

OPERATION GUIDE

DATE	GENERAL CLASSIFICATION	SUBJECT	NUMBER
04-15-2020	Claim Practices Fire	Appraisal	75-09

I. PURPOSE

II. APPRAISAL PRINCIPLES

III. APPRAISAL GUIDELINES

- A. When is Appraisal used?
- B. What is the benefit of Appraisal?
- C. Is Appraisal a policy requirement?

IV. APPRAISAL PROCESS - FP 7955 Homeowners Series with no Endorsement regarding Appraisal

- A. Inform the Insured of the Appraisal Condition
- B. Pre Appraisal
- C. Appraisal Demand
- D. Timelines
- E. Coverage Questions During Appraisal
- F. Disagreement Concerning Amount of Loss
- G. Selection of Appraiser

V. APPRAISAL PROCESS - HW-2100 Homeowners Series and for FP 7955 Homeowners Policies with Endorsement FE 5626

- A. Inform the Insured of the Appraisal Condition
- B. Pre Appraisal
- C. Appraisal Demand
- D. Timelines
- E. Coverage Questions During Appraisal
- F. Qualifications for an Appraiser or Umpire
- G. Additional Conditions

VI. COMPLETING THE APPRAISAL PROCESS

- A. Appraisal Demand Letter
- B. Memorandum of Appraisal
- C. Selection of the Umpire
- D. The Evaluations Completed by Appraisers
- E. The Appraisal Award
- F. Validity of the Award

I. PURPOSE

This Operation Guide provides guidelines for the application of the Appraisal condition under the homeowners policy forms consistent with Our Commitment to Our Policyholders and the Preface. In general, the guidance provided is applicable to all homeowners policy forms unless otherwise indicated in the Operation Guide. Review the policy form and/or endorsement(s) to confirm the specific contract language and/or limits which are applicable to an individual claim.

If a policy provision or application is more restrictive than the law of the jurisdiction, then the law of the jurisdiction will apply. Also, there may be situations where the Enterprise position is broader than the law of the jurisdiction. In such situations, you should follow the Enterprise position. If policy wording in the jurisdiction conflicts with any of these, guidelines or in case of unusual claim situations, contact claim management.

Top of Page

II. APPRAISAL PRINCIPLES

Appraisal is a policy condition which provides that when there is a dispute as to the amount of a first-party loss, either party may demand an appraisal to determine the amount of the loss. The appraiser does not decide coverage or policy interpretations, rather only evaluates the amount of loss.

Therefore, appraisal should not be used to resolve questions such as:

EXHIBIT

B

ECKFLO00000042PROD
SF 003980

- o What caused the loss?
- o Do policy exclusions apply?
- o Has accidental direct physical loss occurred?
- o Have policy conditions been met?, or
- o What is the scope or extent of loss?

Compliance with the appraisal condition is a condition precedent to bringing a suit on the policy. An appraisal should be demanded and not requested. The demand must be written in plain language and made within a reasonable period.

Appraisal leaves the value determination to experts and not to a jury. In certain jurisdictions, appraisal can also address the issue of good faith claim settlement. A few states, however, do not allow appraisal or put restrictions on appraisal. Claim handlers should review any laws, requirements, restrictions or limitations in the jurisdiction.

Be aware of situations where we could be estopped from demanding compliance with the appraisal condition. Estoppel may occur:

- o Where there has been a denial of coverage.
- o Where the insurer elects to repair or replace.
- o In a total loss situation in a state with a valued policy statute.
- o Where there is an untimely demand for the appraisal.

A mortgagee is usually not bound by appraisal demand unless notice is given and the mortgagee agrees. A loss payee usually has the same rights as the insured, and thus will be bound by an appraisal demand.

[Top of Page](#)

III. APPRAISAL GUIDELINES

A. When is Appraisal used?

1. After other means of reaching agreement on the amount of loss have failed.
2. At the demand of either party.
3. The company may advise the insured that appraisal exists as a means of establishing the amount of loss, and provide the insured the opportunity to demand appraisal.

B. What is the benefit of Appraisal?

1. Resolves disagreements concerning the amount of loss.
2. May avoid litigation.
3. The award may be binding upon both parties.

