

9.0 INSURANCE ISSUES

9.1 Overview

When a disaster occurs, you should contact your insurance agent or company as quickly as possible because your policy requires it, and there are usually deadlines for reporting a loss and filing a claim.

Most major insurance companies establish disaster hotlines for their policyholders. The lists of insurance company hotlines are generally posted on the websites of the various state departments of insurance. Also, major insurers often set up mobile disaster units close to affected areas. The contact information for the insurance departments is as follows:

Texas Department of Insurance (www.tdi.texas.gov/general/contactus.html)
1-800-252-3439

National Association of Insurance Commissioners (www.naic.org)
1-816-783-8500; help@naic.org

If anyone claims that they are working on behalf of the government, the Texas Department of Insurance, or your insurance company, and asks for money to help expedite your claim, be careful. Demand to see official photo identification and immediately report this to your insurance company or the State of Texas Department of Insurance for verification.

You may be approached by a public adjuster (PA) who will offer to assist you in handling or expediting your insurance claims in return for a percentage of your insurance benefit payments. A PA can help an insured to prepare, present, and settle a home property insurance claim. Their fee in Texas is capped at 10 percent of the insurance settlement. They must be licensed. To check to see if a PA is licensed, you can e-mail License@tdi.gov or call 512-676-6500. They also must be free of any conflict of interest. They cannot work for anyone who might financially benefit from repairing, rebuilding, or salvaging your home. If you choose to use a PA, choose wisely—choose someone licensed and with experience and references.

Insurance companies will only pay for repairs allowable by your policy. Those may be for the actual cost value (ACV) or replacement cost value (RCV). ACV is basically the “garage sale” price of the item, and the RCV is the price it would cost you to buy the item again at a reasonable cost. Look to your policy to see what you have. Remember, however, insurance companies will only reimburse for a reasonable cost for repairs. It is best to get your insurance company’s agreement on a contractor’s estimate before beginning repairs. If you find you need more money for repairs, you may ask your insurance company for a supplemental payment on supplying a new cost estimate. However, remember that you DO have limits to what your policy will pay, and the maximum can be quickly reached if there is a lot of damage. If prices quoted for repairs appear inflated, get another estimate and obtain your insurance company’s agreement before undertaking repairs. Remember that your claim will only be approved to the extent that it does not exceed your policy limit. If you undertake repairs at an inflated price, you may reach your maximum policy limit very quickly.

Remember that all of the following information and answers to FAQs do not substitute for the four corners of the insurance policy. **It is important that you read your insurance policy very carefully.**

9.2 Flood Insurance

FEMA oversees the National Flood Insurance Program (NFIP). All flood insurance policies require you to give prompt written notice of loss. Contact the NFIP if you have a federally written policy or your insurance company or agent if you have a privately written policy to find out how to file your notice of claim. Typically, you will file a claim for damages under your flood insurance policy by submitting a signed and sworn proof of loss to your insurance company. The proof of loss must be in the hands of the insurance company within sixty days after the loss occurs. However, in cases of severe catastrophe, FEMA may authorize proof of loss extensions for everyone in your area. If you do not agree with the amount in the proof of loss prepared by the adjuster for your company, you must hire your own adjuster and get your proof of loss in by the deadline.

You will need to submit a list of lost or damaged contents. To the extent possible, include on the list the quantity of each item, a description, brand name, cost, model and serial number, and your estimate of the loss amount. An insurance adjuster will prepare an estimate of damages and provide you with a copy. The form must be complete, and the loss amount must be an actual number; it cannot be “undetermined.” If it is not complete or submitted by the deadline, your claim will be barred. You and the insurance company can then agree on the amount of the damages to be paid. If you do not agree, then you can appeal the insurance company’s decision. Please refer to your policy for more information on claims payment and the appeal process.

Answers to Questions about the National Flood Insurance Program: If you need information about your flood policy or help with your claim, you can call the NFIP help center at (800) 427-4661 or, if your issue is still not resolved, you may contact the Office of the Flood Insurance Advocate at <https://www.fema.gov/webform/flood-insurance-advocate-ask-question>.

You can find FEMA’s flood insurance manual (effective April 1, 2016) at <http://www.fema.gov/media-library/assets/documents/115549>. You can also find more detailed NFIP information at the nonprofit united policyholders website, <http://unitedpolicyholders.org/blog/houston-flooding-insurance-claim-help>.

9.3 FAQs—Auto

If your car was damaged in a disaster other than a flood and was in a garage, carport, or outside, it may be covered by your auto policy and NOT your homeowners policy. The claim must then be made to the appropriate insurance agency for your auto policy.

Q. 9-1 My car was flooded. How does the insurance company determine if my car should be totaled?

Whether your car will be totaled is determined on a case-by-case basis. Typically, when the cost of repair plus the salvage value equals or exceeds the actual cash value of the vehicle prior to the loss, it will be considered a total loss. A primary factor is the amount of water in your car. Generally, if water covered your dashboard or electrical components, the car will be totaled.

