

## [FAQs About Property Damage Insurance Claims in Tennessee](#)

This *Roadmap to Recovery*™ publication offers general guidance and answers to common questions people ask after a loss when they are dealing with an insurance company or adjuster. Rules and procedures vary state-to-state and company by company. This publication is applicable to residents of the State of Tennessee. United Policyholders strongly recommends reading our [Top Twenty Tips](#) to get oriented.

### **1. My home was completely destroyed. How long will it take before my insurance company settles with me?**

That depends on if there are any cause and origin issues with the occurrence. This will not be an issue in a wildfire most likely. It also depends on whether your loss qualifies as a “total loss” under Tennessee’s valued policy law. A “total loss” means that it has lost its “character and identity” as a home.[1] If your loss does qualify as a total loss, you should get paid faster and avoid lengthy negotiations because the insurance company is required to pay you the policy limits. Normally, it should not take more than 30-60 days.

### **2. How long after I file my claim will it take for the insurance company to send someone out to inspect the loss site?**

Normally only a day or two. Under a widespread catastrophe situation (such as a hurricane or wildfire), it may take as long as a couple of weeks. Insurance companies generally have a duty to conduct a reasonable, timely investigation.

### **3. What are my duties and what are my insurers’ duties after a loss?**

In every insurance policy, there is wording that explains your duties after a loss. Unfortunately, most policies are written in *legalese* and are not easy to understand. Some of your immediate duties as a

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policyholder include: immediately report the loss to your agent, to cooperate with your insurance company when they are investigating your loss and claim, to protect the property as much as possible from additional damage (tarp the damaged roof, turn off or cap the leaking plumbing, etc.), and to preserve the evidence of the loss and the damaged property, (Don't start throwing things away until the insurance adjuster's inspection is completed.)

Your insurance company's duties after a loss are spelled out in Tennessee law as well as in your policy (again, often in legalese.) Your insurance company's important duties include promptly acknowledging, investigating and paying or denying your claim within a reasonable time after you have notified them of a loss. Your insurer must act reasonably and try to settle all covered claims fairly.

To read more about your insurance legal rights in Tennessee, visit the [Tennessee Insurance Litigation Blog](#) or read the full text of the [Unfair Claims Settlement Act of 2009](#).

#### **4. Do adjusters in Tennessee need to be trained and licensed?**

In Tennessee, insurance company adjusters are not licensed, and are not required to have any training, believe it or not. Public adjusters, on the other hand, are licensed in Tennessee, and are required to pass a written examination in order to receive their license. If you decide to hire a public adjuster to help with your claim, visit <https://sbs-tn.naic.org/Lion-Web/jsp/sbsreports/AgentLookup.jsp> to confirm that he or she is licensed in Tennessee.[2]

### **Debris Removal**

#### **5. Who is responsible for clearing the debris from my lot, and is that covered under my policy?**

All of the construction process, including debris removal, is your responsibility. Yes, debris removal is covered in every homeowner's insurance policy and most include an additional 5% of the "Dwelling" or "Coverage A" limit as additional coverage if needed for this purpose.[3] For example, if your home is insured for \$200,000, you would have \$10,000 of extra coverage for debris removal.[4]

#### **6. Is there anything I need to do before my lot gets cleared?**

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Yes, ideally you will settle your claim on the building before clearing the lot. Do not do anything (other than protect from further damage is possible) with the building until there is an agreement in writing as to the amount of the loss.

**7. The city/county/state is offering a coordinated lot-clearing program. If I participate, am I protected if the cost ends up being more than my coverage for debris removal?**

Figure out how much coverage your policy makes available for debris removal and discuss with local officials whether that will be adequate **before** you sign paperwork to participate in a coordinated lot-clearing program. Review the paperwork to see if it obligates you to pay anything above your insurance limits if those limits are not enough to cover your required contribution to the coordinated program. Then make an informed decision.

**Cause of loss/Expert opinions**

**8. The cause and origin of the event that destroyed my home is not 100% clear. What do I need to do to protect myself?**

Get independent, expert help immediately. Employ a fire cause and origin expert who is not dependent on a good relationship with the insurance industry for his or her livelihood.

**9. Do I need second opinions about everything my adjuster says - or just “big ticket” items related to causes and amounts of damage?**

Go with your gut feeling on this. Certainly get second opinions on the big-ticket items, and the outcome on these will help you decide if you need to check further.

**10. What kinds of professionals/experts typically get involved in evaluating a total loss insurance claim?**

Company adjusters (employees of your insurance company), independent adjusters (hired under contract by your insurance company) public adjusters, contractors and engineers.

