

## **Post Disaster Insurance Claim Rules in California (2025)**

You have legal and contractual rights and there are consumer protection laws and regulations that your insurance company and their representatives are required to honor. In practice, insurance adjusters don't always know or follow them all. This is especially true after large disasters, when insurance companies bring in adjusters who are based outside of California and need training and experience on how we do things here. Learn and assert your rights so you are treated fairly. Your insurer cannot punish you for reminding them of their obligations and enforcing your rights.

***NOTE: The following rules apply to total losses in a disaster where there's been an official "State of Emergency" declaration.***

***People whose homes are damaged, but still standing have rights outlined in "Claim Handling Rules for All Claims" below, plus the right to request a four month advance of benefits to cover temporary/additional living expenses, and the right to access those benefits for up to 36 months.***

### **Special Rules that apply to a Government-Declared Disaster**

Insured people in California have special rights if they lose property in a declared State of Emergency. Re-stating those rights in your communications with insurance company representatives helps get your claim paid fairly, promptly and fully.

### **Temporary Housing / Additional Living Expenses ("ALE")**

- **Four Month Advance** – You are entitled to an immediate advance of no less than four months of your benefits for temporary housing and other expenses you incur due to having lost the use of your home. Your insurer must give you a list of typical expenses in this category. Cal. Ins. Code § 2060, 2061(a)(1).
- **Further Payments Require Documentation** – After the advance is paid, (and for any claim not

during a State of Emergency), you have the right to be reimbursed for costs you incur due to losing the use of your home, up to your policy limits. Keep receipts so you can be fully compensated. Cal Ins. Code § 2061(a)(1).

- **Minimum Coverage For Evacuation Orders** – If you are under an evacuation order and can't use your home, you have the right to at least two weeks of temporary housing costs, plus extensions for good cause. Cal. Ins. Code § 2060(c).
- **24 Months Minimum Time for Temporary/Additional Living Expenses** – You have the right to collect ALE benefits for no less than 24 months from the date of the loss, plus an extension of up to 12 additional months, for a total of 36 months, as long as you are acting in good faith and with reasonable diligence to keep moving forward, but encounter delays in replacing your home that are beyond your control. Additional extensions of six months shall be provided to policyholders for good cause. Cal Ins. Code 2060(b)(1).

### **Rebuilding, Repairing and Buying Replacement Homes.**

- **Debris Removal** – Your policy should include benefits for debris removal and your insurer should pay those benefits promptly if you hire a removal contractor. If you opt to participate in a coordinated debris removal program organized by your city or the state, you will be required to sign a “Right of Entry” form assigning your debris removal benefits to the program host, and your insurer must cooperate.
- **Buying or Building Elsewhere** – If your home is a total loss, California gives you the right to replace it (on site or elsewhere) by rebuilding **or** buying (nearby or elsewhere) without leaving insurance funds on the table. Only two other states give people this right. Cal. Ins. Code § 2051.5(c). You also have the right to collect your benefits for Ordinance and Law / Code Upgrades and Extended Replacement Costs toward your construction or purchase budget. If you replace by buying an existing home, the insurance company cannot deduct the value of the land underneath that new home. Cal. Ins. Code § 2051.5(c)(2). Because these rules are newish and only apply in a few states, many adjusters don't know about them – you must insist!
- **Deadline to Complete Repairs, Rebuilding or Replacement** – If your home is a total loss, you have the right to no less than 36 months from the date that the first payment toward the actual cash value of the loss to collect your full replacement cost. Cal Ins. Code § 2051.5(b). ACV is defined further on this page. Additional extensions of six months *shall* be provided to policyholders for good cause, i.e., delays outside of your control.

- **Underinsurance Benefits**– If the cost of replacing your home is more than your available dwelling coverage limit, you have the right to add your Other Structures benefits, (for detached garages, outbuildings, detached decks, walkways, pools, retaining walls, etc.) toward your budget for rebuilding or replacing your home. Cal. Ins. Code § 10103.7(a).

### **Personal Property (Contents)**

- **30% Advance** – Your insurer must pay you an advance of least 30% of your dwelling policy limit, up to \$250,000, as long as your home was furnished at the time of loss. Cal. Ins. Code § 10103.7. This can be confusing because the advance is calculated as a percentage of *dwelling* limits, but is intended to be used for *contents* replacement. Many adjusters are not familiar with this unique CA formula.
- **Documentation Requirement for Further Payments** – After the advance, you have the right to further payments as long as you can document the personal property lost in your home from the fire, but you have to document from dollar \$0, not from the first dollar over the 31% advance. You have the right to bulk list items by category instead of itemizing (i.e., “15 books” instead of listing all titles). You have the right to use any format to document the property, not just the specific form/spreadsheet your insurer provides, as long as it contains substantially the same information. Cal. Ins. Code § 2061(a)(2)-(3).

### **Other Special Rules**

- **Right to Information After Third Adjuster** – If the claim arises from a State of Emergency and you are assigned a third or subsequent claims adjuster, you have the right to be assigned a primary point of contact and a direct means of communication. Cal Ins. Code § 14047. You are also entitled to a written status report with a summary of losses and payments made, the amount of coverage, and whether they have hired any professionals to assist with the claim. Cal. Ins. Code § 2071.
- **Appraisal** – Appraisal is a process outlined in the policy and law as one option for resolving valuation disputes. In a State of Emergency claim, you have the right to reject the insurance company’s attempt to invoke this process. Cal. Ins. Code § 2071. An insurance company does not have the same right if you invoke the process.
- **Deadline to File a Lawsuit** – For claims relating to a State of Emergency, the time limit to bring a lawsuit against your insurer is no less than 24 months from the date your claim is paid (or denied).

Cal Ins. Code § 2071.

