

INSURANCE APPRAISAL - STATUTORY CONDITION #11:  
SECTION 128 of the INSURANCE ACT OF ONTARIO R.S.O. 1990

**11. APPRAISAL:**

“In the event of disagreement as to the value of the property insured, the property saved or the amount of the loss, those questions shall be determined by appraisal as provided under the Insurance Contracts Act before there can be a recovery under this contract, whether the right to recover on the contract is disputed or not and independently of all other questions. There shall be no right to an appraisal until a specific demand therefore is made in writing and until after proof of loss has been delivered. “

Contracts providing for appraisals

128. (1) This section applies to a contract containing a condition, statutory or otherwise, providing for an appraisal to determine specified matters in the event of a disagreement between the insured and the insurer. R.S.O. 1990, c. I.8, s. 128 (1).

Appraisers, appointment

(2) The insured and the insurer shall each appoint an appraiser, and the two appraisers so appointed shall appoint an umpire. R.S.O. 1990, c. I.8, s. 128 (2).

Appraisers, duties

(3) The appraisers shall determine the matters in disagreement and, if they fail to agree, they shall submit their differences to the umpire, and the finding in writing of any two determines the matters. R.S.O. 1990, c. I.8, s. 128 (3).

Costs

(4) Each party to the appraisal shall pay the appraiser appointed by the party and shall bear equally the expense of the appraisal and the umpire. R.S.O. 1990, c. I.8, s. 128 (4).

Appointment by judge

(5) Where,

(a) a party fails to appoint an appraiser within seven clear days after being served with written notice to do so;

(b) the appraisers fail to agree upon an umpire within fifteen days after their appointment; or

(c) an appraiser or umpire refuses to act or is incapable of acting or dies, a judge of the Superior Court of Justice may appoint an appraiser or umpire, as the case may be, upon the application of the insured or of the insurer. R.S.O. 1990, c. I.8, s. 128 (5); 2006, c. 19, Sched. C, s. 1 (1).