



Andy Beshear
Governor

PUBLIC PROTECTION CABINET
Kentucky Department of Insurance

Ray A. Perry
Secretary

Jacqueline Coleman
Lieutenant Governor

500 Mero Street, 2SE11
Frankfort, KY 40601
Phone: (502) 564-3630
Toll Free: (800) 595-6053

Sharon P. Clark
Commissioner

ADVISORY OPINION
2023-08

The following Advisory Opinion is to advise the reader of the current position of the Kentucky Department of Insurance ("Department"), on the specified issue. The Advisory Opinion is not legally binding on either the Department or the reader.

TO: ALL ADMITTED INSURERS AND LICENSED ADJUSTERS AUTHORIZED TO INVESTIGATE, NEGOTIATE, OR SETTLE PROPERTY CLAIMS IN KENTUCKY

FROM: SHARON P. CLARK, COMMISSIONER
KENTUCKY DEPARTMENT OF INSURANCE

RE: DEPARTMENT INTERPRETATION OF 806 KAR 12:095, SECTION 9(1)(b)

DATE: October 17, 2023

Effective Date

This advisory opinion shall take immediate effect.

Opinion

The purpose of this Advisory Opinion is to clarify the Department's interpretation of 806 KAR 12:095 Section 9(1)(b), which provides as follows:

"If a loss requires replacement of items and the replaced items do not reasonably match in quality, color, and size, the insurer shall replace all items in the area so as to conform to a reasonably uniform appearance. This applies to interior and exterior losses. The insured shall not bear any cost over the applicable deductible."

The intent of this regulatory provision is to protect the value of an insured's home or other real property, which could be damaged by the installation of a non-uniform item. The Department interprets "area" to mean the entirety of a part used for a specific purpose, i.e. an entire roof, an entire contiguous interior carpet, an entire contiguous interior tile floor, etc. This language does not permit a "line of sight" rule to be applied when replacing portions of a roof or other "area."

To illustrate, if the shingles on one slant of a residential roof must be replaced due to damage covered by an applicable property insurance policy, and absent the availability of matching shingles that would render the slant in question reasonably uniform to the remainder of the roof, then an entirely new roof must be installed. Repairing only a portion of the roof with non-uniform shingles that do not reasonably match the remainder of the roof would diminish the value of the home. In situations where the existing roof shingles are still in production and available, use of the same shingles will satisfy the regulation despite any discoloration due to regular aging or wear from use. If the same shingles are not available, the Department would review the quality, color, and size of replacement shingles to determine whether a reasonable match has been met.

This Advisory Opinion is intended to serve as notice of the Department's interpretation of 806 KAR 12:095 Section 9(1)(b) to all admitted insurers and licensed adjusters authorized to investigate, negotiate, or settle property claims in Kentucky. Any insurers currently utilizing forms in violation of the regulation shall amend their filings by **September 1, 2024**. This includes, but is not limited to, any endorsement placing a sublimit on matching undamaged areas of a home. Failure to bring filings into compliance may result in administrative action.

Questions regarding this advisory opinion should be directed to the Property and Casualty Division by: Phone at (502) 564-6046; Fax at (502) 564-5922; or Email at DOI.PropertyCasualty@ky.gov.



Sharon P. Clark, Commissioner
Kentucky Department of Insurance
On this 17 day of October 2023