- **Guaranteed Renewal** – When your policy comes up for renewal after your home was directly impacted by a declared disaster, you have the right to have your policy renewed for two more years. This rule is unique to California. An insurer cannot cancel your coverage while you’re rebuilding after a disaster. Cal Ins. Code § 675.1(a). Insurers also cannot cancel or refuse to renew a policy of residential property insurance for a property located in a ZIP code within or adjacent to the fire perimeter for one year. The protected ZIP codes are published in a bulletin by the Insurance Commissioner. Cal Ins. Code § 675.1(b).

### **Claim Handling Rules and Time frames For All Claims**

Whether or not your claim occurred during a State of Emergency, you have the following rights in the adjustment of your claim.

- **Right to Disclosure of Benefits** – Your insurance company must disclose all benefits, coverages, time limits, or other provisions of any insurance policy that may apply to the claim presented. When additional benefits might reasonably be payable under an insured’s policy upon receipt of additional proofs of claim, the insurer must immediately communicate this fact to you and cooperate with and assist you in determining the extent of their liability. 10 Cal. Code Regs. § 2695.7(a).
- **Right to a Timely Start to the Claim Investigation** – You have the right to have your claim investigation begin within 15 days of submitting your claim. 10 Cal. Code Regs. § 2695.5(e).
- **Right to Claim Acceptance or Rejection in 40 Days** – You have the right to have your claim accepted or rejected in whole or in part within 40 days of submitting proof of claim. If they reject your claim, you have a right to a written explanation of all factual and legal bases for doing so and explanation of any applicable statute or other law. 10 Cal. Code Regs. § 2695.7(b). An insurer is not restricted from acting later on new information. If an insurer needs more than 40 days to make a decision, they must communicate to you in writing their need for more time. In addition, they must explain what they need to make their decision, and provide an estimated time frame. 10 Cal. Code Regs. 2695.7(c)(1).
- **Right to Payment Within 30 Days** – You have the right to receive any payment the insurance company does not dispute within 30 days of its agreement to pay. 10 Cal. Code Regs. 2695.7(h).
- **Right to 30-Day Updates** – You have the right to receive status updates from your insurer every

30-days while the claim remains unresolved. 10 Cal. Code Regs. 2695.7(h).

- **Right to Actual Cash Value Payments Before Rebuilding, Repairing or Replacing Property** – For any insurance policy that pays you based on the “replacement cost” of your property, you have the right to timely receive a payment for the actual cash value of the property. You have the right to this payment, subject to your insurance limits, before you ever start repairing or replacing. Actual cash value, or ACV, is calculated as “the amount it would cost the insured to repair, rebuild, or replace the thing lost or injured, less a fair and reasonable deduction for physical depreciation based upon its condition at the time of injury.” A deduction for depreciation can only be applied to things that normally “wear out” and cannot be applied to labor. In calculating depreciation, the insurer must consider both the age and condition of the property at the time of loss. Cal Ins. Code § 2051(b), 10 Cal. Code Regs. § 2695.9. You also have the right to know how your insurance company calculated depreciation. Cal Ins. Code § 2071, 10 Cal. Code Regs. § 2695.9. There are no “official” depreciation schedules, insurance companies vary on these calculations, so you should advocate for fair valuation of your property.
- **Right to a Prompt, Fair, Thorough Investigation** – “Every insurer shall conduct and diligently pursue a thorough, fair and objective investigation and shall not persist in seeking information not reasonably required for or material to the resolution of a claim dispute.” 10 Cal. Code Regs. § 2695.7(d).
- **Right to Choose Your Own Contractors** – You have the right to use any contractor or vendor you want to perform repairs. 10 Cal. Code Regs. § 2695.9(b).
- **Right to Guarantees for Insurer-Referred Contractors** – If your insurer refers or suggests a contractor, the insurance company must guarantee the work is performed in good workmanlike condition and in line with current accepted trade standards. 10 Cal. Code Regs. § 2695.9(c).
- **Right to Timely Responses** – In any claim, you have the right to receive an acknowledgement of any communication within 15 days, all responsive information, any forms you’re required to complete, and reasonable assistance. 10 Cal. Code Regs. § 2695.5(b), (e).
- **Right to access your insurance claim file** — Upon request, you have the right to get copies of photos, estimates and other claim-related documents in your insurer’s file on your claim within 15 days of making a written request. Email counts. Cal Ins. Code 2071. You also have a right to a complete copy of your current policy within 30 days. Cal Ins. Code § 2071, 2084.
- **Right to Progress Reports** – If within a 6-month period, your insurance company assigns a third (or subsequent) adjuster to handle your claim, you have the right to a written status report. This report must include a summary of losses and payments made, the amount of coverage, and

whether they have hired any professionals to assist with the claim. Cal. Ins. Code § 2071.

- **Right to Advanced Notice of Deadlines** – You have the right to written notice within 60 days of any deadlines that cut off your right to collect additional benefits or file a lawsuit. The notice must clearly state the time limit and how it will impact your rights. Look for language that says, “Suit Against Us” or similar language. 10 Cal. Code Regs. 2695.7(f).
- **Right to Reasonable Uniform Appearance in Repairs** – Whenever you have damage to only part of your home, you have the right to benefits for the cost of replacing any non-damaged portions in order to achieve a reasonable uniform appearance, and therefore, to avoid the appearance of patchwork repairs. 10 Cal. Code Regs. § 2695.9(a)(1).
- **Right to Coverage for Consequential Damage** – When repairing or replacing damage caused by a covered loss, and the repairs cannot be completed without performing work on non-damaged portions of the property, you have the right to have your insurer cover all such costs, without deduction for depreciation. 10 Cal. Code Regs. § 2695.9(1).

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