

9.0 INSURANCE ISSUES

9.1 Overview

When a disaster causes major damage to your property, you should contact your insurance agent or company as quickly as possible because your policy requires it, and there are usually deadlines for reporting a loss and filing a claim. If the damage is only minor, consider paying for it out of pocket for two reasons: If the damage is below your deductible your insurer won't pay for it. A claim that goes on your record can result in getting charged higher premiums in the future.

Most major insurance companies offer toll-free claim reporting hotlines. If you can't find yours, check your state Department of Insurance website. Insurers often set up mobile disaster units close to affected areas where you can meet with a representative in person. There are also two free sources of insurance help available to Texas through government agencies:

Texas Department of Insurance (www.tdi.texas.gov/general/contactus.html)

1-800-252-3439

Email: consumerprotection@tdi.texas.gov

Website: www.tdi.texas.gov/consumer

Mail: Consumer Protection MC 111-1A, P.O. Box 149091, Austin, TX 78714-9091

Texas Office of Public Insurance Counsel <https://www.opic.texas.gov/>

Phone: 1-877-611-6742

Email: help@opic.texas.gov

Mail: Office of Public Insurance Counsel, William P. Hobby Building, 333 Guadalupe, Suite 3-120, Austin, TX 78701-3942

If you are approached by anyone who claims to be working on behalf of the government, the Texas Department of Insurance, or your insurance company and that person asks for money to help expedite your claim, that should be a red flag. Insist on seeing official photo identification and immediately report this to your insurance company or the State of Texas Department of Insurance.

You may be approached by a public adjuster (PA) who will offer to assist you in handling or expediting your insurance claim. They generally charge you a percentage of your insurance benefits, not by the hour. A PA can help an insured prepare, present, and settle a home insurance claim. Their fee in Texas is capped at 10 percent of the insurance settlement. They must be licensed. To check to see if a PA is licensed, you can e-mail License@tdi.gov or call 512-676-6500. If you choose to use a PA,—choose someone licensed and experienced and check their references. If you decide to hire a professional to negotiate with your insurer on your behalf, that person should not have a conflict of interest or be looking to financially benefit from repairing, rebuilding, or salvaging your home.

Your insurance policy contains limits on how much you can collect for repairing and replacing damaged or destroyed property. It is important to get a general understanding of what those limits are before hiring or agreeing to pay any professional in connection with your loss and insurance claim. Disputes between property owners and insurance adjusters over the amount and cost of necessary repairs are

very common. Consumer advocates recommend that a property owner get at least two estimates from licensed local repair professionals and compare them with the insurance company's offer. It is best to reach an agreement on the value of your loss with your insurance company before beginning repairs. In addition to the maximum dollar amounts your insurer will pay for a damaged or destroyed home, contents, car, boat, etc., there are also limits on whether they will pay the brand-new current cost to replace or only the as-was/used cost. Some items will be covered for their Replacement Cost Value ("RCV", brand new). Some items will be covered for their Actual Cash Value ("ACV" used/as-was). These limits can be confusing. Read and re-read your policy as best you can and stand up for your right to be reimbursed fairly.

Remember that all of the following information and answers to FAQs do not substitute for the insurance contract you signed. **It is important that you read your insurance policy very carefully.** For more information on your insurance legal rights as a property owner in Texas, visit the nonprofit United Policyholders' webpage at: <https://www.uphelp.org//pubs/your-insurance-legal-rights-property-owner-texas>.

9.2 Flood Insurance

If water damages your property, coverage for repairs will depend on the source of the water and the wording in your insurance policy. Standard homeowner's insurance policies generally cover damage from sudden and accidental leaks, overflowing toilets, washing machines, dishwashers, rain and wind-driven rain, ***but not flooding.*** How your policy defines "flooding" is important. Chances are, if your property is damaged by waves from a hurricane storm surge or a body of water that overflows its banks, your insurer will reject your claim unless you have a flood insurance policy in addition to your home insurance policy.

If you have a flood insurance policy, it was probably sold to you through the National Flood Insurance Program (NFIP), even if it has the name of an insurance company on the paperwork. The NFIP is a federal program created by Congress that private insurance companies participate in. The program is administered by the Federal Emergency Management Agency (FEMA) under the Department of Homeland Security, but NFIP policies and claims are handled by private insurance companies. If you have a flood loss and make a claim, an adjuster will be assigned and you should work with them to reach a fair settlement, just as you would with a standard home insurance claim. Again, you have the right to hire your own representative (a public adjuster).

NFIP policies provide a set limit of up to \$250,000 for structure repairs and \$100,000 for contents replacement. You must give prompt written notice of a loss by submitting a signed and sworn proof of loss form within 60 days after the loss occurs. After some large-scale disasters, FEMA has extended that deadline, but otherwise it is strictly enforced.

For the proof of loss you list and value all your lost or damaged property. Your insurance adjuster should give you the proof of loss form and help you complete it. The total amount of your losses must be a specific dollar amount. The NFIP generally will not accept a proof of loss that states that your total loss is "undetermined." Just as with a standard home insurance claim, your flood adjuster will take the condition your property was in before the loss into account and apply depreciation. Depreciation is negotiable and should not over- or undervalue your property.

You and the insurance company should reach an agreement on the extent of damage and cost of necessary repairs. If you cannot agree, you can appeal the insurance company's decision.

For more information on flood claims and appeals, call the NFIP help center at (800) 427-4661 or go to www.floodsmart.gov. You can also seek help from the Office of the Flood Insurance Advocate at <https://www.fema.gov/webform/flood-insurance-advocate-ask-question>.