Q. 9-2 My car was totaled due to flood damage, and I have full coverage on it. The company is going to pay the Blue Book value, but I still owe substantially more than that. Doesn't the company have to pay what I owe on the auto?

No. The insurance company is only obligated to pay the current market value of your vehicle. You can request that the adjuster explain to you how the value was derived to ensure that all of the vehicle's equipment, features, upgrades and recent work was considered in determining the value. To cover the difference between the market value of your vehicle and what you actually owe, you would need an endorsement or separate policy, to provide guaranteed auto protection (GAP) coverage.

Q. 9-3 What will happen to the vehicle's title if my car is totaled?

If you own the vehicle outright, you will have to sign the title over to the insurance company. In exchange, they may give you a check for the market value of the vehicle, depending on the terms of your policy. If you still owe on a car loan, the insurance company will coordinate with you and your lender to have the title signed over to them. In most cases, the insurance company will establish contact with the lender and be advised of the amount owed on the loan. If the insurance company has determined that the market value of the vehicle is \$10,000 and the amount owed the lender is \$8,000, the insurance company will issue a check for \$8,000 to the lender to release the lien on the car. The insurance company will then issue a \$2,000 check to you to obtain your signature on the title. For specific information on how titles are processed, contact the DMV by phone at 1-888-368-4689 or online at <http://txdmv.gov/contact-us>.

Q. 9-4 If my car is damaged by flood, and my policy only provides liability coverage, is there anyone I can contact for help?

If your auto insurance policy only provides liability coverage, it will not pay for damage to your car due to a flood. If a disaster has been declared, you can contact FEMA (www.fema.gov; 1-800-621-3362) or the Red Cross (www.redcross.org; 1-800-733-2767) to assist with immediate needs.

Q. 9-5 The insurance company requested that I tow my flooded vehicle to a specific location for inspection. Am I responsible for the towing charges?

No. The insurance company should pay the towing expense by reimbursing you or paying the tow truck operator once the vehicle is delivered at the inspection site. You should not be responsible for the expense since you are assisting the insurance company in a prompt inspection of your vehicle, as well as protecting it from further damage.

Q. 9-6 The insurance company agreed to repair my vehicle. Can the company require the use of used parts?

In some cases, used parts and aftermarket parts may be permissible, depending on the age, condition, and mileage of the particular vehicle. Most Texas personal automobile policies require the insurance company to pay the lesser of the following: actual cash value of the property; the amount to repair or replace the property with other of like kind and quality; or the amount stated in the declarations page of the policy.

Q. 9-7 Since my car was flooded, I had to rent a vehicle. Does my auto policy cover the cost of renting a car?

Your policy will provide coverage for renting another vehicle only if you have an endorsement on your policy for rental reimbursement coverage. Under this coverage, the insurance company will pay up to the limit shown on the endorsement for the reasonable amount of time it takes to repair or replace your vehicle.

Q. 9-8 Is my vehicle covered for flood damage?

Flood damage is covered if you carry “other than collision” coverage, also called comprehensive coverage, on your policy. This information can be found on your policy’s declarations page. If you do not have a copy of your policy, you can check with your agent or insurance company.

Q. 9-9 What if I do not agree with the settlement offered by the insurance company, particularly the market value amount for my totaled vehicle?

Ask the adjuster to explain how the settlement amount was derived. You may also provide examples of vehicles for sale in your area that are in the same pre-loss condition to support the market value. If you still disagree, the personal auto policy allows you to demand an appraisal of the loss. There is a specific provision in many policies for appraisal which lists the responsibilities of both parties.

Q. 9-10 My car was washed away in the flood. How do I find out where it is now?

Contact the unclaimed autos department of the area police department. Also, your vehicle may have been towed to a storage facility without your consent. If the vehicle was towed without your consent, and the storage facility wants to charge you a fee, you might contact the Texas Department of Motor Vehicles (TxDMV) at 888-368-4689.

Q. 9-11 I've received a check from the insurance company but am not satisfied with the amount. I plan to file a complaint to request additional funds be paid. Should I cash the check? If I cash the check, does it mean that I accept their decision and amount of payment?

You should not endorse a check before discussing your concerns with the company. Call the adjuster or company first before cashing the check. In addition, read both sides of the check

carefully, as well as any accompanying documents. Some companies have a release from further liability disclaimer printed on the back of the check. The disclaimer sometimes states that your endorsement of the check releases the insurance company from further liability. In some cases, particularly when dealing with damaged real property, the check may be a partial payment to initiate repairs. Additional funds may be released when you submit proof that repairs have been completed. **Please be sure that you understand what the check represents and how cashing it will affect you prior to taking any action regarding the check.** If you need more of an explanation or information, talk to your agent or insurance company.

Q. 9-12 How does replacement cost coverage work?

Replacement cost coverage replaces or repairs your damaged property with new material and/or items of like kind and quality.

