

## Insurance Claim Rules in California - 2017

Here is a summary of legal rules your insurance company and its employees are supposed to follow when handling your property damage claim.<sup>1</sup> Adjusters, especially those who come from out of state after a disaster, don't always know or follow the rules. So it is often up to you to understand and enforce them by using the guidance and sample letters you'll find on United Policyholders' website, [www.uphelp.org](http://www.uphelp.org) and in our print materials.

In addition to the legal rules, some insurance companies have agreed to abide by special **Voluntary** Claim Handling rules. Your insurance company may or may not be among them.

### Processing your claim

The insurance company must acknowledge that they have received your claim within **15 days** after you give them notice. They must provide you with the forms you're required to complete and explain how you're supposed to complete them. Under the voluntary claim handling rules, insurance companies should accept your personal property inventory on a form of your choosing. They may provide you a form, but you do have to use it if you prefer another format. They should also accept reduced itemization and grouping of categories of items.

### Investigating your claim

The insurance company must begin any necessary investigation within **15 days** of receiving your claim. They must provide you with additional written notification that the investigation is incomplete and the reasons it is incomplete within **30 days**. **Disasters often make these deadlines impossible to comply with, so they are routinely extended.**

### Communicating information to you

The insurance company must answer your questions and reply to your communications, including phone calls, emails, and letters within **15 days**. The insurance company must explain to you all policy benefits, applicable coverages, and any proof of claim deadlines. *They must also, upon written request, provide you with a complete copy of your policy and all claim-related documents in your claim file.* When you request a complete and current copy of your policy, your insurer has **30 days** to get it to you.

### Paying or denying your claim

The insurance company must accept or reject your claim in whole or in part within **40 days**. If they reject your claim, they must list all factual and legal bases for doing so with explanation of any applicable statute or other law. *If the insurance company accepts your claim, they must pay the undisputed portion of the claim immediately but not later than 30-days.*

### Additional Living Expenses

In claims where the cause is declared a "disaster" by the State, insurers must provide **at least 24 months** worth of ALE (Additional Living Expenses) benefits, up to policy limits. [Cal Ins. Code

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<sup>1</sup> California Code of Regulations sec. 2695.4-7; California Insurance Code sec. 790.03; For more information, see: <http://www.uphelp.org/pubs/guide-your-insurance-legal-rights-california>.

2051] Your insurer must give you, (upon request) a list of items normally classified as reimbursable ALE expenses. [Cal Ins. Code 2060] Typically ALE is paid via an advance to get you situated, then on an “as incurred” basis as you submit receipts and document expenses.

### Fair Depreciation

Almost every policy allows an insurance company to depreciate your property to reflect the condition it was in at the time of the loss. They must consider both age and condition of the property. [Cal. Ins. Code 2051(b)] You generally have the right to collect the difference between that depreciated amount and what it costs you to replace the property, depending on the policy language. You have the right to know how your insurance company calculated depreciation and how they calculated their settlement offer [Cal Ins Code 2071; CCR 2695.9] There is no “official” depreciation schedule, insurance companies are all over the map on these calculations, so you have to advocate for fair valuation of your property.

### Collecting Replacement Cost

For a declared disaster, you have *at least* 24 months to collect full replacement benefits. [Cal. Ins. Code 2051.5(b)(1). CA law also allows you to use your full replacement benefits, including extended and code upgrade coverages to buy or rebuild in a new location.<sup>2</sup> 2051.5(c).

### Cash advances

Your insurance company *should* give you cash advances while processing/adjusting your claim. If your insurer is abiding by the Voluntary Claims Handling Reforms mentioned above, they will pay you a **4-month advance** on your Additional Living Expense (“ALE”) or Loss of Use benefits, and **at least 25% of your Personal Property/Contents** limits.<sup>3</sup> Even if your insurance company didn’t sign on to this agreed set of reforms, they should abide by them if you ask them to.

### Preserving your rights

Your insurance company must provide written notice to you within **60 days** of deadlines that cut off your rights to collect additional benefits or file a lawsuit. The notice must clearly state the time limit and how it will impact your rights.

### Complaints, Attorneys & Litigation

Your insurance company cannot retaliate against you for making complaint to the California Department of Insurance or withhold payments until the complaint is withdrawn or threaten or intimidate you to keep you from making a complaint. [CCR 2695.7] An insurer cannot directly advise you against obtaining the services of an attorney. It is against the law for your insurer to unreasonably deny a claim, which in turn forces you to have to sue to recover benefits owed. [Cal Ins Code 790.03]

The information presented in this publication is for general informational purposes, and should not be taken as legal advice. If you have a specific legal issue or problem, United Policyholders recommends that you consult with an attorney. Guidance on hiring professional help can be found in the “Find Help” section of [www.uphelp.org](http://www.uphelp.org). United Policyholders does not sell insurance or certify, endorse or warrant any of the insurance products, vendors or professionals identified at our website.

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<sup>2</sup> See: United Policyholders – Buy or Rebuild? (<http://uphelp.org/pubs/buy-or-rebuild>); and Legal Opinion of General Counsel for the California Department of Insurance, Adam Code, April 3, 2008 (<http://uphelp.org/sites/default/files/publications/435314cicsection2015.pdf>)

<sup>3</sup> See <http://www.uphelp.org/sites/default/files/blog/nr106notice.pdf> (October 13, 2017)