

State	Calculation of ACV	Summary of Case/Statute	Can Labor Be Depreciated?	Can Overhead & Profit Be Depreciated?	Can Sales Tax Be Depreciated?
Alabama	Fair Market Value	<p>An early Alabama Supreme Court case recognized the market value of a given property as the measure of recovery. <i>Sussex Fire Ins. Co. v. Barton</i>, 225 Ala. 570, 574 (1932).</p> <p>Another early case states the term actual cash value “means, and can only mean, what the thing is worth in money, allowing for depreciation.” <i>Glens Falls Ins. Co. of New York v. Garner</i>, 229 Ala. 39, 43 (1934).</p>			
Alaska	Replacement Costs Minus Depreciation	<p>“The correct calculation for a total loss on the basis of actual cash value is based upon the actual cost to purchase a comparable item, including all applicable taxes, license fees, destination or delivery charges, and other fees incident to transfer of ownership.”</p> <p>http://commerce.state.ak.us/dnn/Portals/7/pub/Bulletins/B93-08.pdf</p>			

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Arizona	Replacement Costs Minus Depreciation	<p>The Arizona Department of Insurance defines “actual cash value” as “replacement cost less depreciation.” http://www.azinsurance.gov/consumershomefaq.html#top</p> <p>A recent case has noted that Arizona courts have not addressed how to define “actual cash value” when it is not defined in the insurance policy. <i>See Didyoung v. Allstate Ins. Co.</i>, No. CV-12-348-PHX-GMS, 2013 U.S. Dist. LEXIS 83271, at *7-8 (D. Ariz. June 13, 2013), <i>citing Ghoman v. New Hampshire Ins. Co.</i>, 159 F. Supp. 2d 928, 934 (N.D. Tex. 2001) (holding that actual cash value is synonymous with fair market value) and <i>Kane v. State Farm Fire & Cas. Co.</i>, 841 A. 2d 1038, 1047 (Pa. Super. Ct. 2003) (defining actual cash value as “the cost to repair or replace the damaged property”) and <i>Cheeks v.</i></p>		<p>Although never directly addressed in a case, dictum from <i>Zuckerman v. Transamerica Ins. Co.</i>, 650 P.2d 441, 443 (1982) suggests that overhead and profit may not be deducted. In <i>Zuckerman</i>, the insurance company posited that the policy permitted it to “reduce the settlement to ‘actual cash value,’ subject to a <i>depreciation factor</i> and excluding <i>contractor’s overhead and profit</i>, sales tax, building permit fees, and like items.” <i>Id.</i> (emphasis added). The Court found the insurance company’s position</p>	<p>Although never directly addressed in a case, dictum from <i>Zuckerman v. Transamerica Ins. Co.</i>, 650 P.2d 441, 443 (1982) suggests that sales tax may not be deducted. In <i>Zuckerman</i>, the insurance company posited that the policy permitted it to “reduce the settlement to ‘actual cash value,’ subject to a <i>depreciation factor</i> and excluding contractor’s overhead and profit, sales tax, building permit fees, and like items.” <i>Id.</i> (emphasis added). The Court found the insurance company’s position “dubious.” <i>Id.</i> at fn 2</p>

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		<p><i>Cal. Fair Plan Assn.</i>, 61 Cal. App. 4th 423, 426 (1998) (holding that actual cash value means fair market value).</p> <p>After noting the differences amongst the jurisdictions, the <i>Didyoung</i> court failed to adopt an opinion regarding what actual cash value should be defined as when the policy is silent on the definition of the term. It only ruled that actual cash value does not “include the cost of repairs to upgrade damaged property to comply with building codes that were not at place at the time that the property was damaged.” <i>Didyoung</i>, 2013 U.S. Dist. LEXIS 83271 at *11.</p>		<p>“dubious.” <i>Id.</i> at fn 2 (“The policy contains no clause permitting such deductions from the amount of the loss.”).</p>	<p>(“The policy contains no clause permitting such deductions from the amount of the loss.”).</p>
Arkansas	Replacement Cost Minus Depreciation	In May 2013, an Arkansas court noted that no Arkansas court explicitly defined “actual cash value” up to that point. <i>Adams v. Cameron Mut. Ins. Co.</i> , No. 2:12-cv-02173-PKH,	<p>No.</p> <p>A recent Arkansas Supreme Court decision ruled that labor cannot be depreciated. <i>Adams</i></p>	<p>Probably not.</p> <p>In a bulletin provided by the Arkansas Insurance Department which prohibited the</p>	<p>Probably not.</p> <p>In a bulletin provided by the Arkansas Insurance Department which prohibited the</p>

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		<p>2013 U.S. Dist. LEXIS 63544, at *13 (W.D. Ark. May 3, 2013) (holding that the lack of a definition of actual cash value is a “legal issue of first impression”).</p> <p>Upon certification, the Arkansas Supreme Court analyzed the definition of actual cash value if the policy is silent on its meaning. <i>Adams v. Cameron Mut. Ins. Co.</i>, 2013 Ark. 475 (2013). While never explicitly adopting the definition, the <i>Adams</i> court noted that Black’s Law Dictionary defines “actual cash value” as “[r]eplacement cost minus normal depreciation.” <i>Id.</i></p>	<p><i>v. Cameron Mut. Ins. Co.</i>, 2013 Ark. 475 (2013) (“We . . . simply cannot say that labor falls within that which can be depreciable.”).</p> <p>The <i>Adams</i> opinion also cited to Arkansas Insurance Department Bulletin 13A-2013 which stated that “[l]abor of any kind related to the repair, rebuild, or replacement of covered property cannot be depreciated.” <i>Id.</i> See http://www.insurance.arkansas.gov/Legal/Bulletins/13A-2013.pdf</p> <p>The Arkansas Supreme Court has gone as far as holding that it is against</p>	<p>depreciation of labor, the report noted that “<i>only</i> materials are subject to depreciation for calculating ACV payment.” Arkansas Insurance Department Bulletin 13A-2013 (emphasis added). See http://www.insurance.arkansas.gov/Legal/Bulletins/13A-2013.pdf</p>	<p>depreciation of labor, the report noted that “<i>only</i> materials are subject to depreciation for calculating ACV payment.” Arkansas Insurance Department Bulletin 13A-2013 (emphasis added). See http://www.insurance.arkansas.gov/Legal/Bulletins/13A-2013.pdf</p>

