

**Subchapter Q. General Property and Casualty Rules**  
**Division 4. Appraisal Requirements**  
**28 TAC §§5.9800, 5.9801, 5.9802, 5.9803, 5.9804, and 5.9805**

**TEXT.**

**§5.9800. Purpose.**

(a) This division implements Insurance Code Chapter 1813, concerning Appraisal of Disputed Losses, which requires personal automobile and residential property insurance policies to include an appraisal provision that is intended to provide a type of dispute resolution process to determine the amount of loss when that amount is in dispute between the policyholder and the insurer.

(b) This division applies to policies delivered, issued for delivery, or renewed by insurers described in Insurance Code §1813.001(a), concerning Applicability of Chapter.

(c) This division does not apply to:

- (1) Texas Windstorm Insurance Association policies; or
- (2) commercial insurance policies.

**§5.9801. Definitions.**

The following definitions apply to this division.

(1) Appraisal--The process described in Insurance Code Chapter 1813, concerning Appraisal of Disputed Losses, to resolve a dispute between the insurer and a policyholder about an amount of loss or damage to property.

(2) Appraisal provision--The policy provision that provides for appraisal, as required under Insurance Code Chapter 1813.

(3) Appraisal award--The written determination of the amount of loss or damage signed by both appraisers, or by either of the appraisers and the umpire, during the appraisal process.

(4) Appraiser--A person who is qualified to be an appraiser under §5.9802 of this title (relating to General Requirements for Appraisal Provisions) and, if applicable, under §5.9803(d) of this title (relating to Residential Property Appraisal Process), and is hired by either the insurer or the policyholder to participate in the appraisal process.

(5) Notice accepting coverage--A written notice the insurer provides to the policyholder, accepting a claim or part of a claim and stating the amount the insurer will pay, as described in Insurance Code §542.056, concerning Notice of Acceptance or Rejection of Claim.

(6) Party--The insurer or policyholder. "Party" includes employees and other representatives of an insurer or policyholder. It does not include an appraiser.

(7) Personal automobile insurance policy--Automobile insurance coverage for the ownership, maintenance, or use of a private passenger, utility, or miscellaneous-type motor vehicle, including a motor home, trailer, or recreational vehicle, that is owned or leased by one or more individuals and not primarily used for the delivery of goods, materials, or services, other than for use in farm or ranch operations, as defined by Insurance Code §2301.051, concerning Definitions.

(8) Residential property insurance policy--Insurance coverage against loss to real or tangible personal property at a fixed location that is provided through a homeowners insurance policy, including a tenants insurance policy, a condominium owners insurance policy, or a residential fire and allied lines insurance policy, as defined by Insurance Code §2301.002, concerning Definitions. The term "residential property insurance policy" also includes a farm and ranch insurance policy and a farm and ranch owners insurance policy.

(9) Umpire--A person who is qualified to be an appraisal umpire under §5.9802 of this title and, if applicable, §5.9803(d) of this title, and is selected by the appraisers or otherwise appointed to participate in the appraisal process.

**§5.9802. General Requirements for Appraisal Provisions and Minimum Qualifications for Appraisers and Umpires.**

(a) Appraisal provision. Every policy subject to this division must have an appraisal provision that:

(1) allows either party to unilaterally demand appraisal;

(2) applies to disputes between the parties about the amount of loss or damage to the property, including partial or total loss or damage;

(3) requires the appraisal award to be binding as to the amount of loss or damage, unless:

(A) it was made without authority;

(B) it was not made in substantial compliance with the appraisal provision; or

(C) there was fraud, accident, or material mistake relevant to the appraisal; and

(4) does not conflict with this division or other state law.

(b) Minimum qualifications. Appraisers and umpires must be:

(1) competent to evaluate the type of property loss or damage in dispute;

(2) independent from the parties; and

(3) disinterested in the outcome of the appraisal.

**§5.9803. Residential Property Appraisal Process.**

(a) Appraisal demand. A demand for appraisal under a residential property insurance policy must be made in writing not later than one year from the date the insurer gives the policyholder notice accepting coverage of the property loss or damage that is the subject of the appraisal.

(b) Appraisers and umpire procedures.

(1) Each party must hire its own appraiser and notify the other party in writing of the appraiser's identity not later than 30 days after a written demand for appraisal is made.

(2) The two appraisers must attempt to agree on the amount of loss or damage in dispute within 180 days after a written demand for appraisal is made.

(3) If the appraisers cannot agree on the amount of loss or damage, they must select an umpire not later than 210 days after a written demand for appraisal is made.

(4) If the appraisers cannot agree on an umpire, either party may petition a county or district court to appoint an umpire. The court must be in a county or district where the policyholder resides or where the residential property is located.

(5) If an umpire is engaged, the appraisal award must be issued not later than 180 days after the umpire is selected or appointed. If an appraisal award is not issued by the deadline, the appraisers may select a new umpire.

(c) Extension of deadlines. The parties may extend any deadline in the appraisal process by written agreement.

(d) Additional qualifications for appraisers and umpires. In addition to the qualifications in §5.9802(b) of this division (relating to General Requirements for Appraisal Provisions), appraisers and umpires in a residential property appraisal that involves loss or damage to a building must also be one of the following:

(1) an engineer or architect with experience and training in building construction, repair, estimating, or investigation of property damage;

(2) an adjuster or public adjuster with experience and training in estimating property damage; or

(3) a general contractor with experience and training in building construction, repair, or estimating property damage.

**§5.9804. Personal Automobile Appraisal Process.**

(a) Appraisal demand. A demand for appraisal under a personal automobile insurance policy must be made in writing not later than 120 days from the date the insurer gives the policyholder notice accepting coverage of the property loss or damage that is the subject of the appraisal.

(b) Appraisers and umpire procedures.

(1) Each party must hire its own appraiser and notify the other party in writing of the appraiser's identity not later than 20 days after a written demand for appraisal is made.

(2) The two appraisers must attempt to agree on the amount of loss or damage in dispute within 75 days after a written demand for appraisal is made.

(3) If the appraisers cannot agree on the amount of loss or damage, they must select an umpire not later than 105 days after a written demand for appraisal is made.

(4) If the appraisers cannot agree on an umpire, either party may petition a county or district court to appoint an umpire. The court must be in a county or district where the policyholder resides or where the vehicle is principally garaged.

(5) If an umpire is engaged, the appraisal award must be issued not later than 180 days after the umpire is selected or appointed. If an appraisal award is not issued by the deadline, the appraisers may select a new umpire.

(c) Extension of deadlines. The parties may extend any deadline in the appraisal process by written agreement.

**§5.9805. Notice to Policyholders.**

(a) The insurer must provide written notice of the appraisal process, applicable deadlines, and the right of either party to demand appraisal in the notice accepting coverage, which is described in Insurance Code §542.056, concerning Notice of Acceptance or Rejection of Claim.

(b) The appraisal process notice must be in plain language and explain:

(1) how the policyholder may demand appraisal;

(2) the policyholder's responsibilities in the appraisal process, including the duty to select an appraiser and any responsibility for appraisal expenses;

(3) applicable time limits, including the deadline to demand appraisal and any other deadlines in the appraisal process; and

(4) the effect of the appraisal award.