

**Appraisal Demands in  
Property Insurance  
Policies: Assessing  
Suitability for Business  
Claims**

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## Executive Summary

**P**roperty insurance policies—whether for homeowners, business owners, or automobile owners—serve as critical financial safeguards in the event of damage. In Tennessee, most property insurance policies include an "appraisal" clause, an alternative dispute resolution mechanism designed to resolve disagreements regarding the valuation of a loss. The appraisal process involves appointing a three-person panel—two appraisers (one selected by each party) and a neutral umpire—to determine the loss amount. Once two of the three agree, the decision is binding.

Although the appraisal process aims to be a cost-effective and efficient means of resolving disputes, its practical implementation often leads to additional complexities and legal disputes. Insurers frequently attempt to circumvent the process, raising questions about its efficacy and fairness. This paper examines the benefits and challenges of the appraisal process in Tennessee, compares it to other jurisdictions, and explores potential solutions for improving its effectiveness.

*The appraisal process can be time-consuming, particularly if there are disagreements over the selection of appraisers or the qualifications of the umpire. Delays in resolving claims can have severe consequences for small businesses, which may rely on the timely settlement of insurance claims to cover repair costs, replace damaged equipment, or compensate for lost income. Prolonged disputes can disrupt business operations, damage customer relationships, and erode the financial stability of the business.*

## Understanding the Appraisal Clause

A typical appraisal clause in an insurance policy stipulates that if the policyholder and the insurer disagree on the loss amount, either party may invoke appraisal. Each party selects an independent appraiser, and the two appraisers then choose a neutral umpire. If the appraisers fail to agree, the umpire makes the final determination. Costs are shared equally between the policyholder and the insurer.

### *Example Clause:*

Appraisal: If you and we fail to agree on the amount of loss, either one can demand that the amount of the loss be set by appraisal. If either makes a written demand for appraisal, each shall 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 shall then select a competent, impartial umpire. If the two appraisers are unable to agree upon an umpire within 15 days, you or we can ask a judge of a court of record in the state where the residence premises is located to select an umpire. The appraisers shall then set the amount of the loss. If the appraisers submit a written report of an agreement to us, the amount agreed upon shall be the amount of the loss. If the appraisers fail to agree within a reasonable time, they shall submit their differences to the umpire. Written agreement signed by any two of these three shall set the amount of the loss. Each appraiser shall be paid by the party selecting that appraiser. Other expenses of the appraisal and the compensation of the umpire shall be paid equally by you and us (State Farm Fire & Cas. Co. v. Harper, 596 F. Supp. 3d 1032, 1035 (M.D. Tenn. 2022)).

## Contract Law and Insurance Policy Interpretation

General contract law principles govern property insurance contracts in Tennessee. Insurance policies must include essential contractual elements, including offer, acceptance, consideration, mutual agreement, legality, and contractual capacity. Courts interpret ambiguous policy language in favor of the policyholder (*Merrimack Mutual Fire Ins. Co.*, 59 S.W.3d 142, 147 (Tenn. Ct. App. 2001)).

When disputes arise, insurance companies may attempt to frame the disagreement as a "scope of loss" issue rather than an "amount of loss" issue to avoid the appraisal process. However, Tennessee courts have held that scope-related disputes can fall within appraisal (*Ingram v. State Farm Fire & Cas. Co.*, No. 1:21-cv-75, 2021 U.S. Dist. LEXIS 245457, at 6 (E.D. Tenn. Dec. 14, 2021)).

## Insurance Companies' Resistance to Appraisal

Despite drafting these clauses, insurance companies frequently resist the appraisal process. Reasons include:

1. **Financial Incentives:** Delaying claims settlements can reduce immediate financial liabilities.
2. **Control Over Settlements:** Direct negotiation allows insurers to influence settlement terms.
3. **Strategic Litigation Tactics:** Prolonging disputes may pressure policyholders to settle for less.
4. **Bias Concerns:** Insurers may believe appraisers favor policyholders, leading to higher payouts.

Tennessee law requires insurers to act in good faith, and unfair claim settlement practices can lead to litigation (*Tenn. Code Ann. § 56-7-125; Tenn. Comp. R. & Regs. 0780-01-05-.08*).

## Tennessee Statutes and Case Law

Relevant Tennessee laws governing insurance disputes include:

- **Tenn. Code Ann. § 56-7-125:** Establishes policyholder rights when filing property claims.
- **Tenn. Code Ann. § 56-7-102(b):** Clarifies contractual interpretation rules.
- **Case Law:** Courts have consistently ruled on the enforceability of appraisal clauses, sometimes requiring insurers to comply despite their reluctance (*Bufkin Enterprises, LLC v. Indian Harbor Ins. Co.*, No. 23-30171, 2024 U.S. App. LEXIS 5176).

## Additional Litigation Arising from Appraisals

Instead of streamlining claim resolution, the appraisal process often leads to further litigation, such as:

1. **Motions to Compel Appraisal** – When insurers refuse to engage in the process.
2. **Motions to Appoint an Umpire** – When appraisers cannot agree on a neutral party.
3. **Motions to Enforce an Appraisal Award** – When insurers refuse to pay the determined loss amount.

## Potential Solutions

To mitigate these issues, insurers and policymakers should consider:

1. **Mandatory Arbitration as a Secondary Step:** Implementing arbitration when appraisal fails to resolve disputes.
2. **Ensuring Qualified and Independent Appraisers:** Requiring credentials and impartiality among appraisers.
3. **Revising Policy Language:** Eliminating appraisal clauses in Tennessee policies where unnecessary.
4. **Leveraging Legal Precedents:** Utilizing case law to standardize dispute resolution approaches.
5. **Enhancing Transparency in Claims Processing:** Promoting fairness for policyholders while balancing insurers' financial concerns.

## Conclusion

While the appraisal clause aims to provide an efficient means of settling loss disputes, it often results in prolonged legal battles. Insurers and policyholders remain at odds over its implementation, with insurers seeking to control costs and policyholders striving for fair settlements. Tennessee can create a more equitable insurance claims resolution framework by refining the language of appraisal clauses, ensuring fair and impartial appraisers, and considering arbitration alternatives.

## References

1. *State Farm Fire & Casualty Co. v. Harper*, 596 F. Supp. 3d 1032.
2. *Merrimack Mutual Fire Ins. Co.*, 59 S.W.3d 142 (Tenn. Ct. App. 2001).
3. **Tenn. Code Ann. § 56-7-125.**
4. *Ingram v. State Farm Fire & Cas. Co.*, No. 1:21-cv-75.
5. *Bufkin Enterprises, LLC v. Indian Harbor Ins. Co.*, No. 23-30171.
6. **Tenn. Code Ann. § 56-7-102(b).**
7. Law, T.P. & Starinovich, J.L., *What is It Worth? A Critical Analysis of Insurance Appraisal*.
8. Pennington, M., *Punitive Damages for Breach of Contract*.