

## BULLETIN NO. PC 2016-02

TO: ALL PROPERTY AND CASUALTY INSURERS; RATING AND  
ADVISORY ORGANIZATIONS

RE: LAWS and ORDINANCES, ADDITIONAL COVERAGE; FORTIFIED  
HOME™-HIGH WIND AND HAIL PROGRAM

FROM: JOHN D. DOAK, OKLAHOMA INSURANCE COMMISSIONER

DATE: April 25, 2016

The Department is issuing this Bulletin in response to a number of complaints concerning coverage for the repair of storm damaged roofs.

Policyholders are being advised by roofing contractors that applicable building codes require solidly sheathed decks or decks sheathed to the shingles manufacturer's installation instructions.

The standard HO-3 form excludes coverage for loss caused by ordinances or laws requiring or regulating the repair of insured property, but provides limited "Additional Coverage" for the increased costs incurred due to the enforcement of any law which requires or regulates the construction, demolition, remodeling, renovation or repair of a structure damaged by a peril insured against.

We have considered the facts and circumstances surrounding these complaints and find as follows:

1. On July 15, 2015, Oklahoma adopted The International Residential Code (2015) and that code is in effect throughout the State of Oklahoma.
2. The International Residential Code 2015, as amended and revised by the rules ("IRC"), constitutes the statewide minimum standards for residential construction pursuant to 59 O.S. § 1000.23 and OAC 748:20-5-11.1.
3. Chapter 9 of the IRC, as adopted provides in relevant part as follows"

Sheathing requirements. Asphalt shingles shall be fastened to solidly sheathed decks in accordance with Section R803 or to the asphalt shingles manufacturer's installation instructions.

4. Certain property insurance policies purport to provide "additional coverage" for the increased cost incurred due to enforcement of any law which regulates demolition,

remodeling, renovation or repair of a covered building.

5. The enforcement or failure to enforce a law does not invalidate the law; it only means execution of the law is wanting.

6. Conditioning insurance coverage on the vagaries, inconsistencies and uncertainties of enforcement, is tantamount to encouraging and facilitating repair of insured property in contravention of laws designed to ensure public safety.

7. Additionally, we find that the sale of “additional insurance” to cover a known nonexistent risk constitutes the sale of illusory and unfairly discriminatory coverage.

Companies are instructed that for purposes of providing “additional coverages, as an exception to the ordinance or law exclusion, you shall consider all building codes as being strictly enforced.

Questions concerning any aspect of this bulletin should be directed to the Oklahoma Insurance Department, Five Corporate Plaza, 3625 N.W. 56<sup>th</sup> St., Oklahoma City, OK 73112 Attn: Tyler Laughlin, Chief of Operations ([tyler.laughlin@oid.ok.gov](mailto:tyler.laughlin@oid.ok.gov)) or Gordon C. Amini, General Counsel ([gordon.amini@oid.ok.gov](mailto:gordon.amini@oid.ok.gov)).

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### Fortified Home™–High Wind and Hail Program

As a separate but related matter, Commissioner Doak reminds insurers that the Oklahoma Insurance Department and the Insurance Institute for Business & Home Safety (IBHS) have launched a new FORTIFIED Home™–High Wind and Hail Program.

IBHS is a science-based research organization that promotes effective actions to strengthen homes, businesses and communities against natural disasters.

The Commissioner is encouraging property owners, insurers and contractors to evaluate the benefits of the Fortified Home. IBHS engineers believe property damage to homes from EF-0 and EF-1 tornadoes can be virtually eliminated if they are built or retrofitted using FORTIFIED standards. For more information please contact Ms. Tiffany O’Shea, Director of Public Affairs, IBHS at [toshea@ibhs.org](mailto:toshea@ibhs.org), Office: 813.675.1047 • Mobile: 512.636.7811