Q. 9-13 Is replacement cost coverage available on all policy types?

Replacement cost coverage is not available under a typical auto policy. Some insurers provide new car replacement for a limited number of years if the auto is insured when new. You should check with your agent or company to see if they offer replacement cost coverage on all policy types.

Q. 9-14 If an insured vehicle is financed, how are claim checks issued? If issued to both the insured and lienholder, how does the insured collect?

The lienholder endorsement requires the insurance company to pay the insured and the lienholder as their interest may appear on the title. The insured and the lienholder may both be named on the check. In most cases, insurance claim payments for damage to property that is security for a loan will be made payable to you and the lienholder, and the checks would require endorsements from both parties. The insured and the lienholder will agree on the release of funds.

Q. 9-15 What is the insured's recourse if the check made payable jointly to the lien holder and insured is sent directly to the lien holder and cashed without the insured's knowledge or endorsement on the check?

If this occurs, your first step would be to contact the insurer and your lienholder to discuss the issue. You can also contact the Texas Department of Banking at 1-877-276-5554 or visit their website at <http://www.dob.texas.gov/>.

Q. 9-16 Does the insured have to agree to have the vehicle totaled if the insured will be "upside down" on the loan?

The policy will state how the loss will be paid. The insurance company decides whether to total a car. A car is typically totaled if it will cost more to repair the car than the car is worth. Insurance coverage for the difference between the actual cash value of a car and the outstanding loan amount can be covered by a GAP endorsement or a separate GAP policy. Absent a GAP policy

or another provision that includes replacement cost coverage, if the cost to repair exceeds the actual cash value (also known as a “total loss” or “totaled car”), the company will pay the actual cash value of the car. If the car is subject to an outstanding lien, you are responsible for the balance.

Q. 9-17 What if my car is determined to be a total loss but I want to keep it?

If your car is a total loss but you want to keep it, you would need to negotiate a settlement with the insurance company in which you are able to retain the salvaged car. However, you would be responsible for the cost of repairs and would be subject to the laws regarding owner-retained salvage. For questions regarding owner-retained salvage, contact the Texas DMV at 888-368-3689 or www.txdmv.gov. Additionally, you may want to contact the lienholder to find out whether retaining the salvaged car would impact the lien.

Source: This question and answer subsection utilizes information provided by the Texas Department of Insurance, <http://www.helpinsure.com/home/condisasterfaq.html>.

9.4 FAQs—Mobile Homeowners

Q. 9-18 Are there different types of policies that provide coverage for mobile homes?

“Mobile” and “manufactured” homes are covered under a mobile home policy. Both mobile and manufactured homes are built in factories, shipped in one piece, and not often fixed to a foundation. A “mobile” home is defined as one built before 1976. One built after 1976 is technically called a “manufactured home.”

A “modular home” is one that is built in a factory, shipped in pieces, and built onto a fixed foundation. It is usually covered under a homeowner policy.

Sometimes mobile/manufactured homes can be covered under RV or camper insurance if they have a hitch, but this is rare.

Q. 9-19 Wind caused my tree to fall on my mobile home and damaged my roof. Does my mobile home owner’s policy cover the damages to my home and would the company pay to remove the tree from my property?

If a covered type of loss, such as wind, causes a tree or tree limbs to damage the mobile/manufactured home, the insurance company should cover the roof damage and also should pay any reasonable amount to lift or cut the tree (or limbs) off of the damaged structure and put them on the ground. Once they are on the ground, they may or may not pay for the debris removal. Some company may provide an option to increase coverage. You should contact your agent or company regarding debris removal coverage.

Q. 9-20 Does my mobile home owner’s policy provide additional living expenses?

Most mobile home owner's policies provide some additional living expense reimbursement in the event the mobile home is damaged or destroyed from an event that is covered under the policy and the mobile home is thereby rendered uninhabitable. Some companies may provide an option to increase this coverage. It is important that you contact your agent and/or company regarding your additional living expense coverage.

Q. 9-21 My mobile home was flooded. Will my mobile home owner's policy pay for my damage?

Generally floods are not covered. However, it is important to check your policy and/or contact your agent regarding flood coverage for your mobile home.

Source: This question and answer subsection utilizes information provided by the Texas Department of Insurance: <http://www.helpinsure.com/home/condisasterfaq.html>.

9.5 FAQs—Homeowners

Q. 9-22 What's the difference between the types of homeowner policies? How does a dwelling policy differ from a homeowner's policy?

Homeowner's policies may either provide "all risk" or "named peril" coverage. "All risk" is used to describe policies that typically cover all perils unless specifically excluded in the policy. "Named peril" means the damage must be caused by a peril that is specifically named or listed in the policy. The homeowner's policy provides coverage for the dwelling, personal property, other structures, Additional Living Expenses (ALE) (also known as "loss of use"), medical payments, and personal liability. A dwelling policy provides coverage for the dwelling and/or personal property.

