

Bach Talk - The “Purely Cosmetic Damage” exclusion’s gonna be ugly

Thanks to a consumer participation program offered by the National Association of Insurance Commissioners, I get up close and personal with the nation’s top insurance regulators three times a year. I’m in my seventh year as an official representative of consumers at the NAIC, and am a member of the [Consumer Participation Board of Trustees](#). Much of United Policyholders’ [Advocacy and Action work](#) gets done at and through NAIC meetings.

Each state regulates the insurance companies and related businesses that are licensed in their state. Most insurance companies sell policies and handle claims in multiple states, so there’s a good deal of coordination that happens at the NAIC meetings. NAIC meetings are a marathon of hearings, discussions, lobbying, agendas, voting and process. Most of the official output consists of model regulations, surveys, publications and other tools created through coordination among the states and the NAIC’s paid staff. NAIC member states choose which of these models, etc. they want to use, not use or modify in their state. Implementing the Affordable Care Act has dominated the NAIC’s proceedings for the past few years, but disasters and insurance always remain at the forefront. At every meeting, UP meets with regulators and proposes solutions related to affordability and availability of essential insurance products. And we convey data on the diminishing quality of home and business insurance policies and a range of other issues impacting consumers.

One hot topic that came up at the most recent NAIC meeting was a “Purely Cosmetic Damage” exclusion: A really bad idea that’s been rolled out by some insurers in some states. The exclusion, which insurance companies can choose to adopt or not, and regulators can choose to approve or not, excludes payments for damage to exterior surfaces including walls, roofs, doors and windows from hail or wind if the storm impacts *the appearance but not the function* of these elements.

We strongly advise consumers to avoid buying a policy with this exclusion. Talk about undermining the public’s confidence in the insurance industry and spurring disputes and litigation...“Functionality” is not a

legitimate standard for determining whether a property owner is entitled to coverage for repairing damage. Not only do dents and scratching reduce the value of property, they also void warranties and if left unrepaired, can cause building elements to deteriorate faster than normal. An item can still be functional and need repair. Just ask any car owner...And by the way – the word “Damage” in the label “Purely Cosmetic Damage” should tell the reader something...Damage is damage...Isn’t that what we buy insurance for?

I learned at this recent meeting that the exclusion is already being used by insurers in a number of states but that some states have rejected it. I came away grinding my teeth and determined to do something about it. While we all know the purpose of the exclusion is to avoid paying hail and roof damage claims and boost profits, insurer’s main argument is that consumers who opt to buy it will benefit by paying less for their policies. But there is no evidence that this is true. Money magazine quotes a property owner whose yearly premium went from \$712 in 2012 to \$1,909 this year, with no added coverage and the cosmetic damage exclusion in place. [Excerpted from http://www.omaha.com/money/some-insurers-move-toward-excluding-cosmetic-damage-to-keep-premiums/article_8bee9d89-4469-5e04-846f-39380fd79372.html]

Three cheers to the states that have rejected it for use in their state, (Connecticut, e.g.) and Boo, Hiss to the ones that have approved it, (Oklahoma, Rhode Island...). Buyers Beware! These comments from the [Insurance Journal’s online forum](#) summarize our concerns about the “purely cosmetic damage” exclusion and the economic and litigation havoc it is already causing:

BOBP says:

“Oh boy. Here comes the next new can of worms. I’ve got an idea. Why don’t carriers start pricing the homeowners and property products in general so that they at least break even? Stop with the gimmicks and get to the heart of the issue. This new gimmick will just be nickel holding up a dollar like all the rest. Price it properly please. This is one of few industries that through its own incompetence, gives itself a bad rap”.

ROBERT says:

Many architectural shingle warranties are voided by hail damage. I’ve experienced damage that the insurance company felt was only cosmetic, but it turned out when shingles were removed there was damage to roof plywood. At first the company did not want to pay. Only

when pictures of damaged plywood revealed severe damage did they pay claim. I can see more and more companies will deny claims under this new coverage unless homeowner actually remove shingles to show damage, since they did not want to pay for cosmetic reasons based on their adjuster report. [typos fixed for readability]