

HELPFUL HINTS FOR HURRICANE HARVEY VICTIMS

The following document does not constitute legal advice nor does it create an attorney-client relationship. If you have questions about your legal rights or insurance claims, you should reach out to the appropriate professionals and/or obtain legal counsel of your choosing. This document is a public service to our community, an effort coordinated by the Katy Bar Association and the Fort Bend County Bar Association.

General information regarding filing insurance claims and September 1st

We are writing to provide general insurance concepts and information in response to our communities' immediate questions, as well as concerns circulating about September 1st. We recommend that you read this entire memo from top to bottom, because the information in lower-listed categories sometimes builds upon (and presumes that you have read) the categories listed above. FEMA claims cannot address things that are covered by your own insurance. FEMA claims are to be addressed in a separate memo.

Flood Insurance versus General Homeowner's Insurance:

The determination of whether particular circumstances or events are covered by your insurance policy depends on the written terms of your policy. Terms can vary widely from policy to policy. If you do not have a copy of your policy, your agent and your insurance company will be able to access a copy.

Most homeowner's policies do not provide flood insurance, which is separately priced at the time you applied for or renewed your insurance policy. In general, homeowner's policies may address non-flood issues. For example, they may address wind damage, and resulting damage to a home/property when wind causes trees or limbs to fall on a home. They may address roof damage caused by wind, hail or funnel clouds/tornadoes, and resulting damage that seeps through the roof.

Flood insurance is a product of federal government programs, rather than state law-based insurance plans. Flood insurance may apply when water enters a home as a result of flooding in the homeowner's area due to heavy rains, discharges from reservoirs/levees, etc.

When filing claims, do not presume to know the cause of the damage you are reporting. The "cause" (such as wind versus flood) can depend upon many factors and might be debated later, after a full assessment. Instead, report the type of damage that you know has occurred, such as a fence being down, water in the house and water in the neighborhood in general. Also tell the insurance company whether it is possible that other damage may have occurred since you left the home.

September 1st Issues:

There has been significant concern about what is being called a "September 1st deadline" for filing claims as a result of some recent changes in Texas law. Here are key things to know:

1. The September 1st deadline issue does not apply to flood insurance, which comes from federal programs. As a result, flood insurance falls under federal law, rather than Texas law.
2. **Non-flood insurance claims made after September 1st will not be denied coverage solely because they are filed after September 1st.**
3. State law changes that take effect after September 1st are limited in nature. State law changes for non-flood claims made after September 1st:
 - a. lower the interest rate that can be recovered if an insured claim is not being paid timely (from 18% to a floating rate that can be as low as 10%); and

- b. limit the amount of attorney's fees that can be recovered in some circumstances.

Persons having concerns about the changes may avoid concerns by filing claims by September 1st.

Filing Insurance Claims:

Many insurance companies' have websites through which you may create online accounts and file claims. Otherwise, to file an insurance claim, contact your agent. Provide your name, your mailing address, the address of the insured property (your home address for homeowner's policies), your policy number if you know it, and a description of the types of damage to your home and property. Again, do not presume to know the "cause" (*see the last paragraph of the first section of this memo*), but report the damage. Tell your agent whether you are uncertain of the full extent of damage. When in doubt—flood versus not flood—file claims for both. **Leave a contact number for you that will always be answered to avoid "phone tag" with busy agents and adjusters due to the high volume of claims.**

Remember that your vehicles generally fall under a different policy, although there may be some overlap. If your vehicle(s) have been damaged, file a claim under your auto insurance, as well. If your home and auto(s) are insured by the same company, remember to ask for both policy numbers if you have (or may have) damage to your vehicle(s).

Finding your insurance agent's name and contact information, and your policy number:

If you do not remember your agent's name and contact information, your insurance company can identify your agent and his/her contact information—address, phone, fax number and e-mail. Check the insurer's website, which may have an online lookup function.

If you do not have your insurance policy number(s), your insurance company will be able to look up that information when you call. Write down your policy number and keep it for all follow-up communications. When getting a policy number, read it back to the insurer to be sure that you wrote it down correctly number. The insurance companies' websites have an online lookup function for customers who are logged in to their accounts.

Confirming the filing of your claim and all communications about the claim in writing:

If possible, get written proof that you filed your claim(s). If e-mailing with your insurer, ask for a reply e-mail that confirms the insurer's receipt of the claim. Keep all written communications between you and your insurer relating to your claim. If you are using an e-mail plan that automatically deletes e-mail after a certain period of time, find a way to print out and keep a hard copy of the e-mail before that occurs. If your agent's office is experiencing internet or fax problems, ask them to send you confirmation by e-mail when their system is up. If you don't receive a confirmation within a couple of days, follow up again.

Whenever you speak to your agent/insurer, keep notes of: (1) the date you contacted the insurer; (2) the person with whom you spoke; and (3) the general information you provided during each call or meeting.

Important over-arching advice:

1. Keep all of your letters, faxes, e-mails and other communications with your insurer and agent (as well as all notes of conversations) until your claim is fully processed and paid, with all repairs completed to your satisfaction. If you have any dispute with your insurance company about whether or not your claim has been fully resolved to your satisfaction, continue keeping all of your communications and notes.

2. Take photos of all damage to homes (all rooms), autos and property. Take photos of each wall in each room. Use a yardstick or ruler to show the high water mark both outside and inside your house.

3. After photographing, prevent additional damage. For example, as water recedes from the home, cut away and remove the wet parts of the sheet rock. Mark a straight line at about 6 to 12 inches above the high water line. Repairs are easier and quicker with straight lines. You can use a level to mark the line, or you can snap chalk lines. Cut along the line with a sharp utility knife. Bag and remove the wet sheetrock. The internet has good examples of instructions, and your insurance company may have other helpful information on its website. When in doubt, check with your insurer before taking action.

4. Save a sample of ruined carpet and ruined carpet padding. If you had three different types/colors of carpet in the home, keep a sample (6 to 12 inches square) of each.

5. Keep high-value items (art and antiques, for example) so that the adjuster will have an opportunity to see them, before disposing of them. Photograph them, as well.

6. Document all contents. Write a list of everything that is ruined. Organize things by categories, and be detailed within the categories. If you list 10 books, take a photo of the 10 books. If a book is very valuable such as a rare first edition, note that information, photograph it separately and, if possible, keep it in a plastic bag pursuant to item number 5, above. Be equally detailed with clothing—photos and descriptions of shoes, jackets, shirts, slacks, etc.

7. Save all receipts. Proof of all costs and expenses is essential to reimbursement. This includes proof of purchases of utility knives, plastic bags...everything.

8. Do not put flood debris where rain can cause it to float away. This will be a slow process. Be thoughtful of our environment.

9. Begin getting bids, but *do not sign contracts for repair/replacement until your insurance company gives you written information about how much it will pay on your claim.* Your insurance company will have input on contractors and their estimates. Contractors and adjusters sometimes must confer and agree on a reasonable cost of repair/replacement. **You do not want to become locked into a contract that far exceeds the insurer's estimate.**

10. Be careful about contractors. Ask for multiple references for the contractors and their subcontractors, and check them. Be prepared to wait.

11. As item number nine, above, illustrates: Claims adjusting is a process. It takes time. Sometimes the scope of the claim must be increased as additional damage/complication is identified. When volumes of claims are high, patience can be tested by everyone. Good old-fashioned Texas kindness and courtesy can encourage others to better hear and consider your concerns.