

**State of Utah**  
**Administrative Rule Analysis**  
Revised May 2023

<b>NOTICE OF CHANGE IN PROPOSED RULE</b>		
<b>Title No. - Rule No. - Section No.</b>		
<b>Rule or Section Number:</b>	<b>R590-190</b>	<b>Filing ID: Office Use Only</b>
<b>Date of Previous Publication:</b>	<b>10/15/2023</b>	

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room number:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S. 2700 W.	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R590-190. Unfair Property, Casualty, and Title Claims Settlement Practices Rule
<b>3. Reason for this change:</b>
The proposed rule is being changed because the Department has determined that the amendment is more properly made in statute versus rule.
<b>4. Summary of this change:</b>
The filing removes two protections for consumers from R590-190-11(9) in favor of strengthening the protections by adding them in statute. The protections being removed are anticipated to be added to a bill during the 2024 General Session.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no anticipated cost or savings to the state budget; however, any budget estimates will be provided in a fiscal note during the legislative process.
<b>B) Local government:</b>
There is no anticipated cost or savings to local government; however, any budget estimates will be provided in a fiscal note during the legislative process.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses; however, any budget estimates will be provided in a fiscal note during the legislative process.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There is an anticipated cost to certain non-small businesses; however, any budget estimates will be provided in a fiscal note during the legislative process.

**E) Persons other than small businesses, non-small businesses, or state or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no anticipated cost or savings to any other persons; however, any budget estimates will be provided in a fiscal note during the legislative process.

**F) Compliance costs for affected persons:**

There is a compliance cost for automobile insurers to the extent the change requires them to pay more in automobile insurance benefits; however, any budget estimates will be provided in a fiscal note during the legislative process.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

**Citation Information**

**6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 31A-2-201	Section 31A-21-312	Section 31A-26-301
Section 31A-26-303		

**Incorporations by Reference Information**

**7. Incorporations by Reference** (if this rule incorporates more than two items by reference, please include additional tables):

**A) This rule adds, updates, or removes the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Issue Date</b>	
<b>Issue or Version</b>	

**B) This rule adds, updates, or removes the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	

<b>Issue Date</b>	
<b>Issue or Version</b>	

**Public Notice Information**

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 01/17/2024

**B) A public hearing (optional) will be held:**

<b>Date (mm/dd/yyyy):</b>	<b>Time (hh:mm AM/PM):</b>	<b>Place (physical address or URL):</b>

**To the agency:** If more space is needed for a physical address or URL, refer readers to Box 4 in General Information. If more than two hearings will take place, continue to add rows.

**9. This rule change MAY become effective on:** 01/24/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

**To the agency:** Information requested on this form is required by Section 63G-3-303. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	11/28/2023
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**R590. Insurance, Administration.**

**R590-190. Unfair Property, Casualty, and Title Claims Settlement Practices Rule.**

**R590-190-1. Authority.**

This rule is promulgated by the commissioner pursuant to Sections 31A-2-201, 31A-21-312, 31A-26-301, and 31A-26-303.

**R590-190-2. Purpose and Scope.**

- (1) The purpose of this rule is to:
  - (a) set standards for the investigation and disposition of property, casualty, and title claims; and
  - (b) identify an unfair claim practice.
- (2) This rule applies to:
  - (a) a property and casualty insurer;
  - (b) a title insurer; and
  - (c) an authorized agent.

