

## Resolving Flood Insurance Disputes

If you feel your flood insurance claim has not been handled or paid fairly, learn what your options are, and be pro-active. United Policyholders' goal is to help you be your own best advocate in recovering all insurance benefits owed.

Evaluating the causes of a loss and putting price tags on property damage and repairs is not an exact science. It's very common that inspections and estimates are incomplete, and reports are just plain wrong. Finding and hiring reputable and experienced professionals to inspect your property and write up their findings is an essential step toward resolving a flood insurance dispute.

### **1)Your flood damage and costs to repair should be fully documented and described in a Proof of Loss package submitted to the National Flood Insurance Program.**

All flood victims who may still be owed insurance money are strongly advised to complete paperwork and file claims **before** the Proof of Loss deadline. We recommend getting everything in as soon as possible. If you are filing a supplemental Proof of Loss (that adds to or changes an earlier submitted version) attach all of the supporting documentation that you have already submitted, plus updated amounts and documentation.

**Keep focusing on documenting your loss - get the right experts on your side.** The type of expert you need depends on the type of damage in dispute. Gathering supporting documentation will help you understand the cost of the damage and provide proof to support your claim. The right expert will help you:

- prove the extent and cause of damage
- prove the value of damage
- discredit biased experts
- dispute damage was "pre-existing"

The amount owed on your proof of loss forms should be the total amount of your claim, both the amount

you have already received and the full amount that you believe is due.

**2) If you've submitted a complete Proof of Loss, but haven't gotten a satisfactory payment, send the flood claim adjuster a letter requesting:**

- The exact wording of the policy language he/she/the NFIP is relying on to reject or deny your claim (or a part of your claim)
- Complete copies of all evaluations, reports, estimates you have prepared or caused to be prepared that relate to our property and the claim referenced in this letter.

**3) Go up the chain of command above your adjuster's level - And keep notes:**

Talk to your adjuster - your insurance adjuster's supervisor and a representative of the NFIP.

**4) File an appeal.** You have 60 days from the date of a denial to file an appeal with the NFIP.

In your appeal letter, you MUST include the following 6 items:

- a) The Policy Number, as shown on your NFIP policy's declarations page.
- b) The policyholder's name, as shown as the Named Insured on the declarations page.
- c) The address of the insured, damaged property, as shown on the declarations page.
- d) How you can be contacted, if you are out of your home.
- e) A summary of the claim, facts and details - highlight the items in dispute and confirm how cooperative you've been throughout the process.
- f) The dates of contact and a summary of your communications as you went "up the chain of command" trying to resolve the dispute informally.

The state department of insurance has no jurisdiction over flood insurance policies sold by the NFIP so if negotiations and/or an appeal don't resolve the dispute, consulting a qualified attorney is your next step.

**5) Consult an Attorney. If negotiations and/or an appeal don't resolve the dispute, consulting a qualified attorney is your next step.**

It is important to find an attorney who specializes in representing *insureds* not *insurers*, and who has experience with flood claims and the NFIP. Flood claims and the NFIP have special legal rules.

There are very strict deadlines for filing a flood insurance claim lawsuit. It is also important to ask questions and understand the fee structure before signing up with an attorney. The best case scenario is to hire a lawyer on a "contingency fee" basis – which means the attorney does not charge by the hour but instead is paid a percentage of the settlement. Ideally your lawyer should also advance case costs. Make sure to reach an agreement in advance about any/all costs you will be expected to pay. Check references carefully before hiring.

**Additional information about two common disputes:**

**Earth movement:** If damage to your home or foundation is being denied based on the "earth movement" or "pre-existing damage" exclusions in the flood policy, you may have to hire a licensed professional engineer (PE) to generate a report confirming and documenting your flood damage. You want one with flood damage experience who can identify, for instance, whether damage was caused by hydrostatic pressure (covered) versus earth movement (excluded). Get this done within your deadline to submit proof of loss, and attach the favorable engineering report with your proof of loss. Again, finding the right expert is critical.

**Basement exclusion:** If the flood claim adjuster rejected all or part of your claim for parts of your home that he/she deems a basement, but that you believe are not a basement, hire an experienced state-licensed surveyor to complete an elevation certification. Get this done within your deadline to submit proof of loss, and attach favorable documentation with your proof of loss.