



## Consumer Federation of America

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J. Robert Hunter, 207-864-3953

### **WHAT CONSUMERS SHOULD DO TO GET FAIR CLAIMS PAYMENT IN THE WAKE OF HURRICANE KATRINA**

Washington, D.C. -- The Consumer Federation of America today estimated that Hurricane Katrina will result in a minimum of 100,000 wind claims and 150,000 federal flood insurance claims. Payments on the wind portion will likely exceed four billion dollars and flood claims will exceed 6 billion dollars. The expected payouts are sharply less than original estimates by the modeling firms, which were on the order of \$25 to \$30 billion.

"Families will have to dig deeper into their pockets because insurers have been steadily increasing hurricane coverage deductibles and making other policy limitations," said J. Robert Hunter, Director of Insurance for CFA and former Federal Insurance Administrator and Texas Insurance Commissioner. "This liability shift back to consumers may take many by surprise, since disclosures are often buried in renewal paperwork that consumers may not understand or even read."

As consumers prepare to confront their insurance companies in the wake of the storm, the Consumer Federation of America offered the following tips.

#### **1. KEEP GOOD RECORDS**

You should immediately start a notebook documenting contacts with your insurance company. List the date, time and a brief description of the exchange. If you need to complain later on, this information will be vital (see below). If an adjuster says he or she will come and does not, write it down. If an adjuster is rude, write it down.

Get out your inventory of possessions or try, at once, to list your possessions. Don't forget that your family likely has pictures of rooms in your house (for example, from Christmas or other celebrations) that can be helpful in recreating a list of your belongings.

Obtain a repair estimate from a trusted local contractor to use as a guide in talking with the adjuster. Keep receipts from emergency repairs and any costs you incur in temporary housing. This may be reimbursable under the "Additional Living Expense" portion of your homeowners' policy.

You may be entitled to money up front for living expenses, such as hotel costs if your

home is uninhabitable. Insurers are usually very good about these initial payments while reporters are focused on the hurricane aftermath. Most problems, if they arise, come later, when bigger checks are sought.

## 2. DECIDING WHETHER TO FILE A CLAIM

You have paid your premium and are entitled to coverage. If you have a legitimate claim, do not hesitate to file it. Even though insurers used tough standards for renewing homeowners' insurance in recent years, insurer profits are very substantial right now and the industry is more competitive so that renewals should not be adversely affected by the filing of this hurricane claim nor should insurers be unnecessarily tough on claims handling.

If insurers do try to pull back from writing in the areas hit by the storm, consumers must stand together and agree not to do business with any insurance company that refuses to renew policies with consumers who make claims related to Hurricane Katrina. Consumers stood together after Hurricane Andrew, persuading Florida to pass a moratorium on non-renewals and to look carefully at rate increase applications. Consumers should fight any attempt to use hurricane claims as an excuse not to renew homeowners' policies and should complain to state regulators to assure that insurers do not take such actions.

## 3. WHAT IF THE CLAIM IS DENIED OR THE OFFER IS TOO LOW?

If the claim is denied or you feel the offer is too low, demand that the company identify the language in your homeowners' policy that served as the basis for denying your claim or offering so little. This approach has a number of benefits:

1. The company may be right and you may not know it. Once they pinpoint the appropriate language in the policy, you should be able to make this determination. For example, you may have \$400 in damage, but the company could well point out that you have agreed to a \$500 deductible.
2. The company may have slipped new limitations into the policy and not adequately informed you. Many companies have unilaterally imposed a separate "Hurricane Deductible," which is usually a percentage of the value of the home. CFA believes that many people are not aware of this deductible, which has been introduced since Hurricane Andrew in 1992. Moreover, the disclosure to consumers of this new deductible has often been inadequate. If you feel that you have been misled in this regard, it might be a good idea to consult an attorney. The introduction of these percentage deductibles (up to 10 percent of the value of a home) will greatly shift the cost of Hurricane Katrina from insurance companies to insurance consumers, as compared to earlier storms. The practice of shifting the cost of previously insured events back to consumers is acceptable, as long as consumers are clearly given the option to select the level of coverage they want with fully informed consent.

3. Another restriction new to many policies is a limit on replacement cost payments, which might come into play in the event that a home is totally destroyed. A typical cap is 25 percent over the face value of the policy. If costs surge because of the spike in demand from a major storm (or if the state does not monitor price gouging sufficiently) this limit might apply. For example, if a home is worth \$200,000 to replace and that amount was the limit on the policy, the insurance company would pay no more than 25 percent more, or \$250,000. If the surge in construction costs due to extreme demand caused the price of replacing the home to jump to \$300,000, the homeowner would be short \$50,000.

4. Once the insurance company tells you the reasons for its action, it cannot produce new reasons later on. You have locked them in.

5. If you review the policy and find that under a reasonable reading, you are entitled to the full amount of your claim, you will likely win if you go to court. Courts consistently rule that if an insurance policy is ambiguous, the reasonable expectation of the insured will prevail since the consumer played no part in writing the language.

#### 4. HOW/WHERE DO I COMPLAIN?

If you feel that the offer is too low or the denial is wrong, the best process for getting your complaint resolved is as follows:

1. First, complain to more senior staff in the insurance company. Use the records you have kept since the claim process began. The more serious the insurance company sees that you are in documenting how you were treated, the more likely they will be to make a more reasonable offer.

2. Second, complain to your state insurance department. All states will at least get a response from your company to the complaint. A few states will actually twist the arm of the insurance company in clear cases of bad claims handling. It is important to dispassionately present your side of the story, using the notes you have been taking.

3. Third, see a lawyer. Now the notes you took are vital. In addition to an award covering your claim, if your treatment was particularly bad, the courts in many states will allow additional compensation when the insurance company acted in "bad faith" (since insurance companies take your money in exchange for their promise to make you whole when disaster strikes, they are to act in utmost good faith in performing that obligation.)

#### 5. WHAT ISN'T COVERED IN THE HOMEOWNERS' POLICY?

The homeowners' policy does not cover flood, earthquake, tree removal (except when the tree damages the house) or food spoilage from power failures.

#### 6. DO I USE THE SAME METHODS FOR A FLOOD INSURANCE CLAIM?

The federal government underwrites flood insurance, although an insurance company often services claims. Follow the same procedures as above, except direct complaints to the Federal Emergency Management Agency, the government agency responsible for running the federal flood insurance program (1-888-CALL-FLOOD, TDD# 1-800-427-5593.) The FEMA flood insurance program tips on handling claims are located at [www.fema.gov/nfip/tips](http://www.fema.gov/nfip/tips).

"Not all insurance companies handle claims badly, so go into the claim process with an open mind," said Hunter. "But, be vigilant, or you run the real risk of being shortchanged," he concluded.

*CFA is a federation of some 300 pro-consumer groups that, since 1968, has sought to advance the consumer interest through research, education, and advocacy.*