



## **DIVISION OF INSURANCE**

### **The June 1, 2011 Massachusetts Tornadoes:**

A Special Examination of  
Property and Casualty Insurer  
Claims Payment Practices

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Commissioner of Insurance

The following report was prepared by staff of the State Rating Bureau within the Massachusetts Division of Insurance (“Division”). Kevin P. Beagan, State Rating Bureau Director, Gerald B. Condon, State Rating Bureau Researcher and Caleb E. Huntington, State Rating Bureau Mathematician, prepared the report and provided the analysis herein.

The Division called a special examination of the top 25 home insurance companies and the Massachusetts Property Insurance Underwriting Association (“FAIR Plan”) (collectively the “Companies”) on December 22, 2011 for the purpose of reviewing and evaluating the processing of claims submitted as a result of the tornadoes that occurred in western and central Massachusetts on June 1, 2011. This report is based on responses from the Companies regarding claims submitted for damage associated with those tornadoes. Unless otherwise noted in the report, references to home insurance include traditional homeowners insurance, as well as condominium and renters insurance.

**Although the Division relied on the Companies to submit accurate data, the Division has made appropriate efforts to verify the completeness and consistency of the data reported.**

## **Executive Summary**

The top 25 home insurance companies and the FAIR Plan responded to over 11,000 tornado-related claims submitted through September 30, 2011.

- As of April 2, 2012, more than 98% of the 10,764 personal property claims associated with the tornadoes had been settled, with insurance companies having paid \$167.9M for damages to automobiles, homes, and associated personal property.
- As of April 2, 2012, almost 96% of the 757 commercial property claims associated with the tornadoes had been settled, with insurance companies having paid \$32.4M for damages to commercial vehicles and property.

## **June 1, 2011 Tornadoes**

On the afternoon of June 1, 2011, homes and property in portions of Western and Central Massachusetts suffered catastrophic damage as a result of severe weather conditions including tornadoes.<sup>i</sup> Public safety officers responded quickly to the tornadoes, evacuating residents from the area. Affected consumers contacted their insurance companies to file claims and insurance companies processed checks to pay for alternate living arrangements when policyholders could not return to their properties.

On June 15, 2011, President Obama approved Governor Patrick's Emergency Disaster Declaration Request on behalf of those portions of Massachusetts affected by the weather conditions of June 1, 2011, and those areas were declared a federal disaster area. In light of the emergency disaster declaration and to provide ongoing support for the recovery efforts, the Division issued Bulletin 2011-13, *Emergency Procedures Related to the June 1, 2011 Tornado and Storm Damage that Occurred in Massachusetts*, on July 12, 2011.<sup>ii</sup> The bulletin offered guidance and recommendations to all property and casualty insurers in Massachusetts, including the FAIR Plan, regarding claim handling, insured premium payments, insured property vacancy provisions and provisions regarding cancellations, non-renewals, re-rating and rating classifications.

In the weeks following the tornadoes, representatives from various state and federal agencies, including the Division, staffed disaster recovery centers in Brimfield, Monson, Palmer, Southbridge, Sturbridge, Springfield, West Springfield, Westfield and Wilbraham to assist affected consumers.

## **Special Examination**

Ten months after the tornadoes, in response to concerns raised by some by individual policyholders about delays in processing claims associated with the tornadoes, the Division of Insurance issued special examination letters to the top 25 home insurance groups in Massachusetts and the FAIR Plan. The examination consisted of two data requests:

Part 1: Aggregate data for tornado-related claims on a monthly basis from June 1, 2011 to September 30, 2011.

Part 2: A ten percent sample of tornado-related claims submitted from June 1, 2011 to September 30, 2011 that were not settled as of September 30, 2011.

As a follow-up to the Part 1 and Part 2 requests, the Division requested that the Companies identify as of April 2, 2012: (1) the number of claims settled; (2) the number of claims not settled; and (3) the total amount of payments made to policyholders. This report is based on the status of the submitted claims as of September 30, 2011 and April 2, 2012, as reported by the Companies.

## **Description of Claims Review Processes**

In general, when there is a weather event that is covered under a property insurance policy, affected policyholders are expected to protect their property from further damage<sup>iii</sup> and are required to notify their insurance companies about any and all damage to property.<sup>iv</sup> An insurance company then sends its own claims adjusters to the property to assess the damage to the property.

In some instances, an insurer's claims adjuster will call in structural engineers or other experts to further inspect the property to determine whether the damage is more extensive than is visually apparent. When the insurance company has completed its review, it will calculate an estimate of the total insured cost under the terms of the policy to address the damage and may offer payment to the policyholder. Although a home insurance company is expected to process claims expeditiously,<sup>v</sup> insurers are also expected to take reasonable and appropriate steps to validate the claim and assess the total covered loss.