You can find FEMA's flood insurance manual at <https://www.fema.gov/media-library/assets/documents/178743> (effective April 1, 2019). For more detailed information on navigating a flood claim and reaching a fair settlement visit the nonprofit United Policyholders website www.uphelp.org and enter the word "flood" in the search box.

9.3 COVID-19 Related Flood and Auto Insurance Considerations

Financial hardships caused by COVID-19 are making it hard for many people to stay current on paying bills, including insurance premiums. If your flood insurance policy is about to expire and needs to be renewed and you have a premium payment due (or overdue) to keep it in force, you now have 120 days instead of the usual 30 days to pay and renew your flood insurance. NOTE: This special grace period extension only applies to flood policies with an expiration date between February 13 and June 15, 2020. To avoid a lapse in coverage, you must renew your NFIP flood policy within 120 days of its expiration date. For more information on renewing flood insurance or resolving an underpayment, contact the NFIP Call Center at 1-877-336-2627 or the insurance company identified on your flood policy paperwork.

Auto Insurance Discounts, Credits, and Benefits Plans: Contact your car insurance company if you're having trouble making your premium payments due to COVID-19. Many of them have agreed to do the following:

- Offering premium credits or refunds for months you stayed off the road
- Waiving late fees
- Pausing collection actions
- Extending policy periods
- Not cancelling due to nonpayment

Find out what your car insurance company is offering to help customers with the financial hardships of COVID-19.

9.4 FAQs—Auto

If your car was damaged in a disaster other than a flood and was in a garage, carport, or outside, it may be covered by your auto policy and NOT your homeowners policy. The claim must then be made to the appropriate insurance agency for your auto policy.

Q. 9-1 *My car was flooded. How does the insurance company determine if my car should be totaled?*

Whether your car will be totaled is determined on a case-by-case basis. Typically, when the cost of repair plus the salvage value equals or exceeds the actual cash value of the vehicle before the loss, it will

be considered a total loss. A primary factor is the amount of water in your car. Generally, if water covered your dashboard or electrical components, the car will be totaled.

Q. 9-2 *My car was totaled due to flood damage, and I have full coverage on it. The company is going to pay the Blue Book value, but I still owe substantially more than that. Doesn't the company have to pay what I owe on the auto?*

No. The insurance company is only obligated to pay the current market value of your vehicle. You can request that the adjuster explain to you how the value was derived to ensure that all of the vehicle's equipment, features, upgrades, and recent work were considered in determining the value. To cover the difference between the market value of your vehicle and what you actually owe, you would need an endorsement or separate policy, usually called a "GAP policy," for Guaranteed Auto Protection.

Q. 9-3 *What will happen to the vehicle's title if my car is totaled?*

If you own the vehicle outright, you will have to sign the title over to the insurance company. In exchange, they may give you a check for the market value of the vehicle, depending on the terms of your policy. If you still owe on a car loan, the insurance company will coordinate with you and your lender to have the title signed over to them. In most cases, the insurance company will establish contact with the lender and be advised of the amount owed on the loan. If the insurance company has determined that the market value of the vehicle is \$10,000 and the amount owed the lender is \$8,000, the insurance company will issue a check for \$8,000 to the lender to release the lien on the car. The insurance company will then issue a \$2,000 check to you to obtain your signature on the title. For specific information on how titles are processed, contact the DMV by phone at 1-888-368-4689 or online at <http://txdmv.gov/contact-us>.

Q. 9-4 *If my car is damaged by flood, and my policy only provides liability coverage, is there anyone I can contact for help?*

If your auto insurance policy only provides liability coverage, it will not pay for damage to your car due to a flood. If a federal disaster has been declared, you can contact FEMA (www.fema.gov; 1-800-621-3362) or the Red Cross (www.redcross.org; 1-800-733-2767) to assist with immediate needs. You may also apply with the Small Business Administration at <http://disasterloan.sba.gov/ela>.

Q. 9-5 *The insurance company requested that I tow my flooded vehicle to a specific location for inspection. Am I responsible for the towing charges?*

No. The insurance company should pay the towing expense by reimbursing you or paying the tow truck operator once the vehicle is delivered at the inspection site. You should not be responsible for the expense since you are assisting the insurance company in a prompt inspection of your vehicle, as well as protecting it from further damage.

Q. 9-6 *The insurance company agreed to repair my vehicle. Can the company require the use of used parts?*

In some cases, used parts and aftermarket parts may be permissible, depending on the age, condition, and mileage of the particular vehicle. Most Texas personal automobile policies require the insurance company to pay the lesser of the following: actual cash value of the property, the amount to repair or

replace the property with other of like kind and quality, or the amount stated in the declarations page of the policy.

Q. 9-7 *Since my car was flooded, I had to rent a vehicle. Does my auto policy cover the cost of renting a car?*

Your policy will provide coverage for renting another vehicle only if you have special language in your policy, called an endorsement, for rental reimbursement coverage. Under this coverage, the insurance company will pay up to the limit shown on the endorsement for the reasonable amount of time it takes to repair or replace your vehicle.

Q. 9-8 *Is my vehicle covered for flood damage?*

Flood damage is covered if you carry “other than collision” coverage, also called comprehensive coverage, on your policy. This information can be found on your policy’s declarations page. If you do not have a copy of your policy, you can check with your agent or insurance company.

Q. 9-9 *What if I do not agree with the settlement offered by the insurance company, particularly the market value amount for my totaled vehicle?*

Ask the adjuster to explain how the settlement amount was derived. You may also provide examples of vehicles for sale in your area that are in the same pre-loss condition to support the market value. If you still disagree, the personal auto policy allows you to demand an appraisal of the loss. There is a specific provision in many policies for appraisal which lists the responsibilities of both parties.