**R590-190-3. Definitions.**

Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

- (1) "Authorized agent" means an individual, corporation, association, organization, partnership, or other legal entity authorized to represent an insurer with respect to a claim.
- (2) "Claim file" means a record either in its original form or as recorded by a process that can accurately and reliably reproduce the original material regarding a claim, its investigation, adjustment, and settlement.
- (3)(a) "Claimant" means a first party claimant, a third party claimant, or both.
- (b) "Claimant" includes a claimant's designated legal representative and an immediate family member.
- (4) "Day" means calendar day.
- (5) "Documentation" means a physical or an electronic record related to a claim.
- (6)(a) "First party claimant" means a person asserting a right to a benefit under a policy to which the person is a party.
- (b) "First party claimant" includes a person's designated legal representative and an immediate family member.
- (7) "General business practice" means a pattern of conduct in a business.
- (8) "Investigation" means an activity by or on behalf of an insurer related to determining a claim under a policy.
- (9) "Notice of loss" means a claimant's notice that reasonably informs an insurer of facts related to a claim.
- (10) "Proof of loss" means an insured's reasonable documentation in support of a claim.
- (11) "Third party claimant" means a person asserting a claim against an insured.

**R590-190-4. File and Record Documentation.**

- (1) An insurer's claim file is subject to examination by the commissioner.
- (2) To aid in an examination, an insurer shall:

- (a) maintain claim data that is accessible and retrievable; and
- (b) maintain detailed documentation in each claim file permitting reconstruction of the insurer's activities related to the claim.

**R590-190-5. Misrepresentation of Policy Provisions.**

(1) An insurer and its representatives shall fully disclose to a first party claimant any pertinent benefit, coverage, or other provision of a policy under which a claim is presented.

(2) An insurer is prohibited from denying a claim based on a first party claimant's failure to make the property available for inspection unless there is documentation of a breach of a policy provision in the claim file.

**R590-190-6. Failure to Acknowledge Communication.**

(1) An insurer shall acknowledge receiving a notice of loss within 15 days of receipt unless:

- (a) payment is made within 15 days of a notice of loss; or
- (b) the insurer reasonably explains the failure to acknowledge receipt.

(2) Notice given to an agent of an insurer is notice to the insurer.

(3) Within 15 days, an insurer shall provide a substantive response to a claimant if a response has been requested.

(4) Upon receiving a notice of loss, an insurer shall, within 15 days, provide any necessary claim forms, instructions, and reasonable assistance so that a first party claimant can comply with the policy.

**R590-190-7. Notice of Loss.**

(1) If a notice of loss is required by an insurer, it is timely if made according to the terms of the policy, this rule, and Section 31A-21-312.

(2) A notice of loss may be given by an insured to an authorized agent, authorized adjuster, or other agent of an insurer unless the insurer directs otherwise pursuant to a specific disclosure.

(3) The general business practice of an insurer when accepting a notice of loss shall be consistent for all policyholders.

**R590-190-8. Proof of Loss.**

If a proof of loss is required by an insurer, it is timely if made according to the terms of the policy, this rule, and Section 31A-21-312.

**R590-190-9. Unfair Claim Settlement Practices.**

The commissioner finds that the following acts or general business practices are unfair claim settlement practices and are misleading, deceptive, unfairly discriminatory, overreaching, or an unreasonable restraint on competition in settling a claim:

(1) denying or threatening to deny a claim, or rescinding, canceling, or threatening to rescind or cancel coverage under a policy for a reason that is not clearly described in a policy as a reason for denial, cancellation, or rescission;

(2) failing to provide an insured or a beneficiary a written explanation of the evidence of an investigation or the claim file materials supporting a denial of a claim based on misrepresentation or fraud on an insurance application, if misrepresentation or fraud is the basis for the denial;

(3) compensating an employee, producer, or contractor an amount based on savings to the insurer due to denying payment of a claim;

(4) failing to deliver to the department a copy of an insurer's guidelines during an investigation of a claim, if requested;

(5) refusing to pay a claim without conducting a reasonable investigation;

(6) offering a first party claimant substantially less than a claim's reasonable value as established by an independent source;

(7) making a claim payment to an insured or a beneficiary without a statement or explanation of benefits that describes the coverage under which a payment is made and how a payment amount is calculated;

(8) failing to pay a first party claim within 30 days of receiving a proof of loss if liability is reasonably clear under one coverage to influence a settlement under another portion of the insurance policy or under another insurance policy;

(9) refusing to pay a claim solely based on an insured's request unless:

(a) the insured claims sovereign, eleemosynary, diplomatic, military service, or other immunity from suit or liability with respect to the claim; or

(b) the insured is granted the right under the policy to consent to settlement of a claim;

(10) advising a claimant not to obtain the services of an attorney or suggesting a claimant will receive less money if an attorney is used to pursue a claim or advise on the merits of a claim;

(11) misleading a claimant about applicable statutes of limitation;

(12) requiring an insured to sign a release that extends beyond the occurrence or cause of action that gave rise to a claim payment;

(13) deducting from a loss or claim payment made under one policy the premiums owed by the insured on another policy, unless the insured consents;

(14) failing to settle a first party claim on the basis that responsibility for payment of the claim should be assumed by others, except as provided by a policy provision;

(15) issuing a check or a draft in partial settlement of a loss or a claim under a specified coverage if the check or draft contains language that releases an insurer from total liability;

- (16) refusing to provide a written basis for the denial of a claim upon demand of an insured;
- (17) denying a claim for medical treatment after preauthorization is given, except in a case where an insurer obtains and provides to a claimant documentation of the pre-existing condition for which preauthorization was given or if a claimant is not eligible for coverage;
- (18) refusing to pay a reasonably incurred expense to an insured if the expense resulted from a delay, prohibited by this rule, in a claim settlement or a claim payment;
- (19) if an automobile insurer represents both a tort feisor and a claimant:
  - (a) failing to advise a claimant under any coverage that the same insurance company represents both the tort feisor and the claimant as soon as such information becomes known to the insurer; and
  - (b) allocating medical payments to the tort feisor's liability coverage before exhausting a claimant's personal injury protection coverage;
- (20) except for a failure to pay personal injury protection expenses when due, failing to pay interest at the legal rate, as provided in Title 15, Contracts and Obligations in General, on first party and third party claim amounts that are overdue under this rule; and
- (21) failing to deliver or mail the amount owed on a first party or third party claim within 30 days after the insurer receives written proof of a covered loss and its amount, except:
  - (a) if the insurer does not receive written proof of the entire loss, the insurer shall deliver or mail a partial amount supported by written proof or investigation within 30 days; and
  - (b) a payment is not overdue if the insurer has reasonable evidence to dispute its responsibility for payment.

**R590-190-10. Minimum Standards for Prompt, Fair, and Equitable Settlement.**

- (1) An insurer shall provide to a claimant a statement describing the time and way a claim shall be made and the type of proof of loss required by the insurer.
- (2)(a) Within 30 days after receiving a complete proof of loss, an insurer shall complete its investigation of the claim and shall notify the first party claimant of its acceptance or denial of the claim unless the investigation cannot reasonably be completed within that time.
- (b) If the insurer needs more time to determine whether the first party claim should be accepted or denied, it shall notify the first party claimant within 30 days after receipt of the proof of loss, giving the reasons more time is needed.
- (c) If the investigation remains incomplete, the insurer shall, within 45 days after sending the initial notification and within every 45 days thereafter, send to the first party claimant a letter setting forth the reasons additional time is needed for the investigation, unless the first party claimant is represented by legal counsel or a public adjuster.
- (d) Any basis for the denial of a claim shall be noted in the insurer's claim file and promptly communicated, in writing, to the first party claimant.
- (e) An insurer is prohibited from denying a claim on the grounds of a specific provision, condition, or exclusion unless reference to the provision, condition, or exclusion is included in the denial.
- (3)(a) If negotiations continue for settlement of a claim with a first party claimant or a third party claimant who is not represented by legal counsel or a public adjuster, an insurer shall notify the claimant of the date on which the applicable statute of limitation or other time limit expires.
- (b) The notice shall be given at least 60 days before the expiration date.
- (4) An insurer is prohibited from making a statement that the rights of a third party claimant may be impaired if a form or release is not completed within a given period, unless the statement is given to notify a third party claimant of a statute of limitation.

