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DEPARTMENT OF INSURANCE



Pete Ricketts, Governor

COVER SHEET

CB-139
July 9, 2018

BULLETIN

SUBJECT: APPRAISAL LANGUAGE IN THE 1943 STANDARD FIRE POLICY OF THE STATE OF NEW YORK

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SUBJECT: APPRAISAL LANGUAGE IN THE 1943 STANDARD FIRE POLICY OF THE THE STATE OF NEW YORK

Neb. Rev. Stat. § 44-501 provides, in part, that all fire and lightning policies in the State of Nebraska "shall conform as nearly as practicable to blanks, size of type, context, provisions, agreements, and conditions with the 1943 Standard Fire Policy of the State of New York" Subsection (11) of § 44-501 permits the Director, notwithstanding any other provision of the statute, to approve variations in terms and conditions from the 1943 Standard Fire Policy of the State of New York (Standard Fire Policy).

The Standard Fire Policy contains a provision related to appraisal which allows either party to the insurance policy to demand an appraisal when the parties cannot agree on the actual cash value or the amount of loss. In 1989, the Nebraska Supreme Court in *Rawlings v. Amco Ins. Co.*, 231 Neb. 874 (1989), ruled that an appraisal clause in an insurance policy substantially similar to the appraisal language in the Standard Fire Policy was void and unenforceable because it bound parties to a nonjudicial determination of future disputes and was thus contrary to public policy.

Policy language that allows both parties to agree to the appraisal process after a dispute arises is permitted.

It is not practicable for insurers to include in fire and lightning policies appraisal language that conforms exactly to the Standard Fire Policy as such language would be void and unenforceable in Nebraska courts. To "conform as nearly as practicable to" the conditions of the Standard Fire Policy and to address the ruling of the Court, fire and lightning policies should contain an appraisal provision that would permit appraisals only if agreed to by both parties, after a dispute arises.

Questions related to this bulletin may be directed to Connie Van Slyke, Property and Casualty Administrator, at connie.vanslyke@nebraska.gov or (402) 471-4647.

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