Q. 9-10 *My car was washed away in the flood. How do I find out where it is now?*

Contact the unclaimed autos department of the area police department. Also, your vehicle may have been towed to a storage facility without your consent. If the vehicle was towed without your consent, and the storage facility wants to charge you a fee, you should contact the Texas Department of Motor Vehicles (TxDMV) at 888-368-4689.

Q. 9-11 *I've received a check from the insurance company but am not satisfied with the amount. I plan to file a complaint to request additional funds be paid. Should I cash the check? If I cash the check, does it mean that I accept their decision and amount of payment?*

You should not endorse a check before discussing your concerns with the company. Call the adjuster or company first before cashing the check. In addition, read both sides of the check carefully, as well as any accompanying documents. Some companies have a release from further liability disclaimer printed on the back of the check. This language sometimes states that your endorsement of the check releases the insurance company from further liability for any further damages. In some cases, particularly when dealing with damaged real property, the check may be a partial payment to initiate repairs. Additional funds may be released when you submit proof that repairs have been completed. **Please be sure that you understand what the check represents and how cashing it will affect you prior to taking any action regarding the check.** If you need more of an explanation or information, talk to your agent or insurance company.

Q. 9-12 How does replacement cost coverage work?

Replacement cost coverage replaces or repairs your damaged property with new material and/or items of like kind and quality.

Q. 9-13 Is replacement cost coverage available on all policy types?

Replacement cost coverage is not available under a typical auto policy. Some insurers provide new car replacement for a limited number of years if the auto is insured when new. You should check with your agent or company to see if they offer replacement cost coverage on all policy types.

Q. 9-14 If an insured vehicle is financed, how are claim checks issued? If issued to both the insured and lienholder, how does the insured collect?

The lienholder endorsement requires the insurance company to pay the insured (usually you or whoever bought the insurance) and the lienholder as their interest may appear on the title. A lienholder is a lender that legally has an interest in your property until you fully pay it off, which is usually a bank, a finance company, or a private person. The insured and the lienholder may both be named on the check. In most cases, insurance claim payments for damage to property that is security for a loan will be made payable to you and the lienholder, and the checks would require signatures from both parties. The insured and the lienholder will have to agree on the release of funds.

Q. 9-15 What can the insured do if the check made payable to both the lienholder and insured is sent directly to the lienholder and cashed without the insured's knowledge or signature on the check?

If this occurs, your first step would be to contact the insurer and your lienholder to discuss the issue. You can also contact the Texas Department of Banking at 1-877-276-5554 or visit their website at <http://www.dob.texas.gov/>.

Q. 9-16 Does the insured have to agree to have the vehicle totaled if the insured will be "upside down" on the loan?

The policy will state how the loss will be paid. The insurance company decides whether to total a car. A car is typically totaled if it will cost more to repair the car than the car is worth. Insurance coverage for the difference between the actual cash value of a car and the outstanding loan amount can be covered by a GAP endorsement or a separate GAP policy. If there is no GAP policy or something like it and the car is totaled, then the company will pay only the actual cash value of the car. If the insured owes more money on the car, he or she will still be responsible for the balance.

Q. 9-17 What if my car is determined to be a total loss but I want to keep it?

If your car is a total loss but you want to keep it, you would need to negotiate a settlement with the insurance company in which you are able to retain the salvaged car. However, you would be responsible for the cost of repairs and would be subject to the laws regarding owner-retained salvage. For questions regarding owner-retained salvage, contact the Texas DMV at 888-368-3689 or www.txdmv.gov.

Additionally, you may want to contact the lienholder to find out whether retaining the salvaged car would impact the lien.

Source: This question and answer subsection utilizes information provided by the Texas Department of Insurance, <http://www.helpinsure.com/home/condisasterfaq.html>.

9.5 FAQs—Mobile Homeowners

Q. 9-18 Are there different types of policies that provide coverage for mobile homes?

“Mobile” and “manufactured” homes are covered under a mobile home policy. Both mobile and manufactured homes are built in factories, shipped in one piece, and not often fixed to a foundation. A “mobile” home is defined as one built before 1976. One built after 1976 is technically called a “manufactured home.”

A “modular home” is one that is built in a factory, shipped in pieces, and built onto a fixed foundation. It is usually covered under a homeowner policy.

Sometimes mobile/manufactured homes can be covered under RV or camper insurance if they have a hitch, but this is rare.

Q. 9-19 Wind caused my tree to fall on my mobile home and damaged my roof. Does my mobile homeowners policy cover the damages to my home and would the company pay to remove the tree from my property?

If a covered type of loss, such as wind, causes a tree or tree limbs to damage the mobile/manufactured home, the insurance company should cover the roof damage and also should pay any reasonable amount to lift or cut the tree (or limbs) off of the damaged structure and put them on the ground. Once they are on the ground, they may or may not pay for the debris removal. Some companies may provide an option to increase coverage. You should contact your agent or company regarding debris removal coverage.

Q. 9-20 Does my mobile homeowners policy provide additional living expenses?

Most mobile homeowners policies provide some additional living expense reimbursement in the event the mobile home is damaged or destroyed from an event that is covered under the policy and the mobile home is thereby rendered uninhabitable. Some companies may provide an option to increase this coverage. It is important that you contact your agent and/or company regarding your additional living expense coverage.

Q. 9-21 My mobile home was flooded. Will my mobile homeowners policy pay for my damage?

Generally, floods are not covered. However, it is important to check your policy and/or contact your agent regarding flood coverage for your mobile home.

Source: This question and answer subsection utilizes information provided by the Texas Department of Insurance: <http://www.helpinsure.com/home/condisasterfaq.html>.