**R590-190-11. Standards for Prompt, Fair, and Equitable Settlement for Automobile Insurance.**

- (1) If an automobile insurance policy provides for an adjustment and settlement of a total loss for a first party claimant based on actual cash value or replacement with another automobile of like kind and quality, one of the methods in this Subsection (1) shall apply.
  - (a)(i) An insurer may offer a replacement automobile that is comparable to the insured's automobile, with all applicable taxes, license fees, and transfer of ownership fees paid, at no cost, less any deductible provided in the policy; and
  - (ii) an offer and any rejection shall be documented in the claim file.
  - (b)(i) An insurer may offer a cash settlement based on the actual cost, less any deductible provided in the policy, to purchase a comparable automobile, including all applicable taxes, license fees, and transfer of ownership fees of a comparable automobile for a cost determined in this Subsection (1)(b)(i).
    - (A) The cost of at least two comparable automobiles in the local market area, if an automobile was available within the last 90 days to consumers in the local market area.
    - (B) The cost of at least two comparable automobiles in areas proximate to the local market area, including the closest major metropolitan area in or out of the state, that were available within the last 90 days to consumers, if comparable automobiles are not available in the local market area.
    - (C) At least two quotes from at least two qualified dealers located within the local market area, if a comparable automobile is not available in the local market area.
    - (D) Any source to determine a statistically valid fair market value that meets the following criteria:
      - (I) the source gives primary consideration to the value of vehicles in the local market area and may consider data on vehicles outside the area;

(II) the source produces value for at least 85% of the makes and models for the last 15 model years, taking into account the value of all major options for such vehicles; and

(III) the source produces fair market value based on current data available from the area surrounding the location where the insured vehicle was principally garaged or a necessary expansion of the parameters, such as time and area, to assure statistical validity.

(ii) An insurer shall reopen its claim file and comply with the following procedures upon notice that a first party claimant cannot purchase a comparable vehicle at market value within 30 days of receiving a cash settlement payment under this Subsection (1)(b); and

(A) locate a comparable vehicle by the same manufacturer, same year, similar body style, and similar options and price range for an insured for the market value determined by the insurer at the time of settlement available through a licensed dealer or private seller;

(B) either:

(I) pay the difference between market value before applicable deductions and the cost of the comparable vehicle of like kind and quality that the insured has located; or

(II) negotiate and effectuate the purchase of the vehicle for the insured;

(C) elect to offer a replacement under Subsection (1)(a); or

(D) conclude the loss settlement under the appraisal section of the policy in force at the time of the loss.

(iii) An insurer is not required to take action under Subsection (1)(b)(ii) if its documentation to the first party claimant, at the time of settlement, included written notification of the availability and location of a specified and comparable vehicle of the same manufacturer, same year, similar body style, and similar options in as good or better condition as the total loss vehicle that could be purchased for the market value determined by the insurer before applicable deductions.

(c) If a first party claimant automobile total loss is settled on a basis that deviates from the methods described in Subsection (1)(a) or (1)(b), the deviation shall be supported by documentation giving particulars of the automobile condition.

(i) Any deduction from the cost, including a deduction for salvage, shall be measurable, itemized, and specified as to dollar amount and shall be reasonable in amount.

(ii) The basis for the settlement shall be fully explained to the first party claimant.

(2)(a) A total loss settlement with a third party claimant shall be based on the market value or actual cost of a comparable automobile at the time of loss.

(b) Except for Subsection (1)(b)(ii), settlement procedures shall comply with Subsection (1)(b).

(3) Where liability and damages are reasonably clear, an insurer is prohibited from recommending that a third party claimant make a claim under the third party claimant's own policy solely to avoid paying a claim under the insurer's policy.

(4) An insurer is prohibited from requiring a claimant to travel an unreasonable distance to inspect a replacement automobile, to obtain a repair estimate, or to have an automobile repaired at a specific repair shop.

(5)(a) An insurer shall include a first party claimant's deductible, if any, in a subrogation demand initiated by an insurer.

