

# Frequently Asked Questions About Homeowners Insurance Claims in Texas

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-to-company. This publication is applicable to residents of the State of Texas. United Policyholders strongly recommends reading our publications, [Top Twenty Tips](#) and [Speak UP: How To Communicate With Your Insurance Company](#) to get oriented.

## The Basics

### 1. How long will it take before my insurance company settles with me?

The time it takes for your insurance company to settle your claim will vary. If your cause of loss was a natural disaster affecting the area in which you live, there could be access issues which will undoubtedly cause delays in inspection, and, therefore, a delay in all activity that follows. There is no set time limit under the law for settling the claim with you, but a company that takes “too long” to pay, according to the Texas Department of Insurance, is liable for your reasonable attorney fees plus damages equal to 18 percent of your claim if you sue and win.

This law sets guidelines such as:

- The company must respond within 15 days after receiving your claim in writing.
- After you submit any requested documentation, the company has 15 days to accept or reject your claim.
- Once the company agrees to pay your claim, it must send a draft or check within 5 business days. A company that cannot meet the above deadline must send you a written notice explaining why.

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

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That depends on whether the site is accessible and safe, and whether your loss is one of many in a broad disaster or a single home fire or other type of loss. Most policies say that once you provide notice to your insurer in writing, the company must begin investigating your claim within 15 days, unless there is a named storm, which may give them additional time.

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

Your Duties:

- Give your insurer written notice of your claim.
- Cooperate with reasonable requests from your insurance company
- Support your loss by providing requested information to the insurer
- Mitigate your damages (Take steps to prevent further damage)

Your insurer's duties:

- Investigate your claim thoroughly and in a timely fashion
- Treat you fairly
- Pay for covered damage promptly
- Tell you in writing why your claim or part of your claim was denied.

### **Debris Removal**

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

It is your responsibility to have debris removed. If your home was damaged in a disaster, your city or county may offer to clear your lot as part of a coordinated debris removal program. Coverage for debris removal depends on your policy's specific wording.

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

Take pictures of the debris and any visible items. Start thinking about the items damaged, destroyed or missing to try to jog your memory. List the items as you recall them. Record the condition of the site on video if you can.

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**6. 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?**

It depends on the wording of your policy. You are generally covered only up to your policy limits for debris removal, but some language may allow for the government program to be paid in full, even if it is above your limits. Ask whoever sets up the coordinated program whether the program provides that protection. The following is an example of a program in the city of San Bruno, CA where the county (San Mateo) did provide a debris removal program in which the insureds were not responsible for paying the difference between what the county paid and what the policy limits provided. In addition, if the insurance payment was greater than the cost of debris removal, the insured was allowed keep the excess amount:

“Owner will advise County in writing within 10 days of receipt of any insurance settlements for debris removal. Owner further agrees to reimburse the County within 10 days of receipt of any insurance settlements for debris removal. Owner further agrees to reimburse the County within 30 days of receipt, from such insurance proceeds, for the cost of the debris removal conducted by the County. In the event the insurance proceeds are less than the cost of debris removal incurred by the County, Owner will not be responsible for the difference. If the insurance proceeds exceed the County’s cost of debris removal, Owner will keep any excess proceeds. Owner understands that all disaster related funding, including that for debris removal from private property, is subject to audit.”

**Cause of loss/Expert opinions**

**7. The cause and origin of the event that destroyed my home is not 100% clear. How will it be determined? What do I need to do to protect myself so that the insured will cover my damages?**

The cause of your loss has an impact on whether or not there is coverage. In Texas, it is the policyholder’s burden to prove the cause of loss. For that reason, it is important that you document everything carefully and provide expert opinions to back up your position, especially if there is any question or suspicion about what caused your loss. Don’t leave it up to the insurance adjuster to determine the cause. If you have multiple policies, be sure to file claims with all possible insurers.

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**8. Do I need to question everything my adjuster says or just on “big-ticket” items related to causes and amounts of damage?**

Yes. Do get second opinions on “big-ticket” items.

**9. What kinds of professionals/experts typically get involved in evaluating property damage in an insurance claim?**

Estimators, contractors, public adjusters, engineers, fire experts, meteorologists, industrial hygienists, etc. It depends on the cause of the loss and the damage.

**Temporary/Additional Living Expenses (“ALE”)**

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

If you have ALE coverage, your insurance company should reimburse you for temporary housing. They may arrange housing for you. Generally you will need to make your own arrangements.

**11. What items can I claim for reimbursement as covered under the Additional Living Expense (ALE) portion of my coverage? How long will my insurer cover temporary rent/living expenses?**

ALE coverage will reimburse you for reasonable expenses for food, lodging, gas, etc. that are over and above your usual costs of living. Look to your policy to see the extent of your specific coverage. Ask for an advance to get yourself situated. The insurer will determine the time needed to properly repair/rebuild. There is likely to be a limit in your policy for amount of money and time (number of months). However, you don’t have to take their first offer if in fact more time is required. Don’t use up your ALE too quickly if at all possible, but basically your insurer will pay what’s reasonable. (But see question 12 below for time issues.) \*For examples of the types of items that may be covered under ALE, see UP’s Survivor Speaks publication on ALE at [Insurance Coverage for Additional Living Expense](#).

