

Subchapter Q. General Property and Casualty Rules
Division 4. Appraisal Requirements
28 TAC §§5.9800 - 5.9806

INTRODUCTION. The Texas Department of Insurance (TDI) proposes new 28 TAC §§5.9800 - 5.9806, concerning requirements for appraisals, in new Division 4. Sections 5.9800 - 5.9806 implement Senate Bill 458, 89th Legislature, 2025.

EXPLANATION. New §§5.9800 - 5.9806 are necessary to implement SB 458, which added new Insurance Code Chapter 1813, concerning Appraisal of Disputed Losses. SB 458 requires certain insurers writing personal automobile or residential property insurance to include an appraisal provision that complies with Insurance Code Chapter 1813 in an insurance policy delivered, issued for delivery, or renewed in Texas. New Insurance Code §1813.002 directs the commissioner to adopt rules necessary to implement the chapter, including rules that mandate appraisal and establish the period in which appraisal must be completed. The statute also directs the commissioner to consider the qualifications and selection of appraisers and umpires in adopting rules.

Sections 5.9800 - 5.9806 are added to new Division 4, which addresses the appraisal process for both personal automobile and residential property insurance and the notice insurers must send to a policyholder informing them of their right to appraisal. The requirements and conditions in Division 4 do not prohibit appraisal provisions from including other requirements or conditions that do not limit and are not contrary to Insurance Code Chapter 1813 and Division 4. Any other requirements and conditions remain subject to other applicable Texas laws, such as the standards for forms subject to filing and approval under Insurance Code Chapter 2301, Subchapter A.

To provide enough time for insurers to comply with these changes, TDI proposes to make September 1, 2026, the deadline to implement the new requirements. This

proposed compliance date will give insurers ample time to amend the appraisal provisions in automobile and homeowners insurance policies and to draft and incorporate the appraisal process notice into their claims-handling process. In addition, it gives insurers time to file the amended policy forms with TDI for review and approval before September 1, 2026.

TDI received comments on an informal draft posted on September 22, 2025. TDI considered those comments when drafting this proposal.

Descriptions of the proposed new sections follow.

New §5.9800. This section describes the purpose and scope of new Division 4, relating to Appraisal Requirements. Subsection (a) states that the purpose of Division 4 is to implement Insurance Code Chapter 1813. Subsections (b) and (c) provide the applicability of Division 4, consistent with Insurance Code §1813.001, and state that Division 4 applies to personal automobile and residential property insurance delivered, issued for delivery, or renewed on or after September 1, 2026.

New §5.9801. This section provides definitions for use in new Division 4, including definitions of appraisal, appraisal provision, appraisal award, appraiser, party, personal automobile insurance, residential property insurance, and umpire.

The definition of "appraisal" refers to the process to resolve disputes about the amount of loss as described in Insurance Code Chapter 1813, and the definition of "appraisal provision" refers to the policy provision that provides for appraisal required under Chapter 1813.

The definition of "appraisal award" specifies that the determination of the amount of loss is signed by both appraisers or one appraiser and the umpire. Consistent with a typical appraisal provision, the umpire cannot unilaterally determine the amount of loss.

The definition of "party" means the insurer or the policyholder.

The definitions of "personal automobile insurance" and "residential property insurance" align with the description of those terms in Insurance Code §2301.051, helping to ensure clear and consistent application of these rules.

"Appraiser" and "umpire" are defined similarly to mean an individual who is qualified to act as an appraiser or umpire under Division 4 and who is hired or otherwise selected or appointed to participate in the appraisal process.

New §5.9802. This section outlines the general requirements for appraisal provisions required in certain insurance policies under Insurance Code Chapter 1813. These requirements do not prohibit appraisal provisions from including other requirements or conditions that do not limit and are not contrary to Insurance Code Chapter 1813 and new Division 4. Any other requirements and conditions remain subject to other applicable Texas laws, such as the standards for forms subject to filing and approval under Insurance Code Chapter 2301, Subchapter A.

This section also requires every policy subject to Insurance Code Chapter 1813 to include an appraisal provision that meets the standards outlined in paragraphs (1) - (6) of the section. Under paragraph (1), applicable policies must contain an appraisal provision that states either party has the right to unilaterally demand appraisal. Permitting either party to invoke appraisal is consistent with SB 458, which mandates that certain automobile and homeowners insurance policies include an appraisal provision. Requiring both parties to consent to appraisal before it is executed would frustrate the purpose of SB 458.

Under paragraph (2), the ability to demand appraisal must not be conditioned on the parties reaching an impasse. As described in Insurance Code §1813.003, the appraisal provision is intended to provide a dispute resolution process when the amount of loss is

in dispute. A dispute indicates disagreement between the parties and does not require the parties to show that there is no chance of reaching an agreement. Paragraph (2) does not prevent an insurer from requiring proof of loss, consistent with Insurance Code Chapter 542, Subchapter B.

Paragraph (3) clarifies that appraisal is available for partial and total losses. Appraisal is not limited to total losses; it is also available for damaged property that only requires repair.