Q. 9-23 Can I make repairs to my property immediately?

All policies require you to mitigate damages, meaning you are required to stop further immediate damage as soon as possible without endangering your own safety. This means you must protect it from further weather damage or from thieves entering, for example. However, you should do this by making only temporary repairs. **Do not** make permanent repairs until an adjuster has inspected the damage. Your policy covers the cost of necessary temporary repairs, so save your receipts and time logs for materials and labor. You should take lots of pictures of the damage, both close up and wide angle, before making temporary repairs or moving damaged property. This includes pictures of any standing water. You should then separate damaged property from undamaged property and begin making a home inventory list.

Q. 9-24 Does a homeowner's insurance policy provide additional living expense coverage?

If you can't remain in your home because of loss from "a covered peril," your homeowner's or renter's policy will pay for staying in a hotel, motel, or other temporary shelter. (Note that this is not true of most flood insurance policies.) ALE must be in your policy and are based on policy

provisions. If the damage does force you to move, be sure to tell your insurer where you are and how to reach you by phone. Also, leave a note at your damaged residence telling the insurance adjuster how to find you.

Note that ALE is payment only above what you would normally pay for such expenses, so if you are forced to leave your home and stay in a hotel, for example, but normally pay \$800 for your mortgage but had to pay \$1,200 for a hotel stay, ALE will only pay \$400.

Q. 9-25 My home was not flooded by rising water; however, the sewer line backed up and caused damage in my home. Is this covered under my homeowner's policy?

It depends on your policy. Some policies exclude water or sewage from outside the residence premises plumbing system that enters through sewers or drains. Review your policy and contact your insurance company or agent regarding coverage.

Q. 9-26 My house was flooded and I placed my furniture and household items in the front yard to dry out, but they were stolen. Will my homeowner's policy cover this loss?

It depends on your policy. Even though there is an exclusion for flood losses, many policies contain an exception to that exclusion, such as "We do cover an ensuing loss by theft or attempted theft or any act of stealing." Review your policy and contact your insurance company or agent regarding coverage.

Q. 9-27 My policy states that if a claim results from a weather-related catastrophe or a major natural disaster, each claim-handling deadline is extended for an additional fifteen days. Does this mean that I have coverage under my policy for damage caused by the flood?

This language does not alter or amend what is covered by the policy. It merely extends the claim processing time requirements of the Texas Insurance Code.

Q. 9-28 Under a homeowner's policy, who determines the cause of damage and who pays for an expert if one is needed?

Your insurance company is required to send out an adjuster, who is a person professionally trained to investigate and assess damage and evaluate the loss. If they believe they need a further expert, they will pay for one. However, if you dispute the estimated damage amount, you may have to hire your own expert or appraiser.

Q. 9-29 My house got water in it from the flood. I had damage to the roof, which is sagging, and rain water came in through the roof. I don't have flood insurance, but I do have homeowner's insurance. What, if anything, may be covered under my homeowner's policy?

When wind forces rain through an opening in your home causing water damage to the inside, the damage is caused by “wind-driven rain.” Your homeowner’s insurance policy may or may not cover this type of damage, depending on type of policy and the specific language in your policy.

Q. 9-30 I’ve received a check from the insurance company but am not satisfied with the amount. I plan to file a complaint to request additional funds be paid. Should I cash the check? If I cash the check, does it mean that I accept their decision and amount of payment?

You should not sign or endorse/sign a check before discussing your concerns with the company. Call the adjuster or company first before cashing the check. In addition, read both sides of the check carefully, as well as any accompanying documents. Some companies have a release from further liability disclaimer printed on the back of the check. The disclaimer sometimes states that your endorsement of the check releases the insurance company from further liability. In some cases, particularly when dealing with damaged real property, the check may be a partial payment to initiate repairs. Additional funds may be released when you submit proof that repairs have been completed. **Please be sure that you understand what the check represents and how cashing it will affect you prior to taking any action regarding the check.** If you need more of an explanation or information, talk to your agent or insurance company.

Q. 9-31 How does replacement cost coverage work on policy types such as flood, homeowner’s, dwelling, and mobile home?

Replacement cost coverage replaces/repairs your damaged dwelling or personal property with new material and/or items of like kind and quality. In most cases, you should only be responsible for paying the deductible. A deductible is what you have to pay out of your pocket before the insurance company will pay. Some homeowner’s and dwelling policies automatically include replacement cost coverage for the dwelling; others allow you to add it for additional money, and some may only provide actual cash value. Actual cash value (ACV) is what the item would cost you if you took the replacement cost minus depreciation (loss in value over time for wear and tear). Companies may also offer replacement cost coverage for mobile home policies. Review your policy and check with your agent or company to see if your policy has replacement cost coverage.

Q. 9-32 I’ve received a check from my company for damages to my home. It is going to cost more to repair than the amount received. Did they pay me enough for damages?

If you have replacement cost coverage, your claim may be paid in two stages. Your first claim check may be for the ACV of the damaged property. ACV is determined by taking the replacement cost for the covered loss and deducting for depreciation (loss in value due to aging of item). Once the damaged property is repaired or replaced, you are entitled to receive the depreciation that was previously withheld in your first check, up to the replacement cost of the damaged property, and not to exceed the actual amount spent or the total amount of insurance on the dwelling.