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			public policy to depreciate labor in calculating ACV, even if the policy itself suggests that the depreciation of labor is allowed. <i>Shelter Mut. Insurance Co. v. Goodner</i> , 2015 Ark. 460.		
California	Fair Market Value	<p>Under California law, actual cash value means fair market value. <i>Sierra Pac. Power Co. v. Hartford Steam Boiler Inspection & Ins. Co.</i>, 490 Fed. Appx. 871, 874 (9th Cir. 2009) (unpublished opinion).</p> <p>California statutory law states that in cases of total loss to a given property, the measure of actual cash value shall be either “the policy limit or the fair market value of the structure, whichever is less.” Cal. Ins. Code § 2051(b).</p>	Under the California Code of Regulations, labor may not be depreciated. See 10 C.C.R. 2695.9(f)(1) (“Except for the intrinsic labor costs that are included in the cost of manufactured materials or goods, the expense of labor necessary to repair, rebuild or replace covered property is not	No. In an unpublished decision, a California court ruled that an “insurer improperly reduced the amount owed to [insured] for property damage by withholding the entire amount of the general contractor's overhead and profit and by depreciating the sales	No. In an unpublished decision, a California court ruled that an “insurer improperly reduced the amount owed to [insured] for property damage by withholding the entire amount of the general contractor's overhead and profit and by depreciating the sales

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		In reaching the opinion that fair market value is the test to determine “actual cash value”, one California court ruled that the legislature did not intend the term “actual cash value” to mean “replacement cost less depreciation.” <i>Jefferson Ins. Co. v. Superior Court of Alameda County</i> , 3 Cal. 3d 398, 403 (1970).	a component of physical depreciation and shall not be subject to depreciation or betterment.”).	tax.” <i>Sarkisyan v. Newport Ins. Co.</i> , No. B230612, 2011 WL 5995990, at *1 (Cal. Ct. App. Nov. 28, 2011)	tax.” <i>Sarkisyan v. Newport Ins. Co.</i> , No. B230612, 2011 WL 5995990, at *1 (Cal. Ct. App. Nov. 28, 2011)
Colorado	Broad Evidence Rule	In the valuation of a fire loss to a property, the Colorado district court held that “not only [should] the express evidence concerning original cost, replacement value and depreciation [be] looked to, but the trier of facts should call to his aid every other fact and circumstance which logically would tend to the formation of a correct estimate of the loss, including original cost, the cost of replacement, depreciation, the opinions of witnesses,			



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		declarations against interest and the uses to which the property might have been put.” <i>Nebraska Drillers, Inc. v. Westchester Fire Ins. Co.</i> , 123 F. Supp. 678, 681 (D. Colo. 1954).			
Connecticut	Broad Evidence Rule	In a case where “actual cash value” was not defined in the policy, the court agreed that the broad evidence rule was applicable. <i>B&D Molded Prods. v. Travelers Casualty</i> , CV 980578890S, 2000 Conn. Super. LEXIS 2370, at *7 (Conn. Sup. Ct. Sep. 15, 2000). <i>See also Giulietti v. Connecticut Ins. Placement Facility</i> , 534 A.2d 213, 216 (Conn. 1987) (“In determining the actual cash value of the property, the jury could consider ‘under the so-called broad evidence rule, any evidence logically tending to the formation of a correct estimate of the value’ of the insured			

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		property.”).			
Delaware	Fair Market Value	The Supreme Court of Delaware has held that actual cash value and fair market value are synonymous. <i>Metropolitan Mut. Fire Ins. Co. v. Carmen Holding Co.</i> , 220 A.2d 778, 780 (Del. 1966).			
District of Columbia	Undecided				
Florida	Broad Evidence Rule or Fair Market Value	The case law is unclear regarding which test should apply. Florida follows the broad evidence rule in determining the actual cash value of destroyed property. <i>Barrett v. Prudential Prop. & Cas. Ins. Co.</i> , 790 F.2d 842, 844 (11th Cir. 1986), citing <i>Worcester Mut. Fire Ins. Co. v. Eisenberg</i> , 147 So. 2d 575, 576 (Fla. 3d DCA 1962).	Yes. One Florida court favorably cited to the holding from an Oklahoma court. <i>Goff v. State Farm Fla. Ins. Co.</i> , 999 So. 2d 684, 689 (2d DCA 2008), citing <i>Branch v. Farmers Ins. Co.</i> , 55 P.3d 1023 (Okla. 2002).	Yes. Florida allows for the <i>depreciation</i> of overhead and profit. <i>Goff v. State Farm Fla. Ins. Co.</i> , 999 So. 2d 684, 689-90 (2d DCA 2008) (emphasis added) (holding that it was appropriate for insurer	

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		<p>But in more recent cases in which the policy language is silent regarding the definition of “actual cash value,” Florida courts have noted that “actual cash value” is synonymous with “fair market value.” <i>Goff v. State Farm Fla. Ins. Co.</i>, 999 So. 2d 684, 689 (Fla. 2d DCA 2008), citing <i>Black’s Law Dictionary</i> 53 (4th ed. 1968). See also <i>Trinidad v. Fla. Peninsula Ins. Co.</i>, 121 So. 3d 433, 438 (Fla. 2013) and <i>Am. Reliance Ins. Co. v. Perez</i>, 689 So. 2d 290, 291 (Fla. 3d DCA 1997).</p>	<p>Specifically, the <i>Goff</i> court noted the <i>Branch</i> decision’s holding that labor may be depreciated from an actual cash value policy. <i>Goff</i>, 999 So. 2d at 689-90.</p> <p>The Florida Supreme Court subsequently held that the <i>Goff</i> court “correctly determined . . . that overhead and profit are like all other costs of a repair, such as <i>labor</i> and materials” <i>Trinidad v. Fla. Peninsula Ins. Co.</i>, 121 So. 3d 433, 438 (Fla. 2008) (emphasis added).</p> <p>Thus, according to the Florida Supreme Court,</p>	<p>to depreciate overhead and profit).</p> <p>The Florida Supreme Court subsequently held that the <i>Goff</i> court “correctly determined . . . that <i>overhead and profit</i> are like all other costs of a repair, such as labor and materials” <i>Trinidad v. Fla. Peninsula Ins. Co.</i>, 121 So. 3d 433, 438 (Fla. 2008) (emphasis added).</p> <p>Thus, according to the Florida Supreme Court, costs such as <i>overhead, profit</i>, and labor are depreciable under actual cash value policies. <i>Id.</i> at 443</p>	

