

Answers to questions about insurance coverage are subject to the terms of your policy. Below are some answers to general questions. Remember that you must always look to the terms of your policy when considering the coverage issue for your claim.

FLOOD INSURANCE FAQs Q. I have flood damage. What do I do first?

If you have experienced a flood loss, the first step is to contact your agent or insurance company. Make sure you have the following information:

- The name of your insurance company; - Your policy number; and - A telephone number or email address where you can be reached at all times.

In addition to contacting your agent or insurance company, your flood policy requires you to give prompt written notice to the National Flood Insurance Program (NFIP). A Notice of Loss form is available online at:

https://www.fema.gov/medialibrarydata/1404746898928e8da8e6d244678c1fe354bdba35293cf/FEMA_Form_086-0-11.pdf¹

Q. I've reported my flood loss to my agent or insurance company. Now what do I do?

An adjuster should contact you within a few days. If you do not hear from an adjuster, contact your agent or insurance company again.

In the meantime, separate damaged from undamaged property the best you can. Take photographs of all damaged property, including discarded objects, structural damage, and standing floodwater levels.

Q. Do I have any other responsibilities?

Yes. Closely read Section J. *REQUIREMENTS IN CASE OF LOSS* and Section K. *OUR OPTIONS AFTER LOSS* of your flood policy. These sections list your responsibilities. In addition to giving NFIP prompt written notice of the loss and separating damaged from undamaged property, your policy also requires the following:

- prepare an inventory of the damaged property;

¹ This form is currently under review at the Office of Management and Budget (OMB) and has expired effective April 30, 2017. However, OMB has authorized the continued use of the existing form, until the review process is complete. Upon OMB approval, FEMA will update this record with the new form.

- within 60 days after the loss, send NFIP a signed and sworn proof loss, which is your statement of the amount you are claiming. **BE ADVISED THAT THE PROOF OF LOSS REQUIREMENT IS MANDATORY. NEITHER YOUR AGENT NOR YOUR INSURANCE CAN WAIVE THIS REQUIREMENT. YOU MUST STILL SEND NFIP A PROOF OF LOSS EVEN IF YOUR ADJUSTER DOES NOT FURNISH THE FORM OR HELP YOU COMPLETE IT;** The Proof of Loss form is available online at:

https://www.fema.gov/medialibrarydata/14047450705124523e347d5c3d5dd8a463ab3c6c9e15f/FEMA_Form_086-0-9.pdf

- You must cooperate with the adjuster or representative in the investigation of the claim. This includes showing the adjuster the damaged property;

- Submit to an examination under oath, while not in the presence of another insured, and sign same.

- Permit the insurance company to examine and make copies of other insurance policies, documents related to the damaged property, and an inventory of lost or damaged property, including their value.

Q. What is a “Proof of Loss?”

A proof of loss—the policyholder’s valuation of claimed damages—is a sworn statement made by the policyholder that substantiates the insurance claim and is required to be submitted to the NFIP (National Flood Insurance Plan) or the WYO (“Write Your Own”) – this would be the insurance company who sold you the policy – **within 60 days of the date of loss.** A copy of the form is available online at:

https://www.fema.gov/medialibrarydata/14047450705124523e347d5c3d5dd8a463ab3c6c9e15f/FEMA_Form_086-0-9.pdf

Q. When does the Proof of Loss need to be filed?

The written Proof of Loss must be filed within sixty (60) days of the loss. It must be delivered, not mailed. This is extremely important, as **failing to timely file the proof of loss is an absolute bar to recovery**. *Wright v. Allstate Ins.*, 415 F.3d 384 (5th Cir. 2005). The proof of loss can be waived or extended, but you must get express written consent from the Federal Insurance Administrator for any waiver of the proof of loss requirement.

Q. Are there other requirements for a flood policy proof of loss?

Yes. As with the Notice of Loss, you need to use the standard form utilized by FEMA.

