

Arkansas Insurance Department

Mike Beebe
Governor



Jay Bradford
Commissioner

BULLETIN NO. 13A-2013

DATE: July 18, 2013

TO: ALL LICENSED PROPERTY AND CASUALTY INSURERS, ALL LICENSED INDEPENDENT ADJUSTERS, ALL FARM MUTUALS, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: DEPRECIATION OF LABOR PROHIBITED

Bulletin 13A-2013 replaces Bulletin 13-2013 in its entirety.

The purpose of this Bulletin is to clarify the position of the Arkansas Insurance Department regarding the depreciation of labor. When an insurance claim is filed for structural loss, the relevant insurance policy requires either replacement cost or actual cash value depending on the method provided for in the policy. Certain items may be depreciated in value to account for their age and wear and tear. The items that are eligible for depreciation in policies with Actual Cash Value ("ACV") loss settlement provisions are what this Bulletin seeks to clarify, as depreciation does not apply to Replacement Cost loss settlement provisions.

In determining ACV, depreciation is typically considered. However, depreciation must be considered on a case-by-case basis. The most important guiding principle for calculating depreciation is that it must be actual, not artificial. Depreciation is artificial and, thus, improper, if it is based on a calculation formula set in advance. Depreciation should be reasonable, not excessive. Artificial or excessive depreciation is a violation of fair claims settlement practices.

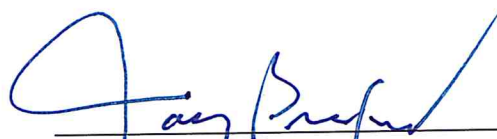
An initial settlement typically contains figures for debris removal, tear-off labor, materials, and the repair labor. For these components, only materials are subject to depreciation for calculating ACV payment. **Labor of any kind related to the repair, rebuild, or replacement of covered property cannot be depreciated.**

Valued policy law in Ark. Code Ann. § 23-88-101 requires, in the case of a total loss by fire or natural disaster of the property insured, that a property insurance policy, other than for flood and earthquake insurance, shall be held and considered to be a liquidated demand against the company taking the risk for the full amount stated in the policy. Deductions for co-insurance or deductibles are not allowed. The statute makes no distinction as to the type of property policy involved.

This is not a new Department position. Many carriers are already in compliance with this position. Other carriers will be required to make procedural changes in claims-handling procedures to ensure compliance and have 90 days to conform claims-handling procedures regarding labor depreciation. During this period, the Department will not conduct any formal market conduct reviews on non-complying claims adjustment procedures regarding depreciation of labor but shall deal with any complaints that labor has

been depreciated on the merits of those complaints. Any future market conduct exams shall deal with claims occurring 90 days after July 5, 2013, the original effective date of this Bulletin.

Questions concerning this Bulletin may be directed to the Legal Division at (501) 371-2820 or by e-mail at insurance.legal@arkansas.gov.



JAY BRADFORD
INSURANCE COMMISSIONER
STATE OF ARKANSAS

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