

This rule was filed as 13 NMAC 13.2.

TITLE 13 INSURANCE
CHAPTER 13 PROPERTY INSURANCE
PART 2 RESIDENTIAL PROPERTY INSURANCE COVERAGE REQUIREMENT

13.13.2.1 ISSUING AGENCY: New Mexico State Corporation Commission [Public Regulation Commission], Department of Insurance, Post Office Box 1269, Santa Fe, NM 87504-1269.
[7/1/97; Recompiled 11/30/01]

13.13.2.2 SCOPE: This rule applies to residential property insurance, as defined in this rule, written by authorized insurers.
[9/15/93; Recompiled 11/30/01]

13.13.2.3 STATUTORY AUTHORITY: Sections 59A-2-9, 59A-3-6 and 59A-18-17 NMSA 1978.
[9/15/93; Recompiled 11/30/01]

13.13.2.4 DURATION: Permanent.
[7/1/97; Recompiled 11/30/01]

13.13.2.5 EFFECTIVE DATE: September 15, 1993, unless a later date is cited at the end of a section or paragraph. Repromulgated in NMAC format effective July 1, 1997.
[9/15/93, 7/1/97; Recompiled 11/30/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

13.13.2.6 OBJECTIVE: This rule establishes definitions and uniform coverage provisions for claims settlement practices required by Subsection 59A-18-17C NMSA 1978.
[9/15/93; Recompiled 11/30/01]

13.13.2.7 DEFINITIONS:

A. **"Authorized insurer"** has the meaning given in Section 59A-1-8 NMSA 1978. For purposes of this rule, the FAIR plan established pursuant to Chapter 59A, Article 29 NMSA 1978, is not an authorized insurer.

B. **"Claims settlement"** means an agreement between an authorized insurer and claimant as to the amount of money owed to the claimant on a particular claim.

C. **"Coinsurance requirement"** means a provision in an insurance policy that requires that the limit of liability be within a specified percentage of the replacement cost of the covered property.

D. **"Extended coverage peril"** means: windstorm, hail, smoke, explosion, riot or civil commotion, aircraft damage, vehicle damage, or volcanic eruption.

E. **"Fire"** means a rapid oxidation with a flame or glow that is hostile, or goes beyond intended confines.

F. **"Replacement cost"** means material and labor expenses plus all other reasonable and necessary expenses involved in the repair or replacement of damaged property.

G. **"Residence"** means a structure used solely as a place for people to live and having not more than four apartments or units; or, a residence means an individually owned condominium, rowhouse, or townhouse used solely as a place for people to live. A residence is not an out-building, shed, barn, detached garage or similar structure, vacant structure, motel, hotel, licensed health care facility, homeless shelter, shelter for battered women and/or children, jail, camp, a vehicle licensed by a governmental agency, barracks, orphanage, dormitory or any other structure where people live on a transient basis. Personal property contained within a residence is not part of a residence.

H. **"Residential property insurance"** means insurance of a residence against direct loss or damage from fire or extended coverage peril. Residential property insurance does not include insurance against the liability of the insured for loss or damage to the property or property interest of another, title insurance as defined by Section 59A-7-9 NMSA 1978, or other consequential loss or damage resulting from fire or extended coverage peril.

I. **“Vacant structure”** means a structure in which no person has lived for at least thirty consecutive days.
[9/15/93, 7/1/97; Recompiled 11/30/01]

13.13.2.8 RESIDENTIAL PROPERTY INSURANCE COVERAGE REQUIREMENTS:

- A. Residential property insurance policies shall be provided on a replacement cost basis.
 - B. Residential property insurance policy provisions may limit an authorized insurer’s liability for loss due to a single occurrence to less than replacement cost of a residence, provided the authorized insurer’s liability shall not be reduced pursuant to a coinsurance requirement. A residential property insurance policy that limits an authorized insurer’s liability for loss due to a single occurrence to less than replacement cost of a residence, but does not reduce the authorized insurer’s liability pursuant to a coinsurance requirement does not violate the provisions of Section 59A-18-17C NMSA 1978, and shall not be construed to require that losses be paid in excess of stated policy limits.
 - C. An insured may elect to effectuate repairs to a residence himself or herself under a residential property insurance policy. In such a case, claims settlement shall provide for replacement cost.
 - D. This rule does not supersede other loss settlement limitations, conditions, exclusions or other provisions contained in the residential property insurance policy.
- [9/15/93; Recompiled 11/30/01]

13.13.2.9 GENERAL PENALTY: In addition to any other penalty provided by law or regulation, violation of the provisions of this rule is subject to penalties for violation of the Insurance Code.
[9/15/93; Recompiled 11/30/01]

HISTORY OF 13.13.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center as:
SCC 93-3-IN, Residential Property Insurance Coverage Requirements (Regulation 18, Rule 2), filed 8/6/93.

History of Repealed Material: [RESERVED]