Generally, to receive the difference between ACV and replacement cost, the policy contract requires that the repair or replacement be completed within a specific period of time, usually 180 to 365 days from the date of loss. Policies may also provide an option for the insured to extend that time frame if requested in writing as outlined in the actual policy. It is important to check your policy and/or contact your agent regarding the specific requirements of your policy. RCV claims can usually be filed up to 520 days.

If you are not underinsured, you should only be responsible for paying your deductible in most cases. If you believe your company is not offering an amount sufficient to repair/replace your damaged property, minus your deductible, you may want to request appraisal in accordance with the provisions in the policy. Ask your company to explain the basis for its payment and clarify if additional funds are forthcoming. Please note in Texas that hurricane deductible equal 2 percent of the home's value.

Q. 9-33 Do checks from insurance companies have to be endorsed by both the insured and the mortgage company? Does the same procedure apply to mobile homes?

Usually, if the damage is more than \$10,000, the mortgage company must be named on the check. However, different contracts may require different amounts review your mortgage contract carefully. If the total damage amount is over the amount required in the mortgage contract, endorsements will be required from both the insured and the mortgage company. Usually, the funds are held in escrow and disbursed in installments as repairs are made and approved.

Q. 9-34 What recourse does the insured have if the check was issued directly to the mortgage company? How long can a mortgage company hold money before releasing any to the insured? Can the mortgage company disperse the money in small increments? Can they withhold disbursements?

Your insurance company cannot make a check for a claim payable only to the mortgage company. If they do, you should refuse to accept it and demand the check be re-issued to you and your mortgage company.

The Texas Insurance Code provides that the mortgage company must, within ten days after they receive the insurance proceeds, tell you what their requirements are in order to have the funds released. Once you have provided sufficient evidence to show that you have met those requirements, the mortgage company has ten days to release the funds.

- If you have a concern about a private mortgage lender, you should contact the Federal Trade Commission (FTC) at 1-877-382-4357 or online at <http://www.ftc.gov/contact>.
- Additionally, you may want to contact the Office of Consumer Credit at 1-800-538-1579 or online at <http://occc.texas.gov/contact>.
- If the lender is a state-chartered savings and loan, or bank, contact the Texas Department of Savings and Mortgage Lending at 1-512-475-1350.

- If the lender is a federally chartered lender, contact the Office of the Comptroller of the Currency (OCC) Customer Assistance Group at 1-800-613-6743.
- In some instances, the Office of Housing and Urban Development (HUD) may be able to help and should be called at 1-800-225-5342.

Q. 9-35 Are plumbing problems/backed up toilets covered by any types of insurance, even after a flood?

Generally, if the plumbing or sewer backup is deemed to be from a flood, it is not covered, either under a sewer backup policy or a standard homeowners, renters or business policy. If the water damage results from another reason, it may be covered under your policy and you should contact your insurance agent or company.

Q. 9-36 There is a power outage in my area and we have no utilities in our home. Will my policy pay for a hotel until power is restored?

Probably not. The policy will normally only provide additional living expense coverage if your home is damaged by a peril covered in your policy and, as a result, the residence is unfit to live in. You must check the specific language in your insurance policy, or contact your company/agent.

Q. 9-37 I bought my house several years ago and last year my mortgage was bought by another mortgage company. My original company provided flood insurance, but now I find that the new mortgage company did not provide it. What can I do?

Mortgage companies are required by statute to ensure that a property in a flood zone has flood insurance. The new mortgage company has a duty to send a notice to the insurance provider that it will no longer provide the flood insurance. The mortgage company should then provide notice to you (the borrower) that you need to provide flood insurance on your own. You have a time limit to do so, usually it is forty-five days. If the borrower fails to purchase flood insurance, then a mortgage company may purchase flood insurance for the property. This is called “force-placed insurance” and is usually more expensive with less coverage than you would purchase on your own. If you do not maintain the required flood insurance, you may not be covered for damages that occur from a flood and potentially may not be eligible for federal assistance benefits, such as FEMA, in the event of a disaster. For information regarding the statute, contact the FEMA representative at a Disaster Recovery Center (DRC) at <https://gateway.fema.gov/ESF6/DRCLocator> or the National Flood Insurance Program at <https://www.fema.gov/national-flood-insurance-program>.

- If you have a concern about a private mortgage lender, you should contact the Federal Trade Commission (FTC) at 877-382-4357. You may also visit its website at www.ftc.gov.
- If the lender is a state-chartered savings and loan, or bank, contact the Texas Savings and Loan Department at 512-475-1350.

- If the lender is a Federal Chartered Lender, contact the Office of Thrift Supervision at 972-277-9500.
- In some instances, the U.S. Department of Housing and Urban Development (HUD) can help. Call HUD at 800-225-5342.

Q. 9-38 Wind caused my tree to fall on my house, which caused damage to my roof. Does my homeowner's policy cover the damage to my house and pay for the removal of the tree from my property?

