

## **Insurance Consumer Rights in Georgia (2021)**

Insurance policies are contracts and legal rules come into play when you file an insurance claim. You are “the insured” and your insurance company is “the insurer.” Understanding your basic legal rights will help you be your own best advocate and collect all available policy benefits to cover your losses. After large disasters, it’s common for your insurer to rotate adjusters, which means you’ll be dealing with a series of different adjusters. Knowing your basic legal rights will make it easier for you deal with rotating adjusters and keep your claim on track toward a fair and full claim settlement without unreasonable delays.

Your insurance company and its employees are required to be fair and reasonable and follow Washington laws and regulations. They must do a timely, thorough and unbiased investigation and assessment of your loss(es). They must pay or deny your claim in a timely manner and in full 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 the claim process and enforce your right to a fair, full and prompt claim settlement.

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. Here are the four places where your rights as a Georgia insurance consumer are spelled out:

- Georgia Rules and Regulations

- Department 120. Rules of Comptroller General
  - 120-2. Rules of Comptroller General Office of Commissioner of Insurance
  - [120-2-20 Unfair Trade and Claims Settlement Practices](#)
  - [120-2-52 Fair and Equitable Settlement of First Party Property Damage Claims](#)

- Official Code of Georgia Annotated

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The information presented in this publication is for general informational purposes and is not a substitute for legal advice. If you have a specific legal issue or problem, United Policyholders recommends that you consult with an attorney. Guidance on hiring professional help can be found in the “Find Help” section of [www.uphelp.org](http://www.uphelp.org). United Policyholders does not sell insurance or certify, endorse or warrant any of the insurance products, vendors, or professionals identified on our website.

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Title 33. Insurance  
Chapter 6. Unfair Trade Practices  
[Article 2. Unfair Claims Settlement Practices.](#)

### **Claim Communications**

UP strongly recommends keeping a journal about your claim. The journal should document the date, time, and nature of the issue being documented. Additionally, communicating in writing with insurance company representatives so there is a clear paper trail of how your claim is being handled. Email is a great tool. After in-person, telephonic, or virtual discussions with the insurance company representative you should 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.

(<https://www.uphelp.org/pubs/speak-how-communicate-your-insurance-company>).

### **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! Document the contractors or service providers you called, who you spoke with, and what they told you in your claim journal. Sometimes following a natural disaster more work exists than skilled labor can support and it is important to document that you kept trying to find someone to help protect your property following a loss.

#### **Processing your claim**

**15 Days** - Every insurer must acknowledge receipt of a claim from its insured within 15 days, unless the claim is paid within that time period. (120-2-52.03(1)).

#### **Investigating your claim**

**15 Days** - The insurer must confirm or deny liability on claims within 15 days of receiving the completed proof of loss from the insured. If a proof of loss is not required by the insurer, then the confirmation or denial must be within 30 days from the date the claim was reported to the insurer. (120-2-52.03(3)).

### Paying or denying your claim

**10 Days** - Payment must be tendered within 10 days after coverage is confirmed and the full amount of the claim is determined and not in dispute. Portions of claims involving multiple coverages must be paid which are not in dispute within 10 days if such payment would terminate the insurer's known liability under that individual coverage. (120-2-52.03(4)).

### Total time for processing

**60 Days** - After following a prescribed process, the total time the insurer has to confirm or deny liability must not exceed 60 days from the insurer being notified of the claim, unless the insurer has documented the claim file where information has been requested which is necessary to determine liability and the information has not been submitted. (120-2-52.03(5)).

### 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 Georgia law that may be applicable. 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.

While Georgia statute §33-6-34 prohibits certain practices by insurance companies, the statutes expressly prohibit a right of action by a policyholders against insurance carriers for violations. Rather, a policyholder looking to prevail for a violation of Georgia's bad faith statute must prove (1) the claim is covered under the policy; (2) the insurer refused to pay within 60 days of a demand for payment prior to suit; and (3) the insurer's failure to pay was motivated by bad faith. [\[1\]](#)

### Preserving your right to sue if necessary

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credit, marine and transport, or vehicle insurance policy providing first party coverage for loss or damage to any type of real or personal property contain a contractual limitation less than the time allow in the “Standard Fire Policy” in Chapter 120-2-19.01. At the time of this writing the period was “within 2 years next after inception of the loss.” 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.