The form must be filled out completely or it will be disallowed. For example, a proof of loss which doesn't provide the amount of money that the insured is claiming is insufficient. Also keep in mind that supplemental proofs of loss may properly be disallowed under the flood policy.

Q. Can I recover ALE (“additional living expenses”) under my flood policy?

No. The NFIP Flood policy (dwelling) does not include ALE or loss of use. It does, however, provide you the opportunity to get reimbursed for the hours you spent tearing out and rebuilding your home. The rate of pay is Federal Minimum Wage. A form is attached for you to keep up with your hours and the hours of others working on your home.

Q. What is Increased Cost of Compliance coverage?

Increased Cost of Compliance (ICC) coverage under the Standard Flood Insurance Policy (SFIP) provides for payment of a claim to help pay for the cost to comply with State or community floodplain management laws or ordinances form a flood event in which a building has been declared substantially damaged or repetitively damaged. When an insured building is damaged by a flood and the State or community declares the building to be substantially damaged or

repetitively damaged, ICC coverage will help pay for the cost to elevate, flood proof, demolish, or relocate the building up to a maximum benefit of \$30,000. This coverage is in addition to the building coverage for the repair of actual physical damages from flood under the SFIP.

Q. What is the time requirement for filing suit?

A suit must be filed in federal court within one year of the disallowance of the claim. Federal courts have exclusive jurisdiction over claims that arise under a flood insurance policy, and any suit brought in state court does not toll the one year statute of limitations. It has also been held that trials for disputes of flood claims cannot be resolved with a jury trial but a trial before the judge.

Q. Can I cash a check that I receive from my insurance company?

Yes. It is customary for insurance companies to issue checks in payment of claims. Many times, supplement checks are made in a claims process. You do not waive any claims against an insurance company for cashing a check unless you complete some form of release with the document. Rather, you have a duty to minimize your losses and you should use the money received to protect your property.

WINDSTORM COVERAGE FAQs Q. Can I have a Windstorm claim if I do not have flood insurance?

Yes, provided that there is evidence that you sustained windstorm damage. Evidence of windstorm damage can be seen with shingle loss, exposed decking, wet insulation in the attic, water staining on the ceilings, visible seams in the sheetrock, as well as trim separation (among other things).

Q. What is “wind driven rain” and am I required to show an “opening” before I can recover for water damage to my home?

Some policies have exclusions for “wind driven rain” and require that the windstorm cause an opening in the home which lead to the water damage. An “opening” can include shingle loss, vinyl loss, broken windows, etc.

Q. Can I make a windstorm claim and a flood loss claim at the same time?

Yes, provided that you can demonstrate windstorm loss (see above). However,

coverage under your windstorm policy may not extend to damages below the flood line in your home.

Q. How long does my insurance company have to settle my claim?

Insurance companies have a duty to promptly pay your claim. Within time deadlines established in the Insurance Code, an insurance company may owe you interest for late payment of claims. The interest rate is calculated by addition 3% to the rate set each month by the Texas Consumer Credit Commissioner.

Q. Will the insurance company pay my lawyer separate from my settlement?

Not usually. Although attorney fees may be recoverable under the Insurance Code, settlements with insurance companies usually include an amount for attorney fees and applicable interest in the gross settlement amount. The attorney fees for your case are taken out of the gross or net settlement according the contract you have with your attorney (usually a percentage).

Q. What is the time requirement for filing suit?

Most policies state that the deadline to file suit is 2 years and 1 day from the date the “cause of action accrues.” Some policies just state 2 years from “date of loss.” You need to consult your policy to be sure.

Q. Can I recover ALE (“additional living expenses”) because I was under a mandatory evacuation even if my home was not damaged?

It depends on your policies. Most policies require damage to your home sufficient to entitle you to the additional living expense allowance. If a showing of damage is required in your policy, a mandatory evacuation is not sufficient to mandate ALE coverage.