9.6 FAQs—Homeowners

Q. 9-22 *What's the difference between the types of homeowner's policies? How does a dwelling policy differ from a homeowner's policy?*

Homeowner's policies may either provide "all risk" or "named peril" coverage. "All risk" is used to describe policies that typically cover all causes of loss or "perils" unless specifically excluded in the policy. In order for there not to be coverage for the peril, the peril must be listed under the Exclusions portion of the policy. "Named peril" means the damage must be caused by a peril that is specifically named or listed in the policy. The homeowner's policy usually provides coverage for the dwelling, personal property, other structures, additional living expenses (ALE), medical payments, and personal liability. A dwelling policy usually provides coverage for the dwelling and/or personal property.

Q. 9-23 *Can I make repairs to my property immediately?*

All policies require you to mitigate damages, meaning you are required to stop further immediate damage as soon as possible without endangering your own safety. This means you must protect it from further weather damage or from thieves entering, for example. However, you should do this by making only temporary repairs. **You should not** make permanent repairs until an adjuster has inspected the damage. Your policy covers the cost of necessary temporary repairs, so save your receipts for materials and create time logs for labor. You should take lots of pictures of the damage, both close up and wide angle, before making any repairs or moving damaged property. This includes pictures of any standing water. You should then separate damaged property from undamaged property and begin making a home inventory list.

Q. 9-24 *Does a homeowner's insurance policy provide Additional Living Expenses (ALE) coverage?*

If you can't remain in your home because of a covered reason in your insurance policy, your homeowner's or renter's policy may pay for staying in a hotel, motel, or other temporary shelter if it is in your policy. The amount will be based on your policy provisions. Most flood insurance policies do not provide this. If the damage does force you to move, be sure to tell your insurer where you are and how to reach you by phone. Also, leave a note at your damaged residence telling the insurance adjuster how to find you.

ALE is usually payment only above what you would normally pay for such expenses, so if you are forced to leave your home and stay in a hotel, for example, and normally pay \$800 for your mortgage but had to pay \$1,200 for a hotel stay, ALE will only pay \$400.

Q. 9-25 *My home was not flooded by rising water; however, the sewer line backed up and caused damage in my home. Is this covered under my homeowner's policy?*

It depends on your policy. Some policies exclude water or sewage from outside the residence premises plumbing system that enters through sewers or drains. Review your policy and contact your insurance company or agent regarding coverage.

Q. 9-26 *My house was flooded and I placed my furniture and household items in the front yard to dry out, but they were stolen. Will my homeowner's policy cover this loss?*

It depends on your policy. Even though flood losses may not be covered, many policies contain an exception if theft or stealing happens after the flooding. Review your policy and contact your insurance company or agent regarding coverage.

Q. 9-27 *My policy states that if a claim results from a weather-related catastrophe or a major natural disaster, each claim-handling deadline is extended for an additional fifteen days. Does this mean that I have coverage under my policy for damage caused by the flood?*

This language does not alter or amend what is covered by the policy. It merely extends the claim processing time requirements of the Texas Insurance Code.

Q. 9-28 *Under a homeowner's policy, who determines the cause of damage and who pays for an expert if one is needed?*

Your insurance company is required to send out an adjuster, who is a person professionally trained to investigate and assess damage and evaluate the loss. If they believe they need a further expert, they will pay for one. However, if you dispute the estimated damage amount, you may have to hire your own expert or appraiser.

Q. 9-29 *My house got water in it from the flood. I had damage to the roof, which is sagging, and rain water came in through the roof. I don't have flood insurance, but I do have homeowner's insurance. What, if anything, may be covered under my homeowner's policy?*

The damage from wind forcing rain inside your home is different from flood damage and may still be covered by a policy that does not cover flood damage. Your homeowner's insurance policy may or may not cover this type of damage, depending on type of policy and the specific language in your policy.

Q. 9-30 *I received a "reservation of rights." What does this mean?*

A reservation of rights will generally include language that looks similar to this: "Please be advised that although we are still investigating your loss, we are doing so under an express Reservation of Rights."

When an insurance company includes that wording in a letter to a customer who has filed a claim, it's legalese for "we are not sure we owe you this money but we are adjusting your claim for the time being." They are reserving their right to reject part or all of your claim in the future, and may or may not expressly outline why. Most likely, their indecision relates to an exclusion in the policy that they believe may be grounds for rejecting your claim. Continue to cooperate and reply by asking them to explain what they mean and what specific language in the policy or facts support their reservation of rights.

Q. 9-31 *My insurance carrier and I are not yet in agreement on the value of my claim. However, they have made an initial offer. Do I have to wait for a final agreement before I receive any payout?*

If there is no dispute as to whether or not there is coverage for a portion of your claim, your insurance company should pay the “undisputed” amount. For instance, if you think your claim is worth \$200,000 and the insurance company has offered you \$150,000, you may request a check for the undisputed amount of \$150,000. Make sure that this is not a full and final settlement, and that it is clear that the negotiations remain ongoing.

Q. 9-32 *I've received a check from the insurance company but am not satisfied with the amount. I plan to file a complaint to request additional funds be paid. Should I cash the check? If I cash the check, does it mean that I accept their decision and amount of payment?*

You should not endorse/sign a check before discussing your concerns with the company. Call the adjuster or company first before cashing the check. In addition, read both sides of the check carefully, as well as any accompanying documents. Some companies have a release from further liability disclaimer printed on the back of the check. The disclaimer sometimes states that your endorsement of the check releases the insurance company from any further liability. In some cases, particularly when dealing with damaged real property, the check may be a partial payment to initiate repairs. Additional funds may be released when you submit proof that repairs have been completed. **Please be sure that you understand what the check represents and how cashing it will affect you prior to taking any action regarding the check.** If you need more of an explanation or information, talk to your agent or insurance company.