### **Unfair Claim Practices**

Your insurer is prohibited from using unfair claim settlement practices. These practices are set out generally in the [Official Code of Georgia Annotated Title 33. Insurance Chapter 6. Unfair Trade Practices 34. Unfair claims settlement practices.](#) While a violation of these trade practices does not afford an individual to file an action directly against the insurer, complaints to the Office of the Commissioner of Insurance can be filed. Additionally, Insurers have a duty of good faith in the handling of your claim and to prevail in an allegation of bad faith, a policyholder must prove:

1. The claim is covered under the policy;
2. The insurer refused to pay within 60 days of a demand for payment prior to suit; and
3. The insurer’s failure to pay was motivated by bad faith.

Should a policyholder prevail, in addition to the loss it can recover up to 50% of the claim and attorney’s fees.<sup>[2]</sup>

If after reviewing the Unfair claims settlement practices and you believe a violation has occurred, it may prove wise to consult with a qualified attorney. See the “Hiring Professional Help” section below.

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

The Office of the Insurance Commissioner of Georgia 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](https://uphelp.org) and Insurance Resources for Georgia <https://uphelp.org/recovery/state-by-state-help/Georgia/> for resources and tips on the process and strategy of filing a formal complaint.

You can call the Office of the Insurance Commissioner consumer hotline with any questions or complaints

toll-free at 800-656-2298, or visit <https://oci.georgia.gov/file-consumer-insurance-complaint> to learn more, or file a complaint online. Their mailing address is:

Office of the Commissioner of Insurance  
2 Martin Luther King Jr. Dr.  
Atlanta, GA 30334

### **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.

**Attorney** - 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 Georgia Bar. Visit our Georgia Professional Help Directory at: <https://uphelp.org/recovery/state-by-state-help/Georgia/>

Questions and Answers for Hiring an Attorney for an Insurance Claim  
<https://www.uphelp.org/pubs/hiring-attorney-insurance-claim>

**Public Adjuster** - A qualified public adjuster 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. Georgia public adjusters can also be found by visiting:  
<https://uphelp.org/recovery/state-by-state-help/Georgia/>

Questions to Ask Before Hiring a Public Adjuster

<https://www.uphelp.org/pubs/questions-ask-hiring-public-adjuster>

## **Using the Legal System to get a Fair Settlement**

If you haven't been able to get a fair insurance claim settlement on your own or with help from a professional and/or your state's insurance oversight agency, filing a lawsuit is your next option. If your lawsuit is successful, you can recover what the insurer owed and (ideally) also get compensation for the expenses you incurred chasing the policy benefits you were entitled to in the first place. Your success in using the legal system to get a fair settlement will depend on the quality of the lawyer(s) you hire, the laws in your state and the facts in your case.

It's common to worry that a lawsuit will be too time-consuming or expensive (or both), but if you get the right lawyer and your case is strong, suing an insurer is often the best and only way to recover what you're owed. Finding a qualified lawyer is essential. Insurance matters require specialized expertise and you need a strong advocate who speaks the language and has previous experience litigating against an insurance company.

Start in our ["Find Help"](#) section and click on your state to find professionals who specialize in representing policyholders and support United Policyholders. You'll find many lawyers on the Internet that advertise as insurance specialists, and many of their websites have a chat window that pops up as soon as you visit their site. Speak directly to the lawyer who'd be handling your case and interview them about their insurance and litigation experience. Get and check client references. A lawsuit is a major undertaking but is often the best way to get full compensation, so be an astute consumer and choose your attorney carefully.

The cost of hiring an attorney varies from firm to firm. The two main options are attorneys who charge by the hour and those who work on contingency. For most policyholders, hiring an attorney on a "contingency" fee basis is the only feasible way of doing battle with a well-funded insurance company. Hourly fees for lawyers vary according to firm size, experience of the attorney, and geographic location. While attorneys who work on contingency usually set their fee at 33% of the amount they recover on your behalf, that may increase to 40% if your case goes to trial. Most cases settle before trial. In some states you may not have the option of hiring an attorney on a contingency fee basis.

Using the legal system gives you leverage to get a better settlement and a lawsuit is a valuable tool. For more guidance on what to consider before suing your insurance company, read [Hiring an Attorney for an Insurance Claim](#) on [uphelp.org](http://uphelp.org)

## **Best Practices**

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.