



Insurance Law

This info sheet provides some legal information to individuals in British Columbia residents on insurance claims made in relation to the wildfires. It is meant for general information purposes only, and is not intended as a substitute for legal advice from a lawyer.

OBTAINING AN INSURANCE POLICY

What if I don't have a copy of my insurance policy?

Contact your insurer; they are required to provide a copy of your insurance policy upon request. If you purchased your insurance through a broker, they can help you with your claim and will obtain the policy for you.

INSURANCE COVERAGE

What does my policy cover?

The insurance company will only pay for what your insurance policy covers. Your insurance policy is your contract with the insurance company. It states when, how, and what the insurance company will pay for.

Most home insurance allows you to rebuild your home at the insurer's expense. However, the home must be rebuilt largely as it was, and in a reasonable time following the fire. Otherwise, the insurer will only pay the "actual cash value" of the home.

You should therefore review your insurance policy carefully, and seek legal advice if you have questions. For instance, your insurance policy may cover fire damage, heat damage, or smoke damage. You may need to consult with your insurance company to have the property inspected for heat, smoke, or other damage.

Your policy may also cover alternative living expenses (or lost rent if the property is a rental property), up to specified limits.

If the wording of your insurance policy is unclear on what it covers, contact your broker. If necessary, seek legal advice.

Does my insurance policy cover fire damage?

While most property or home insurance policies cover loss by fire or fire damage, this depends on the wording of your policy, the type of insurance, and the limits of coverage. Your broker can help you determine your coverage. If there are disputes about coverage, a lawyer can also assist you.

Does my insurance policy cover my car?

Your ICBC or other motor vehicle policy will cover your vehicle if you purchased comprehensive coverage. Most homeowners' policies do not cover motor vehicles; but you should review your policy.

I own part of the property, but my name is not on the insurance. Am I still covered?

You may be able to collect. You should get legal advice.

MAKING AN INSURANCE CLAIM

What is the time limit to make an insurance claim?

You should notify your insurance provider of your claim immediately. If the insurer refuses to honour your claim, however, you must commence any legal action for losses within 2 years of the date of the loss.

How do I make an insurance claim?

STEP 1: Notify your insurer of your loss, in writing. The insurer will send you forms within 60 days. These will include the "proof of loss" document: a sworn document that details your losses. It is important to be careful when completing proof of loss; inaccuracies or misrepresentations may lead to underpayment, delay, or even denial of a claim. Your broker may assist you in completing proof of loss.

Gather as much information as possible about your loss, including: photographs; a list of the items you

want to claim, and when they were purchased; and a list of floorings, fixtures or other furnishings that you had to throw away. If everything has been lost, the more documentation you have to demonstrate the losses, the easier the claims process will be.

You should also keep all receipts for out-of-pocket expenses (hotel bills, car rental bills, restaurant receipts, etc.). Your insurance policy may cover alternate living expenses, though you are generally required to show proof of those losses by providing receipts.

STEP 2: Provide your proof of loss, in as clear terms as possible, to the insurer. This proof must show that a loss was incurred, and the value of that loss. Provide the insurer with a statement of when and how the loss occurred. If the specific loss was caused by the fire, include a statement on how the fire originated as far as you know or believe.

You may be feeling shock and grief at this time, which may make it difficult to understand the information the insurer has sent you. Ask family, friends, support agencies, and insurance representatives for help to file your insurance claim as soon as you can. It is important to recognize that the insurer's legal obligation to make a payment to you is not triggered until you submit proof of loss.

Your insurer may ask for other information. If they do not accept that you cannot provide this information (for example, you are asked for documents which are lost or destroyed), you should speak with your broker and, if necessary, seek legal advice.

The insurer may send out a Claims Examiner or an adjuster to review your claim. The Claims Examiner may interview you, your neighbours, and witnesses, and may review police reports. If you feel you are being unfairly treated by the adjuster, you should seek legal advice or help.

If the Claims Examiner wants you to abandon your claim, you should seek legal help immediately.