(b) A subrogation recovery may be shared on a proportionate basis with a first party claimant if an agreement is reached for less than the full amount of the loss, unless the deductible amount has been otherwise recovered.

(c) A subrogation recovery shall be applied first to reimburse a first party claimant for the amount or share of the deductible if the full amount or share of the deductible has been recovered.

(d)(i) A deduction for expenses may not be made from the deductible recovery unless an outside attorney is retained to collect the recovery.

(ii) If taken, a deduction shall be a pro rata share of the allocated loss adjustment expense.

(e) If subrogation is initiated but discontinued, the insured shall be advised.

(6)(a) If an insurer prepares or approves an estimate for automobile repairs, the estimated cost shall reasonably be expected to repair the damage to the automobile.

(b) If an insurer prepares an estimate, it shall give a copy of the estimate to the claimant and may provide the claimant the names of one or more conveniently located repair shops.

(7) If the amount claimed is reduced due to betterment or depreciation, all information for the reduction shall be contained in the claim file.

(a) The deduction shall be itemized with specificity as to dollar amount and shall be reasonable.

(b) The insurer shall provide a written explanation of the deductions to the claimant upon request.

(8) If an insurer elects to repair an automobile and designates a specific repair shop for the repairs, the insurer shall cause the damaged automobile to be restored to its condition before the loss at no additional cost to the claimant other than as stated in the policy and within a reasonable period.

(9)(a) If coverage exists, payment shall be made to a claimant for:

(i) reasonably incurred cost of transportation; or

(ii) reasonably incurred rental cost of a substitute vehicle, including collision damage waiver, unless the claimant has physical damage coverage available.

(b) A payment under Subsection (9)(a) shall be made for:

(i) the period the automobile is necessarily withdrawn from service to obtain parts or effect repair; or

(ii) if the automobile is a total loss and the claim has been timely made, the period from the date of loss until a reasonable settlement offer has been made by the insurer.

(c) An insurer may not refuse to pay for loss of use for the period that an insurer is examining the claim or making other determinations as to the validity of the loss, unless the delay reveals that an insurer is not liable to pay the claim.

- ~~(d) A loss of use payment shall be an amount in addition to a payment for the value of an automobile.~~
- ~~(9) If coverage exists, compensation for loss of use of a damaged vehicle shall be provided to a claimant:~~
- ~~(a)(i) Compensation for loss of use includes:~~
- ~~(A) the reasonable incurred cost of substitute transportation; and~~
- ~~(B) the cost of a collision damage waiver.~~
- ~~(ii) Subsection (9)(a)(i)(B) does not apply when the claimant has physical damage coverage available.~~
- ~~(iii) Subject to market availability, substitute transportation is transportation that may reasonably be used in a manner in which a claimant previously used the damaged vehicle.~~
- ~~(b) Compensation for loss of use shall cover the period in which the vehicle is necessarily withdrawn from service to obtain parts or effect repair.~~
- ~~(c) If the vehicle is a total loss, compensation for loss of use shall cover the period beginning on the date of loss and continuing until the insurer has made a reasonable settlement offer.~~
- ~~(d) Unless the insurer is not liable to pay the claim, an insurer may not refuse to provide compensation for loss of use for the period in which the insurer is determining the validity of a claim.~~
- ~~(e) An insurer may not require that a claimant rent a substitute vehicle at the claimant's expense and then seek reimbursement from the insurer.~~
- ~~(f) Compensation for loss of use shall be provided in addition to compensation for the value of the automobile.]~~
- (10) An insurer shall fairly, equitably, and in good faith attempt to compensate a first party claimant for all losses covered by the policy based on the following standards:
- (a) an offer of settlement may not be based solely on the useful life of the damaged part or vehicle;
  - (b) an estimate of the amount of compensation for a claimant shall include the actual wear and tear, or lack thereof, of the damaged part or vehicle;
  - (c) actual cash value shall consider the cost of replacement of the part or vehicle for which compensation is claimed;
  - (d) an actual estimate of the true useful life remaining in the part or vehicle shall be considered in establishing the amount of compensation of a claim; and
  - (e) actual cash value shall include taxes and other fees incurred by a claimant in replacing the part or vehicle or in compensating the claimant for the loss incurred.
- (11) An insurer may not demand reimbursement of a personal injury protection payment from a first party claimant from a settlement or judgment against a third party, except as provided by law.
- (12)(a) An insurer shall provide reasonable written notice to a claimant before termination of payment for automobile storage charges and claim documentation of the denial.
- (b) An insurer shall provide a reasonable time for the claimant to remove the vehicle from storage before terminating a payment.