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

Your policy probably has both a dollar and a time limit for ALE benefits and, in general, your insurer will not extend the coverage beyond those limits. If you use up your ALE coverage before you’ve rebuilt and the delay is the fault of the insurance company, you may want to contact an attorney to be sure your insurer continues to pay your ALE benefits until completion of your home. For example, if your insurance

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company has delayed progress by dragging their feet on payment to a contractor, that is the insurance company's fault and they should be paying your continuing ALE.

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

Your policy's wording will determine whether or not there is coverage for you to live in a trailer during reconstruction. Reasonable costs are typically covered, but do check your specific policy.

### **Costs**

#### **14. What are the rules in Texas on:**

- a. Actual Cash Value? (ACV)
- b. Replacement Cost? (RC)
- c. Depreciation?

ACV, RC and Depreciation depend upon your policy and not on state laws. Court rulings can be used to interpret the policy meanings. Learn more about the depreciation process by reading UP's Depreciation Basics.

#### **15. The insurance company says it will only pay according to its "pricing guidelines." The guidelines are really out of date—what can I do? If you disagree with the "pricing guidelines" the adjuster is quoting, you may want to do one or more of the following:**

- Hire a public adjuster
- Consult with an expert
- Demand an appraisal
- Get your own price quotes from real life sources: vendors, stores, Internet, catalogs, appraisals, and provide them to your insurer.

Note: There is no such thing as an acceptable standard pricing guide. Provide copies of price quotes from 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. For help, take a look at UP's sample estimates and [Depreciation Guide](#).

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**16. 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.**

Provide your insurer with an executed contract (a contract document signed by all parties to it.). Most insurers will make an initial payment if you present them with a signed contract between you and the contractor.

**17. How much overhead and profit is standard in Texas?**

Twenty percent is standard for the insurer (10% for overhead, and 10% for profit), although many trades mark up their costs higher than 20% to increase their profits.

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

The newer the item, the less depreciation. The better the condition of an item, the greater chance of reducing the depreciation. If the items in question have a longer life than the insurer wants to acknowledge, then support your position by presenting the insurer with facts about the usable life of certain items. (This is one of the important reasons for documenting your property and possessions prior to experiencing a loss.) For more information on creating a home inventory, visit the [Roadmap to Recovery](#) of our website.

Note: A homeowners/renters policy typically allows an insurer to hold back a portion of policy benefits to account for depreciation. Under most policies, however, you can recover what was held back when you submit proof that you've replaced those items. Keep in mind that depreciation is 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 information.

**Deadlines**

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

Take your time and research. Use UP's inventory samples. You'll find them in the [Samples and](#)

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[Examples](#) section of our website.

You can hire an inventory professional or a public adjuster to help you with this part of your claim. Read our [Contents Claim Tips](#) for more information.

## Help Resources in Texas

### **20. How can I find out what my rights are and what the rules and laws are that apply to insurance claims in Texas?**

You can find the Homeowner's Bill of Rights on the Texas Department of Insurance website. You can also file a complaint there if you believe your insurer is not handling your claim in good faith. This link will take you to the complaint form page: Texas Department of Insurance Complaints. Also visit the Consumer Protection section of the Texas Attorney General's website. If you're so inclined, you can read the Insurance Code in the Texas Statutes. This is can be accessed online for free.

### **21. Will the Texas Insurance Commissioner's office help me if I run into problems?**

Maybe. You can file a complaint through the Insurance Commissioner's website: [Texas Department of Insurance Complaints](#), and they will investigate and respond. The telephone number for the Texas Department of Insurance Consumer Help Line is (512) 463-6515 or 1-800-252-3439. You can find general Complaint Information here: <http://www.tdi.state.tx.us/consumer/cpportal.html>. Don't expect the Texas Department of Insurance to aggressively advocate for you.

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

Suggest a face-to-face meeting to with a contractor you trust and your insurance company's adjuster to discuss the estimates so the contractor and adjuster can come to an agreement on costs. Consider hiring a public adjuster or using the "appraisal" process. Learn more about insurance appraisals by visiting our [Claim Dispute Resolution](#) page. Also see UP's [Guidelines for Reviewing Adjusters' and Contractors' Estimates](#).

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

While you don't want to rush into a settlement that is too low, try to get the undisputed amount paid

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without having to sign a release. Then consider whether it is worth your time to continue fighting for the difference. There are pluses and minuses to doing so. After fighting for more, it is possible that you will walk away no better off or with only a slightly higher settlement. It is always wise to get expert advice before accepting a “final” claim settlement offer. Start by visiting UP’s [Claim Dispute Resolution](#) page to learn more about your options.