Paragraph (4) aligns with Insurance Code §1813.004 to clarify that an appraisal provision must require the appraisal award to be binding as to the amount of loss unless it was made without authority; was not made in substantial compliance with the appraisal provision; or there was fraud, or a material mistake relevant to the appraisal.

Paragraph (5) requires appraisal provisions to state the deadlines and process for appraisal. Deadlines must include the specific amounts of time listed in new §5.9805 and §5.9806 and be consistent with the other requirements in Division 4. The time limits and deadlines in new §5.9805 and §5.9806 provide a consistent and reliable basic timeframe for the appraisal process. For example, paragraph (5) ensures that every residential property policy subject to Insurance Code Chapter 1813 will give the policyholder one year to demand appraisal after the notice required under Insurance Code §542.056 is provided. It also gives the parties flexibility to agree to modify deadlines after a claim is made and the notice of acceptance or rejection under Insurance Code §542.056 has been provided. For example, after the notice is provided, the parties could agree to shorten the amount of time for the appraisers to reach an agreement on the amount of loss because the loss at issue is relatively simple. Paragraph (5) does not prohibit an appraisal provision from having additional deadlines.

Paragraph (6) clarifies that appraisal provisions must not conflict with new Division 4 or other Texas law, such as the policy form standards in Insurance Code Chapter 2301, Subchapter A.

New §5.9803. This section outlines the information that must be included in an appraisal process notice to policyholders. Subsection (a) requires an insurer to provide an appraisal process notice to the policyholder at the same time the insurer provides the notice of acceptance or rejection of the claim required under Insurance Code §542.056. The insurer may add the information required under subsection (b) to the notice sent under Insurance Code §542.056. Insurers may also choose to create a separate notice containing the information required under new §5.9803 and provide it to the policyholder at the same time as the notice required under Insurance Code §542.056.

Findings in TDI's 2024 Appraisal Experience Data Call Report (available at www.tdi.texas.gov/reports/pc/documents/2024-appraisal-experience-data-call-report.pdf) indicate that appraisal is demanded in only a small percentage of claims. Policyholders are unlikely to be familiar with how appraisal works and might not be aware of the availability of appraisal to resolve a dispute about the amount of loss. Policyholders should be made aware of appraisal and receive basic information about how it works when an insurer notifies the policyholder of the acceptance or rejection of a claim.

Subsection (b) requires the appraisal process notice to be written in plain language and appear in at least 10-point type, and explain:

- where the appraisal provision is located in the policy contract;
- how the policyholder may demand appraisal, including where to send the demand and what information the demand should include;
- the policyholder's responsibilities in the appraisal process;

- how the policyholder may request appointment of an umpire if the appraisers fail to jointly choose the umpire within the time provided, including how to request judicial appointment of an umpire;
- the applicable time limits in the appraisal process, including certain minimum information regarding deadlines; and
- the effect of the appraisal award.

New §5.9804. This section outlines the minimum qualifications that an appraiser or umpire must possess for appraisals subject to Insurance Code Chapter 1813 and new Division 4. Under subsection (a), all appraisers and umpires must meet the minimum qualifications, including (1) competency to evaluate the type of loss in the dispute, (2) independence from the parties, and (3) disinterest in the appraisal's outcome. A competency element is a long-standing, standard feature in personal automobile and residential property appraisal provisions, including in promulgated Texas personal automobile and homeowners policies. Likewise, independence from the parties is a common element in many appraisal provisions, including in promulgated Texas homeowners policies. Appraiser and umpire disinterest in the outcome is also preferred. It prevents appraisers from having a particular pecuniary interest in the outcome, ensuring an appraisal's fairness and trustworthiness as a dispute resolution tool.

Under subsection (b), appraisers and umpires in a residential property appraisal that involves loss to a dwelling must also be (1) an adjuster or public adjuster or public adjuster with experience or training in estimating residential property losses; (2) an engineer or architect with experience or training in residential construction or repair, investigating residential property damage, or estimating residential property losses; or (3) an individual who otherwise has occupational experience or training in constructing or repairing the type of damaged property at issue or estimating the type of property loss

at issue. Specifying particular experience or training for appraisal of loss to a dwelling helps ensure that only properly qualified individuals participate and increases consistency in the market.

Because the section outlines only the minimum qualifications of an appraiser or umpire, appraisal provisions may establish additional or more specific qualifications as long as those provisions do not conflict with Division 4. This added flexibility reflects that loss disputes of this nature can vary significantly, such as the variation in the type and extent of property at issue; insurers can decide whether more nuanced qualifications may be appropriate.

New §5.9805. This section specifies requirements for the appraisal process under residential property insurance policies.

Subsection (a)(1) specifies that, except as provided in subsection (a)(2), an appraisal demand must be made in writing not later than one year after the insurer notifies the policyholder of acceptance or rejection of the claim as required under Insurance Code §542.056. Establishing the period to complete appraisal includes addressing the time that appraisal must begin. The one-year time limit to demand appraisal strikes a balance between giving time for a party to identify a disagreement about the amount of loss while ensuring appraisal is begun in a reasonable amount of time.

