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EXPLORING THE TEXAS MANDATORY BINDING RTA RULEMAKING PHASE & QUALIFICATION CRITERIA

Dear Mr. McDorman,

I own and operate a collision facility in Southeast Texas. Like last month's reader and many before, I have been closely following the articles and editorials about the Texas Mandatory Appraisal Bill journey, and I appreciate everyone's hard work on this important consumer protection issue. Now that the Mandatory Right to Appraisal Bill HB 458 has been approved to become law in Texas and has moved into the rulemaking and qualification requirements phase, how do you envision the best outcome for all parties based upon your data and professional opinion? Also, I would like to hear what you recommend concerning the appraiser and umpire selection and qualifications criteria.

Thank you and the many other readers so much for keeping up with the campaign for mandatory appraisal rights in Texas for all motor vehicle policies and for everyone's support in this long but worthwhile journey. We have all worked very hard in the last six years. (Can you believe it? *Six years!*) The passing of HB 458 will amend the Texas Insurance Code to require each auto policy in Texas to include a binding Appraisal Clause for loss disputes for repair procedure and total loss claims. This requirement will apply to any insurance policy delivered, issued for delivery or renewed on or after January 1, 2026. As I know you understand based on your question, there is still much work to be done, and we all know that the devil is always found in the details. Everyone should remain vigilant and keep a close eye on how the mandates of HB 458 get implemented.

The next step in the Mandatory Appraisal Bill process will be for Commissioner Brown to adopt rules mandating an appraisal for total loss and delineating property damage subject to the appraisal and the period of appraisal. Also, Commissioner Brown must consider the qualifications and selection criteria for appraisers and umpires for the appraisal. We have done an excellent job making legislators problem-aware to give Commissioner Brown the backing she needs for adapting rules and requirements. We now have to make her solution-aware. I am confident that, with the right information and data, she will set the right rules and qualifications in place for motor vehicle loss disputes.

As for rules concerning appraisal-related timelines, I have listed proposed optimal time triggers, as I see them, for repair procedure disputes. These are based upon our internal data from repair procedure appraisals we have been involved in over the years. I have also posted supporting graphs from our files to support my position. Based upon our files, these proposed time triggers listed below seem fair and reasonable for all parties following invocation of the Appraisal Clause.

Proposed Appraisal Timeline

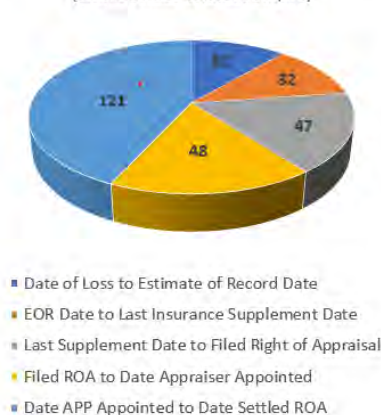
- 15th day or sooner:** No later than the 15th day after the date an appraisal is demanded, each party shall appoint an unbiased appraiser and notify the other party of that appraiser's identity.
- 45th day or sooner:** The appointed appraisers must agree on the loss within 30 days of both appraisers being appointed. If the appraisers fail to agree on the amount of loss after the 30th day after the date all appraisers are appointed, the appraisers shall select an unbiased umpire.

- 60th day or sooner:** The appraisers have 15 days after they have failed to agree on the loss to appoint an umpire.*
- 90th day or sooner:** If the two appraisers have agreed on an umpire, the appraisers and umpire shall determine the amount of loss no later than the 30th day after the date the umpire is selected.

**If the two appraisers are unable to agree on an umpire on or before the 15th day after the date the appraisers determine an umpire is needed, the insurer or the named insured may request that a court in the county in which the named insured resides select the umpire.*

We record the average time it takes for our clients' repair procedure claims to make it through the entire appraisal process, from date of loss to final settlement date. For repair procedure Right to Appraisal disputes where claims do not require an umpire, our records show that from the date of loss to final settlement takes 280 days on average, broken down as follows: from date of loss until the carrier issues their estimate of record takes 32 days on average; from the estimate of record date until the last supplement by the carrier is issued also takes an average of 32 days; from the date the last supplement is issued by the carrier until the Right to Appraisal is invoked takes another 47 days; from the date the Right to Appraisal is filed until the carrier appoints their independent appraiser takes 48 days; and finally, from the date the carrier appoints their independent appraiser until the appraisers agree on the amount of loss averages 121 days (see graph).