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

No! You can do research on the Internet, get input from experts, or get two or more estimates from real world contractors or suppliers in order to challenge the amount the insurance company is offering.

Make your 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.

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

Yes, there are 3 types: “independent” adjusters, staff adjusters and public adjusters. An Independent Adjuster (IA) works for the insurance company on a contract basis, a Staff Adjuster is an employee of the insurance company and a Public Adjuster (PA) works strictly for the policyholder.

UP has two helpful publications about the role of public adjusters and what questions to ask when hiring one:

- Public Adjusters – The Inside Scoop
- Making the Best Choice When Hiring a Public Adjuster

#### **26. 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?**

Yes, but if you hire an experienced and ethical professional, the settlement will likely be higher than you would get on your own. If you hire an inexperienced and/or unethical professional, you may not do as well. See the [Hiring Professional Help](#) page for more details.

#### **27. Are public adjuster fees regulated or capped in Texas?**

Yes.

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

In Texas the fee can be no more than 10% of the total RCV (Replacement Cost Value) claim.

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

Typically, you will, unless you negotiate up front with the public adjuster to advance costs and then recoup from the settlement.

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

You may contact the Texas Department of Insurance/Insurance Commissioner at (512) 463-6169 for assistance. You can consult an experienced attorney who specializes in representing people with property damage insurance claims. The Professional Help Directory is a starting point to find qualified attorneys.

### **31. What are my options if my insurer and I don't agree on:**

#### a. Costs?

If the difference is purely the price, then in Texas you may be eligible to demand an appraisal. The appraisal clause is in almost every modern insurance policy and allows a forum for parties to informally resolve the amount of loss through a binding process that is similar to arbitration, but without attorneys involved. In Texas, the appraisal process can be used to settle differences regarding the extent of damage and the price of the damaged items, but not determine the cause of loss or override a denial of coverage.

#### b. Type of work that needs to be done?

Get a second opinion on the extent of damage from a reputable engineer, public adjuster or trusted contractor.

Again, the [Claim Dispute Resolution](#) section of the UP Library is a good resource for resolving disagreements with your insurer.

### **Special Considerations for Partial losses**

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Note: Start by reading UP's [Insurance Claim Tips Re: Partial Loss Fires](#).

**32. If my insurer brings in a clean up company, does their entire fee come out of my policy limits?**

Yes, but you should agree in advance on the scope of their work and then approve their fees. Their fees will use up some of your coverage, so you want to be certain that they are doing only the work you authorize at the price you agree to pay.

**33. What can I do if I'm not happy with the clean-up company's work?**

If your insurer brought them in, let them know of your dissatisfaction. Fire them and ask for a refund. Then demand that a new clean-up company re-do the work.

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

Make sure to get an agreement with the insurer in writing and in advance indicating that the insurance company believes that the items can be cleaned, but that if the cleaning does not have a result that meets your satisfaction, the items will be replaced. Then they may try to clean the items, and if the cleaning does not work, they will have to replace those items and will have to pay for both the cleaning and the replacement.

**35. How can I find qualified experts to give me second opinions on cleanup and repairs?**

Go to the Better Business Bureau (BBB) website to find experts with good track records. You can search their site by business type or businesses name: <http://www.bbb.org/us/Find-Business-Reviews>.

**36. What are the rules in our state as to "matching" new to old materials? (For example, roof tiles, siding, etc). The insurance company is telling me they don't owe for matching, but my property value will go down if I have a patchwork roof.**

The rule on matching in Texas is not crystal clear. The nature of claims is that most things are negotiable with your insurance company, and this is no different. If your property was matching before the loss (i.e. it had a "uniform and consistent" appearance), but will look "patchwork" if it includes both old and new materials after the repairs are completed, you should stand your ground. Argue that you are entitled to matching in order to restore your property to its pre-loss uniform appearance.

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

Have the air quality tested by a reputable industrial hygienist or air quality testing lab which can determine if there are unacceptable levels of mold, smoke or other volatile organic compounds that may be present. This is a simple and minimally destructive process that is also usually affordable and will determine the safety of moving back into your home.

If your insurance adjuster won't allow this, or is resisting payment for the testing, get professional help immediately.

To view a sample industrial hygienists report, see **Samples and Examples**.

For more information read: [Insurance Claim Tips Re: Partial Loss Fires](#).

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

Unfortunately, the only real way to discover hidden damage from smoke or extreme heat may be destructive testing which involves opening the wall up to inspect and take samples. An alternative to removing large portions of the walls of a home may be to hire a testing company that utilizes a boroscope. This device is a small, snake-like camera that can be inserted into the wall cavity through a minimally sized hole to inspect visually. Physical samples can also be taken through these small holes for further testing.

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