

THE VOSS ★ LAW FIRM

Insurance Recovery Tips For the “Dwelling” Part of Your Claim

Goal:

Collect the full amount your insurer owes you for what it would reasonably cost to repair/rebuild your property after a loss.

Action:

Step One

Document your pre-loss property so you and the insurance company have a starting point to negotiate a settlement. How many rooms, what kind of finishes, what kind of windows, etc. Use whatever information you can get your hands on to recreate exterior and interior drawings and detailed descriptions of what your property was like before the loss. Building plans, photos, oral descriptions and whatever's left will all help. It doesn't have to be scientifically exact, but don't exaggerate or “pad”.

Step Two

Document the amount and type of repairs that need to be done so you and the insurance company can “get on the same page” concerning the work, quantities and materials that need to be priced.

This is known in the insurance business as a “scope”. How many feet of flooring need to be replaced, how much paint, how much carpet, etc. If you can agree on a scope of repairs with the insurance company, that scope can be passed on to contractors. The contractors come up with estimates based on the scope, and if their prices are far apart, you and the insurance company can see where they differ. Even if there are disagreements over what needs to be done and what's covered, having one document that lays it all out is *extremely useful* to settling a large insurance claim.

Step Three

Get two independent estimates from licensed, reputable contractors that you would hire to repair or replace your home. Make sure they account for the increased material costs that follow every disaster. Work toward a settlement with your insurance company that is based on the independent estimates. The insurance company will get its own estimates. Don't accept a settlement that is based on their estimates without getting at least two of your own.

Step Four

Negotiate a settlement of your dwelling claim with the insurance company that will cover the true costs of placing/repairing your damaged property. If they won't budge off a lowball number, consider going to “appraisal” and get professional help.

DWELLING CLAIM TIPS

1. DO YOUR BEST TO FIGURE OUT WHAT YOUR POLICY LIMITS ARE FOR “DWELLING” AND “OTHER STRUCTURES” COVERAGE, DON’T RELY 100% ON YOUR ADJUSTER

The page that states your name and address, policy number, dollar amounts of coverages and “endorsement” codes is called your “**declarations page**”, (often called a “dec” page). Dwelling coverage is generally called “Coverage A.” Check the dollar amounts/limits for your main coverage categories: “**Dwelling Contents**” (personal property), **Other Structures** (Additional/Appurtenant) and **Additional Living Expense**, (Loss of Use). You’ll need to do some math and piecing together to figure out what your policy limits actually are. Don’t rely solely on your insurer’s calculations. Check to see what the policy provides for increased construction costs from having to comply with local building codes. “**Building Code Compliance**” Make sure the policy limits and coverages are what you thought you bought.

CAUTION: A majority of total loss disaster survivors are underinsured, (meaning they have less insurance coverage than they need in at least one category). If you are underinsured, get educated on your options.

2. USE A THREE RING BINDER TO KEEP YOUR CLAIM ORGANIZED

Take and keep detailed notes of all conversations with insurance company representatives and contractors, record their names, phone numbers, job titles and supervisor's names.

Confirm agreements, disputes and deadlines in writing via letter, fax or email. Print out and keep copies of emails. Keep all receipts for temporary housing and items you replace and submit them to your insurer for reimbursement.

3. DON'T BE RUSHED INTO SIGNING ANYTHING OR AGREEING TO A QUICK INSURANCE SETTLEMENT

Be wary if your insurance company adjuster tries to rush you into a quick settlement. The check they are offering may seem like a lot of money but could be far below what you are entitled to recover. It takes time to calculate a total or large loss. An adjuster who tries to rush you into a settlement may be trying to earn brownie points with the boss by under-paying and quickly closing your claim. He or she may also suspect you are very underinsured, (your policy limits are too low to fully cover your losses).

