

Appraisal in Homeowners Policies

1. What is appraisal?

In homeowners policies, appraisal is a process for resolving disputes about the cost of repairing or replacing damaged property.

2. Are appraisal provisions common?

Yes. Almost every homeowners policy in Texas includes an appraisal provision. For example, all of the top 10 insurers include an appraisal provision.

3. Can an appraisal award be overturned?

Yes, but only in very limited circumstances. “Texas courts recognize three grounds on which the results of an otherwise binding insurance appraisal award may be set aside:

- when the award was made without authority;
- when the award was made as a result of fraud, accident, or mistake; or
- when the award was not in compliance with the requirements of the policy.”

Garcia v. State Farm Lloyds, No. 04-16-00209-CV, 2016 Tex. App. LEXIS 13194, at *1 (App.—San Antonio Dec. 14, 2016).

4. How does a typical appraisal work?

If a policyholder disagrees with the amount that the insurer will pay for a claim, the policyholder or the insurer may tell the other party they want to go to appraisal.

- Each party chooses an appraiser.
- The two appraisers set the amount of loss. If they cannot agree, they submit the dispute to an appraisal umpire.
- Together, the appraisers choose an umpire, and submit their differences. If they cannot agree on an umpire, a third party—usually a court—will choose the umpire.
- A written agreement by any two of the three (appraisers and umpire) will set the amount of loss.
- Typically, each party pays its appraiser and splits the cost of the umpire and other expenses equally.
- Appraisal is binding on both parties for the amount of loss.

Typical Appraisal Provision

If you and we fail to agree on the amount of loss, either can make a written demand for appraisal. Each will then select a competent, disinterested appraiser. Each shall notify the other of the appraiser's identity within 20 days of receipt of the written demand. The two appraisers will choose an umpire. If they cannot agree on an umpire within 15 days, you or we may request that a judge of a district court of a judicial district where the loss occurred choose an umpire. The two appraisers will then set the amount of loss. If the appraisers fail to agree within a reasonable time, they will submit their differences to the umpire. Written agreement signed by any two of the three shall set the amount of the loss. Each party will pay its own appraiser and bear the other expenses of the appraisal and umpire equally. Such award shall be binding on you and us.
(From Texas Promulgated HO-B Form)

5. Can an appraiser decide whether a loss is covered?

- Generally, no. Appraisers have no authority to determine questions of causation, coverage, or liability.
- Nonetheless, appraisers must often consider causation, at least initially. Policies cover specific damages, not every repair a home needs. In a hail claim, for example, appraisers must consider whether particular damage is from the hailstorm or is preexisting wear and tear damage.

6. How does appraisal interact with lawsuits?

- Appraisal is intended to take place before suit is filed. However, if a lawsuit is filed, and one party properly demands appraisal, the lawsuit may be abated. Whether it is abated depends if the policy provision requires it.
- Appraisal only determines the amount of the loss; it does not affect other causes of action under Insurance Code Chapter 541 (Unfair Methods of Competition and Unfair or Deceptive Acts or Practices) or the Deceptive Trade Practices Act. For example, a policyholder may still bring suit for other issues including:
 - causation;
 - coverage;
 - unfair deceptive acts or practices;
 - unfair competition; or
 - liability.