After the insurance company offers the insured a payment for the covered losses, if the insured agrees with the offered settlement, the claim is resolved and the insured can make arrangements to address the damage. If the insured does not agree with the company's estimate of the loss, the insured can hire his or her own claims adjuster, called a public adjuster,<sup>vi</sup> who will develop their own estimates and deal directly with the insurance company claims adjuster(s) to settle the claim. Although hiring a public adjuster may extend the time to settle a claim, it may result in a larger negotiated settlement. In the event that the parties are not able to reach resolution, there is a statutory referee process that can be followed to reach agreement on a final settlement.<sup>vii</sup>

## **Personal Property Claims Data**

### **Cumulative Data as of April 2, 2012**

As of April 2, 2012, a total of 10,764 personal property claims were filed with the top 25 home insurance companies and the FAIR Plan. The 10,764 claims were for the following types of damages.

<b>Number of Claims</b>	<b>Damaged Property</b>
4,259	Personal Automobiles
6,493	Homes
12	Other Personal Property

Out of the 10,764 filed claims, 10,578 claims (98.3%) were closed as of April 2, 2012 and 186 claims (1.7%) remained unresolved.<sup>viii</sup> On average, the Companies reported making the following average payments per claim.

<b>Average Claim Payment</b>	<b>Damaged Property</b>
\$3,783	Personal Automobiles
\$25,784	Homes
\$12,764	Other Personal Property

### **Personal Property Claims Settled Between June 1, 2011 and September 30, 2011**

During the initial four-month period after the tornadoes, home insurance companies and the FAIR Plan settled a total of 8,796 claims and paid out a total of \$91,343,144 on damage to personal property. The following table sets forth the month-by-month settlements and payments.

<b>Month</b>	<b>Claims Settled</b>	<b>% of Total Claims</b>	<b>Average Payment</b>
June 2011	4,213	39.1%	\$5,955
July 2011	2,479	23.0%	\$10,540
August 2011	1,227	11.4%	\$13,484
September 2011	877	8.1%	\$26,890

Although the number of claims that were settled declined in each sequential month, the average amount of payment increased each month. This appears to indicate that claims settled in the later months involved more extensive damage that may have taken longer to appraise.

## **Personal Property Claims Settled Between October 1, 2011 and February 1, 2012**

Home insurance companies and the FAIR Plan were asked to take a sample of claims that were not settled by September 30, 2011 and report their status and the reasons settlement had not been reached. The Companies also were asked to document whether the policyholder in such unsettled claims had used a public adjuster to negotiate on their behalf.

A total of 158 claims were identified by the Companies as unsettled as of September 30, 2011, including 18 personal automobile claims (0.4% of total unsettled personal automobile claims) and 140 home insurance claims (2.2% of total unsettled home insurance claims).

### **Personal Automobile**

Of the 18 personal automobile claims that remained unsettled as of September 30, 2011, nine claims were settled in October 2011 and five claims were settled in January 2012. The settlement of some of these 14 claims was delayed because policyholders submitted claims for additional damages beyond what was originally paid.

### **Home**

Of the 140 home insurance claims that remained unsettled as of September 30, 2011, 84 claims were settled by February 2, 2012 with an average payment of \$38,555. The claim settlements were distributed as follows.

<b>Month</b>	<b>Claims Settled</b>
October 2011	39
November 2011	22
December 2011	20
January 2011	2
February 2011 (through 2/1/12)	1

According to the notes associated with these 140 claims, settlement was delayed for the following reasons:

- Delay in submission of initial claim;
- Delay in completing the inspection by structural engineer;
- Delay in the submission of photos/documentation of losses;
- Supplemental damage claims submitted after initial claims were paid; and
- Dispute between contractor and insurer over cost of repairs.

In nine of these 84 claims (10.7%), the policyholder used the services of a public adjuster.

## **Personal Property Claims Not Settled by February 2, 2012**

### **Personal Automobile**

There were four personal automobile claims that remained unsettled as of February 2, 2012 due to lingering disagreements between the insurance company and the policyholder, including two claims that were being investigated for possible fraud.

### **Home**

There were 56 home insurance claims that remained unsettled as of February 2, 2012.

#### **Claims Not Involving a Public Adjuster**

Of the unsettled claims, 37 of the 56 (66.1%) did not involve a public adjuster representing the homeowner. The Companies reported that although they made partial payments on 27 of these claims, the claims are characterized as unsettled because there are outstanding claims for the replacement of personal items or supplemental damages. According to the Companies' notes, these claims remained open as of February 2, 2012 for the following reasons:

- Delay in submission of supplemental damages;
- Delay in submission of documentation on personal items claimed;
- Delay in completing the inspection by structural engineer;
- Delay in the submission of photos/documentation of losses; and
- Dispute between contractor and insurer over cost of repairs.

