ALABAMA DEPARTMENT OF INSURANCE
ADMINISTRATIVE CODE

CHAPTER 482-1-125
STANDARDS FOR PROPERTY/CASUALTY INSURANCE CLAIMS

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482-1-125-.01 Authority.

This chapter is adopted under the authority of the Insurance Trade Practices Act and Alabama Code Sections 27-2-17, 27-1-17, 27-1-19, 27-12-21, 27-12-24, 27-14-8, 27-14-11 and 27-14-9, Code of Ala. 1975.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-1-17, 27-1-19, 27-12-21, 27-12-24, 27-14-8, 27-14-11, 27-14-9.
History: New Rule: May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-125-.02 Purpose.

The purpose of this chapter is to set forth minimum standards for the investigation and disposition of property and casualty claims arising under contracts or certificates issued to residents of the State. It is not intended to cover claims involving workers'

compensation, fidelity, suretyship or boiler and machinery insurance. Evidence of violation of this chapter and the provisions contained herein shall be utilized for the purpose of administrative and regulatory proceedings conducted by the Department of Insurance and shall not be utilized for any other purpose or admissible as evidence for any purpose in any civil or criminal court proceeding. This is merely a clarification of original intent and does not indicate any change of position.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-1-17, 27-1-19, 27-12-21, 27-12-24, 27-14-8, 27-14-11, 27-14-9.
History: **New Rule:** May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-125-.03 Definitions.

In addition to the definitions contained in the Trade Practices Act and Section 27-1-2, Code of Ala. 1975, which are hereby incorporated by reference, the following definitions shall apply for purposes of this chapter:

(a) CLAIMANT. A first party claimant, a third party claimant, or both and includes the claimant's designated legal representative and includes an adult member of the claimant's immediate family designated in writing by the claimant.

(b) CLAIM FILE. Any retrievable electronic file, paper file or combination of both relative to the claim that may contain:

The notice of claim, claims forms, proof of loss or other form of claim submission, settlement demands, accident reports, police reports, adjusters logs, claim investigation documentation, inspection reports, supporting bills, estimates and valuation worksheets, medical records, correspondence to and from insureds and claimants or their representatives, notes, contracts, declaration pages, certificates evidencing coverage under a group contract, endorsements or riders, work papers, any written communication, any documented or recorded telephone communication related to the handling of a claim, including the investigation, payment or denial of the claim, copies of claim checks or drafts, or check numbers and amounts, releases, all applicable notices, correspondence used for determining and concluding claim payments or denials, subrogation and salvage documentation, any other documentation, maintained in a paper or electronic format, necessary to support claim handling activity, and any claim manuals or other information necessary for reviewing the claim.

(c) DAYS. Calendar days calculated as set forth in the Alabama Rules of Civil Procedure.

(d) DOCUMENTATION. All pertinent communications, transactions, notes, work papers, claim forms, photographs, bills and explanation of benefits forms and all other records relative to the claims.

(e) FIRST PARTY CLAIMANT. An individual, corporation, association, partnership or other legal entity asserting a policy coverage as applicable as a named insured, policyholder, or a person insured by definition under an insurance policy or insurance contract arising out of the occurrence of a loss or a loss contingency covered by the policy or contract.

(f) INSURER. As set forth in Section 27-1-2, Code of Ala. 1975.

(g) INVESTIGATION. All activities of an insurer directly or indirectly related to the determination of liabilities under coverages afforded by an insurance policy or insurance contract.

(h) NOTICE OR NOTIFICATION OF A CLAIM. Any notice or notification, whether in writing, verbal or other means acceptable under the terms of an insurance policy to an insurer or its producer, by a claimant, which reasonably apprises the insurer of the facts pertinent to a claim.

(i) PRODUCER. As defined in Section 27-7-1, Code of Ala. 1975.

(j) RECEIPT DATE. The date received which could be confirmed either by facsimile, electronic or other recognized confirmation or signed certified return mail receipt.

(k) REPLACEMENT CRASH PART. For purposes of this chapter, means non-mechanical sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels as set forth in Section 32-17A-1 et seq., Code of Ala. 1975.

(l) SERVICE REPRESENTATIVE. As defined in Section 27-7-1.

(m) THIRD PARTY CLAIMANT. Any person other than a first party claimant asserting a claim against any person under a policy or certificate of an insurer.

(n) WRITTEN COMMUNICATIONS. All correspondence, regardless of source or type, that is materially related to the handling of the claim.

Author: Commissioner of Insurance

Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-1-17, 27-1-19, 27-12-21, 27-12-24, 27-14-8, 27-14-11, 27-14-9.
History: New Rule: May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-125-.04 File And Record Documentation.