Q. 9-33 *How does replacement cost coverage work on policy types such as flood, homeowner's, dwelling, and mobile home?*

Replacement cost coverage replaces/repairs your damaged dwelling or personal property with new material and/or items of like kind and quality. In most cases, you should only be responsible for paying the deductible. A deductible is what you have to pay out of your pocket before the insurance company will pay. Some homeowner's and dwelling policies automatically include replacement cost coverage for the dwelling; others allow you to add it for additional money, and some may only provide actual cash value. Actual cash value (ACV) is what the item would cost you if you took the replacement cost minus depreciation (loss in value over time for wear and tear). Companies may also offer replacement cost coverage for mobile home policies. Review your policy and check with your agent or company to see if your policy has replacement cost coverage.

Q. 9-34 *I've received a check from my company for damages to my home. It is going to cost more to repair than the amount received. Did they pay me enough for damages?*

If you have replacement cost coverage, your claim may be paid in two stages. Your first claim check may be for the actual cash value (ACV) of the damaged property. ACV is determined by taking the replacement cost for the covered loss and deducting for depreciation (loss in value due to aging of item). Once the damaged property is repaired or replaced, you may be entitled to receive the depreciation that was previously withheld in your first check, up to the replacement cost of the

damaged property, and not to exceed the actual amount spent or the total amount of insurance on the dwelling.

Generally, to receive the difference between ACV and replacement cost, the policy contract requires that the repair or replacement be completed within a specific period of time, usually 180 to 365 days from the date of loss. Policies may also provide an option for the insured to extend that time frame if requested in writing as outlined in the actual policy. It is important to check your policy and/or contact your agent regarding the specific requirements of your policy. Replacement cost value (RCV) claims can usually be filed up to 520 days from the date of loss.

If you are not underinsured, you should only be responsible for paying your deductible in most cases. If you believe your company is not offering an amount sufficient to repair/replace your damaged property, minus your deductible, you may want to request appraisal in accordance with the provisions in the policy. Ask your company to explain the basis for its payment and clarify if additional funds are forthcoming. Please note that many policies have higher deductibles for hurricane damage.

Q. 9-35 *Do checks from insurance companies have to be endorsed by both the insured and the mortgage company? Does the same procedure apply to mobile homes?*

Usually, if the damage is more than \$10,000, the mortgage company must be named on the check. However, different contracts may require different amounts, so review your mortgage contract carefully. If the total damage amount is over the amount required in the mortgage contract, endorsements will be required from both the insured and the mortgage company. Usually, the funds are held in escrow and disbursed in installments as repairs are made and approved.

Q. 9-36 *What recourse does the insured have if the check was issued directly to the mortgage company? How long can a mortgage company hold money before releasing any to the insured? Can the mortgage company disburse the money in small increments? Can they withhold disbursements?*

Your insurance company cannot make a check for a claim payable only to the mortgage company. If they do, you should refuse to accept it and demand the check be reissued to you and your mortgage company.

The Texas Insurance Code provides that the mortgage company must, within ten days after they receive the insurance proceeds, tell you what their requirements are in order to have the funds released. Once you have provided sufficient evidence to show that you have met those requirements, the mortgage company has ten days to release the funds.

- If you have a concern about a private mortgage lender, you should contact the Federal Trade Commission (FTC) at 1-877-382-4357 or online at <http://www.ftc.gov/contact>.
- Additionally, you may want to contact the Office of Consumer Credit at 1-800-538-1579 or online at <http://occc.texas.gov/contact>.
- If the lender is a state-chartered savings and loan, or bank, contact the Texas Department of Savings and Mortgage Lending at 1-512-475-1350.
- If the lender is a federally chartered lender, contact the Office of the Comptroller of the Currency (OCC) Customer Assistance Group at 1-800-613-6743.

- In some instances, the Office of Housing and Urban Development (HUD) may be able to help and should be called at 1-800-225-5342.

Q. 9-37 Are plumbing problems/backed up toilets covered by any types of insurance, even after a flood?

Generally, if the plumbing or sewer backup is deemed to be from a flood, it is not covered, either under a sewer backup policy or a standard homeowner's, renter's, or business policy. If the water damage results from another reason, it may be covered under your policy and you should contact your insurance agent or company.

Q. 9-38 There is a power outage in my area and we have no utilities in our home. Will my policy pay for a hotel until power is restored?

Probably not. The policy will normally only provide additional living expense coverage if your home is damaged by a cause of loss covered in your policy and, as a result, the residence is unfit to live in. You must check the specific language in your insurance policy, or contact your company/agent.

Q. 9-39 I bought my house several years ago and last year my mortgage was bought by another mortgage company. My original company provided flood insurance, but now I find that the new mortgage company did not provide it. What can I do?

Mortgage companies are required by law to ensure that a property in a flood zone has flood insurance. The new mortgage company has a duty to send a notice to the insurance provider that it will no longer provide the flood insurance. The mortgage company should then provide notice to you (the borrower) that you need to provide flood insurance on your own. You have a time limit to do so, usually forty-five days. If you fail to purchase flood insurance, then the mortgage company may purchase flood insurance for you. This is called "force-placed insurance" and is usually more expensive with less coverage than you would purchase on your own. If you do not maintain the required flood insurance, you may not be covered for damages that occur from a flood and potentially may not be eligible for federal assistance benefits, such as FEMA, in the event of a disaster. For information regarding the statute, contact the FEMA representative at a Disaster Recovery Center (DRC) at <https://egateway.fema.gov/ESF6/DRCLocator> or the National Flood Insurance Program at <https://www.fema.gov/national-flood-insurance-program>.