C. Is Appraisal a policy requirement?

1. Absent a demand by the insurer or insured, appraisal is not a policy requirement.
2. Appraisal does not preclude litigation.
3. In the HW-2100 Homeowners Series and some policy forms and endorsements, either party is prohibited from demanding appraisal after that party brings suit or action against the other party relating to the amount of loss. For example, if the insured files suit against State Farm relating to amount of loss, the insured is prohibited from demanding appraisal after filing suit.

Review the policy form and endorsements, and law of the jurisdiction to determine if this applies.

[Top of Page](#)

IV. APPRAISAL PROCESS - FP 7955 Homeowners Series with no Endorsement regarding Appraisal

Refer to the specific policy form or endorsement(s) applicable to the claim.

Policy language found in **SECTION I - CONDITIONS** of the homeowners policy and endorsements describes the appraisal process.

A. Inform the Insured of the Appraisal Condition.

When unable to reach agreement as to the amount of loss, the company may notify the insured as to how appraisal is conducted, the expenses involved, and the binding effect of the award. The insured may be reminded of his or her right to request appraisal even though the company may not wish to invoke the appraisal provision.

B. Pre Appraisal

The policyholder must comply with all policy conditions. The appraisal award may not be upheld if compliance with the policy is not maintained.

C. Appraisal Demand

1. The company may wish to make the appraisal demand after avenues of agreement have been explored unsuccessfully.

If the company does not wish to demand appraisal, the insured may be verbally informed and reminded that the insured has the right to request appraisal.

2. The demand must specify areas of disagreement. The demand should fully explain the obligations of the insured, the appraisers, the umpire, and the time limits within which action must be taken.
3. Appraisal demands should be clear and in writing.
4. The appraiser should be instructed to document activities and findings.

D. Timelines

1. Appraisal may be demanded as soon as a substantial disagreement occurs, and other avenues of agreement have been explored.
2. Review policy materials for the jurisdiction to verify time deadlines. There should be a strict adherence to time limits for selection of appraisers (20 days) and umpire (15 days) unless the time is extended by mutual agreement.
3. Failure to meet policy provision time limits could void the appraisal.
4. Any agreed covered amount of loss should be promptly paid.

E. Coverage Questions During Appraisal

Appraisal is only available to determine the amount of loss for each item in dispute. The appraiser and umpire have no authority to decide questions of fact, law, coverage, contract issues, or to conduct appraisal on a class wide basis.

Coverage questions should normally be resolved before appraisal. However, when investigation of policy defense(s) is unavoidably delayed, it may be advisable, in some cases, to establish the amount of loss by appraisal. In addition, coverage questions, or additional damage out of scope, may arise when the award is received if appraisers include items that are not covered in the award.

1. There must be a clear understanding that the policy defense(s) is not waived
2. Company will not pay the appraisal amount unless the policy defense(s) is resolved in favor of the insured.
3. Correspondence specifically reserving rights should be sent explaining the policy defense prior to the appraisal.

F. Disagreement Concerning Amount of Loss

1. There must be a distinct disagreement between the insurer and insured concerning the amount of loss.
2. The file should reflect the specific items where there is a disagreement, about the amount of loss, and each party's evaluation of the amount of loss.
3. Areas of disagreement should be stated in writing.

G. Selection of Appraiser

1. Must be qualified based on the appraisal provision of the involved policy contract.
2. The burden of proving an appraiser is not qualified is on the party making the allegation.
3. The company's appraiser should be someone whose testimony would be considered "expert" in a hearing or in a court of law.
4. An appraiser is someone who can state with accuracy the amount of loss in question.
5. A party who has acted in the course of the adjustment process to inspect, evaluate, negotiate the claim, or has previously expressed an opinion concerning the loss or preconceived views, is subject to challenge and disqualification.

[Top of Page](#)

V. APPRAISAL PROCESS - HW-2100 Homeowners Series and for FP 7955 Homeowners Policies with Endorsement FE 5626

Refer to the specific policy form or endorsement(s) applicable to the claim.

Policy language found in **SECTION I - CONDITIONS** of the homeowners policy describes the appraisal process.

A. Inform the Insured of the Appraisal Condition.

When unable to reach agreement as to the amount of loss, the company may notify the insured as to how appraisal is conducted, the expenses involved, and the binding effect of the award. The insured may be reminded of his or her right to request appraisal even though the company may not wish to invoke the appraisal provision.