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			costs such as overhead, profit, and <i>labor</i> are depreciable under actual cash value policies. <i>Id.</i> at 443 (emphasis added).	(emphasis added).	
Georgia	Fair Market Value	A Georgia court has held that actual cash value and fair market value are synonymous. <i>Am. Cas. Co. v. Parks-Chambers, Inc.</i> , 142 S.E. 2d 275, 277 (Ga. App. 1965).			
Hawaii	Undecided				
Idaho	Broad Evidence Rule	An Idaho appellate court ruled that questions regarding actual cash value are factual and that a trial court's factual decisions "will not be deemed clearly erroneous if it is supported by substantial and competent, though conflicting, evidence." <i>Manduca Datsun, Inc. v. Universal Underwriters</i>			

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		<i>Ins. Co.</i> , 676 P.2d 1274, 1277 (Idaho App. 1984).			
Illinois	Replacement Cost Less Depreciation	“Illinois courts have rejected both the ‘market value’ and the ‘broad evidence tests, instead applying the . . . ‘replacement cost less depreciation test’ in determining the actual cash value of damaged property.” <i>Carey v. Am. Family Brokerage, Inc.</i> , 391 Ill. App. 3d 273, 281 (1st Dist. 2009).	Maybe. In <i>Gee v. State Farm Fire & Cas. Co.</i> , 2013 U.S. Dist. LEXIS 187212, at *6 (N.D. Ill. Sep. 23, 2013), the plaintiff argued that the insurer should not have depreciated sales tax when calculating the repair or replacement cost minus depreciation for personal property under a homeowner’s policy. The court disagreed with the plaintiff and, relying on a Florida case, explained that “percentage based elements included in the	Maybe. <i>See Gee v. State Farm Fire & Cas. Co.</i> , 2013 U.S. Dist. LEXIS 187212, at *6 (N.D. Ill. Sep. 23, 2013), <i>citing Goff v. State Farm Florida Ins. Co.</i> , 999 So. 2d 684, 689-90 (2d DCA 2008), which suggests that overhead and profit may be depreciated.	Yes. In <i>Gee v. State Farm Fire & Cas. Co.</i> , 2013 U.S. Dist. LEXIS 187212, at *6 (N.D. Ill. Sep. 23, 2013), the plaintiff argued that the insurer should not have depreciated sales tax when calculating the repair or replacement cost minus depreciation for personal property under a homeowner’s policy. The court disagreed with the plaintiff and, relying on a Florida case, explained that “percentage based elements included in the

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			<p>cost total for purposes of insurance policy ‘replacement costs less depreciation’ provisions have been held to be properly included in the depreciation reduction as well.” <i>Id. citing Goff v. State Farm Florida Ins. Co.</i>, 999 So. 2d 684, 689-90 (2d DCA 2008). <i>Goff</i> suggests that labor may be depreciated. 999 So. 2d at 689-90.</p>		<p>cost total for purposes of insurance policy ‘replacement costs less depreciation’ provisions have been held to be properly included in the depreciation reduction as well.” <i>Id. citing Goff v. State Farm Florida Ins. Co.</i>, 999 So. 2d 684, 689-90 (2d DCA 2008).</p>
<p>Indiana</p>	<p>Broad Evidence Rule</p>	<p>In determining actual cash value of property, Indiana follows the broad evidence rule. <i>Gregory & Appel Ins. Agency v. Phila. Indem. Ins. Co.</i>, 835 N.E. 2d 1053, 1060 (Ind. App. Ct. 2005).</p> <p>Under the broad evidence rule,</p>	<p>Probably yes.</p> <p>In <i>Travelers Indem. Co. v. Armstrong</i>, 384 N.E. 2d 607, 611 (Ind. App. Ct. 1979), a fire damaged a farm house. Traveler’s explained to</p>	<p>Probably yes.</p> <p><i>Travelers Indem. Co. v. Armstrong</i>, 442 N.E. 2d 349, 365 (Ind. 1982) suggests an across-the-board depreciation, including on overhead,</p>	<p>Probably yes.</p> <p><i>Travelers Indem. Co. v. Armstrong</i>, 442 N.E. 2d 349, 365 (Ind. 1982) suggests an across-the-board depreciation, including on overhead,</p>

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		<p>“[w]here insured buildings have been destroyed, the trier of fact may, and should, call to its aid, in order to effectuate completely indemnity, every fact and circumstance which would logically tend to the formation of a correct estimate of the loss.” <i>Court View Ctr. v. Witt</i>, 753 N.E. 2d 75, 81 (Ind. App. Ct. 2001).</p> <p><i>See also Travelers Indem. Co. v. Armstrong</i>, 442 N.E. 2d 349, 356 (Ind. 1982) (Indiana Supreme Court expressing its support for the broad evidence rule in determining actual cash value).</p>	<p>the insured that a 25% across-the-board depreciation factor was incorporated so as to avoid “betterment of depreciation the one-hundred-year-old house.” <i>Id.</i> at 612. The appellate court ruled “[a]ssuming <i>arguendo</i> that the property damaged by fire had diminished in value as a result of age, wear and tear, or inadequate maintenance, that diminution in value would bear no logical relevance to the application of a depreciation factor on the costs of <i>labor</i>, <i>overhead</i>, and taxes</p>	<p>was appropriate.</p>	<p>was appropriate.</p>

