

Arkansas Insurance Department

Mike Beebe
Governor



Jay Bradford
Commissioner

BULLETIN NO. 13B-2013

DATE: SEPTEMBER 16, 2014

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

The purpose of this Bulletin is to clarify the position of the Arkansas Insurance Department regarding the depreciation of labor in property claims. When an insurance claim is filed for structural loss, the relevant insurance policy requires payment of the replacement cost or actual cash value depending on the terms of 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 only Actual Cash Value ("ACV") loss settlement provisions are what this Bulletin seeks to clarify, and the Bulletin does not apply to Replacement Cost policies that hold back a portion of the replacement cost until repair or replacement is completed.

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 Arkansas Code Annotated § 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. However, the Department granted all insurers 90 days from the issuance of Bulletin 13-2013 on July 5, 2013 to conform claims-handling procedures regarding labor depreciation and explained that during the grace period, it would not conduct any formal market conduct reviews on non-complying claims adjustment procedures regarding depreciation of labor. The

Department has and will continue to deal with any complaints that labor has been depreciated on the merits of those complaints.

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

A large, stylized handwritten signature in blue ink, appearing to read "Jay Bradford", is written over a horizontal line.

JAY BRADFORD
INSURANCE COMMISSIONER
STATE OF ARKANSAS

September 16, 2014
DATE