

Reminder: Insurance Deadlines Are Fast-Approaching for Sandy Claims

FOR FLOOD INSURANCE: Your flood insurer must receive new Proof of Loss forms signed by all policyholders with supporting documents on time, or you will lose your rights to your claim.

1. Proof of Loss must be RECEIVED by your flood insurer AT THE LATEST by April 28 or 29. Signed Proof of Loss forms with supporting documents should be received ASAP BEFORE, but by April 29 the latest if your insurer says your loss was Oct. 29, 2012 (if the loss was Oct. 28, 2012, it's due April 28).

Note: FEMA states that Proof of Loss is due earlier IF you have a "denial" dated April 28 or 29, 2013 or before. If so, FEMA states Proof of Loss is due within 1 year of the date stated on the 1st denial AND that, after sending Proof of Loss, you must also sue your flood insurer in Federal Court within this 1-year period to preserve the claim.

Proof of Loss often requires assistance. Some examples:

- *Where to send it (varies by insurer, but needs to go to the flood insurer and not just the adjuster or agent/broker).*
- *There are 2-3 Proof of Loss forms: How to fill them out.*
- *What supporting documents to attach (usually requires experts and photos). See our "Insurance Checklist" and "Updates" and other info. on disasterlaw.wordpress.com.*

SEND PROOF OF LOSS ASAP

FEMA's position that the Proof of Loss deadline can expire before April 28 or 29, 2014 (if you received a "denial" in April 2013 or earlier) is likely to be challenged in Federal Court. *We cannot predict any outcome, but we don't want anyone to avoid sending Proof of Loss (which must be received by the flood insurer before April 28 or 29), just because they may have missed FEMA's earlier 1-year "denial date" deadline.*

Do not assume that anyone has submitted Proof of Loss for you. Signed Proof of Loss with supporting documentation is due *EVEN IF* you worked with a lawyer, consultant, contractor, public adjuster, insurance adjuster, insurer, etc. They cannot extend deadlines or waive the Proof of Loss requirement.

2. Statute of limitations. *FEMA says you have 1 year from the 1st "denial" to file suit, whether or not the denial is on your Proof of Loss or something else (for example, contractor estimates or a request for coverage). It must be filed in the proper Federal Court. File by the last business day before the 1-year deadline. What constitutes a "denial" requires careful review of your full claim file and a lawyer should be consulted. See our "December Update." You cannot sue if you have not sent Proof of Loss on time.*

There may be some additional uncertainties about the lawsuit deadline, and lawyer should be consulted. For instance:

First, there may be a question about the lawsuit deadline if there has never been a "denial," and the insurer either never issues a decision on Proof of Loss *or* issues a decision after the 60-day period that it has to respond to Proof of Loss; in that case, to lessen the risk of being untimely, sue at the latest within 1 year of the date on the Proof of Loss.

Second, while it may be necessary to file suit within FEMA's deadline stated above, it is unclear what the Federal Courts may hold is the starting point for the 1-year lawsuit deadline or when this issue may be decided. (Plaintiffs have argued the 1-year lawsuit deadline should start from the insurer's decision on Proof of Loss received by the April 2014 deadline. Another question is if it starts from the date on the Proof of Loss if the insurer does not issue a decision within the 60 days it has to respond.) Check disasterlaw.wordpress.com for any updates. We cannot advise on your deadlines or predict any outcome. *Filing a lawsuit later than what FEMA has advised is taking a risk of being untimely.*

FOR HOMEOWNER INSURANCE: Your homeowner policy generally will contain the requirements and deadlines. The NY State deadline to file a lawsuit against a wind/rain insurer is usually 2 years from the date of loss, but your policy may vary. There may also be policy deadlines to recoup depreciation. If your wind/rain insurer demands proof of loss, it needs to be provided within the deadline stated. It should be sent before filing a lawsuit. A lawyer should be consulted. There is also currently a mediation alternative for homeowner claims.