- If you have a concern about a private mortgage lender, you should contact the Federal Trade Commission (FTC) at 877-382-4357. You may also visit its website at www.ftc.gov.
- If the lender is a state-chartered savings and loan, or bank, contact the Texas Savings and Loan Department at 512-475-1350.
- If the lender is a Federal Chartered Lender, contact the Office of Thrift Supervision at 972-277-9500.
- In some instances, the U.S. Department of Housing and Urban Development (HUD) can help. Call HUD at 800-225-5342.

Q. 9-40 *Wind caused my tree to fall on my house, which caused damage to my roof. Does my homeowner's policy cover the damage to my house and pay for the removal of the tree from my property?*

If your policy provides coverage for wind, and the wind causes a tree or tree limbs to damage the roof of the home, the insurance company should cover the roof damage and also should pay any reasonable amount to lift or cut the tree (or limbs) off of the damaged structure and put them on the ground. Once the tree or limbs are on the ground, they may or may not pay for the debris removal. Some companies limit debris coverage for removal to \$500 per tree and \$1,000 per loss. Contact your insurance company or agent regarding coverage.

Q. 9-41 *My neighbor's tree fell down on my house and damaged my roof. Will my neighbor's homeowner's policy pay for the damage to my home and remove the tree?*

Probably not. Your neighbor is not legally liable for an act of nature. However, if there was some sort of negligence involved, such as if the tree was dead, your neighbor may be responsible for the damage to your home. If your neighbor's policy does not pay for your damage, you can make a claim under your policy if the peril that caused the tree to fall is a covered peril in your policy. You should contact your agent and/or company regarding the damage. It might be easier if you make the claim under your policy with your insurance company without trying to go after your neighbor first. Your insurance company will go after your neighbor's insurance for subrogation.

Q. 9-42 *Some trees blew down in my yard during a storm. Will my homeowner's insurance policy pay for the loss to and removal of the trees?*

Probably not. If a tree or tree limbs land on the lawn and do not damage a structure, the insurance company is usually not required to pay to have them removed, cut up, or hauled off.

Q. 9-43 *A windstorm blew my fence down. Will my homeowner's insurance cover loss of my fence?*

If your policy provides coverage for wind, you may have coverage for the fence. You may get actual cash value (ACV) or replacement cost value (RCV) depending on your policy. Usually, coverage for wooden fences is generally limited to actual cash value, which is the replacement cost for the damaged property less depreciation. You should check your policy and/or contact your agent regarding coverage.

Q. 9-44 *Who should I contact if I have damage to my home as a result of a windstorm and my windstorm insurance is provided through the Texas Windstorm Insurance Association (TWIA)? How do I file a claim?*

If you have Texas Windstorm Insurance Association (TWIA) insurance, you have one year from the date your property was damaged to file a claim.

For questions on policy coverage, please contact your insurance agent or contact the TWIA at 1-800-788-8247 or via its website at www.twia.org. If you need to file a claim or an appeal, you may do so by going to <http://www.twia.org/claimscenter/#claims-center-section-2> and registering.

For questions regarding inspections of your property for certification to the Windstorm Building Code, please contact the Texas Department of Insurance Windstorm Inspection unit at 1-800-248-6032 or refer to the website at <https://www.tdi.texas.gov/wind/index.html>.

Q. 9-45 *What coverage do I have for my house and personal property under my TWIA policy?*

Generally, the TWIA Dwelling Policy provides coverage for direct physical loss to your dwelling, other structures such as detached garages, and personal property, including clothing. You should contact your agent and review your policy and any applicable endorsements for specific coverage.

Q. 9-46 *What do I do if I want to dispute my TWIA claim?*

TWIA can do one of three things with your claim: (1) accept it in full, (2) accept partial coverage, or (3) deny the claim in full.

If you want to dispute a claim that's been either partially or fully accepted, you must submit further information to TWIA regarding a further payment or request formal appraisal, which has a strict deadline of 60 days from the date you receive the claim letter.

If you want to dispute a claim that has been partially or fully denied, you have two years to file a lawsuit or you will be barred from filing one on that claim.

If you have questions about the dispute resolution process, call 800-788-8247, option 1, or email claims@twia.org. You can also contact the Texas Department of Insurance's Coastal Outreach and Assistance Team (COAST) for TWIA claims assistance at 1-855-35-COAST (1-855-352-6278) or ConsumerProtection@tdi.texas.gov.

Q. 9-47 *During the storm, a tree fell on the roof of my home which allowed rain to enter from the opening made by the tree. I now see mold growing. Do I have coverage?*

Most homeowner's policies will provide coverage for the property damaged by rain that entered through an opening caused as a direct result of wind. Generally, mold is excluded in the homeowner's policy; however, some policies will cover an ensuing mold loss caused by or resulting from covered water damage. Coverage for ensuing mold loss would probably include the reasonable and necessary costs to repair or replace your damaged property. However, most policies do not include any additional costs for remediation or testing of ensuing mold unless your policy specifically includes it.

Q. 9-48 *During the storm, my home was flooded. Does my homeowner's policy cover mold damage from the flood water?*

Typically, homeowner's policies do not cover damage caused by or resulting from flood, surface water, waves, tidal water or tidal waves, overflow or streams or other bodies of water, or spray from any of these whether or not driven by wind. If there is no flood coverage provided in the homeowner's policy, any mold loss resulting from flood would not be covered under the policy.

Q. 9-49 *Do I have to hire a public insurance adjuster to file and help in the settlement of my auto or homeowner's insurance claim?*

No. Hiring a public insurance adjuster to assist you in filing a property insurance claim is optional and strictly your decision. Public insurance adjusters charge fees to help negotiate claim settlements with insurance companies. Be aware that the public insurance adjuster fee is normally a percentage of the claim settlement and therefore is paid out of settlement monies received from an insurer.