Average Repair Claim Cycle Times (Days)
(Claims Settled Without Umpire)



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Ask The Expert

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Comparing the proposed time triggers listed above to our historical average cycle times, just the decrease in time from filed right of appraisal to the date appraisers are appointed (our historical 48 days versus the bill's 15 days) and from the date appraisers are appointed to the day appraisers agree on the amount of loss (our historical 121 days versus the proposed 30 days) would drop the total repair claim cycle time by 124 days, which is close to half the current average total cycle time! This would be a huge relief for insureds in Texas.

On repair procedure claims from our files where disputes went to appraisal and ended up requiring an umpire, our records show that from the date of loss to final settlement takes 399 days on average; **119 days longer than claims not requiring an umpire and well over a year altogether!** The biggest difference in cycle times between claims requiring an umpire versus those not requiring an umpire is in the period from the date the carrier appoints their independent appraiser until the appraisers and umpire agree on the amount of loss. For claims going to umpire, this takes 233 days on average versus 121 days for claims not going to umpire, a 112-day increase! (See graph.)

Average Repair Claim Cycle Times (Days)
(Claims Settled With Umpire)



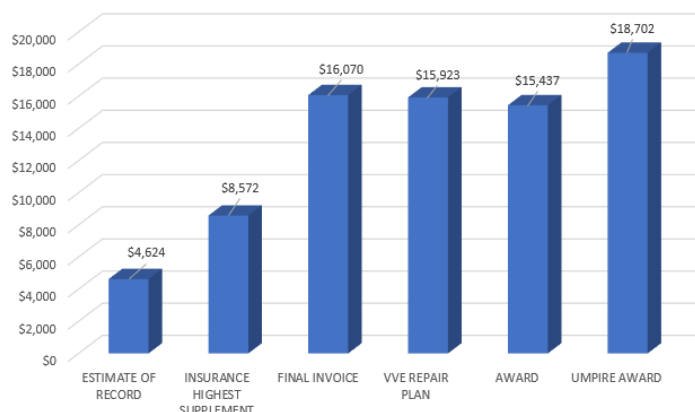
As you can see from comparing the proposed time triggers listed above to our historical average cycle times for claims that go to umpire, the decrease from the date appraisers are appointed to the day the appraisers and umpire agree on the amount of loss (our historical 233 days versus the proposed 75 days – 30 for appraisers to agree plus 15 to appoint an umpire plus 30 for appraisers to come to a final determination with umpire) would reduce the total repair claim cycle time by 158 days, a drop of over five months! Again, this would be a huge relief for insureds in Texas.



Robert is a recognized Public Insurance Adjuster and Certified Vehicle Value Expert specializing in motor vehicle-related insurance claim resolution. Robert can be reached by phone at (800) 736-6816, (817) 756-5482 or via email at AskTheExpert@autoclaimspecialists.com.

Of course, the purpose of taking this time for the appraisal process to complete is to get the valuations correct and insureds properly indemnified for their loss. The graph below shows the average repair claim values from the estimate of record to the award from our repair procedure dispute Right to Appraisal files. (VVE stands for Vehicle Value Experts, an appraisal firm we use for most of our required appraisals.) The difference between the average highest amount insurers agreed to pay for a repair versus the average final award is striking.

Average Vehicle Repair Claim Values



Finally, the graph on page 23 shows the average settlement increase by carrier on repair procedure claims that went through the Right to Appraisal process with our company.

Conspicuously missing is one of the largest auto insurers in Texas: State Farm. This is because State Farm removed the Right to Appraisal for repair claims from their auto policies back in 2017. Since then, State Farm insureds have had no recourse other than to accept the repair plan and replacement parts as dictated by State Farm, whether OEM compatible or not. Thanks to the passage of HB 458, their deliverance day is their policy renewal date in 2026.

