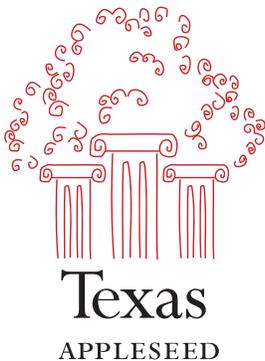


Questions and Answers on Insurance Claims

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Homeowner's insurance plays a vital role in disaster recovery, not only helping families and businesses to rebuild, but also providing coverage for temporary housing and replacing personal possessions. However, homeowner's insurance does not cover flood or windstorm damage for certain homeowners. Flood insurance through the National Flood Insurance Program and windstorm insurance through the Texas Windstorm Insurance Association are separate insurance policies with different coverage. We thought we would take a moment to answer some questions that have come up related to insurance claims in Harvey's wake.



SHOULD I HAVE FILED MY CLAIM BEFORE SEPTEMBER 1, 2017?

Short Answer: No. A new law, HB 1774, went into effect on September 1, 2017 that does affect some of your legal rights around your property/homeowner's insurance policy, but it does not affect what your insurance policy covers or whether you are entitled to coverage from your insurance company.

Long Answer: You may have heard that you needed to file your homeowner's insurance claim before September 1, 2017 because of a new law passed during the 2017 legislative session. House Bill 1774 amends Texas Insurance Code provisions related to claims under property insurance policies when damage is caused by a "force of nature," including floods, hurricanes, and windstorms. One important thing to remember is that HB 1774 only applies to property/homeowner's insurance. It does not apply to claims filed with the federal National Flood Insurance Program (NFIP) or the Texas Windstorm Insurance Association (TWIA).

The major effects of HB 1774 include the following:

- **Lower recovery for violations of Texas Insurance Code:** If you filed your claim before the law came into effect on September 1, 2017, you can recover 18% interest if your insurance company violates Texas law about how claims should be handled. If you filed a claim after September 1, 2017, you can only recover 10% interest (at current market rates) for the same violations. One example of a violation would be if your insurance company wrongly delays or refuses to pay your claim.
 - **But remember!** Most property insurance claims are resolved without any alleged violation of the claims handling requirements, and even disputed claims are often settled before the interest penalty would apply.
- **Additional requirements before you can sue your insurance company:** The major impact of HB 1774 is to add requirements that must be met before you can sue your insurance company over a disputed claim.
 - These requirements include sending a notice to your insurance company 60 days before you file a case with specific details about the amount of the loss, facts about how the claim was mishandled, and your attorney's fees so far. The law also requires policyholders to allow inspections of the damaged property and limits the amount of attorneys' fees they can recover if they win their cases. However, these changes apply to all lawsuits filed after September 1, 2017: when the original insurance claim was filed does not affect whether these other legal requirements affect you.

HOW DO I FILE A CLAIM, AND WHAT DO I NEED TO FILE A CLAIM?

You should file a claim with your insurance company as soon as possible. You do not need your policy number to start a claim, just your name and address. You can tell the insurance company that your home suffered damage as a result of Hurricane Harvey, ask them to inspect your home as soon as possible, and that your fax, letter, email, or phone call is notice of your claim. **You do not need to have pictures of the damage or a complete inventory of the damage to start your claim.** Do not return to your home until local authorities say it is safe to do so. When you have safe access to your home, take pictures of all the damage, and work on an inventory of the damage and the contents of your home that have been destroyed.

Tips for filing a claim:

- **File your claim in writing if you can.** It is best to file your claim in writing (by email, fax, or certified mail, return receipt requested) so that you have a record of the date you filed it and what you told the insurance company. The website for your insurance company might have a claim form to fill out (either online or not) and will tell you where it can be sent. This is a good way to file a claim because you have a written record; however, it does not mean that your claim will be processed more quickly.
- **Calling your insurance company.** You can also call your insurance company to file a claim, but try to follow up in writing to confirm the date you called. After a disaster, most insurance companies will have a call center set up, often with staff who have been trained to work with policyholders in the midst of a disaster.

Tips for filing a claim *continued*:

- **Keep records and receipts.** Keep records of your contacts with your insurance company and keep receipts for any expenses related to your living expenses and any funds you spend to replace personal property or to secure or repair your home. These receipts will also be important for FEMA and other disaster recovery benefits. Keep a copy of anything you send your insurance company.
- **Ask for a copy of your complete policy.** When you report your claim, ask for a copy of your complete policy. The policy will tell you what damages are covered and what may be excluded. The declarations page (one of the first pages of your policy) is a snapshot of what your policy covers. If you disagree with your insurance company's decision on coverage, you can challenge it better if you have a copy of your policy.
 - **Note:** If you disagree with your insurance company's decision in the future, you can challenge it by referencing the policy.
- **Make sure an advance is noted as an advance and not a settlement.** If you ask for an advance on your insurance benefits, make sure that any check or other paperwork the insurance company sends you states in writing that it is an advance only, not the final settlement.

