

Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

AUGUST 1, 2017

BULLETIN NO. 10-2017

TO: ALL LICENSED INSURERS, AUTHORIZED, FORMERLY AUTHORIZED AND UNAUTHORIZED INSURERS, HEALTH MAINTENANCE ORGANIZATIONS, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, PRODUCER AND INSURANCE COMPANY TRADE ASSOCIATIONS, AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: ACT 279 OF 2017 RESCINDS BULLETIN 13B-2013 PROHIBITING DEPRECIATION OF LABOR

Pursuant to Act 279 of 2017, codified at Ark. Code Ann. § 23-88-106, any prior communications or notices from the Arkansas Insurance Department (“Department”) that prohibited depreciation of labor, are hereby rescinded. Act 279 of 2017 becomes effective August 1, 2017, ninety (90) days after the final, official day of the 2017 Regular Session of the 91st General Assembly.

Act 279 of 2017 adds § 23-88-106 as an additional section to Arkansas Code Title 23, Chapter 88, Subchapter 1 allowing expense depreciation when determining loss under an insurance policy covering damaged property.

“Expense Depreciation” means depreciation, including but not limited to the cost of goods, materials, labor, and services necessary to replace, repair, or rebuild damaged property.

Expense depreciation shall not be applied to policies currently in effect, however, if the following required steps are taken, it may be applied upon renewal or at inception.

1. Insurers are required to provide notice, within the insurance policy, that expense depreciation may be deducted. The content and placement of this notice shall be approved by the Insurance Commissioner.
2. If the current policy does not contain the broad depreciation allowance language as provided in Act 279 of 2017, then the actual policy contract language shall be modified before being allowed.
3. The policy shall include a provision defining depreciation to include “expense” depreciation.
4. Once the Insurance Commissioner approves of the language, the contract modification on existing policies becomes effective at renewal and at inception for new policies.

At settlement, the insurer shall provide a written explanation detailing how the depreciation was calculated if applied to a damaged property loss. Depreciation should be reasonable and based on a combination of objective criteria and subjective assessment to include taking into account the actual condition of the property prior to loss.

Notwithstanding § 23-88-106, the Valued Policy Law under Ark. Code Ann. §23-88-101, shall still be applicable. Expense depreciation may not be applied for losses adjusted under §23-88-101(a)(1).

For any questions regarding this Bulletin, please contact Suzanne L. Tipton, General Counsel, in the Legal Division of the Arkansas Insurance Department at 501-371-2825.



ALLEN W. KERR
INSURANCE COMMISSIONER
STATE OF ARKANSAS

August 1, 2017
DATE