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## **Temporary/Additional Living Expenses**

### **11. Will my insurance company make arrangements for temporary housing?**

Yes, but *you* have the final say on where you put your family. You are entitled to housing that maintains your normal standard of living, and in the interest of your family through this very difficult period of time, you should insist on this with polite but firm resolve.[5]

### **12. What items can I claim for reimbursement under the Additional Living Expense (ALE) portion of my coverage? And how long will my insurer cover my temporary rent/living expenses?**

Claim every living expense that is beyond the norm for you and your family, including, accommodations for your pets, additional mileage to get to work from your temporary location, mileage to inspect and protect the damaged home, etc. Keep all receipts for eating out and any other living expenses in an envelope so that you have them at the end of the process.

Your policy will specify whether your ALE is limited to a set time period or just a dollar amount. ALE generally covers at least a year of expenses. You should both ask your adjuster as well as read the applicable section of your policy (usually “Coverage D”) so there are no surprises.

### **13. What if I run out of ALE coverage before my home is rebuilt?**

If you can document that your insurance company is at fault for repair/rebuilding delays, or that circumstances beyond your control made it impossible for you to complete the work before your ALE benefits ran out, your insurer may extend those benefits. You’ll need to request an extension of time in writing with supporting reasons and do your best to negotiate for what you need. You can use one of our sample letters.[6] Seek free help from your [State Insurance Department](https://www.tn.gov/commerce.html) (<https://www.tn.gov/commerce.html>).

### **14. Will my insurer cover the cost if I live in a trailer during reconstruction?**

Yes, if this is equal to or less than your normal standard of living.

## **Costs**

### **15. What are the rules in my state on:**

- a. Actual Cash Value?** In Tennessee, “ACV” normally is defined as Replacement Cost less Depreciation for age and condition at the time of the loss (may vary slightly if your policy defines the term.)
- b. Replacement Cost?** Cost to replace new with exact same item or an item of like kind and quality.
- c. Depreciation?** Deduction from the new cost (Replacement Cost) to allow for the age and condition of the used item in order to arrive at its Actual Cash Value.

### **16. The insurance company says it will only pay according to its “pricing guidelines.” The guidelines are really out of date—what can I do?**

There is no such thing as an acceptable standard pricing guide. It is important for you to

get your own quotes through real-life sources including vendors/stores, the Internet,

catalogs, appraisals, etc. Provide copies of catalogue pages, web pages, etc. to your insurer for your pricing and make your claim. Be prepared to hold your ground as they are supposed to start with a true Replacement Cost in their calculations.

### **17. My insurance company is refusing to pay anything up front for my contractor’s overhead and profit. I don’t have the cash to advance this item, and he won’t get started without it, so I’m stuck.**

Get the insurer to put in writing that they agree to pay for O&P once the work is complete – that should satisfy your contractor enough to get started. If not, you might start shopping for a new contractor. In Tennessee, a contractor is required on any project of \$25,000 or more (excluding masonry) or when there will be more than one subcontractor or tradesman on the project. For more, see: <http://www.tninsurancelitigation.com/2016/11/when-is-overhead-and-profit-due-in-tennessee/>.

### **18. How much overhead and profit is standard in Tennessee?**

The industry standard for decades is to allow for 20% O&P (10% for profit, 10% for overhead).[7]

### **19. My insurance company keeps reducing what they're going to pay by “depreciating” items in my claim; what can I do?**

Unfortunately, you cannot do anything. Your policy provides for this depreciation process, and since you probably have Replacement Cost coverage, the depreciation is recoverable once you replace or repair the item..

However, the amount of depreciation taken should be *reasonable* and labor should never be depreciated. For items like antiques, collectibles, etc., the market value should be paid without deducting any depreciation. Depreciation is also **negotiable**. You can and should challenge unreasonably high amounts taken for depreciation. The age, condition and type of item will often determine the amount of depreciation that is applicable. Read UP's [Depreciation Basics](#) for more info.

## **Deadlines**

### **20. The insurance company is rushing me to complete my contents inventory, but I just can't remember everything yet. What can I do?**

Get focused and get it done. This is often a very tedious and even painful process for homeowners going through a loss and easy to keep putting off. If you find it impossible to finish, get help—you can call a public adjuster or an inventory specialist for just this purpose.

## **Common problems and help resources**

### **21. What are the most common insurance problems for property owners in my state who have a loss and file a claim?**

The most common problem is receiving a loss valuation or settlement offer from your adjuster that is less than your actual loss. You should not have to come out of pocket following a typical insurance claim for any more than your deductible.

Be prepared to put some time in and protect your interests. Get help if you suspect this is happening.

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(See question 25 below.)