If your policy provides coverage for wind, and the wind causes a tree or tree limbs to damage roof of the home, the insurance company should cover the roof damage and also should pay any reasonable amount to lift or cut the tree (or limbs) off of the damaged structure and put them on the ground. Once they are on the ground, they may or may not pay for the debris removal. Some companies limit debris coverage for removal to \$500 per tree and \$1,000 per loss. Contact your insurance company or agent regarding coverage.

Q. 9-39 My neighbor's tree fell down on my house and damaged my roof. Will my neighbor's homeowner's policy pay for the damage to my home and remove the tree?

Probably not. Your neighbor is not legally liable for an act of nature. However, if there was some sort of negligence involved, such as if the tree was dead, your neighbor may be responsible for the damage to your home. If your neighbor's policy does not pay for your damage, you can make a claim under your policy if the peril that caused the tree to fall is a covered peril in your policy. You should contact your agent and/or company regarding the damage.

Q. 9-40 Some trees blew down in my yard during a storm. Will my homeowner's insurance policy pay for the loss to and removal of the trees?

No. If a tree or tree limbs land on the lawn and do not damage a structure, the insurance company is not required to pay to have them removed, cut up, or hauled off.

Q. 9-41 A windstorm blew my fence down. Will my homeowners insurance cover loss of my fence?

If your policy provides coverage for wind, you may have coverage for the fence. You may get actual cash value (ACV) or replacement cost value (RCV) depending on your policy. Usually, coverage for wooden fences is generally limited to actual cash value which is the replacement cost for the damaged property less depreciation. You should check your policy and/or contact your agent regarding coverage.

Q. 9-42 Who should I contact if I have damage to my home as a result of a windstorm and my windstorm insurance is provided through the Texas Windstorm Insurance Association (TWIA)?

For questions on policy coverage or filing a claim on your TWIA policy, please contact your insurance agent or contact the TWIA at 1-800-788-8247 or via its website at www.twia.org.

For questions regarding inspections of your property for certification to the Windstorm Building Code, please contact the Texas Department of Insurance Windstorm Inspection unit at 1-800-248-6032 or refer to the website at <http://www.tdi.state.tx.us/wind/index.html>.

Q. 9-43 What coverage do I have for my house and personal property under my TWIA policy?

Generally, the TWIA Dwelling Policy provides coverage for direct physical loss to your dwelling, other structures such as detached garages, and personal property, including clothing. The amount of insurance for other structures is included in the limit of insurance for the insured dwelling and will not exceed 10 percent of that limit unless you have specifically insured other structures on the Dwelling Policy. You should contact your agent and review your policy and any applicable endorsements for specific coverage.

Q. 9-44 During the storm, a tree fell on the roof of my home which allowed rain to enter from the opening made by the tree. I now see mold growing. Do I have coverage?

Most homeowner's policies will provide coverage for the property damaged by rain that entered through an opening caused as a direct result of wind. Generally, mold is excluded in the homeowner's policy; however, some policies will cover an ensuing mold loss caused by or resulting from covered water damage. Coverage for ensuing mold loss would include the reasonable and necessary costs to repair or replace your damaged property. However, most policies do not include any additional cost for remediation or testing of ensuing mold unless your policy includes mold remediation coverage.

Q. 9-45 During the storm, my home was flooded. Does my homeowner's policy cover mold damage from the flood water?

Typically, homeowner's policies do not cover damage caused by or resulting from flood, surface water, waves, tidal water or tidal waves, overflow or streams or other bodies of water, or spray from any of these whether or not driven by wind. If there is no flood coverage provided in the homeowner's policy, any ensuing mold loss resulting from flood would not be covered under the policy.

Q. 9-46 Do I have to hire a public insurance adjuster to file and help in the settlement of my auto or homeowner's insurance claim?

No. Hiring a public insurance adjuster to assist you in filing a property insurance claim is optional. Public insurance adjusters charge fees to help negotiate claim settlements with insurance companies. Be aware that the public insurance adjuster fee is normally a percentage of the claim settlement and therefore is paid out of settlement monies received from an insurer.

Q. 9-47 Are there any limitations on the compensation of a public insurance adjuster?

Yes, the following limitations apply:

- If a claim is settled within seventy-two hours of the date the loss is reported to the insurance company, the public insurance adjuster is entitled only to reasonable compensation for time and expenses and cannot receive a commission consisting of a percentage of the total amount paid by the insurer.
- The public insurance adjuster's fee may not exceed 10 percent of a claim settlement. A clear statement of the public insurance adjuster's commission must be disclosed in the public insurance adjuster's written contract. Always review the contract language and note that you may request a change to limit recovery to the percentage of the amount the public adjuster recovered. If the public insurance adjuster is not licensed, the public insurance adjuster is not allowed to take a fee and any agreement must be in writing.

Q. 9-48 Is a public insurance adjuster permitted to be involved in the repair of damaged property for which the public adjuster negotiated settlement?

