



DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION

P.O. Box 690, Jefferson City, Mo. 65102-0690

INSURANCE BULLETIN 11-06

Standards for the prompt, fair and equitable settlements applicable to property insurance following a disaster

Issued Nov. 21, 2011

To: All licensed insurance companies authorized to sell property coverage that offer replacement cost value (RCV) policies, all licensed producers and agencies, and the public

From: John M. Huff, Director

Re: Handling of property loss claims following the Joplin tornado

The tornado that struck the Joplin area on May 22, 2011, “caused a natural disaster of historic proportions,” according to Governor Nixon’s executive orders issued following the storms. These severe storms destroyed businesses, schools and thousands of homes, and caused significant personal property losses in Jasper and Newton counties. By all accounts, it will be the largest insurance event in Missouri history and the insurance industry’s response to the Joplin losses has been commendable. Despite that general laudatory response, a claims-related issue has arisen.

Missouri law defines and prohibits improper claims practices, including the failure by insurance companies “to effectuate prompt, fair and equitable settlement of claims,” §375.1007(4), RSMo. The Director is authorized to commence regulatory actions against companies that violate this law. §375.1010, RSMo. Similarly, if the Director believes that a county, town, or farm mutual company “may be conducting its affairs in a manner contrary to law or detrimental to the interests of the policyholders,” §380.491, RSMo, authorizes him to call an examination of the company’s business practices and consider the applicability of Missouri’s Merchandising Practices Act to those companies using or employing any “unfair practice ... in connection with the sale or advertisement of any merchandise in trade or commerce.” §407.020.1, RSMo. Under that statute, an alleged unfair act can be unlawful “whether committed before, during or after the sale, advertisement or solicitation.” *Id.*

Policies covering personal and commercial structures and contents typically provide insurance coverage on an actual cash value (ACV) or replacement cost value (RCV) basis. Typically, ACV is paid upon proof of loss, with the difference between ACV and RCV being paid upon actual repair or replacement of the damaged property. Policies providing RCV coverage commonly include language that requires the insured to repair or replace the property within a specified period of time. The Department is aware that some policies contain RCV time limitations as short as six months following the loss, while other policies contain RCV time limitations as long as 24 months.

In certain circumstances these time limitations encourage the prompt evaluation and settlement of claims, serve to get insureds back onto the property, and allow the insurance company to resolve outstanding liabilities and mitigate damages for both parties. In other circumstances, these time limitations may operate to unfairly deny insureds insurance benefits they have paid for. In particular, consider that in the Joplin area people were prevented from accessing their real property for a period of time while cleanup and debris removal were accomplished and that building permits were unavailable for a considerable period of time following the storm.

Furthermore, the scope of the disaster initially left the area with an insufficient quantity of contractors and materials to immediately begin rebuilding activities. While some insurance companies have already extended their RCV time limitations period in the context of this disastrous storm, the application of some policies' shorter RCV time limitations by other companies could result in an unfair settlement practice in the scope of the disaster that struck Jasper and Newton counties.

To avoid some of the uncertainty attendant to this situation, the Department does not anticipate that it will bring regulatory enforcement actions against insurers utilizing a minimum RCV time limitation of 12 months or longer. While this time period may not be sufficient in all circumstances for insureds to repair or replace their insured property, it is the Department's expectation that the majority of claims can be resolved in this time period. Those carriers extending their RCV time limitation period in the Joplin area to 12 months or longer, will not be subject to Department enforcement or disciplinary action because they retain their shorter contractual RCV time limitation period outside the Joplin area.

The Department encourages insureds to repair and replace their property expeditiously. The Department will carefully monitor the recovery efforts in Joplin, the needs of its residents and market conditions through the next several months and as we approach the one-year anniversary of the May 22 tornado. It will also continue to closely monitor claims settlements and consumer complaints following the tornado affecting the Joplin area and may take additional measures as necessary.

If you have questions regarding this communication, please contact Angela Nelson at insurance.mo.gov/help/comments.php or toll-free at 800-726-7390.