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			<p>included in the estimated repair cost.” <i>Id.</i> at 618 (emphasis added).</p> <p>The ruling on this issue was later vacated. The Indiana Supreme Court held that the 25% across-the-board deduction was “within the range allowable under the broad evidence rule” and vacated the punitive damages leveled against the insurer. <i>Travelers Indem. Co. v. Armstrong</i>, 442 N.E. 2d 349, 365 (Ind. 1982).</p> <p>Moreover, the Oklahoma Supreme Court cited to the</p>		

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			Indiana Supreme court when the Oklahoma court explicitly decided that labor may be depreciated. <i>See Branch v. Farmers Ins. Co.</i> , 55 P. 3d 1023, 1027 (OK 2002).		
Iowa	Broad Evidence Rule	An Iowa Supreme Court held that in determining the actual cash value of a building, “[i]t is proper to bring to the aid of the jury all facts and circumstances which fairly tend to prove actual value” <i>Britven v. Occidental Ins. Co.</i> , 13 N.W. 2d 791, 794 (Iowa 1944).			
Kansas	Replacement Cost Without Reduction for Depreciation (for partial	“We hold the term ‘actual cash value,’ when applied to a <i>partial loss</i> under the insurance policy . . . means the cost to repair without any reduction for depreciation.” <i>Thomas</i>	Not for partial losses. “We hold the term ‘actual cash value,’ when applied to a	Not for partial losses. <i>See Thomas v. American Family Mut. Ins. Co.</i> , 233 Kan. 775, 778-79 (1983).	Not for partial losses. <i>See Thomas v. American Family Mut. Ins. Co.</i> , 233 Kan. 775, 778-79 (1983).

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	losses only)	<p><i>v. American Family Mut. Ins. Co.</i>, 233 Kan. 775, 778-79 (1983) (emphasis added).</p> <p>If a property is wholly destroyed, Kansas statute determines “actual cash value”. See K.S.A. § 40-905(a) (“Whenever . . . the property insured shall be wholly destroyed . . . the amount of insurance, written in such policy, shall be taken conclusively to be the true value of the property insured, and the true amount of loss and measure of damages . . .”). See also <i>Thomas</i>, 233 Kan. at 776 (citing to K.S.A. § 40-905(a) and noting the differences in calculation of actual cash value between property that is wholly destroyed from property that is partially destroyed.</p>	<p><i>partial loss</i> under the insurance policy . . . means the cost to repair <i>without any reduction for depreciation.</i>”</p> <p><i>Thomas v. American Family Mut. Ins. Co.</i>, 233 Kan. 775, 778-79 (1983) (emphasis added).</p> <p>Additionally, depreciation may be allowed if there is explicit language in the policy that allows for it. <i>Graves v. American Mut. Ins. Co.</i>, 2015 WL 4478468 (D. Kan. July 22, 2015) (appeal filed).</p>		
Kentucky	Broad Evidence Rule	“Kentucky courts recognize the broad evidence rule in determining the	Probably not. In <i>Bailey v. State Farm</i>	No. Case law suggests that	

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		<p>actual cash value of buildings for insurance purposes.” <i>Snellen v. State Farm Fire & Cas. Co.</i>, 675 F. Supp. 1064, 1068 (W.D. Ky. 1987).</p>	<p><i>Fire and Cas. Co.</i>, 2015 WL 1401640 at *1 (E.D. Ky. March 25, 2015)(slip copy), plaintiffs filed a proposed class action suit against State Farm claiming that State Farm was wrongfully depreciating labor costs when calculating actual cash value. In a case of first impression for Kentucky courts, the federal court ruled that “it would appear that the depreciation of labor in calculating ACV is improper...depreciated labor costs would result in under indemnification. As the insurance contract is</p>	<p>the overhead and profit may be deducted <i>separately</i> from depreciation in order to calculate actual cash value.</p> <p>One federal court held that overhead and profit may be wholly deducted separate from depreciation in order to calculate actual cash value. <i>Snellen v. State Farm Fire & Cas. Co.</i>, 675 F. Supp. 1064, 1068 (W.D. Ky. 1987). In order to calculate actual cash value, the insurer started with the replacement value and subsequently subtracted clean up costs,</p>	

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			<p>one for indemnity, depreciating the costs of labor violates the contract.” <i>Id.</i> at *6. The court reasoned that an insurance contract is one for indemnity and in order to put the insured in their pre-loss conditions labor cannot be depreciated. <i>Id.</i> at *7. The court went on to state that “[a]lthough the undersigned cannot divine with certainty what a Kentucky court would find, this conclusion is consistent with Kentucky law... and general principles of indemnity.” <i>Id.</i> at *8.</p>	<p>contractor’s profit, contractor’s overhead, permits, and depreciation. <i>Id.</i> The court further held that the insurer would only pay the “cash value of the damage, up to the policy limit, until actual repair or replacement is completed.” <i>Id.</i> at 1066. In other words, actual repair of the premises is a condition precedent to receive those amounts deducted or depreciated from replacement costs.</p>	

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Louisiana	Replacement Cost Less Depreciation	A court determined that Louisiana follows the “replacement cost less depreciation test” and not the “broad evidence rule” test. <i>Nguyen v. St. Paul Travelers Ins. Co.</i> , No. 06-4130, 2008 U.S. Dist. LEXIS 87706, at *11 (E.D. La. Oct. 6, 2008).			
Maine	Fair Market Value	The Maine Supreme Court has held that “actual cash value” means “the fair market value of the property insured.” <i>Forer v. Quincy Mut. Fire Ins. Co.</i> , 295 A.2d 247, 249 (Me. 1972).			
Maryland	Broad Evidence Rule	In a Maryland Supreme Court opinion, the Court took the position that the determination of “cost of production less depreciation” was not the end all of “actual cash value” analysis. <i>Schreiber v. Pacific Coast Fire Ins. Co.</i> , 75 A.2d 108, 111 (Md. 1950). Rather, it was just a piece of			