Each insurer's claim files for policies are subject to examination by the Commissioner of Insurance or by the Commissioner's duly appointed designees. To aid in such examination:

(a) The insurer shall maintain claim files that are accessible and retrievable for examination. An insurer shall be able to provide the claim number, line of coverage, date of loss, and date and amount of payment. They shall also be able to provide the same information (except date and amount of payment) for all claims closed without payment. This data must be available for all open and closed files for the current year and the five (5) preceding years, in order to permit reconstruction of the insurer’s activities relative to each claim.

(b) Each relevant document within the claim file shall reflect as to date received, date processed or date mailed.

(c) Format of Records and Disaster Recovery.

1. Any record required to be maintained by an insurer may be in the form of paper, photograph, magnetic, mechanical or electronic medium, or any process that accurately forms a durable reproduction of the record, so long as the record is capable of duplication to a hard copy that is legible. Documents that are produced and sent to an insured by use of a template and an electronic mail list shall be considered to be sufficiently reproduced if the insurer can provide proof of mailing of the document and a copy of the template. Documents that require the signature of the insured or insurer’s producer shall be maintained in any format listed above provided evidence of the signature is preserved in that format.

2. The maintenance of records in a computer-based format shall be archival in nature, so as to preclude the alteration of the record after the initial transfer to a computer format. Upon request of an examiner, the records shall be capable of duplication to a hard copy that is legible. The records shall be maintained according to procedures developed and adhered to by the insurer. The procedures shall be made available to the commissioner during an examination.

3. Photographs, microfilms, or other image-processing reproductions of records shall be equivalent to the originals and may be certified as the same in actions or proceedings before the commissioner.

4. The insurer shall maintain disaster preparedness or disaster recovery procedures that include provisions for the maintenance or reconstruction of original or duplicate records at another location. These procedures shall be provided for review during an examination.

(d) Every insurer, upon receipt of any written inquiry from the Insurance Department respecting a claim shall within ten (10) working days of receipt of such inquiry furnish the Department with an adequate written response to the inquiry. This response shall be addressed to the Department employee or representative making the request.

Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-1-17, 27-1-19, 27-12-21, 27-12-24, 27-14-8, 27-14-11, 27-14-9.
History: New Rule: May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-125-.05 Misrepresentation Of Policy Provisions.

(1) No insurer shall deny a claim based on a first party claimant's failure to exhibit the damaged property without the proof of demand and of an unfounded refusal by the first party claimant to do so and unless the insurer has documented breach of relevant policy provisions in the claims file.

(2) No insurer shall deny a claim based upon the failure of a first party claimant to give proper written notice of loss within a specified time limit unless the denial is based upon a specific policy provision or the first party claimant's failure to give notice constitutes a breach of the first party claimant's policy.

(3) No insurer shall indicate to a first party claimant on a payment draft, check or in any accompanying letter that said payment is "final" or "a release" of any claim unless the policy limit has been paid or there has been a compromise settlement agreed to by the first party claimant and the insurer as to coverage and amount payable under the policy.

(4) No insurer shall issue checks or drafts in partial settlement of a loss or claim under a specific coverage that contains language purporting to release the insurer or its insured from total liability.

Author: Commissioner of Insurance

Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-1-17, 27-1-19, 27-12-21, 27-12-24, 27-14-8, 27-14-11, 27-14-9.
History: New Rule: May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-125-.06 Failure To Acknowledge Pertinent Communications.

(1) Every insurer, upon receiving notification of a first party claim from a first party claimant shall, within fifteen (15) days, acknowledge the receipt of such notice unless payment is made within that period of time. If an acknowledgement is made by means other than writing, an appropriate notation of the acknowledgement shall be made in the claim file of the insurer and dated. Notification given to a producer of an insurer shall be notification to the insurer. Acknowledgement by a producer of an insurer as required above shall satisfy the requirements of this paragraph.

(2) Every insurer, upon receipt of any inquiry from the insurance department respecting a claim shall, within ten (10) working days of receipt of such inquiry, furnish the department with an adequate response to the inquiry in duplicate. This response should be addressed to the department employee or representative making the request. Furthermore, the insurer shall furnish written notification to the department employee on the final outcome respecting this claim if it is not resolved at the time of the initial response.

(3) A reply shall be made within fifteen (15) days on all other pertinent written communications from a first party claimant which requests a response.

(4) Every insurer, upon receiving notification of a first party claim from a first party claimant, shall within fifteen (15) days mail or otherwise provide necessary claim forms, instructions or reasonable assistance so that first party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this paragraph shall constitute compliance with Paragraph (1) of this rule.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-1-17, 27-1-19, 27-12-21, 27-12-24, 27-14-8, 27-14-11, 27-14-9.
History: New Rule: May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-125-.07 Standards For Prompt, Fair And Equitable Settlements Applicable To All Insurers.

