than a dozen signatures, all illegal digital signatures.
 - Ballot Issue #10: proposed to divide the state of Montana into two states and form the state of East Montana.
 - Ballot Issue #6: proposed to divide the state of Montana into the two separate states of North Montana and South Montana
- Some individuals seem to use the ballot measure process for entertainment or bragging rights: One individual submitted 11 proposals; another individual submitted 9 proposals. All 20 of these proposals were abandoned by the proponents mid-way through the process. None made it to the signature-gathering phase because they were not serious proposals.
- A lot of these ballot proposals are not home-grown ideas; lots of out of state influences.
- Every one of these initiative proposals has to go through a process with state agencies to ensure that it meets basic guidelines and basic legislative requirements. And those processes cost taxpayers around \$_____. Any Montanan has a constitutional right to propose off the wall ideas, but they should pick up the tab for their crazy ideas.
- Signature-Gathering Integrity is also important. Ballot Initiative petitions require original, wet signatures. These amendments make clear that electronic signatures are prohibited.
- Adjusting the requirements for filing ballot measures in Montana will allow resources to be allocated to ballot measures of higher quality and protect the integrity of the democratic process.
- We support democratic reform to state laws, and we want ballot initiatives to be informed by public input and have the support of real Montanans, as opposed to of state actors who want to use Montana as a bargaining chip.
- Why now? These reforms have been necessary for some time. There has been extensive work done with stakeholders throughout Montana to ensure our changes are strong and provide reliable solutions to the issue.