

## [Insurance Consumer Rights in Oregon \(2021\)](#)

Insurance policies are contracts and legal rules come into play when you file an insurance claim. If you arm yourself with basic knowledge about your rights as an insurance consumer, you can speed up your claim settlement and improve your odds of getting paid what you're owed.

Your insurance company and its employees are required to be fair and reasonable and follow Oregon laws and regulations. They must do a thorough and unbiased investigation and assessment of your loss(es) and pay or deny your claim in a timely manner in compliance with the policy contract and applicable laws. Insurance company claim adjusters are supposed to be trained on your state's laws and claim handling regulations, but it's often up to the policyholder to insist they follow them. Use the guidance and sample letters you'll find on United Policyholders' website ([uphelp.org](http://uphelp.org)) to navigate this process and enforce your right to a fair, full and prompt claim settlement.

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The information included here will give you a basic understanding of how the claim process should go and the legal rights that give you leverage to get a fair outcome. There are three places where your rights as an Oregon insurance consumer are spelled out:

- [Oregon Revised Statutes \(ORS\)](#)
- [Oregon Administrative Rules \(OAR\)](#)
- [Notices and bulletins issued by the Oregon Insurance Department.](#)

### **Claim Communications**

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UP strongly recommends keeping a journal and communicating in writing with insurance company representatives so there is a clear paper trail of how your claim is being handled. This does not mean you shouldn't discuss your claim over the phone or in person with an insurance company representative. It means you should communicate in writing on a regular basis **and** send follow-up emails or letters summarizing what was said or agreed to during phone or in person conversations. Check out our "Speak UP" tips on being politely assertive, organized and avoiding delays and misunderstandings. ([www.uphelp.org/speakup](http://www.uphelp.org/speakup)).

### **Time Frames and Deadlines**

Below are just a few timeframes and deadlines to be aware of. After a disaster, deadlines can become unrealistic due to shortages of available inspection, clean up and construction professionals. Speak UP!

#### Processing your claim

**30 Days** - Your insurer must acknowledge the notification of your claim within 30 days after receipt. This information should be included in the insurers claim file. *OR 836-080-0225(1)*.

**30 Days** - After receiving notice of your claim, your insurer has 30 days to provide necessary claim forms, instructions, and assistance to help you comply with the policy conditions and the insurers reasonable requirements. *OR 836-080-0225(4)*.

#### Communicating information to you

**30 Days** - Your insurer must reply to all pertinent communications from you that reasonably indicate a response is expected within 30 days after receipt. *OR 836-080-0225(3)*.

### Investigating your claim

**45 Days** - Your insurer must complete its claim investigation within 45 days of receipt of the claim, unless the investigation cannot reasonably be completed in that time. *OAR 836-080-0230.*

### Paying or denying your claim

**30 Days** - An insurer must let you know if your claim is being accepted or denied within 30 days after receipt of a properly executed proof of loss. Your insurer may not deny a claim on the basis of a policy provision, condition, or exclusion unless the denial includes reference to the provision. A claim denial must be in writing. *OAR 836-080-0235(1).*

### Preserving your right to sue if necessary

There is typically a deadline in your insurance policy for filing a lawsuit related to a claim. Check your policy for a “suit against us” provision, or similarly worded provision, to find that deadline. It’s typically 12 months from the date of loss or the date your insurer closes your claim. There is also a “statute of limitations” in Oregon law. It’s best to check with an experienced attorney on these deadlines to avoid losing your legal rights and the leverage those rights give you to get a fair payout on a claim.

**30 Days** - Your insurer must provide you written notice that your rights may be affected by a statute of limitations. This notice must be given to you not less than 30 days before the statute of limitations has run. *OAR 836-080-0235(6).*

### **Unfair Claim Practices**

Your insurer is prohibited from using unfair claim settlement practices. These practices are set out

generally in the Oregon Revised Statutes (“ORS”). The following are a few examples listed in ORS 746.230 **Unfair claim settlement practices**:

- (1) An insurer or other person may not commit or perform any of the following unfair claim settlement practices:
- (a) Misrepresenting facts or policy provisions in settling claims;
  - (b) Failing to acknowledge and act promptly upon communications relating to claims;
  - (d) Refusing to pay claims without conducting a reasonable investigation based on all available information;
  - (e) Failing to affirm or deny coverage of claims within a reasonable time after completed proof of loss statements have been submitted;
  - (f) Not attempting, in good faith, to promptly and equitably settle claims in which liability has become reasonably clear;
  - (g) Compelling claimants to initiate litigation to recover amounts due by offering substantially less than amounts ultimately recovered in actions brought by such claimants;
  - (L) Failing to promptly settle claims under one coverage of a policy where liability has become reasonably clear in order to influence settlements under other coverages of the policy.

*ORS 746.230*

### **Remedies: Filing an official complaint with your State Insurance Agency**

The Oregon Division of Financial Regulation oversees how insurance companies operate in the state. They can impose penalties on your insurance company if it finds that they did not comply with the laws in



your state that require insurers to handle claims fairly and in good faith. Visit [uphelp.org](http://uphelp.org) and Insurance Resources for Oregon (<https://www.uphelp.org/resources/state-by-state/Oregon>) for resources and tips on the process and strategy of filing a formal complaint.

