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Christopher Foley
Douglas Dunham

INSURANCE ISSUES

Homeowners Insurance and Other Private Insurance Policies (e.g., Renters)

Policy provisions can vary from insurer to insurer. So it is important to read the policy.

In general, a homeowners policy:

1. Covers wind and fire damage, damage to the interior from rain where wind has made an opening in the roof or a window; usually covers theft and vandalism; covers both dwelling, and personal property
2. Does NOT cover water damage from flooding and storm surge.
3. May cover drain/sewer backup, if policy has a rider or endorsement
4. Policy limits: policies will usually have separate dollar amount limits for dwelling and personal property/contents.
5. Anti-concurrent cause exclusion: Many policies exclude damage caused by flood, even if a covered peril such as wind was in the chain of causation (e.g., wind pushed waves against the house). Separate wind damage is covered even if there is also flood damage.
6. Hurricane deductibles (higher deductibles generally applicable to hurricane damage): Governor Cuomo has decided that Sandy was not a hurricane, so hurricane deductibles do not apply to damage caused by Sandy.

Advice to Homeowners – Immediate Steps to Take

1. Document damage as much as possible with photos and video.
2. If there is both wind damage and flood damage, document both carefully. The flood damage is covered by flood insurance (assuming the policyholder has purchased flood insurance). The wind damage is covered by the homeowners insurance. Separate wind damage that can be documented may be covered even if flood has damaged the home beyond repair.
3. Before discarding wet or damaged items, photograph them. It's a good idea to call the insurance company before discarding wet or damaged items, to ask if there is anything you should keep, or keep a sample of (e.g., carpeting, window treatments, wall paper, upholstery etc.) Take special care to document damage to expensive items.

4. Put all potentially responsible insurers (homeowners, renters, flood, automobile) on notice of the loss as quickly as possible, provide the insurer(s) with a reliable means of contacting you, e.g., cell phone number, email. Cooperate with your insurer as to requests and inquiries. Make a claim as soon as possible.
5. Take steps to prevent or mitigate further loss, including, if necessary, hiring one or more contractors to secure the home to the maximum extent possible.
6. Keep records of repairs, debris removal, and receipts for anything you pay for. Photograph the damage before even temporary repairs are made. The cost of temporary repairs should be covered. Keep your insurance company informed of what are doing.
7. Keep records of conversations with your insurance company (date of each conversation, person you spoke to, and what was said).
8. Be prepared to provide the insurance company with all information relevant to the loss, and keep copies of any documentation you give to the insurance adjuster.
9. The insurance company usually will send an adjuster to examine the property. Feel free to ask questions and point out damage.
10. If you are not able to live in your home because of a covered loss (e.g., wind blew the roof off the house), your policy may provide for alternative living expenses. Document all such expenses (meals, rent, transportation). Generally, alternative living expenses you incur because of a power outage are not covered.

New York Emergency Regulation (Issued by State Department of Financial Services)

1. Under the regulation, an insurer has to commence the investigation of any claim within six business days of being notified of the claim.
2. The insurer must notify the insured of all items, statements and forms that will likely be needed to process the claim.
3. If the insurer wishes to inspect the damage to your house and personal property, it must do so within six business days of when you give notice of the claim.
4. Where necessary to protect health or safety, an insured may commence immediate repairs to heating systems, hot water systems, and necessary electrical connections, as well as exterior windows, exterior doors, and, for minor permanent repairs, exterior walls, in order to retain heat.
 - a. If such immediate repairs are made before the insurer has inspected, the insurer must accept as proof of loss the insured's documentation of damaged or destroyed property, including photographs or video recordings, material samples, if applicable and inventories, as well as receipts for any repairs to or replacement of property.

b. This regulation does not apply to claims under flood policies issued under the national flood insurance program.

Flood Insurance – National Flood Insurance Program

1. Flood policies primarily cover water damage from flooding and storm surge. The policies may be purchased directly from the government or through participating private insurance companies.
2. For coverage, the flood policy must have been purchased and in force, before the storm.
3. Under flood policies, flood is defined generally as an inundation caused by overflow of inland or tidal waters or a rapid and unusual runoff of surface waters from any source.
 - a. Flood insurance covers damage from storm surge.
 - b. Flood insurance likely does not cover water that seeps in through the foundation of the house.
 - c. Flood insurance covers damage from "mudflow," which means a "river of liquid or floating mud on the surfaces of normally dry land areas. Arguably, this could include a sandflow from the ocean during Sandy. Mudflow does not include earth movement or a landslide.
 - d. Flood insurance also covers damage from the collapse of land caused by waves, storm surge or flooding. Therefore, if the land under a house was eroded by Sandy and the house sustained damage, that damage may be covered under the flood policy.
4. Flood policies may be purchased to provide both dwelling coverage and personal property coverage.
5. Flood policies have limitations on the amount of coverage, such as up to \$250,000 for the dwelling.
6. A flood policy does not cover loss of use of the property.
7. You should notify FEMA or the insurance representative from whom you bought the flood policy of your claim.
8. Document your claim using the steps outlined above with respect to claims under homeowners insurance. Be sure to take photos of water lines in your home and any other evidence of how much water was in your home and the damage caused by it.

9. Cooperate with the claims adjuster sent to inspect your property. This may or may not be the same adjuster as for your homeowners. Don't assume your homeowners adjuster is inspecting for flood coverage (or vice versa). Ask your adjuster if he or she is inspecting for both policies. You may have to have separate inspections.