#### **R590-190-12. Unfair Claim Settlement Practices for Automobile Insurance.**

The commissioner finds the following acts to be misleading, deceptive, unfairly discriminatory, overreaching, or an unreasonable restraint on competition in settling a claim:

- (1) settling a claim for an amount that is less than the amount the insurer would be charged if repairs were made, unless the amount is agreed to by the claimant or provided for by the policy;
- (2) refusing to settle a claim based solely upon a police agency issuing or failing to issue a traffic citation;
- (3) failing to disclose all coverages for which an application for benefits is required by the insurer;
- (4) failing to disclose all coverages, including loss of use, household services, and any other coverages available to the claimant;
- (5) requiring a claimant to use only the insurer's claim service to perfect a claim;
- (6) failing to provide to a claimant, if requested, the name and address of the salvage dealer who provided a salvage quote for the amount deducted by an insurer in a total loss settlement;
- (7) refusing to disclose policy limits if requested by a claimant;
- (8) using a release on the back of a check or draft that requires a claimant to release an insurer from an obligation on further claims to process a current claim if an insurer knows or reasonably should know that there may be future liability on the part of the insurer;
- (9) refusing to use a separate release of claim document, rather than one on the back of a check or draft, if requested to do so by a claimant;
- (10) intentionally offering less money to a first party claimant than the claim is reasonably worth;
- (11) refusing to offer to pay a claim based on comparative negligence without a reasonable basis for doing so; and
- (12) imputing the negligence of a permissive user of a vehicle to the owner of the vehicle in a bailment situation.

#### **R590-190-13. Standards for Prompt, Fair, and Equitable Settlement for Fire and Extended Coverage Type Policies with Replacement Cost Coverage.**

(1)(a) If a policy provides for the adjustment and settlement of first party losses based on replacement cost, the following apply:

- (i) if a loss requires repair or replacement of an item or part, any significant physical damage incurred in making such repair or replacement not otherwise excluded by the policy shall be included in the loss; and

(ii) if a loss requires repair or replacement of items and the repaired or replaced items do not match in color, texture, or size, the insurer shall repair or replace items to conform to a reasonably uniform appearance for both interior and exterior losses.

(b) For a settlement described in Subsection (1)(a), an insured is only responsible for the applicable deductible.

(2)(a)(i) If a policy provides for an adjustment and settlement of loss on an actual cash value basis on residential fire and extended coverage, an insurer shall determine actual cash value as the replacement cost of property at the time of the loss less depreciation, if any.

(ii) Upon an insured's request, an insurer shall provide a copy of any relevant documentation from the claim file detailing each deduction for depreciation.

(b)(i) If an insured's interest is limited because the property has nominal or no economic value, or a value disproportionate to replacement cost less depreciation, the determination of actual cash value is not required.

(ii) In a case described in Subsection (2)(b)(i), an insurer shall provide, upon the insured's request, a written explanation of the basis for limiting the amount of recovery along with the amount payable under the policy.

**R590-190-14. Severability.**

If any provision of this rule, Rule R590-190, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

**KEY: insurance law**

**Date of Last Change: 2023**

**Notice of Continuation: April 3, 2019**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-26-301; 31A-26-303; 31A-21-312; 31A-2-308**