Proposed Rules and Requirements for Appraisers and Umpires

As I have spoken and written about many times, it is my unwavering position that the removal and/or limiting of the Right to Appraisal in a repair procedure dispute would be the nail in the coffin for safe roadways. Anytime there is a loss dispute on these types of claims, the dispute should be handled by (TRULY) independent industry expert appraisers and umpires. It is my position that the appraisers and umpires should be required to list what portion of their appraisal business comes from the insurer or the insured, sending this information to the Texas Department of Insurance (TDI) yearly for TDI to publish on their website. Also, I would like to see all appraisers and umpires licensed by the TDI, with the license requiring a minimum of 40 hours continuing education for each licensed period and a minimum \$100,000 bond. Finally, I would strongly recommend a requirement for each licensed appraiser and umpire to carry a \$1,000,000 E&O (errors and omission) policy. It has always been my position that the

AVERAGE SETTLEMENT INCREASE BY CARRIER ON REPAIR PROCEDURE SETTLED CLAIMS THAT WENT THROUGH THE APPRAISAL PROCESS

Carrier	Number of Claims	Average Estimate of Record	Average Increase to Highest Supplement	Average Final Invoice	Average VVE Repair Plan	Average Award	Average Increase From Estimate of Record
Allstate	19	\$2,608	\$1,327	\$13,292	\$13,577	\$12,615	\$8,679
Farmers	11	\$3,866	\$3,297	\$13,418	\$13,340	\$12,802	\$5,638
GEICO	27	\$4,116	\$3,117	\$13,935	\$13,988	\$13,100	\$5,868
Liberty Mutual	29	\$4,520	\$4,306	\$15,712	\$15,516	\$14,732	\$5,891
All Carriers	181	\$4,526	\$2,603	\$13,971	\$13,902	\$13,085	\$6,000
Progressive	34	\$4,630	\$1,779	\$11,613	\$11,447	\$10,589	\$4,312
USAA	11	\$4,646	\$1,614	\$11,973	\$12,188	\$11,792	\$5,532
Travelers	7	\$5,872	\$1,145	\$14,687	\$14,496	\$13,478	\$7,030
Texas Farm Bureau	12	\$6,114	\$443	\$13,597	\$12,799	\$11,793	\$5,235

independent appraiser and umpire are liable for the binding repair plan they agree to through the appraisal process. *The only way to ensure the appraisal and umpire process is truly independent is to hold the appraisers and umpires accountable and liable.*

We must always remember and keep at the front of our thoughts, "Safe Repairs Save Lives." If we allow the appraisal process to be biased, then there is no independent appraisal process. Requiring the appraisers and umpires to be licensed, bonded and insured will help ensure a truly unbiased arena. Legislators have given Commissioner Brown the authority to do just this. We should do everything in our power to make sure this happens. Always, what gets measured gets done!

The under-indemnification in repair procedure claims in Texas is rampant. Most of the estimates and supplements we see for repair claims have many overlooked (by design) safety and OEM-required operations needed to restore the loss vehicle to its pre-loss condition to the best of one's human ability. Now with the passing of HB 458, when a dispute arises over the loss on a motor vehicle repair claim, there will be a binding Appraisal Clause in the policy allowing these disputes to be turned over to industry professionals to determine the loss. And again, as stated above, I believe it is imperative that the appraisers and umpires be held accountable for their decisions and actions.

The spirit of the Appraisal Clause is to resolve loss disputes fairly and to do so in a timely and cost-effective manner by unbiased industry qualified appraisers and umpires. Invoking the Appraisal Clause removes the inexperienced and biased carrier appraisers and claims handlers from the process, undermining their

management's many tricks to undervalue the loss settlement and under-indemnify the insured. Through the Appraisal Clause, loss disputes can be resolved relatively quickly, economically, equitably and amicably by unbiased, experienced, independent third-party appraisers as opposed to more costly and time-consuming methods such as mediation, arbitration and litigation.

In today's world, regarding motor vehicle insurance policies, frequent changes in claim management and claim handling policies and non-standardized GAP Addendums, we have found it is always in

the best interest of the insured or claimant to have their proposed insurance settlement reviewed by an expert before accepting. There is never an upfront fee for Auto Claim Specialists to review a motor vehicle claim or proposed settlement and give their professional opinion as to the fairness of the offer.

Please call me should you have any questions relating to the policy or covered loss. We have most insurance policies in our library. Always remember that safe repair is a quality repair, and quality equates to value. Thank you for your question and look forward to any follow-up questions that may arise.

Sincerely,
Robert L. McDorman
TXA

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