

# 01-02: Hail Damage Claims

**To:** Issuers of Homeowner's Insurance Policies  
**From:** Scott B. Lakin, Director of Insurance, State of Missouri  
**Re:** Hail Damage Claims  
**Date:** June 12, 2001

\* This bulletin was repealed by 08-05

Since the hailstorm in April, the department has received more than 500 complaints and/or inquiries relating to the replacement of damaged siding under homeowner's coverage - a truly overwhelming response from the public. Generally, these complaints concern the replacement of damaged siding on dwellings when the original siding is no longer manufactured.

Some companies have refused to replace the siding on such dwellings except on the side actually damaged by the impact of hail, leaving the policyholder with a house that has mismatched features. Many insureds do not understand how essentially identical contract language and essentially identical damage can produce widely varying benefits, based on insurer, and that compels the department to clarify its position.

Companies that refuse to replace siding (or compensate for damage to siding where coverage is under a standard fire dwelling policy) except on the side actually damaged by hail may not have fully considered Section 375.1007(4), RSMo (2000). In this "good faith" provision, Missouri requires insurers to effectuate prompt, fair and equitable settlement of claims submitted in which liability is reasonably clear. Typical homeowners policies require insurers under certain circumstances to repair damaged dwellings with 'like,' 'equivalent' or 'similar' materials and/or construction. Some insurers have limited the meaning of 'damage' to include only the side of a house actually dented by hail. They contend they are required to replace only the dented side of the house with like, equivalent or similar siding - an interpretation that could result in mismatching of siding with the remainder of the house, especially in instances of older residences built with materials no longer manufactured.

Nothing in the policies forewarns consumers of such a potential result. Consumers have relied upon a more expansive and reasonable interpretation of the policy language: when siding is damaged, the siding as a whole is damaged and must be replaced with 'similar' or 'like' siding unless the original siding or a substitute of the same color, size, composition and quality is available and satisfactory to the insured.

Insurers who insist on the narrow interpretation of 'damage' may violate the good faith provision in Section 375.1007(4) and the false advertising provisions of Section 375.936(6). Continued resistance by an insurer may result in violations of Section 375.1007(5), which prohibits insurers from compelling insureds to institute lawsuits to recover amounts due under their policies. Future market conduct examinations on the adjustment of damage occurring after April 10, 2001 will address how insurers have complied with these statutes.

The issue of like, similar or equivalent materials and construction may well grow as the thousands of Missouri subdivisions built during the post-WW II era mature, and the materials used become unavailable or extremely scarce. The department believes that this area of adjustment - critical to the confidence of the public and financial institutions in the security provided by residential insurance - deserves further refinement.

Over the next few weeks, the department plans to work with consumers and the industry on a more formal set of expectations for both sides that will preserve affordability and availability in homeowners insurance while providing reasonable protection of property and its value.