**22. How can I find out what my rights are, and what the rules and laws are that apply to insurance claims in Tennessee?**

Call the Tennessee Department of Insurance at 615-741-2176 or visit them on the web: <http://tn.gov/commerce>. They have publications that they will send to you. Additionally, a public adjuster (who is licensed in Tennessee) can provide a lot of helpful guidance. A local attorney can help as well with questions about your legal rights.

**23. Will the Tennessee Insurance Commissioner's office help me if I run into problems?**

Yes, you can file a complaint: <https://tn.gov/commerce/topic/commerce-file-a-complaint>. There are limits to the types of disputes the Commissioner can resolve, but they will help if they can.

**24. The estimates I've received are much higher than the insurance company's estimate. How can I break the logjam and still hire the contractor I trust?**

First, try to resolve the dispute by including your contractor in the discussions on-site. If the disagreement remains, consider using the "Appraisal" process that's spelled out in our policy and employ an Appraiser with experience to help you – usually not your contractor. Don't go to Appraisal without an experienced appraiser. The outcome is binding and if you lose, you really lose.

For more on the Appraisal process, read UP's publication, [The Policyholder Can Win In Appraisal](#). You can also go to UP's [Property Damage Claim Help Library](#) for additional information and help.

**25. The insurance company is pressuring me to accept a settlement but I think it may be low. What can I do?**

Three suggestions:

1. Do your own loss evaluation and get the expert opinions you need to document the loss (engineer, contractor, etc.). If they remain disagreeable, utilize the Appraisal provision of your policy and employ an Appraiser with experience to help you – usually not your contractor.

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2. If you feel the insurance company's offer for settlement is too low, you can always politely reject it in writing with an explanation as to why. Then, read UP's [Speak UP: How to communicate with your insurance company](#).

3. You can always submit a partial claim and note to the insurance adjuster that there will be additional items forthcoming. And, you can always ask for extensions of time and get help from the Insurance Commissioner (see above) if the request is unreasonably denied by your insurance company.

### **26. Do I have to accept the dollar amounts the insurer offers me?**

No. Make your own claim and if you know you are right, stand firm and argue your case. Settling an insurance claim fairly almost always requires strong negotiation and a willingness to go nose to nose, even though we wish that it wasn't an adversarial process.

### **27. Are there different types of adjusters?**

Yes. Two primarily: 1) Insurance company adjusters who work for insurance companies - these can be in-house employees or contractors (see above), and 2) public adjusters who work for you, the policyholder. Only public adjusters are licensed by the state of Tennessee.

### **28. If I hire a professional to help me negotiate a fair claim settlement, won't their fee come out of the money I need to rebuild/replace what was destroyed?**

You will be responsible for your public adjuster's fee. It may apply as a percentage of the whole loss, or, sometimes they will work for you for a percentage of any additional money that their work obtains. It can depend on whether you hire the public adjuster at the beginning of the claim or later in the process.

### **29. Are public adjuster fees regulated or capped in Tennessee?**

Yes, in Tennessee the cap for residential losses is 15% of the loss amount. There is no cap for commercial losses.

### **30. What is the typical fee for a public adjuster?**



There is no “typical” fee. Fees vary. Fees depend on the size and complexity of the loss, whether it is a commercial or residential property, and whether you’re hiring the public adjuster to negotiate your entire claim or just parts of it (building, contents, ALE, inventory, business interruption, etc.). As stated above, some public adjusters charge a fee based on a percentage of the total loss, and others charge only a percentage of any additional money that their work obtains.

**31. If I hire a public adjuster to represent me, will he or she pay for expert reports/inspections, etc. or will I?**

This is negotiable, and should be a part of the employment negotiations right from the start. Get this clarified up front and put it in the agreement.

**32. If a dispute arises between me and the insurance company or an adjuster, where can I turn to for help?**

Start with the Department of Insurance. If that doesn’t work, consider calling an attorney who specializes in representing homeowners in insurance disputes.

**33. What are my options if my insurer and I don’t agree on:**

**a. Costs?** Collect all receipts that support the costs that you are claiming or have incurred. If your adjuster agreed to pay for something earlier in the process see if you have it in writing.

**b. Type of work that needs to be done?** Get your own valuation of the loss, and use a public adjuster, contractor, engineer, consultant, etc. to support your valuation.[8]

**c. Professional opinions?** Get your own professional opinion and be careful not to employ an expert whose livelihood depends on his friendly relationships with insurance companies.

**Partial losses**

**34. If my insurer brings in a cleanup company, does their entire fee come out of my policy limits, and if so, which category?**

Yes, so be alert. If you think your contents loss is close to your limit, make sure to clarify in writing that

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any decision by the adjuster to try to clean up some of the contents is at his risk, and that it will not reduce your limit of coverage if the efforts fail.