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		evidence amongst other sources of evidence. <i>Id.</i>			
Massachusetts	Broad Evidence Rule	“Massachusetts employs the ‘broad evidence rule.’” <i>Interstate Gourmet Coffee Roasters, Inc. v. Seaco Ins. Co.</i> , 794 N.E. 2d 607, 611 (Mass. App. Ct. 2003).			
Michigan	Broad Evidence Rule or Replacement Cost Less Depreciation	“[When] the Policy does not define actual cash value, all evidence relevant to an accurate determination of the Property’s value must be considered.” <i>Evanston Ins. Co. v. Cogswell Properties, LLC</i> , 683 F.3d 684, 688 (6th Cir. 2012). <i>See also Commodity Res., Inc. v. Certain Underwriters at Lloyds, London</i> , No. 2:12-cv-10173, 2013 U.S. Dist. LEXIS 21963, at *16 (E.D. Mich. Feb. 19, 2013) (holding that the Sixth Circuit’s <i>Evanston</i> decision required the use of the broad evidence rule		Probably yes. One court reasoned the replacement cost which is used to ascertain actual cash value is an estimate of all costs that are likely and reasonably expected to be incurred in repairing or replacing damaged property and that general contractor expenses cannot be deducted from the	

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		<p>when actual cash value is not defined).</p> <p><i>But see Smith v. Mich. Basic Property Ins. Ass'n</i>, 490 N.W. 2d 864, 870 fn 28 (Mich. 1992) (“‘Actual cash value’ means replacement cost less depreciation.”).</p>		<p>replacement cost unless such services are not likely to be required. <i>Salesin v. State Farm Fire & Cas. Co.</i>, 581 N.W. 2d 781, 791 (Mich. Ct. App. 1998).</p> <p>The court relied heavily on <i>Gilderman v. State Farm Fire & Cas. Co.</i>, 649 A. 2d 941 (Pa. Super. Ct. 1994). That decision ruled that actual cash value is calculated by subtracting depreciation from the replacement value. <i>Gilderman</i>, 649 A. 2d at 945. Depreciation could be deducted, but overhead could not be deducted separately</p>	

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				from depreciation. <i>Id.</i> <i>Gilderman</i> ruled that overhead and profit, as a component of replacement value, may be depreciated. <i>Id.</i>	
Minnesota	Broad Evidence Rule	In Minnesota, the broad evidence rule determines “actual cash value.” <i>Montenari Homes, Inc. v. Integrity Mut. Ins. Co.</i> , C3-98-1355, 199 Minn. App. LEXIS 422, *7 (Minn. Ct. App. April 27, 1999), <i>citing Brooks Realty, Inc. v. Aetna Ins. Co.</i> , 149 N.W. 2d 494, 501 (Minn. 1967).	Yes. The Minnesota Supreme Court has held that “[w]hen a homeowner’s insurance policy does not define the term ‘actual cash value’ or otherwise state whether embedded labor costs are depreciable for the purpose of calculating [ACV], the trier of fact may consider embedded-labor-cost depreciation when such		

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			evidence logically tends to establish the [ACV] of a covered loss.” <i>Wilcox v. State Farm Fire & Cas. Co.</i> , A15-0724 (Minn. Feb. 10, 2016).		
Mississippi	Actual Cash Value is Equivalent to Replacement Cost	One Mississippi court ruled that the actual cash value of destroyed furniture and furnishings is the replacement cost of the furniture or furnishings. <i>Lititz Mut. Ins. Co. v. Buckley</i> , 261 So. 2d 492, 494 (Miss. 1972).	Probably not. In construing an auto policy, the court noted that the policy was “ambiguous” and did not “specifically prohibit or allow depreciation on the cost of labor.” <i>Bellefonte Ins. Co. v. Griffin</i> , 358 So. 2d 387, 390 (Miss. 1978). The court held that “disallowing proof of depreciation on repairs as the policy provision		

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			was ambiguous” and construed the policy in favor of the insured. <i>Id.</i> at 391.		
Missouri	Fair Market Value	In the absence of a definition, Missouri courts have concluded that “actual cash value” and “fair market value” are synonymous. <i>See De Witt v. Am. Family Mut. Ins. Co.</i> , 667 S.W. 2d 700, 708 n.6 (Mo. 1984) (“The two terms are essentially synonymous”); <i>Harris v. Am. Modern Home Ins. Co.</i> , 571 F. Supp. 2d 1066, 1079 (E.D. Mo. 2008) (“Under Missouri law, actual cash value is defined as the difference between the reasonable value of the property immediately before and after the loss.”).	Not for partial losses. In one case, depreciation for a partial loss was not allowed. <i>McMillan v. Am. Fam. Ins. Co.</i> , 950 S.W. 2d 242, 248 (Mo. Ct. App. 1997). But “even if the policy did allow a deduction from the actual cost to rebuild, that provision would be inoperable because it would conflict with [Mo. REV. STAT. § 379.150.]” <i>Id.</i> The statute states that it is the duty of the	Not for partial losses. <i>See McMillan v. Am. Fam. Ins. Co.</i> , 950 S.W. 2d 242, 248 (Mo. Ct. App. 1997).	Not for partial losses. <i>See McMillan v. Am. Fam. Ins. Co.</i> , 950 S.W. 2d 242, 248 (Mo. Ct. App. 1997).

