

# TENNESSEE TORNADO DAMAGE CLAIMS



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# TRAGIC TORNADOES

Incredibly powerful tornadoes recently swept through multiple counties in Tennessee. Hundreds of homes and buildings were destroyed, precious lives were lost, and communities forever changed. After such terrible tragedies, policyholders are left to pick up the pieces of what remains in order to try and rebuild their lives. Merlin Law Group is here to help in the recovery process and can assist you with your tornado damage claim. Our core mission as a firm is to help rebuild and restore lives, one policy at a time.





# FILING A TORNADO DAMAGE CLAIM

Policyholders should notify their insurance company of the loss. This will begin the claim process. We recommend you thoroughly review your policy to determine what coverage you have relating to tornado damage and any possible exclusions or limitations. You should also check to see if there are any time constraints with filing a claim.

When a disaster like this occurs, insurance companies can get backed up with insurance claims. This can cause the claim process to extend longer than normal, but you should still expect responsiveness and for your claim to be resolved in a reasonable amount of time. If you feel that your insurer is unjustly delaying your claim, contact Merlin Law Group for help.



# TENNESSEE STATUTE OF LIMITATIONS

Homeowners insurance policies can carry a shortened period to file suit. Chip Merlin once cited a Tennessee insurance policy in his Property Insurance Coverage Law Blog that read as:

No suit, action or proceeding for the recovery of any claim under this policy shall be sustainable in any court of law or equity unless the Insured shall have fully complied with all the requirements of this policy, nor unless the same be commenced within twelve (12) months next after inception of the loss provided, however, that if under the laws of the jurisdiction in which the property is located such limitation is invalid, then any such claims shall be void unless such action, suit or proceedings be commenced within the shortest limit of time permitted by the laws of such jurisdiction.

All this to say that an action must be brought within 12 months after the cause of action accrued. However, even if an insured files a lawsuit more than 12 months after the loss occurred, the action is still timely for purposes of the statute of limitations if it is brought less than 12 months after the first denial of liability by the insurer.

If your tornado damage claim is denied and your insurance policy contains similar language, make sure to note the date that your insurer issues its first denial of your claim. This may trigger the date by which you must file an action in court.

# TENNESSEE INSURANCE ADJUSTERS

After you file a claim with your insurer, they will assign a representative to handle your claim. Your insurer will also appoint an insurance adjuster to come out to inspect your property and assess the damage. Their assessment will determine how much the insurance company will pay the policyholder in accordance with the benefits laid out in the Policy.

Tennessee is different than other states in that insurance company adjusters are not required to be licensed or have any formal training. It does, however, require public adjusters to be licensed. Public adjusters are not employed by the insurance companies and work on an independent basis.

Merlin Law Group often recommends hiring a public adjuster to provide an independent review of your claim. This can be helpful in case you do not agree with the findings of the insurance company adjuster and need another opinion. There have been many cases where discrepancies are found between the reports of insurance company adjusters and public adjusters hired by the policyholder.

In Tennessee, we highly recommend hiring a public adjuster as a backup given that policyholders could be dealing with unlicensed and untrained insurance company adjusters. Why risk the success of your claim on an untrained adjuster's report? If your claim is denied and you fight your insurer in court, a public adjuster's findings can be introduced to help support your case.

# TENNESSEE CLAIM REGULATIONS

Tennessee has passed several regulations that policyholders should be aware of when filing a claim. These regulations were passed by the Tennessee Department of Commerce and Insurance and state:

1. When the policy provides for the adjustment and settlement of first party losses based on replacement cost, the following shall apply:

a. When a loss requires repair or replacement of an item or part, any consequential physical damage incurred in making such repair or replacement not otherwise excluded by the policy, shall be included in the loss. The insured shall not have to pay for any cost except for betterment and any applicable deductible under the policy.

b. When a loss requires replacement of items and the replaced items do not match in quality, color or size, the insurer shall replace items so as to conform to a reasonably uniform appearance according to the applicable policy provisions. This applies to interior and exterior losses. The insured shall not bear any cost over the applicable deductible, if any.

2. Actual Cash Value:

a. When the insurance policy provides for the adjustment and settlement of losses on an actual cash value basis on residential fire and extended coverage, the insurer shall determine actual cash

value as follows: replacement cost of property at time of loss less depreciation, if any. Upon the insured's request, the insurer shall provide a copy of the claim file worksheets detailing any and all deductions for depreciation.

b. In cases in which the insured's interest is limited because the property has nominal or no economic value, or a value disproportionate to replacement cost less depreciation, the determination of actual cash value as set forth above is not required. In such cases, the insurer shall provide, upon the insured's request, a written explanation of the basis for limiting the amount of recovery along with the amount payable under the policy.

These regulations point out that an insured should be reimbursed for any costs spent on making temporary repairs and that the insurer must provide replacement items that match in quality, color, and size. Regarding depreciation, the Tennessee Supreme Court recently ruled that labor cannot be depreciated when considering actual cash value due to the ambiguity of certain policy language.

The Tennessee Supreme Court stated in its opinion that any ambiguities in policy interpretation must land in favor of the policyholder. Policy language can be vague or confusing, which insurers try to use to their advantage in supporting their claim denials. However, policyholder attorneys can also argue their own interpretation of the language, and as the Tennessee Supreme Court points out, the courts tend to favor the policyholder in these situations.



# HERE TO HELP

If you were affected by the recent tornado damage in Tennessee, Merlin Law Group sympathizes with your loss and wishes you luck with your insurance recovery. Consider hiring a public adjuster to conduct their own damage assessment when filing your claim. If you feel that your insurer is unreasonably delaying your claim or has wrongfully denied your tornado damage claim, please don't hesitate to reach out to Merlin Law Group.

We fight to obtain justice for policyholders. We have the experience and resources to take on insurance companies in court and know how to deal with their bad faith tactics. Let us help you navigate your tornado damage claim and help you with your insurance benefits recovery.



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