Q. 9-50 *Are there any limitations on the compensation of a public insurance adjuster?*

Yes, the following limitations apply:

- If a claim is settled within seventy-two hours of the date the loss is reported to the insurance company, the public insurance adjuster is entitled only to reasonable compensation for time and expenses and cannot receive a commission consisting of a percentage of the total amount paid by the insurer.
- The public insurance adjuster's fee may not exceed 10 percent of a claim settlement. A clear statement of the public insurance adjuster's commission must be disclosed in the public insurance adjuster's written contract. Always review the contract language. If the public insurance adjuster is not licensed, the public insurance adjuster is not allowed to take a fee.

Q. 9-51 *Is a public insurance adjuster permitted to be involved in the repair of damaged property for which the public adjuster negotiated settlement?*

No. The public insurance adjuster may not participate, either directly or indirectly, in the reconstruction or repair of damaged property that is the subject of a claim adjusted by the public insurance adjuster.

Q. 9-52 *Are public insurance adjusters required to be licensed by the Texas Department of Insurance?*

Yes, a person may not act as a public insurance adjuster in Texas or hold himself or herself out to be a public insurance adjuster in Texas, unless the person holds a license or certificate issued by the commissioner. You may verify the license status of a public insurance adjuster at <http://www.tdi.texas.gov/agent/index.html>.

Q. 9-53 *The food in my refrigerator spoiled because of loss of power in my area. Will my homeowner's policy pay for the loss?*

If the power failure results from a peril covered in the policy and is off your premises, most homeowner's policies will cover up to \$500 for spoiled refrigerated or frozen food. If the power failure is caused by a covered peril and occurs directly to your home or equipment (refrigerator/freezer), you may be eligible for more than \$500. However, you need to read your policy to determine your coverage.

Q. 9-54 *If I evacuate due to a storm, and my personal property is damaged or stolen while in another location, will my personal property be covered by my auto or homeowner's policy?*

Homeowner's policies provide coverage for personal property while away from the insured location or premises. Most policies limit the amount of this coverage to either 10 percent or 20 percent of the total amount of coverage for personal property. Some policies limit theft coverage for personal property while away from the residence unless the insured is temporarily living there. Generally, a personal automobile policy will not cover personal property.

Source: This question and answer subsection utilizes information provided by the Texas Department of Insurance: <http://www.helpinsure.com/home/condisasterfaq.html>.

Q. 9-55 *What if I have a mortgage on my property? Does the insurance company have to put my mortgage company on the check? How do I get my money for repairs?*

When you borrowed money to buy your home, your mortgage company became invested in it. If you don't use insurance money to make repairs, the property is worth less, so the mortgage company wants to make sure the insurance money is used to protect its investment. Usually, if the damage to the property is more than \$10,000, the mortgage company will be named on the check. If you are only receiving insurance benefits for personal property or additional living expenses, the check will be made out only to you. If the check is made out to you and the mortgage company, you will be asked to sign it and send it to the mortgage company. How it is released for repairs depends on the language in your mortgage contract. In most cases, the funds are held in escrow and released in installments as the repairs are made and approved by the insurance company.

Q. 9-56 *Can the mortgage company make me apply the insurance money to what I owe on the property?*

Under most circumstances, mortgage companies will prohibit you from applying insurance funds to your principal or any payments on which you may be behind because they want you to make the repairs or rebuild the property. However, you must read your contract, because there are some circumstances in which if you are in default, the insurance proceeds may be applied to what you owe, but they must ask your permission.

Q. 9-57 *What if my mortgage has been sold and the wrong company is on the check?*

Return the check to the insurance company and ask that it be reissued and provide them with proof of the correct mortgage company.

Q. 9-58 *What if I have paid off my mortgage?*

Return the check to the insurance company and ask that it be reissued and provide them with proof that you have satisfied all your payments and that your loan is paid in full.

Q. 9-59 *What if my mortgage company bought insurance for my property?*

This is called “force-placed” insurance. This happens when a property owner allows his/her own insurance to be cancelled, lapse, or if he/she has been notified by the mortgage company that the insurance is insufficient. The mortgage company then buys the insurance for the homeowner. Usually it covers only the dwelling—no personal property—and can be homeowner’s or flooding. If you have this kind of insurance and need to make an insurance claim, be aware that you must make the claim; the mortgage company will not do it on your behalf. If you are unsure if you have this kind of insurance, ask your mortgage company and get a copy of the policy. These policies are only to make repairs on the property; you cannot use them to pay off your mortgage.

For more information on insurance questions or to make an insurance-related complaint, call the TDI Consumer Help Line at 1-800-252-3439.

9.7 FAQs—Renters

Q. 9-60 *What if I rent? Does my renters insurance cover damages from a disaster?*

It would depend on the policy. Most renters policies provide coverage for lost, damaged, or stolen personal property/contents only. They may provide coverage for someone else that might get injured in the apartment, which is called liability coverage. However, flood is not covered unless you buy a separate policy.

These are the two types of personal property coverage – replacement cost value (“RCV”) and actual cash value (“ACV”). If you have RCV coverage, your insurance company owes to reimburse you for the full cost of replacing what you lost. If you have ACV, your insurance company will pay only replacement cost less depreciation, or what a willing buyer would have paid you immediately before the loss. ACV policies are more commonly written for renters insurance than homeowners insurance. We strongly recommend choosing replacement cost coverage if you can afford it. Check your insurance policy to see what type of personal property coverage you have.

Additional living expenses (ALE) may be available if specifically named in your policy. If you have ALE and you are forced to live elsewhere because your apartment has become uninhabitable due to the disaster, your insurance company will pay you what is incurred over and above your normal expenses. This means, for example, if you have to live in a hotel and eat out for a month and you spend \$2,000, where you would normally only spend \$1,400 on rent and groceries, your insurance company would pay you the additional \$600 to make up the difference. You must, however, keep your receipts and furnish those to your insurance company.