(1) Within thirty (30) days, or the number of days specified in the policy, after receipt by the insurer of properly executed proofs of loss, the first party claimant shall be advised of the status of acceptance or denial of the claim by the insurer. No insurer shall deny a first party claim on the grounds of a specific policy provision, condition or exclusion unless reference to such provision, condition, or exclusion is included in the denial. The denial may be given to the first party claimant in writing, verbally or electronically (e-mail). If verbal, the file should clearly indicate the denial and reasons for the denial. If the denial is in writing or electronic (e-mail), the file should contain a copy of the denial letter or e-mail. If after the first party claim is denied, the first party claimant requests a written denial, a written denial shall be mailed within a reasonable time. Where there is a reasonable basis supported by specific information available for review by the insurance regulatory authority that the first party claimant has fraudulently caused or contributed to the loss, the insurer is relieved from the requirements of this paragraph; provided, however, that the first party claimant shall be advised of the acceptance or denial of the first party claim within a reasonable time or any time limit specified in the policy for full investigation after receipt by the insurer of a properly executed proof of loss.

(2) If the insurer needs more time to determine whether a first party claim should be accepted or denied, it shall so notify the first party claimant within thirty (30) days or the time period specified in the policy after receipt of the proofs of loss, giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, forty-five (45) days from the initial notification and every forty-five (45) days thereafter, notify the first party claimant in writing, verbally or electronically (e-mail) of the reasons additional time is needed for investigation. Where there is a reasonable basis supported by specific information available for review by the insurance regulatory authority for suspecting that the first party claimant has fraudulently caused or contributed to the loss, the insurer is relieved from the requirements of this paragraph; provided, however, that the claimant shall be advised of the acceptance or denial of the claim by the insurer within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss. If the claim is in litigation for any reason, the above notification guidelines will no longer apply to that particular claim.

(3) Insurers shall not refuse to adjust first party claims on the basis that responsibility for payment should be assumed by others

except as may otherwise be provided by policy provisions, statute or case law.

(4) No insurer shall knowingly cease or prolong negotiations for settlement of a claim with the intention of allowing the statute of limitations to expire. On an unresolved claim affected by a statute of limitations, the insurer must give a first-party claimant who is not represented by counsel written notice of the expiration date, as it is understood by the insurer, of the statute of limitations and the effect of expiration of such limitations period. Said notice must be sent to any first-party claimant approximately forty-five (45) calendar days before the date on which said limitations period may expire.

(5) No insurer shall knowingly make false statements indicating that the rights of a third party claimant may be impaired if a form or release is not completed within a given period of time.

(6) The insurer shall tender payment within thirty (30) days or the time specified in the policy, after accepting liability, reaching an agreement on the amount of the claim and receipt of any documents necessary to consummate the settlement.

(7) No insurer shall request or require any insured to submit to a polygraph examination unless authorized under the applicable insurance contracts and state law.

(8) No insurer shall deny or fail to adjust an otherwise valid third-party claim because of the failure of the insured to cooperate unless the insurer proves the lack of cooperation is material, substantial, and to the prejudice of the insurer.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-1-17, 27-1-19, 27-12-21, 27-12-24, 27-14-8, 27-14-11, 27-14-9.
History: **New Rule:** May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** August 8, 2019; effective January 1, 2020. Filed with LRS August 8, 2019. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** May 6, 2020; effective May 16, 2020. Published May 29, 2020 with LSA. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-125-.08 Standards For Prompt, Fair And Equitable Settlements Applicable To Automobile Insurance.

(1) When the insurance policy provides for the adjustment and settlement of first party automobile total losses on the basis of actual cash value or replacement with another of like kind and quality, one of the following methods shall apply:

(a) The insurer may elect to offer a replacement automobile that is at least comparable in that it will be by the same manufacturer, same or newer year, similar body style, similar options and mileage as the insured vehicle and in as good or better overall condition and available for inspection within a reasonable distance of the insured's residence, unless the insured agrees to a vehicle of a different manufacturer, year, body style, options and/or mileage. The insurer shall pay all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the automobile paid, at no cost other than any deductible provided in the policy. The offer and any rejection thereof must be documented in the claim file.

(b) The insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile by the same manufacturer, same model year, with similar body style and condition, similar options and mileage, including all applicable taxes, license fees and other fees incident to the transfer of ownership of a comparable automobile. The amount payable on taxes, license fees, and transfer fees shall be limited to the amount that would have been paid on the totaled, insured vehicle at the time of settlement. Such cost may be derived pursuant to the Alabama Department of Revenue Regulations regarding total loss.

(c) When a first party automobile total loss is settled on a basis which deviates from the methods described in Subparagraphs (a) and (b) of Paragraph (1), the deviation must be supported by documentation giving particulars of the automobile condition. Any deductions from such cost, including deduction for salvage, must be measurable, discernible, itemized and specified as to dollar amount. The basis for such settlement shall be fully explained to the first party claimant.

