



# Texas Department of Insurance

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**June 11, 1993**

**TO: ALL PROPERTY AND CASUALTY INSURANCE COMPANIES**

**Re: Replacement of Damaged Roofs**

Texas has recently experienced a number of severe storms that have caused extensive damage to property located throughout the State. The methods employed by some insurers in the settlement of claims for roof damage has come to the attention of the Texas Department of Insurance, and those claims settlement practices may be in direct conflict with policy provisions and be in violation of the Insurance Code and the rules and regulations of the State Board of Insurance.

The overlay of a shingle roof on a damaged roof does not satisfy the Loss Settlement conditions contained in residential property policies. Claims settled on an actual cash value basis must be based on the cost to repair or replace the damaged property with proper deduction for depreciation. In addition, the policies provide for the expense of the removal of debris of damaged property within the policy limits. Claims settled on a replacement cost basis require the damaged property to be repaired or replaced with material of like kind and quality without deduction for depreciation with policies also providing for the expense of the removal of debris of damaged property within the policy limits. In both instances, the removal of damaged roof shingles falls within the meaning of debris removal.

Insureds have the right to be treated fairly in the settlement of a claim and should be provided complete information regarding any options for a claim settlement. An insured may accept an overlay of new roof shingles over damaged roof shingles; however, that is at the option of the individual insured under the policy provisions. An insurer cannot require an overlay of roof shingles as the settlement of the claim. Any such conduct could subject the insurer to disciplinary action pursuant to the Unfair Competition and Unfair Practices Act (Article 21.21, Insurance Code) and the Unfair Claims Settlement Practices Act (Article 21.21-2, Insurance Code). In addition, the insurer could be subject to a cause of action pursuant to the Deceptive Trade Practices-Consumer Protection Act (Sec. 17.41 et seq., Business and Commerce Code).

The Texas Department of Insurance will pursue any alleged violation of the Insurance Code and will take appropriate disciplinary action, including the requirement for complete restitution to insureds. We urge insurers to review their claims practices to ensure that claims for damaged roofs are being settled in accordance with residential property policy conditions.

Yours truly,

A handwritten signature in black ink, appearing to read "Lyndon Anderson". The signature is written in a cursive style with a large initial "L".

Lyndon Anderson  
Associate Commissioner  
Property and Casualty