According to findings in the Appraisal Experience Data Call Report, while appraisal was used in only a small percentage of residential property claims, it was almost always initiated by the claimant, i.e., the policyholder. Most policyholders are likely unfamiliar with appraisal even though it is an important dispute resolution tool, so it is reasonable to favor a relatively long deadline to demand appraisal. According to the Appraisal Experience Data Call Report, approximately 90% of residential property appraisals were demanded within 11 months after the claim was filed. For the vast majority of claims, a

one-year time limit from the date an insurer provides the notice required under Insurance Code §542.056 should be sufficient time for parties to evaluate whether to use appraisal. Using the notice required under Insurance Code §542.056 as a timing trigger provides a clear, consistent, well-established marker in the claim settlement process.

Subsection (a)(2) provides that if a lawsuit is filed concerning the loss at issue, the respondent to the lawsuit must have 30 days to demand appraisal. Subsection (a)(2) preserves the ability of a responding party to initiate appraisal even if the deadline in subsection (a)(1) has passed. Appraisal can be a more affordable and efficient dispute resolution process than litigation when an amount of loss is in dispute, so preserving the ability to initiate appraisal is beneficial.

Subsection (b) outlines other procedures and deadlines for residential property appraisal, including the deadlines to hire an appraiser, choose an umpire, and attempt to agree on the amount of loss. An appraisal award ordinarily represents the completion of appraisal. Because an appraisal award requires either both appraisers or the umpire and one of the appraisers to agree on an amount of loss, setting deadlines fundamentally helps establish the time in which appraisal must be completed.

Under subsection (b)(1), each party must hire an appraiser and provide the other party with the appraiser's name and contact information in writing within 20 days after written demand for appraisal is made. This prevents undue delay and is consistent with many appraisal provisions, including those in promulgated Texas homeowners policies.

Subsection (b)(2) requires appraisers to jointly choose an umpire and requires the appraisal provision to use one of the two deadline options in subparagraphs (A) and (B) for when umpire selection must occur. The first option requires the appraisers to choose an umpire not later than 15 days after the requirements in subsection (b)(1) are completed. This is a common deadline used in many appraisal provisions, including those in promulgated Texas homeowners policies. The second option requires the appraisers to

choose an umpire not later than 15 days after the appraisers cannot agree on the amount of loss in dispute within the time under subsection (b)(4). The second option is an alternative for insurers that might prefer to have an appraisal provision that allows appraisers to wait to see whether they can agree on the amount of loss before choosing an umpire. The two options give insurers flexibility to establish when the umpire selection should occur during the appraisal process.

For circumstances in which the appraisers fail to choose an umpire within the deadlines described in proposed subsection (b)(2)(A) and (B), subsection (b)(3) states the required and permitted methods of umpire selection. Under subsection (b)(3)(A), an appraisal provision must allow either party to request judicial appointment of an umpire through a county or district where the residential property is located. Judicial appointment is the method many residential property appraisal provisions use, including in promulgated Texas homeowners policies, if the appraisers cannot agree on an umpire. Appraisal is a binding dispute resolution process that can offer an alternative to litigation, so it is reasonable to require appraisal provisions to have a judicial appointment option if there is a disagreement over who should be the umpire.

Subsection (b)(3)(B) authorizes insurers to include, in addition to judicial appointment, other methods of umpire appointment in an appraisal provision. Some residential property appraisal provisions currently provide for the umpire to be chosen by an independent vendor if the appraisers cannot agree. Subsection (b)(3)(B)(i) allows an insurer to provide an option for umpire appointment by an independent vendor that offers umpire selection services, but the insurer must include at least two vendors and let the policyholder select the vendor, or allow only the policyholder to invoke this option. Subsection (b)(3)(B)(ii) allows an insurer to provide umpire appointment through any alternative method that both parties mutually agree to in writing after appraisal has been demanded. By allowing these options in addition to judicial appointment, the proposed

rule gives insurers added flexibility and efficiency in the appointment process while still ensuring a level of policyholder choice, regardless of the method.

Subsection (b)(3)(C) requires a party requesting umpire appointment through judicial appointment or by independent vendor to give written notice to the other party at least 10 days before making the request and, for judicial-appointment purposes, requires the written notice to include the location and identity of the court. Subsection (b)(3)(D) also requires the party requesting appointment to provide the other party with a copy of the request before or when the request is submitted. Subparagraphs (C) and (D) in subsection (b)(3) ensure that both parties are aware of an umpire appointment request.

Subsections (b)(4) and (5) outline the deadlines for attempting to agree on the amount of loss in dispute during appraisal. Under subsection (b)(4), appraisers must attempt to agree within 120 days after the appraisal demand was made. The 120-day deadline strikes a balance between providing time for the appraisers to attempt to agree on the amount of loss while ensuring that appraisal is completed in a reasonable amount of time. Findings in the Appraisal Experience Data Call Report indicate that about 75% of residential property appraisal awards that did not involve an umpire were made within 120 days after appraisal was demanded.

