TDI has adopted new 28 TAC §§5.9800–5.9806 (Appraisal Requirements) to implement S.B. 458 (89th Leg., R.S., 2025). S.B. 458 added Insurance Code Chapter 1813, which requires personal automobile and residential property policies to include an appraisal provision. The rules set minimum terms for that provision, require insurers to send policyholders an appraisal process notice, set minimum qualifications for appraisers and umpires, and establish deadlines for demanding appraisal, choosing appraisers and an umpire, and issuing the award. The rules apply to policies delivered, issued for delivery, or renewed on or after March 1, 2027 (§5.9800(b)).

**Key Takeaways:**

- **Judicial appointment is mandatory and controls.** Every policy must let either party ask a court to appoint the umpire, in the county where the vehicle is principally garaged "as identified in the personal automobile insurance policy" (§5.9806(b)(3)(A)). TDI declined to add rule text saying judicial appointment prevails, but the preamble says it "will control" unless the policyholder invokes the vendor option or both parties agree otherwise after demand (p. 73).
- **Only the policyholder may invoke the vendor option.** TDI dropped the proposed alternative letting insurers list two vendors for the policyholder to choose from (§5.9806(b)(3)(B)(i)).
- **Demand deadline is the suit-limitations period, but suing first forfeits it.** TDI dropped the proposed 120-day deadline (§5.9806(a)(1)). Once a plaintiff sues, it may no longer demand appraisal unless the policy requires appraisal before suit; a defendant must demand by its answer date (§5.9806(a)(2)).
- **No impasse requirement.** An appraisal provision may not require the parties to reach an impasse before a party can demand appraisal (§5.9802(2)). TDI also rejected insurer requests for a 15-day waiting period or a required exchange of estimates before demand.
- **Auto deadlines after demand.** 20 days to hire appraisers, 15 days to pick an umpire, 40 days for the appraisers to agree, and 180 days for an umpire award. The parties may change any deadline in writing after the notice is sent (§5.9806(b)–(c)).
- **Appraisal process notice.** Insurers must send a plain-language notice with every §542.056 acceptance or rejection letter explaining how to demand appraisal, who pays, how to get a court-appointed umpire, and the deadlines (§5.9803).
- **Minimum qualifications for appraisers and umpires.** Both must be competent, independent, and disinterested (§5.9804(a)). Every policy must now require these qualifications, and TDI reads "disinterested" to bar a pecuniary interest in the outcome (pp. 32–33).

**Potential Legislation.** TDI did not adopt the following:

- **Appraiser and umpire licensing.** TDI said a licensing requirement, or a requirement to show good standing with another agency, is outside the scope of this rulemaking. It added that licensing could exclude competent appraisers without an occupational license, such as retired adjusters (p. 25).
- **Appraisal-specific penalties.** TDI said appraisal-specific enforcement mechanisms, such as cost-shifting, judicial remedies, or loss of the right to appraisal, are beyond the scope of this rulemaking. It will act under its existing authority, including Chapter 84 (p. 24).
- **Code of ethics.** TDI said the topic is beyond the scope of this rulemaking and "it may be more appropriate for the legislature to provide guidance" (p. 51).
- **Vendor disclosure.** TDI said disclosure of a vendor's relationships with the insurer is outside the scope of this rulemaking (p. 74).
- **Umpire cost allocation and fee cap.** TDI said the policyholder-only vendor option addresses the cost and fairness concerns, and that a fee cap is outside the scope of this rulemaking (pp. 75–76).
- **Dedicated complaint process.** TDI said its existing complaint process applies and will be used to monitor compliance (p. 40).

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**Key Language:** Underlined text was added after the proposal; struck-through text was in the proposal but not adopted.

***Judicial appointment and vendor option — 28 TAC §5.9806(b)(3)(A)–(B)***

(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 as identified in the personal automobile insurance policy.

(B) In addition to judicial appointment required under subparagraph (3)(A) of this subsection, ~~An~~ an appraisal provision may also include~~:~~ the following options.

(i) ~~an~~ 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~~ If this option is included, the policy must allow only the policyholder to invoke the option for umpire appointment by a vendor~~; and~~.

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

***Judicial appointment controls by default — adoption preamble, p. 73:***

"If alternative appointment methods are included in a policy, judicial appointment of an umpire will control unless a policyholder invokes the vendor-appointed method or both parties mutually agree in writing to an alternative appointment method after appraisal is demanded."

***Demand deadlines — 28 TAC §5.9806(a):***

(a) Appraisal demand. A demand for appraisal under a personal automobile insurance policy must be made in writing and delivered to the other party within the following time limits.

(1) Except as provided in paragraph (2) of this subsection, ~~a~~ an appraisal 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~~ the expiration of the limitations period for filing suit under the policy.

(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~~ the following apply.

(A) The plaintiff to the lawsuit may no longer demand appraisal unless:

(i) the insurance policy requires an appraisal before a lawsuit may proceed; and

(ii) the lawsuit was filed by a policyholder before the expiration of the limitations period for filing suit under the policy.

(B) An appraisal demand by the respondent to the lawsuit must be made not later than the date the answer is filed or the date the answer is due, whichever is earlier.

***General requirements — 28 TAC §5.9802(1)–(2):***

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;

***Qualifications — 28 TAC §5.9804(a):***

(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.