To find out your coverage, read your policy or talk to your agent. For more information on renters insurance, check out United Policyholders’ “What’s UP with Renters Insurance” here:
<https://www.uphelp.org/pubs/whats-renters-insurance>.

9.8 FAQs—National Flood Insurance Program (NFIP)

Q. 9-61 *What is the difference between a flood insurance policy issued by the NFIP and a policy issued by an insurance company? Does one provide better coverage than the other?*

Flood insurance is provided by the federal government through the NFIP. The policies that are sold by insurance companies are usually NFIP policies sold through the “Write Your Own” (WYO) program. This is done to make it easier to purchase flood policies through local insurance agents. Even though the policies are purchased through the insurance companies, they are still basic NFIP policies.

Claims are handled by NFIP adjusters and by insurance company adjusters that are certified by the NFIP to handle flood claims. Questions and complaints can be referred to the NFIP at 1-888-225-5356. Some insurance companies may also offer additional flood coverage other than the NFIP policy or at a cheaper rate. You should check with your agent or company to see what coverage is available and best for your needs.

Q. 9-62 How can I obtain insurance coverage to protect my home and contents from damage caused by flooding?

NFIP makes flood insurance available to people who live in communities that participate in the National Flood Insurance Program. Contact your agent or the NFIP at 1-800-427-4661 to purchase a NFIP policy. The home need not be near a body of water or in a floodplain to qualify.

Q. 9-63 Why would I buy flood insurance if my property is in a low or moderate risk area?

Twenty to twenty-five percent of all flood insurance claims come from low to moderate risk areas.

Q. 9-64 Can I buy flood insurance if I rent?

You can buy up to \$100,000 of flood insurance for your contents.

Q. 9-65 How much flood insurance can I buy?

From NFIP, you can buy up to \$250,000 for the dwelling and \$100,000 for your contents. You may be able to add additional coverage through an agent who sells WYO policies.

Q. 9-66 Does the policy provide any coverage for additional living expense?

No, the NFIP policy does not provide coverage for additional living expense.

Q. 9-67 How is damaged residential property valued after a loss under an NFIP policy?

If the property is insured to at least 80 percent of its value and is your principal residence, the dwelling will be valued at replacement cost if the dwelling is replaced. If the dwelling is rebuilt at a new location, the replacement cost won't exceed what it would have cost to replace at the former location.

Contents, appliances, carpets and carpet pads, and outdoor property are valued at actual cash value. Actual cash value is the cost to repair with new material of like kind and quality less depreciation.

Q. 9-68 *Is there coverage for the cost of debris removal? What about loss avoidance measures?*

The cost of removing debris on your property, and the cost of removing debris of your property that is on someone else's property is covered, but it's subject to the limit of the policy. You will be compensated at the federal minimum wage if you perform the work yourself. Loss avoidance is limited to \$1,000 for the cost of sandbags, temporary levees, pumps, and plastic sheeting and lumber, including the value of your work. An additional \$1,000 is available for the cost of moving insured property to protect it from flood. These benefits do not increase the limit of insurance.

Q. 9-69 *If my automobile was parked on my property and damaged by flood, does the flood policy cover the damage?*

No, automobiles are not covered property under the NFIP policy. If you have comprehensive or full coverage under your auto policy, flood should be covered by that policy. If you have liability only, there is no coverage for the auto. If this happens, you should file a separate claim with your auto insurance agent or company.

Q. 9-70 *Does flood insurance cover damage to built-in appliances?*

Check to see what flood insurance coverage you have. Then, call the NFIP at 1-800-427-4661 to determine what would be covered in a flood insurance policy. Generally, flood policies provide coverage for the structure and personal property. Built-in appliances may fall under either category.

Q. 9-71 *What coverage is available for commercial buildings?*

Up to \$500,000 is available for non-residential buildings, and an additional \$500,000 for contents of non-residential buildings. Buildings and contents are valued at actual cash value.

Q. 9-72 *When does coverage become effective under an NFIP policy?*

There is a thirty-day waiting period before coverage goes into effect after an NFIP policy is purchased. However, there is an exception to the thirty-day waiting period when a new policy is initially purchased in connection with a loan. In that case, the policy becomes effective at the time of the loan closing.

Q. 9-73 *What if my dwelling or commercial building is valued over the maximum limits available?*

The insurance company that insures your commercial building for fire might add excess flood coverage. That coverage usually has the NFIP maximum limits as a deductible. Availability might depend on the flood zone of each location. There may be insurers that will write excess policies for dwellings over the \$250,000 maximum limits. You should contact your agent to learn more about available coverage.

Q. 9-74 *Where can I get more information about flood insurance?*

Check out www.floodsmart.gov.

Source: This question and answer subsection utilizes information provided by the Texas Department of Insurance: <http://www.helpinsure.com/home/condisasterfaq.html>.

Q. 9-75 What if I can't pay to renew my NFIP flood insurance policy due to COVID-19?

Most NFIP flood insurance policies contain a 30-day grace period beyond the expiration date, which will let you renew without losing your coverage. However, if your renewal is due between February 13 and June 15, 2020, FEMA has extended the grace period to renew to 120 days beyond your policy's expiration date.

Q. 9-76 What if I can't pay my car insurance premiums due to COVID-19?

Many major insurance companies have modified their auto insurance policies to help policyholders maintain their premium payments and avoid losing coverage due to COVID-19. To learn more about the options available to you, you should contact your insurance agent or company as quickly as possible and ask about any COVID-19 related programs they have rolled out.