Under subsection (b)(5), where appraisers are unable to agree and an umpire is involved, the appraisers must submit their differences to the umpire and each other. An appraisal award must be issued not later than 240 days after the appraisal demand was made. Appraisal provisions, including those in promulgated Texas homeowners policies, commonly require appraisers to submit their differences to an umpire if the appraisers cannot agree on an amount of loss. According to the Appraisal Experience Data Call Report, 75% of residential property appraisal awards involving an umpire were made within 278 days after appraisal was demanded, and 50% were made within 193 days. The proposed 240-day deadline strikes a balance between completing appraisal in a timely

manner and the need to give the umpire sufficient time to evaluate the loss, examine the differences, and attempt to agree on the amount of loss with at least one of the appraisers. Subject to subsection (c), if the appraisal award is not issued by the 240-day deadline, then the umpire's engagement is terminated on that date, and the appraisers must choose a new umpire within 15 days after the deadline passes.

Subsection (c) authorizes parties to modify any deadline in the appraisal process by written agreement after the appraisal process notice is provided under §5.9803. This gives the parties flexibility to adjust the timeframe after a loss occurs, allowing them to tailor it to the relative breadth and complexity of the loss at issue.

Section 5.9806. This section specifies requirements for the appraisal process under personal automobile insurance policies.

Subsection (a)(1) specifies that except as provided in subsection (a)(2), an appraisal demand must be made in writing not later than 120 days after the insurer notifies the policyholder of acceptance or rejection of a claim as required under Insurance Code §542.056. Establishing the period to complete appraisal reasonably includes addressing the time in which appraisal must begin. The 120-day deadline to demand appraisal strikes a balance between giving time for a party to identify a disagreement about the amount of loss while ensuring appraisal is begun in a reasonable amount of time.

According to findings in the Appraisal Experience Data Call Report, while appraisal was used in only a small percentage of personal automobile claims, it was almost always initiated by the claimant, i.e., the policyholder. Because most policyholders are likely unfamiliar with the appraisal process, even though it is an important dispute resolution tool, it is reasonable to favor a relatively long deadline to demand appraisal. According to the Appraisal Experience Data Call Report, over 90% of personal automobile appraisals were demanded within 120 days after the claim was filed. For the vast majority of claims,

a 120-day deadline from the date an insurer provides the notice required under Insurance Code §542.056 should be sufficient time for parties to evaluate whether to use appraisal. Using the notice required under Insurance Code §542.056 as a timing trigger provides a clear, consistent, well-established marker in the claim settlement process.

Subsection (a)(2) provides that if a lawsuit is filed concerning the loss at issue, the respondent to the lawsuit must have 30 days to demand appraisal. Subsection (a)(2) preserves the ability of a responding party to initiate appraisal in case the deadline in subsection (a)(1) has passed. Appraisal can be a more affordable and efficient dispute resolution process than litigation when an amount of loss is in dispute, so preserving the ability to initiate appraisal is beneficial.

Subsection (b) outlines other procedures and deadlines for personal automobile appraisal, including the deadlines to hire an appraiser, choose an umpire, and attempt to agree on the amount of loss. An appraisal award ordinarily represents the completion of appraisal. Because an appraisal award requires either both appraisers or the umpire and one of the appraisers to agree on an amount of loss, setting deadlines fundamentally helps establish the time in which appraisal must be completed.

Under subsection (b)(1), each party must hire an appraiser and provide the other party with the appraiser's name and contact information in writing within 20 days after written demand for appraisal is made. While many appraisal provisions do not specify a deadline to select an appraiser, setting a 20-day deadline will help ensure that appraisers are identified and able to begin efforts to agree on the amount of loss in a timely manner.

Subsection (b)(2) requires appraisers to jointly choose an umpire and requires the appraisal provision to use one of the two deadline options in subparagraphs (A) and (B) for when umpire selection must occur. The first option in subsection (b)(2)(A) requires the appraisers to choose an umpire not later than 15 days after the requirements in subsection (b)(1) are completed. The second option in subsection (b)(2)(B) requires the

appraisers to choose an umpire not later than 15 days after the appraisers cannot agree on the amount of loss in dispute within the time under subsection (b)(4). While many personal auto appraisal provisions do not specify a deadline to choose an umpire, setting a 15-day deadline will help ensure that an umpire is identified and able to begin efforts to resolve the appraisal in a timely manner if the appraisers cannot agree on the amount of loss. The two options give insurers flexibility to establish when the umpire selection should occur during the appraisal process.

For circumstances in which the appraisers fail to choose an umpire within the deadlines described in proposed subsection (b)(2)(A) and (B), subsection (b)(3) states the required and permitted methods of umpire selection. Under subsection (b)(3)(A), an appraisal provision must allow either party to request judicial appointment of an umpire through a county or district court where the residential property is located. Appraisal is a binding dispute resolution process that can offer an alternative to litigation, so it is reasonable to require appraisal provisions to have a judicial appointment option if there is a disagreement over who should be the umpire.