(2) Where liability and damages are reasonably clear, insurers shall not recommend that third party claimants make claim under their own policies solely to avoid paying claims under such insurer's policy.

(3) Insurers shall not require a claimant to travel an unreasonable distance either to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop. Insurers may require repair estimates to be obtained in the area where the accident occurred.

(4) If partial losses are settled on the basis of a written estimate prepared by or for the insurer, the insurer shall supply the insured a copy of the estimate upon which the settlement is based. The estimate prepared by or for the insurer shall be reasonable, in accordance with applicable policy provisions, and

of an amount which will allow for repairs to be made in a workmanlike manner.

(5) When the amount claimed is reduced because of betterment or depreciation all information supporting such reduction shall be contained in the claim file. Such deductions shall be itemized and specified as to dollar amount.

(6) When the insurer elects to repair and designates a specific repair shop for automobile repairs, the insurer shall cause the damaged automobile to be restored as nearly as possible to its condition prior to the loss at no additional cost to the first party claimant other than as stated in the policy and shall make reasonable efforts to assure repairs are completed within a reasonable period of time. Giving the insured names of repair shops in response to a request from the insured shall not constitute designating a specific repair shop. This Paragraph is not intended to and does not create a duty on the insurer to pay for any alleged diminution in value of the automobile.

(7) The insurer shall provide reasonable notice to an insured prior to termination of payment for automobile storage charges and documentation of the denial as required by Rule 482-1-125-. 04. Such insurer shall provide reasonable time for the insured to remove the vehicle from storage prior to the termination of payment.

(8)(a) Betterment deductions are allowable only if the deductions meet both of the following:

1. Reflect a measurable decrease in market value attributable to the poorer condition of, or prior damage to, the vehicle.

2. Reflect the general overall condition of the vehicle, considering its age, for:

(i) Wear and tear or rust.

(ii) Missing parts limited to no more of a deduction than the replacement costs of such part or parts.

(b) Any such deductions set forth in Subparagraph 2 of Subparagraph (a) must be measurable, itemized, specified as to dollar amount and documented in the claim file.

(c) No insurer shall require the insured or claimant to supply parts for replacement.

(9) An insurer’s proposed use of replacement crash parts shall comply with Section 32-17A-1, et seq., Code of Ala. 1975.

(10) No insurer shall deny or fail to adjust an otherwise valid third-party claim because of the failure of the insured to cooperate unless the insurer proves the lack of cooperation is material, substantial, and to the prejudice of the insurer.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-1-17, 27-1-19, 27-12-21, 27-12-24, 27-14-8, 27-14-11, 27-14-9.
History: **New Rule:** May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** Filed July 2, 2004; effective August 1, 2004.

482-1-125-.09 Standards For Prompt, Fair And Equitable Settlements Applicable To Fire And Extended Coverage Type Policies With Replacement Costs.

(1) When the policy provides for the adjustment and settlement of first party losses based on replacement cost, and a loss requires repair or replacement of an item or part, any consequential physical damage necessarily or reasonably incurred in making such repair or replacement not otherwise excluded by the policy shall be included in the loss. The insured shall not have to pay for betterment nor any other cost except for the applicable deductible, except as provided by the policy.

(2) When the insurance policy provides for the adjustment and settlement of losses on an actual cash value basis on residential fire and extended coverage, the insurer shall determine actual cash value as replacement cost of property at time of loss less depreciation. Upon the insured’s request, the insurer shall provide a copy of the claim file worksheets detailing any and all deductions for depreciation.

(3) In cases in which the 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 as set forth in Paragraph (2) is not required. In such cases, the 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.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-1-17, 27-1-19, 27-12-21, 27-12-24, 27-14-8, 27-14-11, 27-14-9.
History: **New Rule:** May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** Filed August 6, 2014; effective August 16, 2014. Filed with LRS August 6, 2014. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-125-.10 Severability.

If any paragraph or a portion of a paragraph of this chapter or its applicability to any person or circumstances is held invalid by a court, the remainder of the regulation or the applicability of the provision to other persons or circumstances shall not be affected.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-1-17, 27-1-19, 27-12-21, 27-12-24, 27-14-8, 27-14-11, 27-14-9.
History: New Rule: May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-125-.11 Effective Date.

This chapter shall become effective upon its approval by the Commissioner of Insurance and upon its having been on file as a public document in the office of the Secretary of State for ten days.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-1-17, 27-1-19, 27-12-21, 27-12-24, 27-14-8, 27-14-11, 27-14-9.
History: New Rule: May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Rule is not subject to the Alabama Administrative Procedure Act.