

Arkansas Insurance Department

Asa Hutchinson
Governor



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Commissioner

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BULLETIN 19A-2020

This Bulletin Amends Bulletin 19-2020

TO: ALL PROPERTY AND CASUALTY INSURERS LICENSED IN ARKANSAS, THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, AND OTHER INTERESTED PARTIES AND TRADE ASSOCIATIONS

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: WINDSTORM AND HAIL CLAIMS

It has come to the attention of the Arkansas Insurance Department that Arkansas residents have been denied coverage under their homeowner policies for damages caused by the peril of windstorms or hail. Many of these denials are due to the insured's failure to report damage within the time period required under their policy.

While a requirement in a policy to make a claim for wind or hail damage within 365 days of the date of the loss may be reasonable in most cases, there are situations in which the policyholder may not identify wind and hail damage within this timeframe through no fault of his or her own. It is the position of the Department that an insurer must recognize a good cause exception to a claims filing deadline in a policy for wind and hail claims.

Specifically, the Department's position is that a wind and hail claim reported later than 365 days after the date of loss can be denied based on a policy provision that requires a claim be reported within such time, but that the policyholder must be provided the opportunity to rebut the denial by showing that there was good cause for the delay in reporting.

The Department also recognizes that there should be some final limitation for such claims, and will consider denials of claims reported more than 24 months after the date of loss to be reasonably denied pursuant to policy provisions. This amount of time will be deemed reasonable given the inherent difficulty in adjusting claims for losses occurring years before a claim is made.

Finally, the Department advises all interested parties that state law dictates that no insurance policy or contract after being issued by an insurer authorized to transact business in this state may be cancelled nor may the premium for such a policy be increased solely as a result of claims made under the policy which resulted in no loss to the insurer. Ark. Code Ann. § 23-63-110.

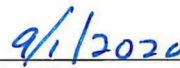
Arkansas law supports the Department's position. In *Rowe v. National Security Fire and Casualty Co.*, 4 Ark. App. 16, 626 S.W.2d 622 (1982), the Arkansas Court of Appeals heard the appeal of a case in which the trial court ruled in favor of the insurer due to the fact that the insured failed to report fire damage to the insured property within the 60 days required by her policy. The decision was reversed with the statement that the failure to comply with the reporting requirement was not through any fault of the homeowner and that absent negligence, recovery should not be precluded under the policy. *See also National Mutual Casualty Co. v. Cypret*, 207 Ark. 11, 179 S.W.2d 161 (1944) (holding that although the insured did not notify the insurer of automobile theft within the timeline prescribed by the policy, notice was given within a reasonable time after the insured learned of the loss and affirmed payment of the claim ordered by the trial court.)

This bulletin is not intended to release homeowners from the obligation to report losses in a timely manner, but rather to provide guidance on determining what is reasonable in those instances where a delay in providing notice is not due to the fault of the insured. The question of whether a delay in discovering the damage was reasonable or due to negligence of the homeowner will remain a question of fact subject to the specifics of a given case.

Any questions regarding this Bulletin should be directed to insurance.legal@arkansas.gov at the Arkansas Insurance Department or by phone at (501) 371-2820.



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DATE