Subsection (b)(3)(B) authorizes insurers to include, in addition to judicial appointment, other methods of umpire appointment in an appraisal provision. Subsection (b)(3)(B)(i) allows an insurer to provide an option for umpire appointment by an independent vendor that offers umpire selection services, but the insurer must include at least two vendors and let the policyholder select the vendor, or allow only the policyholder to invoke this option. Subsection (b)(3)(B)(ii) allows an insurer to provide umpire appointment through any alternative method that both parties mutually agree to in writing after appraisal has been demanded. By allowing these options in addition to judicial appointment, the proposed rule gives insurers the ability to increase flexibility and, potentially, efficiency of the appointment process and still ensures a level of policyholder choice regardless of the method.

Subsection (b)(3)(C) requires a party requesting umpire appointment through judicial appointment or by independent vendor to give written notice to the other party at least 10 days before making the request and, for purposes of judicial appointment, requires the written notice to include the location and identity of the court. Subsection (b)(3)(D) also requires the party requesting appointment to provide the other party with a copy of the request before or when the request is submitted. Subsections (b)(3)(C) and (D) ensure that both parties are aware of an umpire appointment request.

Subsections (b)(4) and (5) outline the deadlines for attempting to agree on the amount of loss in dispute during appraisal. Under subsection (b)(4), appraisers must attempt to agree within 40 days after the appraisal demand was made. The 40-day deadline strikes a balance between providing time for the appraisers to attempt to agree on the amount of loss while ensuring that appraisal is completed in a reasonable amount of time. Findings in the Appraisal Experience Data Call Report indicate that over 75% of personal automobile appraisal awards that did not involve an umpire were made within 40 days after appraisal was demanded.

Under subsection (b)(5), where appraisers are unable to agree and an umpire is involved, the appraisers must submit their differences to the umpire and each other. An appraisal award must be issued not later than 180 days after the appraisal demand was made. Appraisal provisions, including those in the promulgated Texas personal automobile policy, commonly require appraisers to submit their differences to an umpire if the appraisers cannot agree on an amount of loss. According to the Appraisal Experience Data Call Report, 75% of personal automobile appraisal awards that involved an umpire were made within 210 days after appraisal was demanded, and 50% were made within 114 days. Setting a 180-day deadline strikes a balance between completing appraisal in a timely manner and the need to give the umpire sufficient time to evaluate the loss, examine the differences, and attempt to agree on the amount of loss with at least

one of the appraisers. Subject to subsection (c), if the appraisal award is not issued by the 180-day deadline, then the umpire's engagement is terminated on that date, and the appraisers must choose a new umpire within 15 days after the deadline passes.

Subsection (c) authorizes parties to modify any deadline in the appraisal process by written agreement after the appraisal process notice is provided under §5.9803. This gives the parties flexibility to adjust the timeframe after a loss occurs, allowing them to tailor it to the relative breadth and complexity of the loss at issue.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. David Muckerheide, assistant director of the Property and Casualty Lines Office, has determined that during each year of the first five years the proposed new sections are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the new sections, other than that imposed by statute. Mr. Muckerheide made this determination because the proposed new sections do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed new sections.

Mr. Muckerheide does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed new sections are in effect, Mr. Muckerheide expects that administering them will have the public benefit of ensuring that TDI's rules conform with Insurance Code Chapter 1813, as added by SB 458. In addition, the new sections will benefit personal automobile and residential property policyholders by creating consistent timeframes and minimum standards for appraisal provisions and processes, and by ensuring they are made aware of the right to demand appraisal. Policyholders and insurers will also benefit from having

reasonable deadlines to help promote the timely completion of appraisals, and from having required appraisal provisions in policies because appraisal can be cheaper, more efficient, and a timelier dispute resolution option than litigation.

Mr. Muckerheide expects that the proposed new sections will impose an economic cost on persons required to comply with the new sections.

Costs. TDI anticipates that implementing the proposed new sections will result in costs to insurers when updating personal automobile and residential property insurance policy forms and notices to comply with the proposed requirements. The cost to comply will vary depending on the contents of an insurer's appraisal provision, the insurer's operations, and how the insurer chooses to implement the notice requirements under new §5.9805. While it is not feasible to determine the actual time required or the cost of employees needed to comply with the requirements, TDI estimates that updating appraisal provision language and drafting the appraisal process notice to policyholders will take a range of three to five hours to complete and might require an attorney. According to the May 2024 Bureau of Labor Statistics Occupational Employment and Wage Statistics at www.bls.gov/oes/current/oes_nat.htm, the national mean hourly wage for the "Lawyers" classification is \$87.86.

Depending on how insurers choose to implement the appraisal process notice to policyholders under new §5.9803, TDI anticipates that incorporating updated language into insurers' existing policy and notice form templates, filing updated policy forms with TDI, and updating policy and claim administration systems will take a range of five to 15 hours to complete and will likely require both software programming and clerical staff. According to the May 2024 Bureau of Labor Statistics Occupational Employment and Wage Statistics at www.bls.gov/oes/current/oes_nat.htm, the national mean hourly wage for the "Software and Web Developers, Programmers, and Testers" classification is \$65.34,

and the national mean hourly wage for the "Secretaries and Administrative Assistants, Except Legal, Medical, and Executive" classification is \$25.03.

