

STATE OF NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE



SUPERINTENDENT OF INSURANCE
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BULLETIN 2024-003

February 20, 2024

TO: ALL INSURANCE COMPANIES THAT HAVE ISSUED PROPERTY INSURANCE POLICIES COVERING RISKS LOCATED IN THE STATE OF NEW MEXICO

RE: REQUIREMENT TO PROVIDE REPLACEMENT VALUE ON RESIDENTIAL PROPERTY

THIS BULLETIN reminds insurers that all repairs or replacement of residential property must be covered at the cost to repair or replace, without deduction for depreciation. This bulletin is issued in accordance with Section 59-2-8 NMSA 1978, and with 13.1.2, 13.7.4, and 13.13.2 NMAC.

Repair or replacement for a residential property is subject to all requirements and benefits that pertain to residential property insurance, including all residential coverage protections of the Insurance Code.

As defined in OSI rules at 13.13.2.7 NMAC, Subsections (G) and (H):

G. "Residence" means a structure used solely as a place for people to live and having not more than four apartments or units; or, a residence means an individually owned condominium, rowhouse, or townhouse used solely as a place for people to live. A residence is not an out-building, shed, barn, detached garage or similar structure, vacant structure, motel, hotel, licensed health care facility, homeless shelter, shelter for battered women and/or children, jail, camp, a vehicle licensed by a governmental agency, barracks, orphanage, dormitory or any other structure where people live on a transient basis. Personal property contained within a residence is not part of a residence.

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H. "Residential property insurance" means insurance of a residence against direct loss or damage from fire or extended coverage peril. Residential property insurance does not include insurance against the liability of the insured for loss or damage to the property or property interest of another, title insurance as defined by Section [59A-7-9](#) NMSA 1978, or other consequential loss or damage resulting from fire or extended coverage peril.

Without limitation, the following section of the Insurance Code, as codified in NMSA 1978, applies:

Section 59A-18-17, *Standard provisions, in general*, which, at Subsection C, states, "Insurance coverage provided in residential property insurance policies shall provide coverage for the cost to repair or replace ***without deduction for depreciation***. If the insured elects to effectuate repairs to the property by the insured's own self, a reasonable overhead expense shall be allowed." [*Emphasis added.*]

Section 59A-18-17(C) NMSA 1978 does not authorize an insurer to condition payment of the cost to repair or replace without deduction for depreciation by requiring the work to be completed within any timeframe. The payment of actual cash value if a repair or replacement is not completed within a certain timeframe is not allowed.

Within the next ninety (90) days from the date of this bulletin, all insurers must withdraw any previous forms citing a time limit for coverage for the cost to repair or replace and must refile new forms excluding any time limit for coverage.

Questions regarding this Bulletin should be directed to Melissa Robertson at: Melissa.Robertson@osi.nm.gov

ISSUED this 20th day of February 2024.



ALICE T. KANE
Superintendent of Insurance