

Insurance Department

Tom Glause
Insurance
Commissioner

106 East 6th Avenue ♦ Cheyenne, Wyoming 82002

MEMORANDUM

TO: Producers, Insurers
FROM: Tom Glause, Commissioner, Wyoming Department of Insurance
DATE: February 6, 2017
RE: Cosmetic Damage Exclusions

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On or about July 2013, the Department took the position that cosmetic damage exclusions were detrimental to consumers and policies that contained cosmetic damage exclusions were no longer allowed. Notice was provided to insurers and producers regarding this position. After a series of severe wind and hail storms in July and August 2016, concerns were renewed regarding the impact on consumers of cosmetic damage provisions, particularly on residential dwellings. As a result, notice was provided to all identified insurers who had existing exclusions approved prior to July 2013 that all forms containing cosmetic damage exclusions were to be withdrawn.

After the notice regarding withdrawal of existing forms with cosmetic damage exclusions was issued, the Department received considerable feedback from various producers, insurers and other interested individuals regarding the benefits and detriments of the cosmetic damage exclusions. It became apparent that some producers consider the cosmetic damage exclusions a tool that may be used to make insurance more affordable for consumers in some circumstances. Based on the feedback received, the Department has modified its position regarding cosmetic damage exclusions.

Notice is hereby given that effective immediately, cosmetic damage exclusions will not be approved for new policies, and may not be enforced within existing policies, unless the exclusion meets the following requirements:

1. Cosmetic damage exclusions shall only be allowed for metal roofing. No other cosmetic damage exclusions shall be approved or enforced.
2. The cosmetic damage exclusion must be disclosed in clear and concise language to the consumer for new and existing contracts.
3. The cosmetic damage exclusion must be a voluntary policy provision at the election of the consumer. For the exclusion to be effective, the consumer must voluntarily sign a written acknowledgement that they have been advised of the possible consequences of the exclusion, that they have had the opportunity to ask questions and their questions have been answered to the consumer's satisfaction. The possible consequences of the exclusion disclosed to the consumer must include that the property may decrease in value, and that the existence of pre-

existing cosmetic damage may affect the ability to obtain insurance coverage on the roof from other insurers.

4. The signed acknowledgement shall be required for new and existing policyholders. The signed acknowledgement shall be kept on file by the insurer, the responsible producer, or both, for so long as the policy or any renewal of that policy remains in effect.
5. Any policy form containing a cosmetic damage exclusion shall require that the consumer opt into the cosmetic damage exclusion rather than requiring that the consumer opt out.

Policies that do not contain these requirements will need to be amended and refiled with the Department. Any questions regarding the above information should be directed to the Wyoming Department of Insurance Staff Attorney.