Ensure all timelines and conditions have been explained to the policyholder, including the itemized documentation of a specific dispute as to the amount of loss.

B. Pre Appraisal

1. The policyholder must comply with all policy conditions. For an appraisal award to be upheld by the court, it is important that strict compliance with the policy is maintained
2. At least 10 days before demanding appraisal, the party seeking appraisal must provide the other party with written, itemized documentation of a specific dispute as to the amount of loss, identifying separately each item being disputed.

C. Appraisal Demand

1. The company may wish to make the appraisal demand after avenues of agreement as to the amount of the loss have been explored unsuccessfully.
2. The demand should specify areas of disagreement as to the amount of loss.
3. The demand should fully explain the obligations of the insured, the appraisers, the umpire, and the time limits within which action must be taken.
4. Appraisal demands should be clear and in writing.
5. The appraiser should be instructed to document activities and findings.

D. Timelines

1. At least 10 days prior to demanding appraisal, the party seeking appraisal must provide itemized documentation of a specific dispute as to the amount of loss.
2. Review policy materials for the jurisdiction to verify time deadlines. There should be a strict adherence to time limits for selection of appraisers (20 days). If the two appraisers fail to agree upon the amount of loss (30 days), unless the time is extended by mutual agreement, they will select a competent and qualified umpire (15 days).
3. A failure to follow up on a timely basis once appraisal has been demanded may limit the company's ability to demand compliance.
4. Any agreed covered amount of loss should be promptly paid.

E. Coverage Questions During Appraisal

Appraisal is only available to determine the amount of loss for each item in dispute. The appraiser and umpire have no authority to decide questions of fact, law, coverage, contract issues, or to conduct appraisal on a class wide basis.

Coverage questions should normally be resolved before appraisal. However, when investigation of policy defense(s) is unavoidably delayed, it may be advisable, in some cases, to establish the amount of loss by appraisal.

In addition, coverage questions, or additional damage out of scope, may arise when the award is received if appraisers include items that are not covered in the award.

1. There must be a clear understanding that the policy defense(s) is not waived.
2. Company will not pay the appraisal amount unless the policy defense(s) is resolved in favor of the insured.
3. Correspondence specifically reserving rights should be sent explaining the policy defense prior to the appraisal.

F. Qualifications for an Appraiser or Umpire

1. In reference to **Coverage A - Dwelling**:

- a. Refer to the policy language for the specific training and background required to qualify as an appraiser or umpire for a Coverage A - Dwelling. To be an appraiser a person must be a professional in a related field with experience, and be licensed or certified as required by any applicable jurisdictional authority.

The policy language in **SECTION I - CONDITIONS, 4. Appraisal, d**, identifies the experience required to be an Appraiser.

- b. A person may not serve as an Appraiser or Umpire if they have performed services for either party with respect to the claim at issue in appraisal, or they have a financial interest in the outcome of the claim. See policy language in **SECTION I - CONDITIONS, 4. Appraisal, e**, for detailed language on constraints placed on the qualifications for Umpire.
- c. Refer to policy language to review the conditions specifying when a person may not serve as an appraiser or umpire

2. The company's appraiser should be someone whose testimony would be considered "expert" in a hearing or in a court of law.
3. An appraiser is someone who can state with accuracy the amount of loss in question.
4. A party who has acted in the course of the adjustment process to inspect, evaluate, negotiate the claim, or has previously expressed an opinion concerning the loss or preconceived views, is subject to challenge and disqualification.

G. Additional Conditions

1. Neither party will be awarded attorney fees.
2. The appraisal award may not be entered as a judgment in a court.
3. A party may not demand appraisal after that party brings suit or action against the other party relating to the amount of loss.

[Top of Page](#)

VI. COMPLETING THE APPRAISAL PROCESS

A. Appraisal Demand Letter

1. The letter should clearly state that appraisal is demanded pursuant to the terms of the insurance contract.
2. If a letter is received which does not clearly express the intent of the insured, we should ask for written clarification, and specific information on the amount of loss in dispute (for example, some letters are received requesting that an independent appraiser set the amount of loss).

