



## Insurance Claim Rules in California – Woolsey Fire 2018

Your insurance company, and its employees, are required to follow California law when handling your property damage claim.<sup>1</sup> Some laws are triggered by a declared state of emergency; they change how and when claims must be paid. Adjusters, especially those who come from out of state after a disaster, don't always know or follow the rules, so it's often up to you to understand and enforce them. You can use the guidance and sample letters you'll find on United Policyholders' [website](#) and in our print materials, to help you navigate this process.

### Voluntary Claim Handling Practices

Following the wildfires, the Insurance Commissioner issued a notice calling on all property insurance companies to implement claim procedures to help residents and businesses recover more quickly. The following is a set of rules instructing them how they SHOULD act. While your insurance carrier may not be bound by all of these rules, asserting them may give you leverage to help you better resolve your claim.<sup>2</sup>

#### **Cash advances**

Additional Living Expenses - Your insurance company *should* give you cash advances while working with you on calculating your losses and benefits. If your insurer agreed to abide by a set of "Voluntary Claims Handling Reforms" created by the California Department of Insurance, they should give you a **4-month advance** on your Additional Living Expense ("ALE") or Loss of Use benefits.

Personal Property (Contents) - Insurance companies *should* provide a standard of **at least 25% of your Personal Property/Contents** limits as an advance payment. Insurance companies are also being asked to provide 75%, and up to 100%, of personal property limits without requiring an itemized list.<sup>3</sup> Even if your insurance company didn't sign on to this agreed set of reforms, they may abide by them if you ask them to.

#### **Personal Property Inventory**

Insurance companies *should* agree to accept home inventory software (or paper alternatives) rather than requiring a company-specific inventory form. Moreover, they should also agree to accept reduced itemization, or "bulking" of items (i.e. "15 books" instead of listing all titles).

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<sup>1</sup> California Code of Regulations sec. 2695.4-7; California Insurance Code sec. 790.03; For more information, see: <http://www.uphelp.org/pubs/guide-your-insurance-legal-rights-california>.

<sup>2</sup>See <http://www.insurance.ca.gov/01-consumers/140-catastrophes/upload/ExpeditedClaimHandlingBillingGracePeriodProceduresForCaliforniaWildfires.pdf> (November 15, 2018)

<sup>3</sup>See [http://www.insurance.ca.gov/01-consumers/140-catastrophes/upload/Scanned-Image\\_November2018FiresNotice.pdf](http://www.insurance.ca.gov/01-consumers/140-catastrophes/upload/Scanned-Image_November2018FiresNotice.pdf) (December 3, 2018)

## **Claim Handling and Time Frames**

### **Processing your claim**

15 days - The insurance company must acknowledge that they have received your claim within 15 days after you give them notice. They must provide you with the forms you're required to complete and explain how you're supposed to complete them.

### **Investigating your claim**

15 days - The insurance company must begin any necessary investigation within 15 days of receiving your claim.

30 days - They must provide you with additional written notification that the investigation is incomplete and the reasons it is incomplete every 30 days. Large disasters often make this deadline difficult to comply with, so claim handling is routinely extended. Don't accept the excuse, "we need more time." Ask your insurance company to be specific about what they are doing and what they need to complete this claim.

### **Communicating information to you**

15 days - The insurance company must answer your questions and reply to your communications, including phone calls, emails, and letters within 15 days. The insurance company must explain to you all policy benefits, applicable coverages, and any proof of claim deadlines. Upon request, they must also produce a copy of all claim-related documents within 15 days.

30 days - Upon written request, your insurance carrier must provide you with a complete copy of your policy within 30 days.

If, within a 6-month period, your insurance company assigns a third (or subsequent) adjuster to your handle your claim, the insurance company must provide you with 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].

### **Paying or denying your claim**

40 days - The insurance company must accept or reject your claim in whole or in part within 40 days. If they reject your claim, they must list all factual and legal bases for doing so with explanation of any applicable statute or other law.

30 days - *If the insurance company accepts your claim*, they must pay the undisputed portion of the claim immediately but not later than 30-days.

### **Preserving your rights**

60 days - Your insurance company must provide written notice to you within 60 days of deadlines that cut off your rights 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, as this may start the clock ticking.

### **Fair Depreciation**

Almost every policy allows an insurance company to depreciate your property to reflect the condition it was in at the time of the loss. They must consider both age and condition of the

property. [Cal. Ins. Coe 2051(b)]. You generally have the right to collect the difference between that depreciated amount and what it costs you to replace the property, depending on the policy language. You have the right to know how your insurance company calculated depreciation and how they calculated their settlement offer. [Cal Ins Code 2071; CCR 2695.9]. There is no “official” depreciation schedule, insurance companies vary on these calculations, so you should advocate for fair valuation of your property.

## **Important Rules for 2018 Wildfire Survivors**

### **Collecting Full Replacement Cost**

For claims relating to a state declared emergency, you have *at least 36 months* (previously 24) from the date that the first payment toward actual cash value is made to collect your full replacement cost. [Cal. Ins. Code 2051.5(b)(1)]. Additional extensions of six months should be provided to policyholders for good cause. CA law also allows you to use your full replacement benefits, including any building code upgrade costs and any extended replacement cost coverage you may have, to

- rebuild your home at the current location,
- rebuild at a new location, or
- purchase an already built home at a new location.<sup>4</sup> [Cal Ins. Code 2051.5(c)].

### **Additional Living Expenses**

For claims relating to a state declared emergency, insurers must offer Additional Living Expenses (ALE) for a period of at least **36 months** (previously 24) if the insured is acting in good faith and with reasonable diligence, up to policy limits. [Cal Ins. Code 2051.5(b)(2)]. This coverage stops when you rebuild or relocate permanently. Additional extensions of 6 months must be granted for good cause. Your insurer must give you, upon request, a list of items normally classified as reimbursable ALE expenses. [Cal Ins. Code 2060]. Typically, ALE is paid via an advance off of future payment to get you situated after the shock of the loss, then on an “as incurred” basis as you submit receipts and document expenses.

### **Complaints, Attorneys & Litigation**

For claims relating to a state declared emergency, the time limit to bring suit is **24 months** (previously 12) from the date your claim is paid (or denied). [Cal Ins. Code 2071].

Your insurance company cannot

- retaliate against you for making complaint to the California Department of Insurance,
- withhold payments until the complaint is withdrawn,
- threaten or intimidate you to keep you from making a complaint, [CCR 2695.7]
- unreasonably deny a claim, which in turn forces you to have to sue to recover benefits owed [Cal Ins Code 790.03], or directly advise you against obtaining the services of an attorney.

The information presented in this publication is for general informational purposes, and should not be taken as 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 at our website. United Policyholders respects and protects the privacy of all individuals who communicate with us. We do not sell or share our membership or mailing lists.

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<sup>4</sup> See: United Policyholders – Buy or Rebuild? (<http://uphelp.org/pubs/buy-or-rebuild>); and Legal Opinion of General Counsel for the California Department of Insurance, Adam Code, April 3, 2008 (<http://uphelp.org/sites/default/files/publications/435314cicsection2015.pdf>)