

Hurricane Sandy And Flood Insurance: Critical Deadline Looms

by Charles A. Yuen on September 11, 2013

Flood insurance policies contain a provision requiring the filing of a sworn proof of loss, typically within sixty days after the loss. The standard National Flood Insurance Program (“NFIP”) dwelling form, for example, requires that detailed information be provided as a proof of loss within sixty days.

After Sandy hit on October 29, 2012, the Federal Emergency Management Agency (“FEMA”) extended the amount of time within which an insured must submit a proof of loss for FEMA-backed insurance policies to one year from the date of the loss. Generally speaking, for New Jersey and New York Sandy victims looking for insurance claims, this deadline should be considered to be no later than October 28, 2013. At this point, policyholders should consider this deadline firm and inflexible.

Many policyholders, of course, have already submitted copious amounts of information to their carriers. Most of these less formal submissions have not met the requirements of a formal sworn proof of loss. To date, FEMA, by relaxing other submission requirements, has allowed FEMA-backed carriers to consider and pay claims based upon informal submissions.

After the “sworn” proof of loss deadline passes (i.e., on October 28, 2013), however, it appears carriers may no longer have the flexibility to pay claims based upon informal submissions. If the policyholder has not submitted a sworn proof of loss meeting policy requirements, coverage may be denied – regardless of any prior or subsequent submissions and regardless of the content of any prior correspondence from any carrier or adjuster.

Accordingly, policyholders who have been underpaid or denied coverage by their flood insurers need to review their flood insurance policies in order to comply with the stated proof of loss requirements, including any requirement that a proof of loss be “sworn.”

A sample proof of loss form is available on the FEMA website. Policyholders should not, however, assume that this sample form, or any form, is adequate. Rather, they should check the specific requirements of their policies.

It is sobering fact that, in other situations, valid flood insurance claims are routinely denied for a simple compliance issue -- missing the proof of loss deadline. Do not let this happen to you.