You can call the Oregon Division of Financial Regulation's consumer hotline with any questions or complaints toll-free at 888-877-4894, email insurance questions to [DFR.InsuranceHelp@oregon.gov](mailto:DFR.InsuranceHelp@oregon.gov), or file a complaint online, by going to <https://dfr.oregon.gov/help/complaints-licenses/Pages/file-complaint.aspx> and select "insurance industry" for an online form. Their mailing address is:

Oregon Division of Financial Regulation  
P.O. Box 14480  
Salem, OR 97309-0405

### **Special rules related to the 2020 Wildfires**

On September 25, 2020, Insurance Commissioner and Director Andrew Stolfi issued a bulletin to clarify the division's expectations for property insurers to expedite wildfire claims. The Division made the below recommendations and encouraged insurers to help people and businesses affected by the wildfires. Oregon Department of Consumer and Business Services Division of Financial Regulation, Bulletin No. DFR 2020-18 can be found at <https://dfr.oregon.gov/laws-rules/Documents/Bulletins/bulletin2020-18.pdf>.

### **Advances of Additional/Temporary Living Expenses/Loss of Use benefits**

Insurers should make an advance payment of at least four months of "loss of use" benefits to insureds that had a total loss or whose property is uninhabitable. Insurers should take into account any adverse circumstances that may require continuing to pay ALE benefits for policyholders whose property remains inaccessible due to damage caused by the wildfires once evacuation orders have been lifted.

Where access to property is restricted, insurance companies should not terminate ALE benefits until the

property is accessible and deemed habitable.

### Inventory Forms and Itemization of Certain Types of Property

Insurers should be flexible and accept any inventory form that contains similar information to what would be reported using their company form. Insurers are allowed to request further information from the policyholder upon receipt of the inventory form.

Insurers should accept an inventory that groups categories of personal and commercial property instead of listing every single item, including, but not limited to, clothing, shoes, books, food items, business supplies, livestock supplies, or other categories of items that would be impractical to list individually.

### The “Rebuild Timeline Agreement”

Commissioner Stolfi also negotiated an agreement with 28 Oregon insurance companies that gives impacted households at least two years to collect dwelling replacement benefits and rebuild.  
[www.dfr.oregon.gov](http://www.dfr.oregon.gov)

### **Hiring Professional Help**

When you paid your premium, you paid for coverage *and* good claim service. In theory, you should not have to hire outside help to get what you already paid for. However, in reality, you may need to. You have the right to hire an attorney or public adjuster to help navigate your claim, and the professionals you want to use for repairs or rebuilding.

If you hire an attorney to resolve an insurance claim dispute, try to hire them on a contingency (not hourly) fee basis and agree to advance litigation costs. Claim disputes are time-consuming, so it gets expensive fast when you pay by the hour. Ideally, arrange for one or two qualified attorneys to do an initial evaluation of your situation free of charge. Only hire one that has represented insurance

consumers in claim disputes and is a member in good standing of the Oregon Bar. [Visit our Oregon Professional Help Directory](#)

A qualified public adjuster cannot practice law or give legal advice, but can value your losses, handle the day to day aspects of your claim and negotiate a settlement on your behalf. Generally speaking, if you hire a public adjuster, you agree to pay them a percentage of the insurance benefits they recover on your behalf – not an hourly fee. Oregon public adjusters can also be found by visiting the [Oregon Professional Help Directory](#)

We recommend reviewing the following publications before hiring professional help:

[Questions to Ask Before Hiring a Public Adjuster](#)

[Hiring an Attorney for an Insurance Claim](#)

## **Best Practices**

Visit and use UP's Oregon Wildfires Insurance Claim and Recovery Help Library to get information throughout the recovery process: [www.uphelp.org/ORwildfires](http://www.uphelp.org/ORwildfires). Follow these steps:

**Cooperate with your insurer as best you can and keep a good paper trail.** If you are not able to stay in your home, make sure the company has an address and phone number where it can reach you.

**Be present for inspections.** It's a good idea to be home when the adjuster and or others inspect your property. Feel free to ask your contractor to be there with you to explain his/her opinions and estimates to the insurance company's representatives.

**Inventory and document your losses.** Take pictures of identifiable items before they're taken away for repairs and off your lot before it gets cleared (if applicable). Create detailed lists of damaged property. If your home was seriously damaged or completely destroyed, get at least one, ideally two, independent repair/replacement cost estimates.

**Make only urgent/temporary repairs before filing a claim.** Your insurance company may deny your

claim if you make permanent repairs before it inspects. If you're not sure if your company considers a repair to be permanent, ask your company (in writing) before starting any repair work. The cost of these repairs and for storing personal belongings is likely covered by your policy.

**Keep receipts.** Your insurer will usually require you to provide receipts before they'll reimburse you for expenses due to losing the use of all or part of your property. This is also true for collecting full replacement costs above depreciated/actual cash values. On our website you'll find a free expense spreadsheet to help you keep track.

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