Read all checks and drafts on both sides before depositing or cashing them. Don’t accept payments with words like “full” or “final settlement” printed on them unless you are absolutely sure the check or draft is for the full amount owed. You can simply ask the adjuster to issue a new payment without those words, and if they won’t and you need the money, notify your adjuster and insurer in writing that you are accepting it under protest and don’t agree that it’s payment in full.

4. IF YOU'RE SURE YOU'RE GOING TO RELOCATE AND DON'T WANT TO REBUILD, YOU STILL NEED TO DETERMINE THE COST OF REPLACING OR REPAIRING YOUR HOME TO REACH A FAIR CLAIM SETTLEMENT

5. ALWAYS GET INDEPENDENT REBUILDING AND REPAIR ESTIMATES FROM REPUTABLE PROFESSIONALS. YOU DO NOT HAVE TO ACCEPT THE INSURANCE COMPANY'S CONTRACTOR OR ESTIMATE

Beware of "lowball" estimates from insurance friendly contractors. Get written estimates of the true cost of replacing or repairing your home from reputable, independent professionals you would hire to do the actual work. If you do not intend to rebuild the exact same house, you are still entitled to settle your claim on the basis of estimates to replace what you had. To ensure a fair settlement, get contractor estimates on the original plans for your home. If none exist, it's worthwhile to pay to get "as-built" drawings of your former home.

**6. WORK TOWARD AN AGREED "SCOPE OF LOSS" WITH YOUR INSURER
The best tool for getting a fair settlement to repair or replace your home is a good "SCOPE OF LOSS".**

A Scope of Loss is a document that describes in detail the home you will be replacing/repairing. An accurate scope of loss goes room by room, listing the quantities and qualities of each feature and component. A scope of loss should be prepared without prices so competing contractors can put their own prices in and their estimates can be compared, APPLES TO APPLES.

The insurance company adjuster or your own contractor or public adjuster can prepare a draft scope of loss. A good scope needs thorough review to make sure it's complete and accurate.

7. GET YOUR CONTRACTORS AND THE INSURER'S CONTRACTORS TO BID ON THE SAME "SCOPE OF LOSS"

Most claim disputes arise because the insurer's and the insured's repair estimates are thousands of dollars apart but cannot be reconciled because they're not based on the same scope of loss.

If you and your insurance company can reach agreement on a detailed SCOPE OF LOSS, you can proceed to have your contractor(s) and theirs bid on the scope and you will be on the right path to a fair claim settlement.

8. REGISTER A COMPLAINT WITH THE DEPARTMENT OF INSURANCE AND GET HELP IF YOU'RE NOT GETTING FAIR TREATMENT

Every state has an Insurance "Commissioner" with two basic jobs. The first job is to watch over the finances of insurance companies doing business in their state to make sure they have enough money to pay claims. The second job is to make sure insurers are selling decent products and treating their customers fairly. A Commissioner who leans on insurers to treat customers fairly is a big help to disaster survivors.

If your insurance company is treating you unfairly and you've gone as far as you can with them but can't solve the problem, your next step should be to file a complaint with the insurance regulatory agency in your state. Take advantage of whatever information and services they offer to solve claim problems. Many state Insurance Commissioners don't lean hard enough on insurers unless they're pressured to do so, so let them know you need their help. Even if they don't solve your problem, at least let your state Commissioner's office know there are problems out there that need attention. Don't be afraid that complaining will make matters worse by angering your insurance company. It has the opposite effect. When it comes to insurance claims, the squeaky wheel gets paid.