Do not sign any documents until you understand what they mean. You should get legal advice about documents your insurer asks you to sign, including insurance release forms.

Can my insurance claim or damages award be fast-tracked?

While there is no specific provision about this in the *Insurance Act*, in situations of catastrophic loss, insurers will often set up new procedures to make sure that their clients are looked after as soon as possible with respect to immediate needs, including additional living expenses. Review your policy and ask your insurance provider for details.

What do I do if my insurance company denies me coverage?

Communicate your concern to the insurance provider, and if necessary, get legal advice before taking formal action. The most common reasons for denials of coverage include:

- > false statements made to the insurer either at the time of purchasing coverage or during the claims process;

- > changes in use or occupancy that have not been approved by the insurer (e.g. if a business was being operated out of the home, or if the home was insured as a single family residence but is being occupied by multiple unrelated individuals); or
- > if the home was vacant at the time of the loss without the insurer's permission.

If you have concerns about any issues that may affect your coverage, seek legal advice immediately.

How should I negotiate with my insurer?

You may negotiate informally with your insurance company or broker, or through a formal dispute resolution process, which most insurers can arrange. Note, however, that if coverage is in place, you are entitled to the benefit of your coverage and should not have to accept a lesser amount.

MISSED INSURANCE PAYMENTS

I missed my insurance payment. Do I still have insurance?

Usually, if your policy is not renewed or you have not paid the premium, you will not be able to make a claim. Your insurer has no obligation to provide 15 days' notice of the policy lapsing; however, they are required to provide 15 days' notice of termination as a result of non-payment.

GOVERNMENT GRANTS

Will my insurance payout affect my chance of receiving a government grant?

Lytton-area households are eligible for a one-time \$2,000 payment through the BC government and the Red Cross. All households in BC under mandatory evacuation orders for longer than 10 consecutive days during the 2021 wildfire season will be eligible for a one-time payment of \$1,200. Other grants may also be available.

Your insurance should not affect your eligibility for these grants, nor should the grants affect your insurance payout. Speak with your insurer if you have any questions about these matters.

This info sheet is Kevin Gourlay's pro bono contribution to APB's 2021 Wildfire Legal Response. Kevin is a lawyer at Murphy Battista LLP, a personal injury law firm in BC.

Resources

RED CROSS: call 1-800-863-6582 to register with Red Cross and make sure you are accounted for during the wildfires emergency. You may be able to receive up to \$600 per household to assist with evacuation costs. Visit the Red Cross Assistance FAQs webpage at www.redcross.ca/how-we-help/current-emergency-responses/british-columbia-fires/bc-fires--assistance-faqs.

INSURANCE BUREAU OF CANADA can assist with insurance-related questions and claims. They are currently onsite in Kamloops at 900 McGill Road.
> www.IBC.ca/on/disaster/bcwildfire
> 1-844-2ask-IBC

ACCESS PRO BONO'S LAWYER REFERRAL SERVICE can assist you in finding a lawyer. You can receive a free half-hour consultation:
> Lower Mainland: (604) 687-3221
> Toll free: 1-800-663-1919
> Book online: www.accessprobono.ca/our-programs/lawyer-referral-service

POVNET:
> www.povnet.org to find a community advocate.

LEGAL CLINICS MAY BE ABLE TO ASSIST:

ACCESS PRO BONO'S SUMMARY LEGAL ADVICE PROGRAM:
30 minutes of free legal advice.

- > 1-866-762-6664 to receive legal advice ASAP over the phone
- > (604) 878-7400 to set up an appointment

JUSTICE ACCESS CENTRE (JAC):
> Nanaimo: (250) 741-5447; 1-800-578-8511
> Vancouver: (604) 660-2084; 1-800-663-7867
> Victoria: (250) 356-7012; 1-800-663-7867

UBC LAW STUDENTS LEGAL ADVICE PROGRAM (LSLAP):
> (604) 822-5791

FOR ADDITIONAL INFORMATION ON INSURANCE LAW:

DIAL-A-LAW:
> (604) 687-4680;
> 1-800-565-5297 (toll-free);
> www.dialalaw.org