

Top Six Things Business Owners Can Do to Prepare for and Support Insurance Claims Following Hurricane Sandy

Hurricane Sandy wreaked havoc on thousands of businesses in New York and New Jersey and many business owners are considering whether they have insurance coverage for property damage and business interruption losses caused by the hurricane. Here are the top six things that you should do now to speed up the process and give yourself the best possible chance of maximizing your insurance recovery:

Find and read your policy carefully and immediately.

Determining what is and is not covered can be very challenging. Direct storm damage is typically covered and most policies also include business interruption insurance (which pays for the loss of income when a business can't operate due to a covered loss), however special deductibles may apply and you must read the entire policy in fine detail. In many policies business interruption insurance for lost income will not apply unless there is actual physical damage to the building, so businesses that shut down due to power outage or evacuation orders may be out of luck.

Your policy may have special deductibles or sub-limits for wind or hurricanes (typically between 1% and 5% of the limit of insurance). Please note that Governor Cuomo and the New York State Superintendent of Insurance announced that hurricane deductibles will not be triggered in New York because Hurricane Sandy did not have sustained hurricane-force winds when it made landfall in New York.

Flood damage coverage is always tricky. Some commercial policies provide some levels of coverage but most exclude it, in which case the policy will only cover loss and damage caused by wind. Typically, water that comes up from the ground is generally considered a flood and is covered only by the National Flood Insurance Program, whereas water that comes down from the sky would typically be covered by a business property policy. Many policies now contain "anti-concurrent causation" clauses, which state that if damage is caused by both a covered loss (wind) and a non-covered loss (flood), the policy may exclude all damage. Careful attention needs to be paid to the wording of the particular policy on this issue.

Your policy may contain supplemental coverage provisions, some of which may apply even though there has been no physical damage to your business:

Contingent Business Interruption Coverage: If your business did not suffer property damage but experienced a slowdown or shut down because a supplier's or customer's facilities or equipment was damaged, this provision may compensate you for lost revenue.

Services Interruption/Off Premises Power Coverage: This provision covers losses your business suffered from an interruption of a utility service due to damage to the property of a utility service provider.

Civil Authority Coverage: Covers losses suffered when access to your property is restricted by order or action of civil authority (e.g., a mandatory evacuation).

Ingress/Egress Coverage: Covers losses suffered when entry to or exit from your property is impaired.

Extended Period of Indemnity: Allows you to recover damages for a certain period of time even after your doors reopen for business.

Determine if a "waiting period" applies. Many policies have a "waiting period" meaning only business losses incurred during a certain period of time *following* the event would be covered (e.g., coverage kicks in 72 hours AFTER the damage was incurred from the hurricane).

Take pictures and/or videos.

Be sure to take lots of photos (and videos if you can) of your damaged property. Try to get all the angles.

If your business stopped operating because of something up the street such as a building collapse or downed power lines, take photos of that too. Try to capture all evidence that can support your case for coverage. If you have them, collect and be ready to provide the insurance adjuster with photos of the same property taken before the damage.

Make a DETAILED list of damaged/lost property.

Take time to make a comprehensive, detailed list of all property that was damaged, including the original cost, date of purchase and estimated replacement cost, date of loss (time of loss if known), etc.

Secure your property, but don't make major repairs.

Take all reasonable steps to prevent further damage by securing property, but don't do major repairs. Many policies include stipulations that if you do not take necessary steps to protect your property and further damage is incurred, you may not be covered for the additional damage. So patch holes, board damaged windows and roofs, replace glass and remove water to prevent additional damage but hold off on making permanent repairs until the insurance adjuster has done an inspection gives you the "okay." It may be helpful to obtain your own repair estimates if you can, now, in order to speed up the claim settlement process. If you do, you should get at least two bids on the cost to repair or replace your damaged property.

Organize copies of financial data to help prove losses.

Obtain copies of company accounting records and documents related to

the business interruption such as canceled checks, invoices, receipts, copies of your financial statement/ profit and loss statement, wages paid, tax returns, sales tax returns, inventory records, sales records, production records, bank statements, payroll records, and other papers that will assist the adjuster in assessing the value of the destroyed property. If you have copies of the information from this same time last year, get that organized too. Keep receipts and cancelled checks for any expenses you incur on emergency repairs.

Be sure to include expenses that continue during the time your business is closed such as utilities costs and advertising costs to notify customers of the disruption/relocation, cost of temporary office location, overtime pay (costs incurred for overtime worked to make up for lost production), price premiums and extra shipping charges to expedite delivery of replacement machinery, extra shipping charges for inventory to meet contract deadlines, relocation costs, etc.

Give notice quickly and keep track of all contact.

Contact your insurance company as soon as possible to put them on notice that you will be filing a claim, even if you're not 100% sure your claim will be found valid. Some policies have very narrow time limits for filing claims so don't miss your opportunity. And keep track of all contact you have with your insurance company. Keep as much detail as possible: get the names and contact information from everyone you speak with about your claim and keep detailed notes about your conversations.

This article provides a general summary of issues related to insurance coverage for property damage.

Please reach out to your insurance carrier for more information. If you would like to speak with someone about business interruption, please contact Larry Chodor at 973.994.9400.