TDI anticipates there may be printing, copying, mailing, and transmitting costs associated with providing updated forms to policyholders at renewal and updated notice forms to policyholders when a claim is accepted or rejected. It may require clerical staff to implement these printing, copying, mailing, and transmission efforts. It is not possible for TDI to estimate the total increased printing, copying, mailing, and transmitting costs related to compliance with this proposal because there are many factors involved that TDI cannot quantify. For example, an insurer might conduct business with its policyholders electronically and would not incur printing, copying, mailing, or transmitting costs. Insurers are more capable of accurately estimating any costs they will incur to comply.

Factors mitigating costs. Because insurers were required to have an appraisal provision in their personal automobile and residential property insurance policy forms delivered, issued for delivery, or renewed on or after January 1, 2026, TDI anticipates that the updates required to comply with the new sections should be less burdensome to implement. In addition, TDI proposes delaying the date that insurers must begin complying with the new rule requirements to September 1, 2026, so insurers have additional time to implement the new requirements.

New §5.9803 permits insurers to choose how to comply with the appraisal process notice to policyholders. Insurers may choose to incorporate the appraisal process notice information into the notice of acceptance or rejection required under Insurance Code §542.056 or provide a separate appraisal process notice to policyholders at the same time the notice under Insurance Code §542.056 is sent. If insurers choose to incorporate the information into the notice of acceptance or rejection, then insurers may incur lower printing, copying, mailing, and transmitting costs.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed new sections may have an adverse economic effect on small or micro businesses. The cost analysis in the Public Benefit and Cost Note section of this proposal also applies to small and micro businesses. TDI estimates that the proposed new sections may affect approximately 75 to 80 personal automobile insurers and 45 to 50 residential property insurers. The primary objective of this proposal is to establish the requirements for an appraisal provision in a personal auto or residential property insurance policy, consistent with Insurance Code Chapter 1813.

TDI has determined that the proposed new sections will not have an adverse economic effect or a disproportionate effect on rural communities because the rules do not apply to rural communities.

TDI considered the following alternatives to minimize any adverse impact on small and micro businesses while accomplishing the proposal's objectives:

- (1) not proposing the new sections;
 - (2) excluding small and micro businesses from complying with the new sections;
- and
- (3) extending the deadline for small and micro businesses to comply with the new sections.

Not proposing the new sections. As previously noted, the primary purpose of this rule is to implement Insurance Code Chapter 1813, which requires certain insurers that write personal automobile or residential property insurance to include an appraisal provision in an insurance policy beginning January 1, 2026. Insurance Code §1813.002 directs TDI to adopt rules necessary to implement the chapter, including rules that (1) establish the period in which an appraisal must be completed, considering the qualifications and

selection of appraisers and umpires; and (2) mandate appraisal in certain circumstances. Not proposing the new sections would result in TDI failing to meet the clear directive in Insurance Code §1813.002. For this reason, TDI has rejected this option.

Excluding small and micro businesses from complying with the proposed new sections. Insurance Code §1813.001 identifies the insurers who are required to comply with Insurance Code Chapter 1813. Insurers who meet the definition of small and micro businesses under Government Code §2006.001 are not excluded under Insurance Code §1813.001(b). Excluding small and micro businesses from compliance would result in disparate treatment of policyholders who purchase a personal automobile or residential property insurance policy from a small or micro business. These policyholders would be deprived of the basic protections established by the rules, including the minimum appraisal provision requirements and the appraisal process notice requirements. For this reason, TDI has rejected this option.

Extending the deadline for small and micro businesses to comply with the proposed new sections. TDI decided to extend the deadline for compliance for all insurers because this option ensures consistent application of Insurance Code Chapter 1813, protects all policyholders who purchase a personal automobile or residential property policy, and lessens confusion by having only one compliance date for all applicable Texas insurers. In addition, the extended deadline for compliance will help alleviate some of the possible economic impacts of compliance, including economic impacts on small and micro businesses. Insurers will have the opportunity to incorporate the new requirements under Division 4 with other planned policy updates or changes during that period. For these reasons, TDI has decided to incorporate this option into the proposal.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does impose a possible cost on regulated persons. No additional rule amendments are required under Government Code §2001.0045 because the proposed rule is necessary to implement legislation. The proposed rule implements Insurance Code §1813.002, as added by SB 458.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed new sections are in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will increase the number of individuals subject to the rule's applicability; and
- will positively affect the Texas economy by having appraisal provisions in policies because appraisal can be cheaper, more efficient, and a timelier dispute resolution option than litigation and by establishing reasonable and consistent minimum requirements that help ensure appraisals are fair and completed in a timely manner.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal, and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on June 8, 2026. Consistent with Government Code §2001.024(a)(8), TDI requests public comments on the proposal, including information related to the cost, benefit, or effect of the proposal and any applicable data, research, and analysis. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

The commissioner of insurance will also consider written and oral comments on the proposal in a public hearing under Docket No. 2862 at 10:00 a.m., central time, on June 2, 2026. TDI will hold the public hearing both remotely using online resources and in person at the Barbara Jordan State Office Building, 1601 Congress Avenue, Austin Texas 78701 in Room 2.035. Details of how to view and participate virtually in the public hearing will be made available on TDI's website at www.tdi.texas.gov/alert/event/index.html.

