



Consumer Federation of America

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WILL BREEZY POINT'S FIREFIGHTERS WHO LOST THEIR HOMES TO FIRE DURING SUPERSTORM SANDY HAVE THEIR FIRE INSURANCE CLAIMS DENIED?

Buried in the Fine Print, Little-known Clause Could Result in Denied Fire, Wind, and Flood Claims

Washington, D.C.—When Superstorm Sandy battered the East Coast with high winds and a massive storm surge, 111 homes in the Queens, New York neighborhood of Breezy Point were destroyed by a fast-spreading fire. First responders, including firefighters, owned a significant number of these homes.

In an effort to ensure that claims for these and other homes harmed by fire, wind, and flood are paid promptly, the Consumer Federation of America (CFA) called on Governor Andrew Cuomo, Mayor Michael Bloomberg and the Superintendent of the New York Department of Financial Services, Benjamin Lawsky to take immediate action to prevent a little-known insurance clause from resulting in denied claims.

“Anti-concurrent-causation clauses (ACC) apply when a loss is caused by a combination of covered events, such as fire or wind, and non-covered events, such as a flood,” said J. Robert Hunter, Director of Insurance at the CFA. “When a policy contains an ACC, insurance companies can deny an otherwise covered claim – like fire or wind – regardless of the sequence of events. They can also deny an otherwise covered claim even if both events are shown to have contributed to the loss at the same time.”

For example, if a homeowner has both a homeowner’s insurance and flood insurance policy, the coverage will likely be granted and the insurer will cover losses associated with fire or wind while the National Flood Insurance Program will cover losses associated with flooding. However, if the homeowner has a homeowner’s insurance policy but not a flood insurance policy in force, an ACC could result in denied claims for fire and wind damage, as well as flood damage. **Approximately 70 percent of New Yorkers in flood zones do not have flood insurance in place, putting their claims – even their wind and fire claims – at risk.**

After Hurricane Katrina, ACCs were used to deny numerous claims, prompting litigation that we believe has not sufficiently clarified the circumstances under which ACCs can be enforced. In separate cases, courts ruled both ways; that ACCs were valid and could be used by insurance companies to void otherwise present coverage, and that ACCs were ambiguous and could not be enforced.

“We believe that additional clarity is needed and can be provided by the New York Department of Financial Services,” said Hunter. “We call on state regulators to take action to help New Yorkers whose fire and wind-related insurance claims payments are at risk of denial due to an unfair and legally unclear clause buried in the fine print.”

The Consumer Federation of America is an association of nearly 300 nonprofit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy, and education.