



Consumer Federation of America

1620 I Street, N.W., Suite 200 * Washington, DC 20006

FOR IMMEDIATE RELEASE:
September 6, 2012

CONTACT: J. Robert Hunter, 207-864-3953

WHAT CONSUMERS SHOULD DO TO GET FAIR CLAIMS' PAYMENTS IN THE WAKE OF HURRICANE ISAAC

Washington, D.C. -- The Consumer Federation of America (CFA) today warned home and business owners adversely affected by Hurricane Isaac to prepare to file a damage claim as quickly as possible. CFA estimates that Hurricane Isaac will cause less than one hundred thousand homeowner claims for wind damage, but a much higher number of federal flood insurance claims. By comparison, Hurricane Katrina resulted in 1,200,000 wind claims and over 500,000 flood insurance claims.

Payments for wind damage from Hurricane Isaac made by private insurers and state insurance pools will likely be of the order of \$1 billion, while flood claims paid for by the federal National Flood Insurance Program (NFIP) will likely exceed that amount, perhaps approaching \$2 to \$3 billion. The NFIP will probably run out of money paying flood claims – it only \$665 million on hand as of June 19, 2012. This means that the program will have to borrow money from the Treasury to pay for Isaac's claims

"Families hit by the storm will have to dig deeper into their pockets because insurers have been steadily increasing hurricane wind coverage deductibles and imposing other policy limitations," said J. Robert Hunter, Director of Insurance for CFA and former Federal Insurance Administrator and Texas Insurance Commissioner. "Although consumers in the Gulf Coast area experienced these cutbacks during Katrina, this cost shift to consumers may still take some by surprise, since some insurers buried disclosures about these reductions in renewal paperwork that consumers may not understand or even read," he said. "Because so many consumers experienced claims' problems in the wake of previous hurricanes, we urge homeowners dealing with losses caused by Hurricane Isaac to be vigilant with their insurance companies to ensure that that they receive a full and fair settlement.

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

BEFORE THE STORM

- 1) If you are in the path of the storm, locate your homeowner's policy right away and keep it in a safe place so that you can refer to it if necessary after the storm.
- 2) Review the policy now to find out how and where to report a claim, whether through a toll-free number, internet site, agent, etc.

- 3) Create an inventory of all of your possessions. Take pictures of your possessions before the storm and keep them in a safe place.

AFTER THE STORM

- 1) Report your claim as promptly as possible, as insurance companies generally handle them on a first come, first serve basis.
- 2) Once your claim is reported, be sure to get your claim number and write it down. Insurance company claims' departments can locate your file most easily using your claim number.
- 3) When the insurance company sends out an adjuster to survey your damage, ask if he/she is an employee of the insurance company or an independent adjuster (IA) hired by them. If the company is using an IA, find out whether the IA is authorized to make claims' decisions and payments on behalf of your insurance company, or if an adjuster at the company makes the final decision. If the company adjuster decides, get this person's name from the IA.

KEEP GOOD RECORDS

- 1) When you file a claim, immediately start a notebook documenting contacts with your insurance company. List the date, time and a brief description of all exchanges. If you need to complain later, this information will be vital (see below). If an adjuster promises to visit you to review property damage and does not, write it down. If he/she is rude, write it down.
- 2) Consult your inventory and pictures of possessions. If you did not create a list of possessions prior to the storm, do so immediately. If you did not take pictures for this purpose, 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.
- 3) 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 for any costs you incur living in temporary housing. This may be reimbursable under the "Additional Living Expense" portion of your homeowners' policy.
- 4) Find out if you are entitled to money up-front for living expenses, such as hotel costs, if your home becomes uninhabitable. Insurers are usually very good about making these initial payments, while the media is focused on the hurricane aftermath. Most claims' problems, if they arise, come later, when homeowners seek larger payments for damages.

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. State insurance regulators should ensure that insurance companies do not penalize consumers for filing a legitimate claim. CFA urges consumers not to do business with insurance companies that have a history of penalizing homeowners who file legitimate claims and to complain to state regulators if this happens (see below).

WHAT IF THE CLAIM IS DENIED OR THE OFFER IS TOO LOW?