Subchapter Q. General Property and Casualty Rules
Division 4. Appraisal Requirements
28 TAC §§5.9800 - 5.9806

STATUTORY AUTHORITY. TDI proposes new §§5.9800 - 5.9806 under Insurance Code §1813.002 and §36.001. Insurance Code §1813.002 requires the commissioner to adopt rules necessary to implement Insurance Code Chapter 1813, including rules

establishing the period in which an appraisal under Insurance Code Chapter 1813 must be completed and rules mandating an appraisal for total loss and damage of the property that is the subject of the appraisal.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Sections 5.9800 - 5.9806 implement Insurance Code Chapter 1813.

TEXT.

§5.9800. Purpose and Scope.

(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 solely to determine the amount of loss when that amount is in dispute between the policyholder and the insurer.

(b) This division applies to personal automobile and residential property insurance policies delivered, issued for delivery, or renewed on or after September 1, 2026, in Texas 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 words and terms have the following meanings when used in this division, unless the context clearly indicates otherwise.

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

(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 which is signed during the appraisal process by:

(A) both appraisers; or

(B) by either of the appraisers and the umpire.

(4) Appraiser--An individual who is qualified to be an appraiser under this division and is hired by either party to participate in the appraisal process.

(5) Party--The insurer or policyholder.

(6) Personal automobile insurance--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.

(7) Residential property insurance--Insurance coverage against loss to tangible personal property or to residential real 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.

(8) Umpire--An individual who is qualified to be an appraisal umpire under this division and is selected by the appraisers or otherwise appointed to participate in the appraisal process.

§5.9802. General Requirements for Appraisal Provisions.

Every insurance policy subject to this division must have an appraisal provision that:

(1) states either party has the right to unilaterally demand appraisal;

(2) does not require the parties to reach an impasse before a party can demand appraisal;

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

(4) requires the appraisal award to be binding as to the amount of loss, 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;

(5) states the deadlines and process for appraisal, which must include the specific amounts of time listed in §5.9805 of this title (relating to Residential Property Appraisal Process) or §5.9806 of this title (relating to Personal Automobile Appraisal Process) as applicable and be consistent with the other requirements in this division; and

(6) does not conflict with this division or other Texas law.

§5.9803. Appraisal Process Notice to Policyholders.

(a) At the same time the insurer provides notice of acceptance or rejection of the claim as required under Insurance Code §542.056, concerning Notice of Acceptance or Rejection of Claim, the insurer must also provide notice of the appraisal process to the policyholder that is consistent with this section. Notice of the appraisal process may be a separate document or may be included in the notice under Insurance Code §542.056.

(b) The appraisal process notice must be written in plain language and at least 10-point type, and explain:

(1) where the appraisal provision is in the policy contract;

(2) how the policyholder may demand appraisal, including where to send the demand and what information the demand should include;

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

(4) how the policyholder may request appointment of an umpire if the appraisers fail to jointly choose the umpire within the time provided under §5.9805(b)(2) of this title (relating to Residential Property Appraisal Process) or §5.9806(b)(2) of this title (relating to Personal Automobile Appraisal Process), including how to request judicial appointment of an umpire;

(5) the applicable time limits in the appraisal process including, at a minimum, the deadlines for:

(A) demanding appraisal;

(B) appointing appraisers;

(C) selection of an umpire; and

(D) issuing the appraisal award; and

(6) the effect of the appraisal award.

§5.9804. Minimum Qualifications for Appraisers and Umpires.

(a) Appraisers and umpires must be:

(1) competent by training or experience to evaluate the type of loss in dispute;

(2) independent from the parties; and

(3) disinterested in the outcome of the appraisal.

(b) In addition to subsection (a) of this section, appraisers and umpires in a residential property appraisal that involves loss to a dwelling must also be one of the following:

(1) an adjuster or public adjuster with experience or training in estimating residential property losses;

(2) an engineer or architect with experience or training in residential building construction or repair, investigating residential property damage, or estimating residential property losses; or

(3) an individual who otherwise has occupational experience or training in constructing or repairing the type of damaged property at issue or estimating the type of property loss at issue.

§5.9805. Residential Property Appraisal Process.

(a) Appraisal demand.

(1) Except as provided in paragraph (2) of this subsection, 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 notifies the policyholder of acceptance or rejection of the claim as required under Insurance Code §542.056, concerning Notice of Acceptance or Rejection of Claim.

(2) If a lawsuit is filed concerning the loss at issue, the respondent must have 30 days from when the lawsuit is filed to make an appraisal demand.