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			<p>insurer “to pay the assured a sum of money equal to the damage done to the property, or repair the same to the extent of such damage, not exceeding the amount written in the policy, so that said property shall be in as good condition as before the fire, at the option of the insured.” MO. REV. STAT. § 379.150.</p> <p>Where the policy included the phrase depreciation “for physical deterioration and obsolescence” the court held that labor costs cannot be depreciated. <i>Riggins v.</i></p>		

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			<p><i>Am. Family Mut. Ins. Co.</i>, No. 2:14-CV-04171-SRB, 2015 WL 3421653, at *2 (W.D. Mo. Mar. 27, 2015)</p>		
<p>Montana</p>	<p>Broad Evidence Rule or Actual Cash Value is Replacement Value</p>	<p>One Montana court stated that “a jury may consider all relevant evidence when determining the actual cash value of the property damaged or destroyed.” <i>CQI, Inc. v. Mt. W. Farm Bureau Ins. Co.</i>, CV 08-134-BLG-CSO, 2010 U.S. Dist. LEXIS 73559, at *5 (D. Mont. July 21, 2010) (citing a Massachusetts court’s language regarding the broad evidence rule).</p> <p>But law also suggests that the broad evidence rule is not applicable for a partial loss. When the property is not wholly destroyed, “actual cash value’ . . . means replacement value.”</p>			

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		<p><i>Blankenship v. Farmers Union Ins.</i>, No. DV-98-56, 1999 Mont. Dist. LEXIS 1075, at *7 (Mont. 19th Judicial Dist. Nov. 5, 1999) (unpublished), <i>citing McIntosh v. Hartford Fire Ins. Co.</i>, 78 P.2d 82 (Mont. 1938).</p> <p><i>See also</i> MCA 33-24-101 (“If there is no valuation in the policy . . . the measure of indemnity in an insurance against fire, at the time of the loss is payable, of replacing the thing lost or injured . . .”). Although MCA 33-24-101 deals with fire losses, “there is no reason to believe that the concept of . . . ‘actual cash value’ would be interpreted differently in non-fire cases.” <i>Blankenship</i>, 1999 Mont. Dist. LEXIS 1075, *7.</p>			
Nebraska	Fair Market Value	The Nebraska Supreme Court reiterated its support for the fair market value test even when both	Not for partial losses. “[U]nder an actual cash value policy which does	Not for partial losses. <i>See Olson v. Le Mars Mut. Ins. Co.</i> , 696 N.W.	

State	Calculation of ACV	Summary of Case/Statute	Can Labor Be Depreciated?	Can Overhead & Profit Be Depreciated?	Can Sales Tax Be Depreciated?
		the insurer and insured advocated for the use of the broad evidence rule. <i>Olson v. Le Mars Mut. Ins. Co.</i> , 696 N.W. 2d 453, 457-59 (Neb. 2005).	not expressly provide otherwise, an insurer may not deduct depreciation from the cost of repairing <i>partial damage</i> to insured property where the actual cash value of the property, as repaired, does not exceed its actual cash value at the time of the loss.” <i>Olson v. Le Mars Mut. Ins. Co.</i> , 696 N.W. 2d 453, 461 (Neb. 2005) (emphasis added).	2d 453, 461 (Neb. 2005).	
Nevada	Undecided				
New Hampshire	Broad Evidence Rule	Based on precedent from New York, Massachusetts, and South Dakota, the state of New Hampshire was “impressed” with the broad evidence			

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		<p>rule. <i>Pinet v. New Hampshire Fire Ins. Co.</i>, 126 A. 2d 262, 265 (N.H. 1956). “[N]either market value nor replacement cost is an exclusive test. Evidence of both market value and replacement cost with depreciation may be introduced as evidence of actual cash value . . . [V]ariations in the types of property and the conditions under which they are destroyed prevent the adoption of any single test for all cases.” <i>Id.</i></p>			
<p>New Jersey</p>	<p>Broad Evidence Rule</p>	<p>New Jersey courts employ the broad evidence rule to determine actual cash value. <i>Lancellotti v. Maryland Cas. Co.</i>, 617 A. 2d 296, 298-99 (N.J. Super. Ct. 1992); <i>Messing v. Reliance Ins. Co.</i>, 187 A. 2d 49, 51 (N.J. Super. Ct. 1962).</p>			
<p>New Mexico</p>	<p>Fair Market</p>	<p>The New Mexico Supreme Court opined that actual cash value is</p>			

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	Value	essentially just the “fair market value of the property.” <i>Roswell Trailers, Inc. v. Potomac Ins. Co.</i> , 91 N.M. 502, 504 (1978). “The correct measure of its liability is the difference between the value of the property immediately before the injury and its value immediately afterward.” <i>Id.</i> citing <i>Am. Cas. Co. v. Parks-Chambers</i> , 142 S.E. 2d 275 (Ga. App. Ct. 1965).			

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New York	Broad Evidence Rule	In situations where the policy language is silent on the definition of “actual cash value,” the broad evidence rule is the default rule. <i>SR Int’l Bus. Ins. Co. v. World Trade Center Props., LLC</i> , 445 F. Supp. 2d 320, 342-45 (S.D.N.Y. 2006), citing <i>McAnarney v. Newark Fire Ins. Co.</i> , 159 N.E. 902 (N.Y. 1928).		Probably yes. After holding that the broad evidence rule is applied to determine actual cash value, one court noted that the insurer did not dispute that “actual cash value” meant “replacement cost minus depreciation.” <i>Mazzocki v. State Farm Fire & Cas. Corp.</i> , 766 N.Y.S.2d 719, 722 (N.Y. App. Div. 2003). The issue in the case was “whether replacement cost include[d] a general contractor’s profit and overhead even if not actually incurred.” <i>Id.</i> The court ruled that the	

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				<p>insurer was obligated to include profit and overhead in replacement costs and in actual cash value, whenever a general contractor would be needed. <i>Id.</i></p> <p>Since general contractor overhead and profit is a part of replacement costs and because actual cash value may be defined as “replacement costs minus depreciation,” it would follow that general contractor overhead and profit may be depreciated.</p>	
North	Broad	In <i>Balestrieri v. Am. Home Assur. Co.</i> ,			

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Carolina	Evidence Rule	No. 5:07CV109-V, 2010 U.S. Dist. LEXIS 47534, at *5 (W.D.N.C. April 15, 2010), both parties were permitted to introduce evidence “consistent with the broad evidence rule.” At trial, the jury was instructed to use any “factor in evidence which you find has a logical tendency toward correct estimation of value.” <i>Id.</i> at *4-5.			
North Dakota	Fair Market Value	Actual cash value and fair market value are synonymous. <i>Butler v. Etna Ins. Co.</i> , 256 N.W. 214, 218 (N.D. 1934).			
Ohio	Replacement Cost Minus Depreciation	“It is also clear... that in the case of partial loss the test ordinarily utilized in Ohio for determining damages to dwellings is the cash amount that would be required to put the property in the same condition in which it was at the time of the loss,	An examination by Ohio Dept. of Insurance stated as follows: “In order to be consistent with the industry practice of not depreciating labor, the		