The insurance company will take your information down and advise you that you will be contacted by an adjuster. If they can't give you the name of the adjuster and their phone number when you call, make sure you give them a number (e.g., cell number) where the adjuster can reach you. Ask them if they have assigned a claim number and, if so, ask them to give it to you and write it down in a secure place where you can find it in the future.

WHAT IF I CANNOT GET BACK TO MY HOUSE TO TAKE PICTURES BEFORE I FILE A CLAIM?

You do not need to have pictures of the damage or a complete inventory of the damage to start your claim.

WHAT HAPPENS AFTER I FILE A CLAIM?

Under Texas law, insurance companies must respond in writing within 15 days of receiving your claim and accept or reject your claim within 15 days after you submit any documents requested. After a natural disaster, insurance companies have an additional 15 days to accept or reject your claim so this period may be 30 days. If there is a delay in resolving your claim, the insurance company can have an additional 45 days to resolve your claim as long as they give you written notice explaining the reason for the delay.

If the insurance company rejects your claim, they must explain why in writing. If the insurance company accepts your claim, they must mail your claim check within 5 business days of the decision. **Read the check and paperwork your insurance company sends you carefully. If the check states "claims payment," "claims settlement," or "claims release" or otherwise says the amount is payment in full, do not deposit the check unless you are satisfied with the amount.**

If you have a mortgage, the insurer will usually ask your mortgage company to approve the check before sending it to you. Your mortgage company may hold all or part of the check.

If your claim is denied or you do not agree with the amount the insurance company wants to pay you, make a written request for reconsideration.

WILL INSURANCE HELP ME WITH ANY LIVING EXPENSES WHILE I AM NOT IN MY HOME?

If your home is not habitable and you cannot return home immediately, your homeowner's policy **may** cover Alternative Living Expenses (ALE) that would help pay for temporary housing and other displacement costs you incur. ALE is generally a reimbursement program, which means you would have to pay for the housing yourself and then ask your insurance company to reimburse you that amount. However, you may ask for an advance on ALE if needed. The company may not give it to you, but you won't know until you ask.

If your homeowner's policy covers damage to the contents of your home (e.g., clothing, personal items) as well as to the structure (damage to the building), you can ask for an advance on that coverage as well. Again, your insurance company may not give it to you, but ask and explain why (e.g. your house flooded and you don't have access to clothes and other things you need.)

WHAT DO I DO WHILE I AM WAITING FOR A RESPONSE FROM MY INSURANCE COMPANY?

Insurance companies generally deal with claims on a first-come first-serve basis. Because the damage from Hurricane Harvey is so catastrophic, expect delays regardless of when you file, but it's good to let your insurer know that you will be making a claim and asking them if there is anything you should be doing. Your insurance company may have information about things you can do to reduce or prevent further damage (e.g., opening a wall and exposing asbestos materials, turning off the gas until the system can be checked by a professional) and confirm that you're covered. As noted above, you may also be entitled to immediate benefits for temporary housing and other needs.

Make only reasonable and necessary repairs to prevent further damage, such as covering broken windows or patching holes. If possible, take pictures of the damage before you make any repairs or remove damaged materials. Do not make any permanent repairs until your insurance adjuster has had a chance to inspect your car or property.

Read any check and paperwork your insurance company sends you carefully. If the check states: "claims payment," "claims settlement," or "claims release" do not deposit the check unless you are satisfied with the amount.

OTHER RESOURCES:

Texas Department of Insurance "Help After Harvey" Page

www.tdi.texas.gov/consumer/storms/helpafterharvey.html. They can also be reached at Phone Number: 1-800-252-3439

Office of Public Insurance Counsel, the state-funded policyholder advocate website

www.opic.texas.gov

Phone Number: 1-877-611-6742

Flood Insurance

<https://www.fema.gov/national-flood-insurance-program>

Texas Windstorm Insurance Association

<https://www.twia.org/>

Lone Star Legal Aid

1-800-504-7030

<http://www.lonestarlegal.org>

Texas RioGrande Legal Aid

1-888-988-9996

<http://www.trla.org/disasters>

State Bar of Texas Legal Hotline

(800) 504-7030