(b) Appraisal and umpire procedures. Subject to subsection (c) of this section, the following deadlines apply after a written demand for appraisal is made under subsection (a) of this section.

(1) Within 20 days, each party must hire its own appraiser and provide the appraiser's name and contact information to the other party in writing.

(2) The appraisers must jointly choose an umpire. The appraisal provision must require the appraisers to jointly choose an umpire not later than 15 days after either:

(A) the requirements in paragraph (1) of this subsection are completed; or

(B) the appraisers cannot agree on the amount of loss in dispute within the time provided in paragraph (4) of this subsection.

(3) If the appraisers fail to jointly choose an umpire within the time provided under paragraph (2) of this subsection, an umpire must be appointed subject to the following provisions.

(A) The appraisal provision must allow either party to request judicial appointment of an umpire. The judicial appointment must be through a county or district court where the residential property is located.

(B) An appraisal provision may also include:

(i) an option for umpire appointment by an independent vendor that offers umpire selection services. An option for umpire appointment by an independent vendor must include at least two vendors and allow the policyholder to select which vendor is used, or it must allow only the policyholder to invoke the option for umpire appointment by a vendor; and

(ii) an option for umpire appointment through any alternative method that the parties mutually agree to in writing after appraisal has been demanded.

(C) A party requesting umpire appointment through judicial appointment or by an independent vendor must give written notice to the other party at least 10 days before making the request. For a judicial appointment, the written notice must include the location and identity of the court.

(D) On or before submitting a request for umpire appointment under this subsection, the party requesting the appointment must give the other party a copy of the request.

(4) Within 120 days after the appraisal demand was made, the two appraisers must attempt to agree on the amount of loss in dispute.

(5) If the appraisers cannot agree on the amount of loss in dispute, they must submit their differences to each other and the umpire. When an umpire is involved, the appraisal award must be issued not later than 240 days after the appraisal demand was made. If an appraisal award is not issued by the deadline, the umpire's engagement is terminated on that date, and the appraisers must choose a new umpire within 15 days after the deadline passes.

(c) Modifying deadlines. The parties may modify any deadline in the appraisal process by written agreement after the insurer provides the appraisal process notice required under §5.9803 of this title (relating to Appraisal Process Notice to Policyholders).

§5.9806. Personal Automobile Appraisal Process.

(a) Appraisal demand.

(1) Except as provided in paragraph (2) of this subsection, 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 notifies the policyholder of acceptance or

rejection of the claim as required under Insurance Code §542.056, concerning Notice of Acceptance or Rejection of Claim.

(2) If a lawsuit is filed concerning the loss at issue, the respondent must have 30 days from when the lawsuit is filed to make an appraisal demand.

(b) Appraisal and umpire procedures. Subject to subsection (c) of this section, the following deadlines apply after a written demand for appraisal is made under subsection (a) of this section.

(1) Within 20 days, each party must hire its own appraiser and provide the appraiser's name and contact information to the other party in writing.

(2) The appraisers must jointly choose an umpire. The appraisal provision must require the appraisers to jointly choose an umpire not later than 15 days after either:

(A) the requirements in paragraph (1) of this subsection are completed; or

(B) the appraisers cannot agree on the amount of loss in dispute within the time provided in paragraph (4) of this subsection.

(3) If the appraisers fail to jointly choose an umpire within the time provided under paragraph (2) of this subsection, an umpire must be appointed subject to the following provisions.

(A) The appraisal provision must allow either party to request judicial appointment of an umpire. The judicial appointment must be through a county or district court where the vehicle is principally garaged.

(B) An appraisal provision may also include:

(i) an option for umpire appointment by an independent vendor that offers umpire selection services. An option for umpire appointment by an independent vendor must include at least two vendors and allow the policyholder to

select which vendor is used, or it must allow only the policyholder to invoke the option for umpire appointment by a vendor; and

(ii) an option for umpire appointment through any alternative method that the parties mutually agree to in writing after appraisal has been demanded.

(C) A party requesting umpire appointment through judicial appointment or by an independent vendor must give written notice to the other party at least 10 days before making the request. For judicial appointment, the written notice must include the location and identity of the court.

(D) On or before submitting a request for umpire appointment under this subsection, the party requesting the appointment must give the other party a copy of the request.

(4) Within 40 days after the appraisal demand was made, the two appraisers must attempt to agree on the amount of loss in dispute.

(5) If the appraisers cannot agree on the amount of loss in dispute, they must submit their differences to each other and the umpire. When an umpire is involved, the appraisal award must be issued not later than 180 days after the appraisal demand was made. If an appraisal award is not issued by the deadline, the umpire's engagement is terminated on that date, and the appraisers must choose a new umpire within 15 days after the deadline passes.

(c) Modifying deadlines. The parties may modify any deadline in the appraisal process by written agreement after the insurer provides the appraisal process notice required under §5.9803 of this title (relating to Appraisal Process Notice to Policyholders).

CERTIFICATION. The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on April 23, 2026.

Signed by:

Jessica Barta

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Jessica Barta, General Counsel
Texas Department of Insurance