



Superstorm Sandy: Best Practices for Preserving Your Right to Insurance Coverage

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“Superstorm Sandy” dealt a crippling blow to businesses across the entire Northeast and Mid-Atlantic. While those hit hardest by the storm work to put their businesses back together, many will look to their insurance carriers for financial help. Unfortunately, as the lessons learned in previous hurricanes like Isabel, Irene and Katrina have taught us, such help is often difficult to find.

Most policies insuring businesses contain various exclusions and limitations on amounts that can be recovered for hurricane-related losses. Insurers often deny coverage on the basis of policy provisions that excuse them from covering losses caused by flooding or water damage. Establishing how and when property was damaged is crucial to determining whether coverage should apply. Insurance companies will be dealing with hundreds of claims in the wake of an event like Sandy, and there is a natural inclination to treat those claims similarly. Therefore, it is important to act quickly, recording through photographs, video, eyewitness accounts and perhaps even expert analysis how property was damaged. Also, policyholders should keep all records related to their loss (such as receipts, repair estimates, etc.) and document every conversation with their insurance agents, adjusters and claims representatives, and anyone else that might have pertinent information about the scope and nature of the damage. Though it is often difficult given the widespread devastation associated with a storm like Sandy, policyholders also must take reasonable steps to preserve their real estate, equipment, and inventories from further damage, whether due to exposure to the elements, vandals, theft or any other cause.

Numerous other issues might arise in hurricane-related insurance claims. For example, companies with business interruption coverage may be required to take appropriate steps to timely rebuild their facilities and operations, and they must comply with the other terms and conditions in the policy in order to maintain a right to recover for their lost business. Making sure that a loss is accurately described might also affect one’s right to coverage. For instance, attributing a business interruption loss to water damage instead of a power outage might adversely affect one’s ability to obtain coverage. If business

owners are not careful to comply with their post-loss obligations under a policy, they might accidentally forfeit their right to such coverage. Once again, policyholders should act quickly to review their insurance policies, identify what steps must be taken to maintain a right to business interruption coverage and approach their insurance broker or counsel with questions.

Companies that cannot afford to rebuild on their own may look to insurance proceeds to finance any rebuilding effort. However, many property policies only provide “replacement cost” coverage under specific circumstances. This means that, even if a loss is insured, the policyholder might only recover a portion of that loss (typically defined as the “actual cash value” of the lost property) instead of the amounts needed to replace a damaged building and/or its contents. Many policies provide companies with a method to obtain full “replacement cost” coverage so long as the policyholder meets the policy requirements. Navigating one’s way through the maze of “replacement cost” coverage also requires a prompt, careful review of one’s policy and open communication with the insurance carrier that issued the policy.

Understandably, those who are dealing with the emotional, physical and financial toll of a natural disaster such as Sandy often do not have the time or energy to make a full review of their insurance policies a priority. However, simply placing one’s insurance carrier on notice of a loss is not enough. To maximize the chances of obtaining insurance coverage for storm-related losses, policyholders must become familiar with the terms and requirements of the policy and make sure that they know what to do to preserve and enhance their right to coverage. As always, in the wake of a natural disaster, a prompt and educated approach provides the greatest access to insurance coverage.

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