

Five Tips for Maximizing Business Insurance Coverage for Superstorm Sandy

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Physical property losses from Sandy will be in the tens of billions, but the ensuing business interruption losses are likely to dwarf any physical losses. Sandy has and will continue to cause massive losses in business revenue due to shut downs along the eastern seaboard. Related losses to businesses not on the coast may occur due to supply chain problems. To add insult to injury, many businesses will discover that they have to endure long, expensive fights with their insurance companies to be reimbursed for those economic losses. These legal battles are sure to be a “superstorm” themselves.

A business owner can avoid some of the storm aftermath by reviewing these five tips:

- Carefully read your company’s property insurance policies and ascertain the perils insured. Some policies will be “all risk” with specific exclusions, while others will name only certain perils as being covered. Because Sandy involved a number of natural perils (storm surge, flooding, heavy rain, snow, wind, power outages, just to name a few), it is important to identify which perils are not covered. For example, if storm surge is covered but flooding is not, it will be important to allege and show that the direct cause of your business loss was storm surge as opposed to flooding. If you are unsure about your coverage, do not rely on an interpretation by your insurance broker, as that interpretation will not be binding on the insurance carrier. Remember that insurance policies are contracts, subject to court interpretation.
- Pay careful attention to reporting and proof-of-loss deadlines in your insurance policy, and know the difference between the two. Often, these reporting and proof-of-loss deadlines can be extended in writing by consent of the insurer. If you believe that you will be unable to accurately assess your damage prior to the deadline for reporting the loss or submitting a proof of loss, request an extension of time now, and make sure that extension is specific and well-documented in writing.
- If your insurance company sends an adjuster to observe your company’s losses or look at records, send a company representative or attorney, with knowledge of your policy, to accompany the adjuster. Take careful notes with respect to what the adjuster observes and the questions the adjuster asks. Do not feel as though questions have to be answered on the spot. Request the adjuster to submit any questions in writing, if you are unsure as to the proper response. Do not submit any company officer employee to an examination under oath without an attorney.
- Much litigation involves the interpretation of the myriad business interruption provisions in property policies. These provisions are notoriously difficult to decipher. If you have business interruption losses, it would be wise to consult an attorney before submitting any proofs of loss for business interruption.



- Try to avoid submitting proofs of loss in “final” until absolutely necessary. Request permission from your insurer to submit interim proofs of losses if interim payments are necessary.

To our friends along the eastern seaboard: our thoughts are with you and your families. We wish you a speedy recovery from Sandy and its aftermath. If you have questions about how your business may be affected, please contact one of the contact attorneys listed above.