#### **Claims Involving a Public Adjuster**

Of the unsettled claims, 19 of the 56 (33.9%) involved a public adjuster representing the interests of the homeowner. According to the Companies' notes, these claims remained open as of February 2, 2012 for the following reasons:

- Delay in submission of initial claim from public adjuster;
- Delay since initial public adjuster was replaced by second public adjuster;
- Supplemental damage claims submitted after initial claims were paid; and
- Disagreement between insurance carrier and adjuster about the value of the claim.
  - In five claims the difference in value was between \$50,000 and \$99,999; and
  - In eight claims the difference in value was over \$100,000.

## **Commercial Property Claims Data**

### **Cumulative Data as of April 2, 2012**

As of April 2, 2012, a total of 757 commercial property claims were filed with the top 25 home insurance companies and the FAIR Plan. The 757 claims were for the following types of damages.

<b>Number of Claims</b>	<b>Damaged Property</b>
299	Commercial Vehicles
433	Commercial Buildings
25	Other Commercial Property

Out of the 757 filed claims, 736 claims (97.2%) were closed as of April 2, 2012 and 21 claims (2.8%) remained unresolved.<sup>ix</sup> On average, the Companies reported making the following average payments per claim.

<b>Average Claim Payment</b>	<b>Damaged Property</b>
\$4,240	Commercial Vehicles
\$73,049	Commercial Buildings
\$105,490	Other Commercial Property

### **Commercial Property Claims Settled Between June 1, 2011 and September 30, 2011**

During the initial four-month period after the tornadoes, home insurance companies and the FAIR Plan settled a total of 582 claims (76.8% of the total 757 claims filed during the examination period) and paid out a total of \$10,901,919 on damage to commercial property. The following table illustrates the month-by-month settlements and payments.

<b>Month</b>	<b>Claims Settled</b>	<b>% of Total Claims</b>	<b>Average Payment</b>
June 2011	292	38.6%	\$16,716
July 2011	133	17.6%	\$21,828
August 2011	94	12.4%	\$19,434
September 2011	63	8.3%	\$20,492

Although the number of claims that were settled declined in each sequential month, the average level of payment increased after the first month and remained generally higher in the 3<sup>rd</sup> and 4<sup>th</sup> months. This generally appears to indicate that claims settled in the later months were for higher damages and may have taken longer to appraise.

## **Commercial Property Claims Settled between October 1, 2011 and February 1, 2012**

Home insurance companies and the FAIR Plan were asked to take a sample of claims not settled by September 30, 2011 and report their status and the reasons settlements had not been reached. The Companies also were asked to document whether the policyholder in such unsettled claims had used a public adjuster to negotiate on their behalf.

A total of 57 claims were identified by the Companies as unsettled as of September 30, 2011, including three commercial automobile claims (5.3% of total unsettled commercial automobile claims) and 54 commercial building claims (94.7% of total unsettled commercial building claims).

### **Commercial Vehicle**

Of the three commercial automobile claims that remained unsettled as of September 30, 2011, one was settled in August, 2011; however, the insured filed for supplemental damages after the initial settlement.

### **Commercial Building**

Of the 54 commercial building claims that remained unsettled as of September 30, 2011, 31 claims were settled by February 2, 2012 with an average payment of \$53,762. The claim settlements were distributed as follows.

<b>Month</b>	<b>Claims Settled</b>
October 2011	16
November 2011	10
December 2011	4
January 2011	1

According to the notes associated with these 54 claims, settlement was delayed for the following reasons:

- Delay in submission of initial claim;
- Delay in completing the inspection by structural engineer;
- Delay in the submission of photos/documentation of losses;
- Supplemental damage claims submitted after initial claims were paid; and
- Dispute between contractor and insurer over cost of repairs.

In four of these 54 claims (7.4%), the commercial policyholder used the services of a public adjuster.

## **Commercial Property Claims Not Settled by February 2, 2012**

### **Commercial Vehicle**

There were two commercial vehicle claims that remained unsettled as of February 2, 2012 due to lingering disagreements between the insurance company and the policyholder, and one claim that remained unsettled due to delay in repairs.

### **Commercial Building**

There were 23 commercial building claims that remained unsettled as of February 2, 2012.