If you don't receive what you consider to be a fair offer, 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:

- The company may be right and you may not know it. Once they pinpoint the relevant language in the policy, you should be able to make this determination. For example, you may have \$400 in damage, but the company points out that you have agreed to a \$500 deductible.
- The company may have slipped new limitations into the policy and not adequately informed you. The practice of shifting the cost for previously insured events 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. If you feel that you have been misled in this regard, it might be a good idea to consult an attorney. The introduction of percentage deductibles (up to 10 percent of the value of a home) will greatly shift the cost of Hurricane Isaac from insurance companies to insurance consumers, as compared to earlier storms.
- Another restriction that is 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 20 percent above the face value of the policy. If costs surge because of the spike in demand for construction materials or labor from a major storm like Hurricane Isaac (or if the state does not monitor price gouging sufficiently) this limit might apply. For example, if a home would cost \$200,000 to replace and that amount was the limit on the value of the policy, the insurance company would pay no more than 20 percent more, or \$240,000. If the surge in construction costs due to extreme demand causes the price of replacing the home to jump to \$300,000, the homeowner would be short \$60,000.
- Once the insurance company tells you the reasons for its action, it is not allowed to produce new reasons at a later time for denying payment or making a low offer. You have locked them in — a major advantage for the consumer.
- If you review the policy and find that you are entitled to the full amount of your claim under a reasonable interpretation of the language in the policy the company relied on, 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 party will prevail since the consumer played no part in writing the language of the insurance policy.

HOW DO I COMPLAIN?

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

- 1) 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 make a more reasonable offer.
- 2) Complain to your state insurance department. All states will at least seek a response to your complaint from your company. A few states may actually intervene on your behalf with 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) See a lawyer. Now the notes you took are vital. In addition to granting an award covering your claim, if your treatment was particularly bad, the courts in many states 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 must act in utmost good faith in performing that obligation.

WHAT ISN'T COVERED IN THE HOMEOWNERS' POLICY?

Homeowners' policies do not cover damages caused by floods or earthquakes, or tree removal (except when the tree damages the house) or food spoiled by power failure. Some insurers use an "anti-concurrent-causation" clause in their policies that, insurers allege, removes coverage for wind damage if a flood happens at about the same time. CFA believes that these clauses are extremely unfair and often ambiguous. If an insurer uses such a clause to deny your claim, read it carefully to see if you think it is ambiguous and, if so, see an attorney.

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

The federal government underwrites flood insurance coverage, although insurance companies often service claims. Often the same insurance company will handle claims for both wind and flood damage. 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 (1-800-427-4219, TDD# 1-800-427-5593). FEMA tips on handling flood insurance claims are located at:

http://www.floodsmart.gov/floodsmart/pdfs/claims_tips.html.

Since the NFIP is paid for by taxpayers, it is very important that consumers verify that insurers do not attribute an unjustifiably large portion of the losses consumers experience to flood damage, even though the insurance company should pay the claim because it was caused by wind damage. Consumers are the first line of defense against insurers shifting costs for wind losses to the NFIP. If you see such potential abuse by insurers, contact your U.S. Representative and Senators so that they can make sure that taxpayers are not defrauded.

"Some insurance companies handle claims very well, and some do not, so go into the claims' process with an open mind," said Hunter. "Be vigilant though, or you run a real risk of being shortchanged," he concluded.

PREVENTING INSURERS FROM PENALIZING CONSUMERS WHO FILE CLAIMS

Insurers treated many people poorly who filed claims for damages caused by Hurricane Katrina. For example, after Hurricane Katrina, insurers pulled back from offering coverage along the coasts, dumping homeowners into higher priced, state-run insurance pools. They also cut coverage and raised rates substantially. However, this should not deter you from seeking fair compensation for losses caused by Hurricane Isaac.

Indeed, insurers should face greater scrutiny by regulators because of the serious claims' problems that occurred in the impacted states after Hurricane Katrina. CFA calls on state regulators not only to closely monitor insurers to prevent claims' abuses but to stop insurers from moving unjustifiably after claims are paid to increase rates and cut back on the coverage they offer. There is no reason, actuarially, for insurers to raise rates or cut back coverage due to

Hurricane Isaac, which is a storm easily within the projections of insurers' current rate schedules. Insurers have already raised prices and cut back coverage along the Gulf Coast. No further price increases or coverage restrictions are justified.

Consumers must also act to protect themselves. CFA recommends that home and business owners adversely affected by Hurricane Isaac agree not to buy auto insurance and other coverage from any insurance company that refuses to renew policies with consumers who file claims. Consumers stood together after Hurricane Andrew, persuading Florida officials to pass a moratorium on the non-renewal of policies and to look carefully at attempts by insurers to increase rates. CFA also urges consumers to complain to state regulators to assure that insurers do not unjustifiably reduce or eliminate their coverage.

-30-

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