

Nebraska Department of Insurance
Guidance Document
IGD - - C11

Title: Appraisal Language in the 1943 Standard Fire Policy of The State of New York

Issue Date: October 20, 2022

Previously: Issued as CB-139, July 9, 2018

Notice: This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

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 an appraisal that 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 concerning this guidance document should be directed to the Property and Casualty Division at 402-471-2201.