#### **Claims Not Involving a Public Adjuster**

Of the unsettled claims, 18 of the 23 (78.3%) did not involve a public adjuster representing the property owner. The Companies reported that although they made partial payments on eight of these claims, the claims are characterized as unsettled because there are outstanding claims for the replacement of other commercial items or supplemental damages. According to the Companies' notes, these claims remained open as of February 2, 2012 for the following reasons:

- Delay in submission of supplemental damages after claim originally settled;
- Delay in completing the inspection by structural engineer;
- Delay in the submission of photos/documentation of losses; and
- Dispute between contractor and insurer over cost of repairs.

#### **Claims Involving a Public Adjuster**

Of the unsettled claims, 5 of the 23 (21.7%) involved a public adjuster representing the interests of the property owner. According to the Companies' notes, these claims remained open as of February 2, 2012 for the following reasons:

- Delay in submission of initial claim from public adjuster; and
- Disagreement between insurance carrier and adjuster about the value of the claim.
  - In 4 claims the difference was over \$100,000.

## **Observations**

Our examination illustrates that, as of April 2, 2012, almost 98.3% of claims associated with the June 1, 2011 tornadoes were settled, with total insurance payments of approximately \$200 million (in excess of \$167 million for personal property claims and in excess of \$32 million for commercial property claims). For the relatively small number of claims that remained open as of that date, it appears that delays in obtaining documentation and lingering disputes among the Companies and policyholders regarding the value of the claim underlay the delay in resolving those claims.

For those policyholders whose claims remain open, frustration and disappointment are understandable. Similar responses may be felt by those dissatisfied by the length of time required to resolve claims, or the difference between the amounts paid to them and the cost of work necessary to restore their homes, vehicles and/or businesses to pre-tornado condition. Nor can this report address the unknown number of uninsured or significantly underinsured homeowners, renters or business owners. Nevertheless, the data underscores that the vast majority of those individuals, families and businesses which filed claims as a result of the events of June 1, 2011, have realized payment for their losses and the sudden, unanticipated and dire disruption to their lives.

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<sup>i</sup> Damage from a tornado is considered wind damage, and is covered by standard home insurance.

<sup>ii</sup> Bulletin 2011-13 can be found at <http://www.mass.gov/ocabr/business/insurance/doi-regulatory-info/doi-regulatory-bulletins/2011-doi-bulletins/bulletin-2011-13-issued-july-12-2011.html>.

<sup>iii</sup> According to M.G.L. c. 175, § 99, a home insurance policy describes that a person with damaged property is expected to “protect the property from further damage,...separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed and damaged property, showing in detail the quantity, description, actual cash value and amount of loss claimed.”

<sup>iv</sup> According to M.G.L. c. 175, § 99, the home insurance policy must set forth that “the insured shall...render to the (insurer) a signed, sworn statement in proof of loss which sets forth to the best knowledge and belief of the insured the following: the time and cause of loss, the interest of the insured and of all others in the property, the actual cash value of each item...the amount of loss...,all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupancy, location, possession or exposures of said property, since the issuing of the policy, by whom and for what purpose any building...described and the several parts...were occupied at the time of loss and whether or not it then stood on lease ground and shall furnish a copy of all the descriptions and schedules in all policies and detailed estimates for repair of the damage.”

<sup>v</sup> M.G.L. c. 175, § 99 also requires that “[i]n case of any loss or damage, the company, within thirty days after the insured shall have submitted a statement...shall either pay the amount for which it shall be liable, which if not agreed upon, shall be ascertained by award of referees, or replace the property with other of the same kind or goodness; or it may within fifteen days after such statement is submitted, notify the insured of its intention to rebuild or repair the premises, or any portion thereof separately covered by the policy, and shall thereupon enter upon said premises and proceed to rebuild or repair the same with reasonable expedition.”

<sup>vi</sup> Public adjusters are licensed by the Division pursuant to M.G.L. c. 175, § 172. In that capacity, the public adjuster represents an insured in connection with the assessment of damages, negotiation, settlement, appraisal, or reference of a loss on the policy. The Division does not license insurance company adjusters.

<sup>vii</sup> M.G.L. c. 175, § 99 specifies that “[i]n case of loss under [a] policy and a failure of the parties to agree as to the amount of loss, it is mutually agreed that the amount of such loss shall be referred to three disinterested men, the company and the insured each choosing one out of the three persons to be named by the other, and the third being selected by the two so chosen; and the award in writing by a majority of the referees shall be conclusive and final upon the parties as to the amount of loss or damage, and such reference, unless waived by the parties, shall be a condition precedent to any right of action in law or equity to recover for such loss.”

<sup>viii</sup> This does not include claims that are considered open by the Companies solely because they held back payment of a portion of the claim pending the completion of repairs to the property.

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