10. If you have both flood and wind damage, make sure to pursue both claims with the applicable insurer.

NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES

TWELFTH AMENDMENT TO
INSURANCE REGULATION 64
(11 NYCRR 216)

UNFAIR CLAIMS SETTLEMENT PRACTICES AND
CLAIM COST CONTROL MEASURES

I, Benjamin M. Lawskey, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301, 2601, and 3404(e) of the Insurance Law, do hereby promulgate, as an emergency measure, the following Twelfth Amendment to Part 216 of Title 11 of the Official Compilation of Codes, Rules and Regulations (Insurance Regulation 64), to take effect upon filing with the Secretary of State, to read as follows:

(Matter in brackets is deleted; new matter is underlined)

Section 216.5(a) is amended to read as follows:

(a)(1) Every insurer shall [establish procedures to] commence an investigation of any claim filed by a claimant, or by a claimant's authorized representative, within 15 business days of [receipt of] receiving notice of claim. An insurer shall furnish to every claimant, or claimant's authorized representative, a notification of all items, statements and forms, if any, which the insurer reasonably believes will be required of the claimant, within 15 business days of receiving notice of the claim. A claim filed with an agent of an insurer shall be deemed to have been filed with the insurer unless, consistent with law or contract, such agent notifies the person filing the claim that the agent is not authorized to receive notices of claim.

(2)(i) Notwithstanding paragraph one of this subdivision, for claims that would otherwise be subject to the provisions of paragraph one the provisions of this paragraph shall instead apply, with respect to any claim occurring from October 26, 2012 through November 15, 2012 in the counties of Bronx, Kings, Nassau, New York, Orange, Queens, Richmond, Rockland, Suffolk or Westchester, including their adjacent waters, with respect to

(a) loss of or damage to real property;

(b) loss of or damage to personal property; or

(c) other liabilities for loss of, damage to, or injury to persons or property.

(ii) Every insurer shall commence an investigation of any claim filed by a claimant, or by a claimant's authorized representative, within six business days of receiving notice of claim, provided, however, that if a claimant, or the claimant's authorized representative, filed a claim

between October 26, 2012 and November 29, 2012, then the insurer shall commence an investigation of the claim within six business days after November 29, 2012 or 15 business days of receiving notice of claim, whichever is sooner. If the insurer wishes its investigation to include an inspection of the damaged or destroyed property, the inspection, whether performed by the insurer, an independent adjuster, or other representative of the insurer, must occur within the time frames specified in this paragraph.

(iii) An insurer shall furnish to every claimant, or claimant's authorized representative, a notification of all items, statements and forms, if any, that the insurer reasonably believes will be required of the claimant, within six business days of receiving notice of the claim.

(iv) A claim filed with an agent of an insurer shall be deemed to have been filed with the insurer unless, consistent with law or contract, the agent notifies the person filing the claim that the agent is not authorized to receive notices of claim.

(v) Where necessary to protect health or safety, a claimant may commence immediate repairs to heating systems, hot water systems, and necessary electrical connections, as well as exterior windows, exterior doors, and, for minor permanent repairs, exterior walls, in order to enable property to retain heat, and any policy requirement that the policyholder exhibit the remains of the property may be satisfied by the policyholder submitting proof of loss documentation of the damaged or destroyed property, including photographs or video recordings; material samples, if applicable; and inventories, as well as receipts for any repairs to or replacement of property. This subparagraph does not apply to claims under flood policies issued under the national flood insurance program.

12/12/2012

Associated Press

ALBANY, N.Y. — An agreement to be announced Wednesday will resolve an unexpected snag that has in some cases added weeks of delays in advance insurance payments to property owners hit by Superstorm Sandy, depressing recovery efforts in neighborhoods.

Eleven major lending companies have agreed with the state Department of Financial Services to speed up their endorsements of borrowers' initial insurance checks, typically worth \$5,000 to \$20,000. The lenders will also remove some new hurdles created for Sandy victims intended to protect the lenders' collateral in heavily damaged properties, said Benjamin Lawskey, the department's superintendent.

That should free up the critical first checks from a wait of two to three weeks and sometimes more, to a turnaround of just one or two days to policy holders, Lawskey told The Associated Press.

Lawskey said the lenders will also immediately release insurance checks intended to make a home habitable and to pay expenses for living elsewhere.

Some banks had been requiring their customers to provide contractors' estimates and other receipts and records to show the advance insurance checks would go to repairing the assets covered by the mortgage, which are the borrowers' collateral for the mortgages, Lawskey said. Those requirements will end under the deal as part of Gov. Andrew Cuomo's effort to speed private and public sector recovery by cutting bureaucracy.

The problems were first discovered through the state's complaint line, reports made by victims at mobile service centers and through local officials.

"When we found out that money was not moving as needed, we worked with the banks and mortgage servicers to solve the problem," Cuomo said. "The money will no longer be held up by red tape."

Cuomo has cut bureaucracy elsewhere in state agencies to speed answers and aid to Sandy victims. Lawskey said the state found after tropical storms Irene and Lee hit upstate a year ago that the first insurance checks to start repairs are critical to providing energy and hope in communities. Similarly, every day that first reconstruction is delayed depresses a community's spirit and the momentum to rebuild.

The lenders in the agreement cover most of the mortgages held by Sandy victims on Long Island, New York City and the lower Hudson Valley. They include Bank of America, Citi Mortgage, JPMorgan Chase, Wells Fargo Home Mortgage, M&T Bank, Apple Savings, Dime Savings Bank of Williamsburg, Emigrant Savings Bank, Homeward Residential, New York Community Bank and Ocwen Loan Servicing. The state will contact companies if necessary.

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