B. Memorandum of Appraisal

1. The Memorandum of Appraisal is a document that states:
 - a. The alleged peril causing the loss in question,
 - b. The location of the damaged property,
 - c. The language of the appraisal condition,
 - d. That a disagreement has arisen between the company and the insured concerning the amount of the loss,
 - e. The identity of the appraisers selected by each party,
 - f. Appraisal is to be conducted in accordance with the terms of the insurance contract, and
 - g. The company has not, by agreeing to appraisal, waived any of its rights in the insurance contract.
2. The Memorandum of Appraisal is not a condition or requirement of the contract, and cannot be required of the insureds. The benefit is in documenting, in writing, the items stated above. It establishes a meeting of the minds.
3. In the course of appraisal, the company should complete the Memorandum of Appraisal, with the exception of entering the name of the insured's appraiser. The memo is next mailed to the insured with the request that they enter the name of their appraiser, review the document for accuracy, date and sign the document, and mail it to their chosen appraiser.
4. The Memorandum of Appraisal also includes the Declaration of Appraisers. This document is executed by the appraisers and umpire. It serves the following purposes:
 - a. The appraisers acknowledge their appointment, and confirm they meet all requirements under the appropriate contract.
 - b. The appraisers swear to act impartially, and swear that they are not in any way related to either party, or interested in a particular outcome.
 - c. The appraisers acknowledge, in writing, the identity of the umpire.
 - d. The umpire acknowledges his or her appointment, and confirm they meet all requirements under the contract, and swears to act impartially, and is not related to either party or interested in particular outcome.

- e. The appraisers and umpire have a document on which to record in writing the amount of loss in question.
- f. The insurer's appraiser should meet with the insured's appraiser to date, sign, and notarize the agreement. The appraisers should also sign the agreement indicating their choice of umpire.

C. Selection of the Umpire

Homeowners FP-7955 Series

1. The duty of the appraisers.
2. The policy states the selection should be made before the loss is appraised or inspected. If the appraisers agree, selection of the umpire may be pended until the appraisers attempt to reach agreement on the amount of loss. If the appraisers fail to agree on the amount of loss within 30 days, selection of the umpire should be made within 15 days, unless the period of time is extended.
3. Selection is the responsibility of the appraisers and should not be at the direction or control of the insured or company.
4. Selection may be made by a judge of record if the appraisers fail to agree within the specified timeframe (no. of days).
5. The umpire should be directed to decide only the differences of the appraisers. The umpire does not reappraise the loss.

Homeowners HW-2100 Series

1. The duty of the appraisers.
2. Selection of a competent disinterested umpire should be made if the two appraisers fail to agree upon the amount of the loss within 30 days, unless the period of time is extended.
3. Selection is the responsibility of the appraisers and should not be at the direction or control of the insured or company.
4. Selection may be made by a judge of record if the appraisers fail to agree within the specified timeframe (no. of days).
5. The umpire should be directed to decide only the differences of the appraisers. The umpire does not reappraise the loss.

D. The Evaluations Completed by Appraisers.

1. The appraisers should complete a written report itemized based on their independent evaluation.
2. Each written itemized estimate will include; itemized entries with a description, the Actual Cash Value (ACV) amount of loss, and a Replacement Cost Value (RCV) amount of loss, and the market value if applicable.

E. The Appraisal Award

1. The insured should be advised in writing that we will consider the award binding when there is no coverage or scope in question.
2. The insured should be advised in writing that the award will establish the company's obligation subject to policy coverages and limits of liability.
3. The amount of loss in question should be stated by the appraisers or umpire.

4. The award must be in writing. It is preferred if the award outlines both RCV and ACV.
5. The award must be endorsed by both appraisers, or by the umpire and one appraiser.

F. Validity of the Award

1. Appraisal awards are generally held by the courts as binding with respect to the amount of loss.
2. Appraisal awards may be set aside by the courts when (1) the parties did not have the opportunity for a full and fair hearing, or (2) the hearing was not conducted. Other factors may challenge the appraisal award, such as the level of competencies and disinterested status of the appraisers and umpire, Also, coverage issues may remain and eliminate payment of some damages are included in the award.

Please review validity issues with claims management.

[Top of Page](#)

STATE FARM CONFIDENTIAL INFORMATION
- Distribution on a Business Need to Know Basis Only -