No. The public insurance adjuster may not participate, either directly or indirectly, in the reconstruction or repair of damaged property that is the subject of a claim adjusted by the public insurance adjuster.

Q. 9-49 Are public insurance adjusters required to be licensed by the Texas Department of Insurance?

Yes, a person may not act as a public insurance adjuster in Texas or hold himself or herself out to be a public insurance adjuster in Texas, unless the person holds a license or certificate issued by the commissioner. You may verify the license status of a public insurance adjuster at <http://www.tdi.texas.gov/agent/index.html>.

Q. 9-50 The food in my refrigerator spoiled because of loss of power in my area. Will my homeowner's policy pay for the loss?

If the power failure results from a peril covered in the policy and is off your premises, most homeowner's policies will cover up to \$500 for spoiled refrigerated or frozen food. If the power failure is caused by a covered peril and occurs directly to your home or equipment (refrigerator/freezer), you may be eligible for more than \$500. However, you need to read your policy to determine your coverage.

Q. 9-51 If I evacuate due to a storm, and my personal property is damaged or stolen while in another location, will my personal property be covered by my auto or homeowner's policy?

Homeowner's policies provide coverage for personal property while away from the insured location or premises. Most policies limit the amount of this coverage to either 10 percent or 20 percent of the total amount of coverage for personal property. Some policies limit theft coverage for personal property while away from the residence premises at any other residence owned by, rented, or occupied by an insured, unless the insured is temporarily living there. Generally, a personal automobile policy will not cover personal property.

Source: This question and answer subsection utilizes information provided by the Texas Department of Insurance: <http://www.helpinsure.com/home/condisasterfaq.html>.

Q. 9-52 What if I have a mortgage on my property? Does the insurance company have to put my mortgage company on the check? How do I get my money for repairs?

When you borrowed money to buy your home, your mortgage company became vested in what happens to it. If the insurance company paid you and you used the money for something other than repairs, the property wouldn't be worth the amount of money you borrowed. So, the mortgage company wants to make sure that you use the insurance money to repair the property so that the value is kept intact and their investment is protected. Usually, if the damage to the property is more than \$10,000, the mortgage company will be named on the check. If you are only receiving insurance benefits for personal property or additional living expenses, the check will be made out only to you. Once the check is cut, you will be asked to endorse it and send it to the mortgage company. How it is then released for repairs depends on the language in your mortgage contract. In most cases, the funds are held in escrow and released in installments as the repairs are made and approved by the insurance company.

Q. 9-53 Can the mortgage company make me apply the insurance money to what I owe on the property?

Under most circumstances, mortgage companies will prohibit you from applying insurance funds to your principal or any payments on which you may be behind because they want you to make the repairs or rebuild the property. However, you must read your contract because there are some circumstances in which if you are in default, the insurance proceeds may be applied to what you owe, but they must ask your permission.

Q. 9-54 What if my mortgage has been sold and the wrong company is on the check?

Return the check to the insurance company and ask that it be re-issued and provide them with proof of the correct mortgage company.

Q. 9-55 What if I have paid off my mortgage?

Return the check to the insurance company and ask that it be re-issued and provide them with proof that you have satisfied all your payments and that your loan is paid in full.

Q. 9-56 What if my mortgage company bought insurance for my property?

This is called “force-placed” insurance. This is insurance that is placed when a property owner allows his own insurance to be cancelled, to lapse, or the mortgage company believes it is insufficient for the property and the property owner hasn’t bought any more insurance. It may be homeowner’s insurance or flood insurance and usually only covers the dwelling itself—no personal property (no contents). If you have this kind of insurance, you must make the claim; the mortgage company will not do it on your behalf. If you are unsure if you have this kind of insurance, ask your mortgage company and get a copy of the policy. These policies are only to make repairs on the property; you cannot use them to pay off your mortgage.

For more information on insurance questions or to make an insurance-related complaint, call the TDI Consumer Help Line at 1-800-252-3439.

9.6 FAQs—Renters

Q. 9-57 What if I rent? Does my renter’s insurance cover damages from a disaster?

It would depend on the policy. Most renter’s policies provide coverage for lost, damaged, or stolen personal possessions only. They may provide coverage for someone else that might get injured in the apartment, which is called liability coverage. However, because you don’t own the property yourself, renter’s insurance will not cover the dwelling. Most covered losses include those from fire, theft, vandalism, and water leaks but NOT flood! If you want flood coverage, you must buy a separate policy.

Renter’s policies usually pay for losses on an actual cash value basis. This means you will be paid for basically what the item is worth at the time of the loss; the cost of replacing the item will be looked at and then a subtraction will be made for the age of your item and average wear and tear. For a “replacement cost value,” which is the cost of the item if you went out and bought another new, a person has to pay a higher insurance premium (the cost of the insurance).