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		i.e., in general, replacement cost minus depreciation, and not market value.” <i>Paterson-Leitch Co. v. Ins. Co. of N.A.</i> , 366 F. Supp. 749, 756 (1973).	examiners considered the depreciation of labor to be an exception.” http://www.insurance.ohio.gov/Company/MC/Sandy%20and%20Beaver%20Valley%20Exam%20Report.pdf		
Oklahoma	Broad Evidence Rule	“Actual cash value in Oklahoma is determined by the ‘broad evidence rule’” <i>Redcorn v. State Farm Fire & Cas. Co.</i> , 55 P.3d 1017, 1020 (OK 2002).	Yes. <i>See Redcorn v. State Farm Fire & Cas. Co.</i> , 55 P.3d 1017 (Okla. 2002) (rejecting plaintiff’s argument that depreciation could only apply to materials and not to labor). <i>See also Davis v. Mid-Century Ins. Co.</i> , 311 F. 3d 1250, 1252 (10th Cir. 2002)		

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			(“[T]he labor cost of installing new shingles is subject to depreciation.”).		
Oregon	Undecided	Oregon courts are split in determining how to calculate “actual cash value.” It is sometimes determined to be fair market value and other times calculated to be the replacement cost minus depreciation. <i>Fitzgerald v. American Family Mutual Ins. Co.</i> , No. 6:14-CV-497-AA, 2015 WL 5896139, at *1 (D. Or. October 6, 2015) citing <i>Schnitzer v. South Carolina Inc. Co.</i> , 661 P.2d 550 (St. App. Or. 1983) and <i>Director v. S.C. Ins. Co.</i> , 619 P.2d 649, 651 (Ct. App. Or. 1980).			
Pennsylvania	Replacement Cost Less	“Actual cash value has consistently been interpreted to mean repair or replacement costs less depreciation.”	Not for partial losses. No conclusive answer for	Probably yes, but not for partial losses.	

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	Depreciation	<i>Gilderman v. State Farm Ins. Co.</i> , 649 A.2d 941, 945 (Pa. Super. Ct. 1994).	<p>total loss situations.</p> <p>“[W]e conclude that in partial loss situations, in the absence of clear language to the contrary, an insurer may not deduct depreciation from the replacement cost of a policy and that the phrase ‘actual cash value’ may not be interpreted as including a depreciation deduction, where such deduction would thwart the insured’s expectation to be made whole.” <i>Kane v. State Farm Fire & Cas. Co.</i>, 841 A.2d 1038, 1047 (Pa. Super. Ct. 2003). <i>See also Farber v.</i></p>	<p>In one case, the issue presented was whether an insurer, which agreed to pay repair or replacement costs less depreciation in advance of actual repair or replacement of a covered loss, could withhold both depreciation <i>and</i> a flat twenty percent representing contractor overhead and profit.</p> <p><i>Gilderman v. State Farm Ins. Co.</i>, 649 A. 2d 941, 942 (Pa. Super. 1994). The court held that an insurer may not deduct twenty percent representing general contractor overhead or</p>	

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			<p><i>Perkiomen Mut. Ins. Co.</i>, 88 A. 2d 776, 777-78 (Pa. 1952) (in partial loss situation, the Supreme Court ruled that an across the board 60% depreciation deduction was not appropriate and held that the insurer could not depreciate the reproduction cost of the labor and materials necessary to restore the building to its pre-fire condition).</p>	<p>profit. <i>Id.</i></p> <p>The court noted that “actual cash value” means “repair or replacement cost less depreciation.” <i>Id.</i> at 945. In some instances, “repair or replacement costs” will include the use of general contractor and overhead and profit. <i>Id.</i></p> <p>This case suggests that overhead and profit may be depreciated as a component of replacement costs, but an additional amount representing overhead and profit may not be deducted.</p>	

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				<p><i>See also Pellegrino v. State Farm Fire & Cas. Co.</i>, 2014 U.S. App. LEXIS 10193, at *2-3 (3d Cir. March 7, 2014) (applying Pennsylvania law) (affirming district court decision in favor of insurer where insurer provided an estimate for replacement cost value minus depreciation, general overhead and profit depreciation, and the insured’s deductible to produce actual cash value).</p> <p>But Pennsylvania courts have noted the differences between total losses and partial losses. “[W]e conclude</p>	

State	Calculation of ACV	Summary of Case/Statute	Can Labor Be Depreciated?	Can Overhead & Profit Be Depreciated?	Can Sales Tax Be Depreciated?
				<p>that in partial loss situations, in the absence of clear language to the contrary, an insurer may not deduct depreciation from the replacement cost of a policy and that the phrase ‘actual cash value’ may not be interpreted as including a depreciation deduction, where such deduction would thwart the insured’s expectation to be made whole.” <i>Kane v. State Farm Fire & Cas. Co.</i>, 841 A.2d 1038, 1047 (Pa. Super. Ct. 2003).</p>	
Rhode Island	Broad	Rhode Island follows the broad evidence rule. <i>Vogt v. Rhode Island</i>			

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	Evidence Rule	<i>Joint Reinsurance Ass’n</i> , No. NC 98-439, 1999 R.I. Super LEXIS 150, at *6 (R.I. Super. 1999).			
South Carolina	Broad Evidence Rule	After a generator caused damage to a property, the court examined evidence regarding: the age of the generator’s coils; how much useful life the generator had; the price of the coils representing the cost of materials, winding, and installation; and the cost of new materials. <i>South Carolina Electric & Gas Co. v. Aetna Ins. Co.</i> , 120 S.E. 2d 111, 118 (S.C. 1961). This was done in order to discern the “actual cash value” of the generator. <i>Id.</i>			
South Dakota	Broad Evidence Rule	The Supreme Court of South Dakota has adopted the broad evidence rule. <i>Lampe Mkt. Co. v. Alliance Ins. Co.</i> , 22 N.W. 2d 427, 428 (S.D. 1946). See also <i>Zochert v. Nat’l Farmers Union</i>			

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		<i>Prop & Cas. Co.</i> , 576 N.W. 2d 531, 533-34 (S.D. 1998) (reaffirming <i>Lampe's</i> use of the broad evidence rule).			
Tennessee	Broad Evidence Rule	"The replacement-less-depreciation rule and the broad evidence rule operate to accomplish indemnity." <i>Braddock v. Memphis Fire Ins. Corp.</i> , 493 S.W. 2d 453, 460 (Tenn. 1973).			