To reach the Louisiana Dept of Insurance, call toll free 1-800-259-5300, or if you're outside Louisiana, call (225) 342-5900. Their website is <http://www.lidi.state.la.us>
To reach the Texas Dept. of Insurance, call toll free 1 800-252-3439, or (512) 463-6169. Their mailing address is: 333 Guadalupe, Austin 78701 - P.O. Box 149104, Austin 78714-9104, their website is: <http://www.tdi.state.tx.us>

9. THE DIFFERENCE BETWEEN "REPLACEMENT COST" AND "ACTUAL CASH VALUE" COVERAGE AFFECTS HOW MUCH AND WHEN YOU'LL BE PAID

These terms can be confusing, but break down as follows:

A) Replacement Coverage is what most people today have for their dwellings and their possessions. It allows you to replace what you lost at today's prices, regardless of how you got the items, what condition they were in or what you paid for them. However, **Depreciation** will be applied to many items even under a replacement policy (See below re: "**Actual Cash Value**" and "**Depreciation**"), **up to the limits stated on your Dec page.**

B) Extend Replacement Coverage allows you to replace what you lost at today's prices, even if the cost exceeds the limits stated on your Dec Page, up to a set extended percentage limit.

EXAMPLE: You have \$200,000 limits on your dwelling, and a 25% extended replacement cost endorsement. That means you have up to \$250,000 to rebuild, provided a reliable contractor estimates it will cost at least \$250,000 and you are successful in negotiating your structural settlement with your insurance company for at least \$250,000.

C) Guaranteed Replacement Coverage requires your insurer to cover the full cost to replace your home, regardless of the limits stated in your policy. This type of policy used to be widely available but was discontinued to virtually all insurers after 1992.

D) Actual Cash Value – is sometimes also called "Fair Market Value", which is the amount a willing buyer would have paid a willing seller for destroyed property just prior to the destruction. Insurers like to calculate ACV as replacement cost minus depreciation. Many items in your claim will be settled on the basis of their Actual Cash Value. Insurers often confuse their claimants and are inconsistent in the way they calculate and deduct depreciation.

E) Depreciation – is the loss in value from all causes, including age, wear and tear. Insurers may use an IRS depreciation schedule or their own schedule. Your adjuster will depreciate items, i.e. pay you less than their replacement cost, until you actually replace them and provide receipts.

F) A1 or A2 Dwelling Coverage – is a relatively new product sold by only a few companies that provides two levels of replacement insurance on your home. One type is more traditional coverage that pays for “like kind and quality” construction and materials to what you had in your destroyed home. The other, newer type only pays for a lesser standard of “equivalent construction”, which means it may cover only cheaper materials or shortcut repairs. If you have the lesser one, you should make sure that fact was fully disclosed when you bought it and make sure your premium reflected the lesser coverage.

Getting paid for “like kind and quality” versus “equivalent construction” makes a big difference if you have an older home. To preserve its value and integrity you’ll want like kind and quality repairs.

10. “ADDITIONAL LIVING EXPENSE” (“ALE” or Loss of Use) COVERAGE ENTITLES YOU TO MAINTAIN YOUR STANDARD OF LIVING

Submit for reimbursement all receipts of meals, lodging, and purchases from the time of the fire until your home is rebuilt. Maintain copies for your records. If the insurance company delays or circumstances beyond your control made the rebuilding or repairs take longer, argue for longer ALE benefits. If the destroyed home was your vacation or weekend home, you are entitled to compensation for temporary replacement quarters until rebuilding is complete. Establish the fair rental value of your home by working with a qualified realtor.

11. DO NOT SIGN RELEASES OR WAIVERS OF ANY KIND UNTIL YOU KNOW YOUR RIGHTS

You should not have to sign a release to collect your insurance benefits. If your insurer wants you to sign a release, find out why. Be very cautious about signing away your rights. Read all checks/drafts on both sides before cashing them to make sure they don’t say they constitute “full” or “final settlement”.

12. GET PROFESSIONAL HELP IF YOU NEED IT

Particularly on large claims, our opinion is that you will need the help of an attorney to recover your full insurance benefits. Both public adjusters and policyholder attorneys will work under contingent and percentage fee agreements. Contingency or percentage fee agreements allow you economical access to professional help but affect the amount of your settlement.

If you are unable to find the time or energy it takes to settle a total loss claim, hire professional help, but make sure to hire a reputable attorney who comes with strong recommendations.

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