Prior to the work being done, it is very important that you check the company's references, and clarify how much it is going to cost, and what part of the insurance policy it is going to be covered under.

### **35. What can I do if I'm not happy with the cleanup company's work?**

Take lots of pictures after the loss and before repairs or cleaning. List the items that did not clean up to their pre-loss condition and claim them as a total loss – at Replacement Cost.

### **36. The company's adjuster says my stuff can be cleaned and doesn't need to be replaced. How do I know if that's true?**

For many items you will not know until after they try to clean them. Be careful that you have enough limit of coverage to take care of the cleaning as well as the Replacement Cost in case some items do not clean up. If you have sufficient coverage limits, let them clean whatever they want, but remember, the decision as to whether the cleaned items have been returned to their pre-loss condition is ultimately yours, not theirs. If you are not satisfied with the condition of certain items, you can make the claim for Replacement Cost on those items.

### **37. How can I find qualified experts to give me second opinions on cleanup, repairs, or the cause of the loss?**

Find an expert by searching the web, the Yellow Pages, or get a recommendation from someone you trust. If hiring a public adjuster, check the website of the National Association of Public Insurance Adjusters: <http://www.napia.com>.

You can also contact local contractors (not the insurance company-preferred ones), but renovation companies or new construction) and find out what engineers they recommend and use. Interview any contractors you might use to find out how much of the work they do is for insurance companies. If they do most or a lot of their work for insurance companies, you'll want to find someone else to give you a truly independent opinion. Be wary of "storm chasing" or "board up" contractors. Contractors are

licensed by the state, see: <https://www.tn.gov/commerce/regboards/contractors.html>

**38. My home is only partially damaged, but it will look weird if half the vinyl siding is old and half is new. What are the rules in Tennessee regarding “matching”? The insurance company is telling me they don’t owe for matching. Is that true?**

In Tennessee there is no Administrative Rule that requires them to match, so you have to argue the issue from an “indemnity” perspective that you are entitled to “like, kind, and quality” so you do end up with a mis-matched roof, for example, that results in a diminution in value.[9]

**39. How can I be sure it’s safe to move back into my home? How can I be sure the air quality in my home is healthy/smoke free?**

The most certain way would be for you to hire a microbiologist or hygienist to complete air quality clearance tests following construction. That is expensive, and a more practical way is to make sure up front that your contractor is replacing all fire damaged materials and opening up every cavity where smoke and soot could possibly have entered to properly deal with the problem. If your insurance adjuster won’t allow this, or is resisting payment for that much work, get a public adjuster immediately. Or, invoke the Appraisal provision of your policy and employ an experienced appraiser or claim consultant.

If you let this go without dealing with it up front, you will probably wish you hadn’t later. Trying to solve a smoke odor problem after all repairs are finished is a nightmare that won’t end.

**40. How can I be sure there’s no hidden damage from smoke or extreme heat?**

If you do not have the technical knowledge to make sure of this yourself, hire someone who is able to make sure the scope of work will take care of these potential problems. You are smart to make sure of this up front.[10]

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1991. UP helps solve insurance problems and advocates for fairness in insurance transactions. The organization is funded by foundation grants and donations. Our work is divided into 3 program areas: [Roadmap to Recovery™](#), [Roadmap to Preparedness](#), and [Advocacy and Action](#). We offer free tips, information and resources in print and online on our website.

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[1] But see: *Cincinnati Ins. Co. v. Banks* (Court held that a demolition order from the city was sufficient to establish an “actual total loss” for purposes of Tennessee’s valued policy law. Court rejected insurer’s argument that it was a “constructive total loss” because before it was demolished the house would have maintained its character and identity as a home thus policyholder not entitled to policy limits.)

[2] See also: [Hiring Professional Help for an Insurance Claim](#)

[3] See also: [A Simplified Guide to your Homeowners Policy](#)

[4] See also: [Debris Removal After a Partial or Total Loss](#)

[5] See also: [Survivors Speak: Additional Living Expense \(ALE\)/Loss of Use](#)

[6] See also: [Sample Letter Requesting Information About Insurance Benefits for Temporary Living Expenses \(“ALE” or “Loss of Use”\)](#) ; [Sample Letter REquesting Extensions of Policy Deadlines](#)

[7] See also: [What’s UP with Overhead and Profit?](#)

[8] See also: [The Scoop on Scope of Loss](#)

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[9] See: *Hutcherson v. Tennessee Farmers Mut. Ins. Of Columbia*, 1986 WL 9608 (Tenn. App. Ct., Sept. 3, 1986) (Insurance company was required to replace the entire paint job instead of spot paint to match).

[10] See also: [Smoke and Ash Damage from a Wildfire](#)