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Texas	Replacement costs less depreciation or Fair Market Value	<p>Texas courts have defined actual cash value as “repair or replacement costs less depreciation.” <i>Ghoman v. New Hampshire Ins. Co.</i>, 159 F. Supp. 2d 928, 934 (N.D. Tex. 2001).</p> <p><i>But see US Fire Ins. Co. v. Williams</i>, 732 S.W. 2d 57, 60 (Tex. App. 1977) (the term “actual cash value” is synonymous with “fair market value”).</p>	<p>In the case of a total loss, probably yes.</p> <p>In concluding that general contractor and overhead profit should be depreciated, one court noted that “replacements costs” is defined as “a composite of all reasonably foreseeable repair or replacement costs, including labor, materials, and sales tax.” <i>Tolar v. Allstate Tex. Lloyd’s Co.</i>, 772 F. Supp. 2d 825, 831-32 (N.D. Tex. 2011) (emphasis added). The <i>Tolar</i> court determined that general contractor overhead and profit should be depreciated because it is included in “replacement costs.” <i>Id.</i> at 832. In reaching its conclusion that overhead and profit should be depreciated, the <i>Tolar</i> court cited a</p>	<p>In the case of a total loss, yes.</p> <p>According to one opinion, general contractor and overhead profit ought to be depreciated to reach the ACV payment. <i>Tolar v. Allstate Tex. Lloyd’s Co.</i>, 772 F. Supp. 2d 825, 831-32 (N.D. Tex. 2011).</p> <p>But in the case of a partial loss, “[t]he insurer is not entitled to a deduction for depreciation” <i>Farmers Mut. Protective Ass’n of Tex. v. Cmerek</i>, 404 S.W.2d 599, 600-01 (Tex. Civ. App. 1966).</p>	<p>In the case of a total loss, probably yes.</p> <p>In concluding that general contractor and overhead profit should be depreciated, one court noted that “replacements costs” is defined as “a composite of all reasonably foreseeable repair or replacement costs, including labor, materials, and sales tax.” <i>Tolar v. Allstate Tex. Lloyd’s Co.</i>, 772 F. Supp. 2d 825, 831-32 (N.D. Tex. 2011) (emphasis added).</p>

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Utah	Replacement Cost Less Depreciation	The Utah Insurance Department defines actual cash value as “[r]eplacement cost less depreciation, considering the age and condition of your property.” See https://insurance.utah.gov/auto-home/home/glossary-of-home-terms.php See also <i>Saleh v. Farmers Ins. Exch.</i> , 2006 UT 20, ¶ 26, 133 P.3d 428, 436 (Ut. 2006).			
Vermont	Broad Evidence Rule	The insured and the insurer are allowed to use any evidence “which logically aids in the formation of a correct estimate of the value of the property . . . before the damage occurred.” <i>Eagle Square Mfg. Co. v. Vermont Mut. Fire Ins. Co.</i> , 212 A. 2d 636, 638 (Vt. 1965), citing <i>Citizens’ Bank v. Fitchburg Fire Ins. Co.</i> , 84 A. 970, 972 (Vt. 1912).			

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Virginia	Broad Evidence Rule	“[T]his Court adopts the broad evidence rule, as strict adherence to either of the recognized tests of ‘market value’ or reproduction cost less depreciation’ will merely serve to shackle the trier of fact in all cases.” <i>Harper v. Penn Mut. Fire Ins. Co.</i> , 199 F. Supp. 663, 665 (E.D. Va. 1961).			
Washington	Fair Market Value	The term “actual cash value” has been found to be synonymous with “fair market value.” <i>Nat’l Fire Ins. Co. v. Solomon</i> , 638 P. 2d 1259, 1263 (1982)			It is unclear whether sales tax may be depreciated but according to one case, it is clear that sales tax is to be included in the replacement cost. <i>Holden v. Farmers Ins. Co. of Washington</i> , 169 Wash. 2d 750, 761, 239 P.3d 344, 350 (2010)

State	Calculation of ACV	Summary of Case/Statute	Can Labor Be Depreciated?	Can Overhead & Profit Be Depreciated?	Can Sales Tax Be Depreciated?
West Virginia	Undecided				
Wisconsin	Replacement Cost Less Depreciation	<p>The broad evidence rule only applies to the determination of “actual cash value” when the policy itself is silent on the definition of “actual cash value.” <i>Wickman v. State Farm Fire & Cas. Co.</i>, 616 F. Supp. 2d 909, 920 (E.D. Wis. 2009);</p> <p>Calculation of ACV shall be “replacement of the property minus depreciation or the policy limits.” Additionally, the court distinguished a line of cases using the Broad Evidence Rule, and held that those cases were unique thus their ability to use the Broad Evidence Rule rather than Replacement Cost Less Depreciation. The court noted that the appraiser improperly substituted market value for ACV which was essentially the Broad Evidence Rule.</p>			

State	Calculation of ACV	Summary of Case/Statute	Can Labor Be Depreciated?	Can Overhead & Profit Be Depreciated?	Can Sales Tax Be Depreciated?
		<i>Coppins v. Allstate Indem. Co.</i> , 2014 WI App 125, 359 Wis. 2d 179, 857 N.W.2d 896 <i>review denied</i> , 2015 WI 47, 862 N.W.2d 899			
Wyoming	Undecided				

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