



Independent Insurance Agents & Brokers of Louisiana
18153 E. Petroleum Drive, Baton Rouge, LA 70809
Office: (225) 819-8007 | Fax: (225) 819-8027
www.IIABL.com | info@IIABL.com

TECHNICAL ADVISORY

TA #347

February 3, 2021

SUBJECT: Important Notice Regarding Open 2020 Hurricane Claims
180-Day Notice Requirement
Homeowners Loss Settlement Provisions

TABLE OF CONTENTS:

- [Background](#)
 - [Homeowners 3 – Special Form](#)
- [Main Points](#)
- [Necessary Action](#)
- [IIABL Legal Disclaimer](#)

BACKGROUND:

Some policyholders who suffered losses from the unprecedented tropical storms of 2020 have not finalized claim settlements or finalized repairs. In about 20 days, we will mark 180-days since Hurricane Laura devastated Louisiana.

One of several Loss Settlement provisions in certain Homeowner's policies require written notice to the insurance company of the policyholder's intent to repair or replace the damaged building in order to protect their right to recover the difference between Actual Cash Value settlement and Replacement Cost settlement. The ISO provision reads:

e. You may disregard the replacement cost loss settlement provisions and make claim under this policy for loss to buildings on an actual cash value basis. You may then make claim for any additional liability according to the provisions of this Condition D. Loss Settlement, provided you notify us, within 180 days after the date of loss, of your intent to repair or replace the damaged building.

Agents & policyholders with open claims from last summer's storms should provide their insurer with written notice that they intend to repair or replace their damaged property and make claim for any additional liability according to provisions of the Loss Settlement Condition D.



Independent Insurance Agents & Brokers of Louisiana
18153 E. Petroleum Drive, Baton Rouge, LA 70809
Office: (225) 819-8007 | Fax: (225) 819-8027
www.IIABL.com | info@IIABL.com

Policies issued by various insurers may have different Loss Settlement provisions. IIABL has received reports from agents that various insurance companies take very different positions on such Loss Settlement provisions. Some insurers have indicated that they will not enforce the notice provisions, others require written notice, and some have indicated that repairs must be completed within the 180-day period.

Agents and policyholders with open claims should provide written notice to their insurance company and verify that they have protected their right to recover their replacement cost settlement.

The ISO Homeowners Loss Settlement section follows:

ISO | Homeowners 2000 Forms | 05/01/11

HOMEOWNERS

HO 00 03 05 11

HOMEOWNERS 3 – SPECIAL FORM

D. Loss Settlement

In this Condition **D.**, the terms "cost to repair or replace" and "replacement cost" do not include the increased costs incurred to comply with the enforcement of any ordinance or law, except to the extent that coverage for these increased costs is provided in **E.11**. Ordinance Or Law under Section **I** – Property Coverages. Covered property losses are settled as follows:

1. Property of the following types:
 - a. Personal property;
 - b. Awnings, carpeting, household appliances, outdoor antennas and outdoor equipment, whether or not attached to buildings;
 - c. Structures that are not buildings; and
 - d. Grave markers, including mausoleums;at actual cash value at the time of loss but not more than the amount required to repair or replace.
2. Buildings covered under Coverage A or B at replacement cost without deduction for depreciation, subject to the following:



Independent Insurance Agents & Brokers of Louisiana
18153 E. Petroleum Drive, Baton Rouge, LA 70809
Office: (225) 819-8007 | Fax: (225) 819-8027
www.IIABL.com | info@IIABL.com

a. If, at the time of loss, the amount of insurance in this policy on the damaged building is 80% or more of the full replacement cost of the building immediately before the loss, we will pay the cost to repair or replace, without deduction for depreciation, but not more than the least of the following amounts:

- (1) The limit of liability under this policy that applies to the building;
- (2) The replacement cost of that part of the building damaged with material of like kind and quality and for like use; or
- (3) The necessary amount actually spent to repair or replace the damaged building.

If the building is rebuilt at a new premises, the cost described in **(2)** above is limited to the cost which would have been incurred if the building had been built at the original premises.

b. If, at the time of loss, the amount of insurance in this policy on the damaged building is less than 80% of the full replacement cost of the building immediately before the loss, we will pay the greater of the following amounts, but not more than the limit of liability under this policy that applies to the building:

- (1) The actual cash value of that part of the building damaged; or
- (2) That proportion of the cost to repair or replace, without deduction for depreciation, that part of the building damaged, which the total amount of insurance in this policy on the damaged building bears to 80% of the replacement cost of the building.

c. To determine the amount of insurance required to equal 80% of the full replacement cost of the building immediately before the loss, do not include the value of:

- (1) Excavations, footings, foundations, piers, or any other structures or devices that support all or part of the building, which are below the undersurface of the lowest basement floor;
- (2) Those supports described in (1) above which are below the surface of the ground inside the foundation walls, if there is no basement; and
- (3) Underground flues, pipes, wiring and drains.

d. We will pay no more than the actual cash value of the damage until actual repair or replacement is complete. Once actual repair or replacement is complete, we will settle the loss as noted in 2.a. and b. above.

However, if the cost to repair or replace the damage is both:

- (1) Less than 5% of the amount of insurance in this policy on the building; and
- (2) Less than \$2,500;



Independent Insurance Agents & Brokers of Louisiana
18153 E. Petroleum Drive, Baton Rouge, LA 70809
Office: (225) 819-8007 | Fax: (225) 819-8027
www.IIABL.com | info@IIABL.com

we will settle the loss as noted in **2.a.** and **b.** above whether or not actual repair or replacement is complete.

e. You may disregard the replacement cost loss settlement provisions and make claim under this policy for loss to buildings on an actual cash value basis. You may then make claim for any additional liability according to the provisions of this Condition D. Loss Settlement, provided you notify us, within 180 days after the date of loss, of your intent to repair or replace the damaged building.

MAIN POINTS:

e. You may disregard the replacement cost loss settlement provisions and make claim under this policy for loss to buildings on an actual cash value basis. You may then make claim for any additional liability according to the provisions of this Condition D. Loss Settlement, provided you notify us, within 180 days after the date of loss, of your intent to repair or replace the damaged building.

Full document referenced can be found [HERE](#).

NECESSARY ACTION:

Agents and policyholders with open claims should provide written notice to their insurance company and verify that they have protected their right to recover their replacement cost settlement.

Storm	Landfall Date	180-Days
Laura	August 27, 2020	February 23, 2021
Delta	October 5, 2020	April 3, 2021
Zeta	October 24, 2020	April 22, 2021

IIABL LEGAL DISCLAIMER:

The information provided by IIABL is intended for educational and informational purposes only. IIABL does not make any warranty or representation, express or implied, with respect to the accuracy, completeness or usefulness of the information provided. Information provided represents the views of one or more experienced insurance professionals and is not a recommendation that a particular course of action be followed. Please note that this information is not legal advice upon which you should rely.



Independent Insurance Agents & Brokers of Louisiana
18153 E. Petroleum Drive, Baton Rouge, LA 70809
Office: (225) 819-8007 | Fax: (225) 819-8027
www.IIABL.com | info@IIABL.com

Please seek any legal opinion you may need from a qualified attorney. IIABL is not liable for any liability or damage which may result from the use of this information.