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Maryland Insurance Administration
200 St. Paul Place, Suite 2700
Baltimore, MD 21202

Re: Draft Bulletin on Depreciation of Labor in Property Insurance Policies

To Whom It May Concern,

On behalf of the National Association of Mutual Insurance Companies (NAMIC), thank you for the opportunity to comment on the Maryland Insurance Administration's (MIA) draft bulletin regarding the depreciation of labor in Actual Cash Value (ACV) property insurance claims.

NAMIC is the largest property and casualty insurance trade association in the country, with over 1,300 member companies. NAMIC supports regional and local mutual insurance companies as well as some of the country's largest national insurers. NAMIC member companies write $383 billion in annual premiums nationally, and our members account for 61 percent of homeowners, 48 percent of automobile, and 25 percent of the business insurance markets.

NAMIC recognizes and shares the MIA's commitment to ensuring the fair treatment of policyholders. We are concerned, however, that the proposed prohibition on labor depreciation may lead to unintended consequences for consumers, insurers, and the market. We respectfully submit the following key points for your consideration.

ACV represents the "economic value" of an asset at the time of loss. The value of a structure or items is derived from a combination of both the materials and the labor that created or installed them. As such, depreciation applies to the whole of the product, as materials and labor cannot necessarily be separated in assessing the total loss value. Therefore, it is reasonable that labor, as an integral part of any completed product, naturally depreciates with time along with the materials. Depreciating labor is not inconsistent with established economic and accounting principles. Indeed, Federal tax law, real estate appraisals, and construction accounting treat labor as a depreciable component of an asset's value.

The proposed bulletin marks a significant departure from longstanding approvals previously granted by the MIA for policy forms that explicitly allow for labor depreciation. Insurers have structured their products and pricing around these approved forms, and a sudden reversal would create substantial operational and compliance challenges. These challenges include the need for policy revisions and system updates, both which require considerable time.

Courts in several states, including, but not limited to, Oklahoma, Minnesota, and South Carolina, have agreed that labor can be depreciated if the insurance policy clearly states so. Given that many states, and the broader historical insurance industry in general, recognize that including labor in depreciation is both legal and acceptable, this option should not be precluded for consumers and insurers who decide that – consistent with their policy – depreciation of labor is a sensible part of their agreement.

Furthermore, consumers may wish to choose different kinds of coverage to lower their costs. It is important to note that an ACV policy does NOT include the cost to restore an item to its pre-loss condition, either through repair or replacement. Consumers who want to ensure the undepreciated replacement cost of their property may opt to purchase a Replacement Cost Value (RCV) benefit policy or more comprehensive coverage. Policies which provide ACV only coverage are generally less expensive because the consumer is purchasing less coverage; RCV benefit policies provide for higher coverage amounts and are generally more expensive.

Turning to the claim-handling process, for policyholders who purchase RCV benefit policies, the industry generally follows a two-step settlement process to ensure fair compensation. The insurer makes an initial payment (usually based on an ACV calculation) and once the policy conditions are met, the policyholder receives reimbursement for the balance of the repair cost. (Such process respects both the principle of indemnity and also the terms of the policy.) Prohibiting labor depreciation could potentially undermine this process by pressuring insurers to issue full labor payments up front, even before repairs have begun.

The bulletin's proposed interpretation would also have significant downstream effects for consumers. To be clear, individual insurers determine their own approaches in the marketplace; what follows is simply an illustration to convey a concern. Consider the possible future indications for an insurer offering ACV-only policies, which are generally chosen based on affordability, and whether, as a result of the option-limiting approach of the draft Bulletin they may be forced to pay higher claims amounts, and whether the expected higher losses may then potentially result in upward pressure on premiums (therefore possibly impacting longer-term affordability). Additionally, prohibiting labor depreciation may disrupt current claim settlement practices and disincentivize attracting new insurance capital to the market (thereby possibly narrowing longer-term availability).

We respectfully urge the MIA to consider the broader economic, legal, and practical consequences of restricting labor depreciation in ACV settlements. The current approach is consistent with judicial precedent, best industry practices, and sound economic principles that preserve flexibility for both insurers and policyholders.

If, despite these concerns, the MIA plans to proceed with a Bulletin, the industry would appreciate an additional opportunity to provide further feedback on the Bulletin that will allow for the least amount of disruption and exposure to the industry.

Importantly, in order to ensure that the views of all stakeholders are adequately represented, given the significant compliance impact, we strongly encourage the MIA to proceed through formal rulemaking under the Administrative Procedure Act. This will provide insurers with sufficient lead time to comply as they adapt to this change on a prospective basis.

Thank you for your time and for considering our input. NAMIC welcomes the opportunity to discuss this further or provide any additional information that may be helpful. If the MIA would like to hear firsthand from our members, please contact NAMIC and we can assist in arranging a meeting with our individual members to share their specific processes and procedures surrounding the depreciation of labor in actual cash value calculations.

Sincerely.

Gina Rotunno

Gina Rotunno
Regional Vice President
Mid-Atlantic Region