Many times also available with renter’s insurance is what is known as “Additional Living Expenses,” (or ALE) which means that if you are forced to live elsewhere because your apartment has become uninhabitable due to the disaster (usually due to a loss of use of the kitchen or bathroom), your insurance company will pay you what is incurred over and above your normal expenses. This means, for example, if you have to live in a hotel and eat out for a month and you spend \$2,000, where you would normally only spend \$1,400 on rent and groceries, your insurance company would pay you the additional \$600 to make up the difference. You must, however, keep your receipts and furnish those to your insurance company. To receive it, though, you must have ALE as a benefit in your policy.

To find out your coverage, read your policy or talk to your agent.

9.7 FAQs—National Flood Insurance Program (NFIP)

Q. 9-58 What is the difference between a flood insurance policy issued by the NFIP and a policy issued by an insurance company? Does one provide better coverage than the other?

Flood insurance is provided by the federal government through the NFIP. The policies that are sold by insurance companies are usually NFIP policies sold through the “Write Your Own” (WYO) program. This is done to make it easier to purchase flood policies through local insurance agents. Even though the policies are purchased through the insurance companies, they are still basic NFIP policies.

Claims are handled by NFIP adjusters and by insurance company adjusters that are certified by the NFIP to handle flood claims. Questions and complaints can be referred to the NFIP at 1-888-225-5356. Some insurance companies may also offer additional flood coverage other than the NFIP policy or at a cheaper rate. You should check with your agent or company to see what coverage is available and best for your needs.

Q. 9-59 How can I obtain insurance coverage to protect my home and contents from damage caused by flooding?

NFIP makes flood insurance available to people who live in communities that participate in the National Flood Insurance Program. Contact your agent or the NFIP at 1-888-225-5356 to purchase a NFIP policy. The home need not be near a body of water or in a floodplain to qualify.

Q. 9-60 Why would I buy flood insurance if my property is in a low or moderate risk area?

Twenty to twenty-five percent of all flood insurance claims come from low to moderate risk areas.

Q. 9-61 Can I buy flood insurance if I rent?

You can buy up to \$100,000 of flood insurance for your contents.

Q. 9-62 How much flood insurance can I buy?

From NFIP, you can buy up to \$250,000 for the dwelling and \$100,000 for your contents. You may be able to add additional coverage through an agent who sells WYO policies.

Q. 9-63 Does the policy provide any coverage for additional living expense?

No, the NFIP policy does not provide coverage for additional living expense.

Q. 9-64 How is damaged residential property valued after a loss under an NFIP policy?

If the property is insured to at least 80 percent of its value and is your principal residence, the dwelling will be valued at replacement cost if the dwelling is replaced. If the dwelling is rebuilt at a new location, the replacement cost won't exceed what it would have cost to replace at the former location.

Contents, appliances, carpets and carpet pads, and outdoor property are valued at actual cash value. Actual cash value is the cost to repair with new material of like kind and quality less depreciation.

Q. 9-65 Is there coverage for the cost of debris removal? What about loss avoidance measures?

The cost of removing debris on your property, and the cost of removing debris of your property that is on someone else's property is covered, but it's subject to the limit of the policy. You will be compensated at the federal minimum wage if you perform the work yourself. Loss avoidance is limited to \$1,000 for the cost of sandbags, temporary levees, pumps, and plastic sheeting and lumber, including the value of your work. An additional \$1,000 is available for the cost of moving insured property to protect it from flood. These benefits do not increase the limit of insurance.

Q. 9-66 If my automobile was parked on my property and damaged by flood, does the flood policy cover the damage?

No, automobiles are not covered property under the NFIP policy. If you have comprehensive or full coverage under your auto policy, flood should be covered by that policy. If you have liability only, there is no coverage for the auto. If this happens, you should file a separate claim with your auto insurance agent or company.

Q. 9-67 Does flood insurance cover damage to built-in appliances?

Check to see what flood insurance coverage you have. Then, call the NFIP at 1-888 225-5356 to determine what would be covered in a flood insurance policy. Generally, flood policies provide coverage for the structure and personal property. Built-in appliances may fall under either category.

Q. 9-68 What coverage is available for commercial buildings?

Up to \$500,000 is available for non-residential buildings, and an additional \$500,000 for contents of non-residential buildings. Buildings and contents are valued at actual cash value.

Q. 9-69 When does coverage become effective under an NFIP policy?

There is a thirty-day waiting period before coverage goes into effect after an NFIP policy is purchased. However, there is an exception to the thirty-day waiting period when a new policy is initially purchased in connection with a loan. In that case, the policy becomes effective at the time of the loan closing.

Q. 9-70 What if my dwelling or commercial building is valued over the maximum limits available?

The insurance company that insures your commercial building for fire might add excess flood coverage. That coverage usually has the NFIP maximum limits as a deductible. Availability might depend on the flood zone of each location. There may be insurers that will write excess policies for dwellings over the \$250,000 maximum limits. You should contact your agent to learn more about available coverage.

Q. 9-71 Where can I get more information about flood insurance?

Check out www.floodsmart.gov.

Source: This question and answer subsection utilizes information provided by the Texas Department of Insurance: <http://www.helpinsure.com/home/condisasterfaq.html>.