



# 2024 Houston Storm Relief:

## Tips for Commercial Property Owners + Managers

**Presented By**

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## 1. IDENTIFY THE INSURANCE POLICIES THAT MAY PROVIDE COVERAGE FOR YOUR LOSSES

- a. Identify the insurance policies you have purchased that may provide coverage for your losses. Commercial property policies are an obvious starting place. Confirm whether you have business interruption or business income coverage. Check on specialty coverages such as cyber and cyber-related.
- b. Your insurance agent(s) will assist you with identifying each policy that may be applicable.

## 2. EVALUATE YOUR DEDUCTIBLE

- a. Your insurance agent(s) will be able to assist you in determining your deductible.
- b. The insurance company will deduct the deductible amount from the damages before paying repair costs.
- c. Damages from the 2024 storms will vary greatly. It is quite possible that the damages from the 2024 storms will be below some companies' insurance deductibles.

## 3. AS SOON AS PRACTICAL, MAKE A CLAIM ON ALL APPLICABLE INSURANCE POLICIES

- a. Make a claim on all applicable policies by providing "notice" to the insurance company or companies.
- b. A starting place is your agent. Agents will begin the notice process typically with an ACORD industry form notice of loss. Confirm each step in giving notice in writing.
- c. Some carriers offer electronic notice from a designated website. Unless required, we recommend giving notice in writing and not on a website, because written notice is easier to establish.
- d. If you do not know how to interpret your policy or policies, or need additional assistance with ensuring you are providing proper "notice" of your claim(s), you should consult an attorney experienced in advising on first-party insurance coverage issues.

## 4. SEEKING ALTERNATIVE FACILITIES AND NECESSARY EQUIPMENT

- a. Policies including business interruption or business income loss coverage will include "extra expense" coverage. This coverage is critical to getting your business back on its feet as soon as possible. Be sure to check for any special sub-limits on such expenses. A typical provision is set out below:

The actual extra expense you incur during a period of restoration directly resulting from damage by a peril insured against to the type of property covered by this policy at a covered location. Extra expense means the reasonable and necessary extra costs: (i) incurred to temporarily continue **the conduct of your business as nearly normal as possible**, or (ii) of temporarily using property or facilities of yours or others. For purposes of applying the above provision, "normal" is the condition that would have existed if no covered loss happened.

- b. You should educate the adjuster early in the process on how your business works, so he or she can appreciate what extra expenses are necessary and reasonable. For example, a carrier may pay for higher than normal costs for certain operations when it can be shown that those costs will reduce the amount of the ultimate business interruption claim. Alternative operational approaches include: (i) shipment of work to third-party facilities in or out of state to avoid loss of business; and (ii) use of other sister facilities to take up production slack, including adding manufacturing capacity at those locations. The use of sister or related properties can create a loss of income for the sister facility that may not be covered, since physical damage from the weather event did not occur there.
- c. Alternative equipment can be procured to cover interim production or operations. Some carriers will treat this as an extra expense or mitigation expense separate from the payment for lost equipment. Temporary equipment can generally be rented or acquired on a rental-to-purchase basis.
- d. Work closely with the adjuster to secure the adjuster's buy-in on your plan for interim operations. This may prove difficult in early days when resources for the insurance company are severely stretched. Therefore, it is important that you document what you are doing and why. Many of the early costs are mitigation costs that will likely be independently recoverable under the policy.
- e. If you work with the carrier to save on business losses, the carrier will typically find a way to cover the charges.

## 5. SECURE YOUR PROPERTY

- a. It is likely that a claim will take time. You should take reasonable steps to avoid further damage or losses. Water should be dried out as soon as practicable. **DO NOT WAIT FOR AN ADJUSTER.**
- b. Most policies will cover expense to prevent further damage and it will be part of your claim.
- c. Take photographs of and inventory of all personal property and other items being removed for offsite storage during the reconstruction process. Items may be damaged/disappear during transport or while in storage, so photographs and an inventory may be helpful in documenting these types of losses.
- d. Make sure vendors assisting with offsite transport and storage are insured and bonded.

## 6. DOCUMENT YOUR LOSSES

- a. Insurance companies typically require evidence of a loss before they will make payments under a policy.
- b. To the extent available, locate and secure copies of any structural, engineering and architectural plans you may have for the buildings or equipment damaged in the storm. Also, locate and secure copies of any invoices, work orders and other documentation that could confirm the type, quality and cost of materials used during construction.
- c. Locate and secure video or photographs of your business property taken before the storm. This can help establish the type and quality of construction and ownership of property that was destroyed or disposed of as part of the post-storm clean-up.
- d. Make a list of damaged or lost items and include their date of purchase, value and receipts, if possible.
- e. Keep receipts for repairs and remediation to prevent further loss.
- f. Save all emails that show work performed, communication with contractors, government agencies and insurance adjusters.

## 7. BUSINESS LOSS CONSIDERATIONS

- a. An agreed protocol should be established with the carrier from the outset as to how they want to approach accounting issues involved with business interruption losses.
- b. The carrier will likely hire a forensic accountant to assist them in adjusting the business income loss claim. The forensic accountant is not hired to represent you—they are hired for the benefit of the insurance company. You should work with them, but it may prove necessary to have your own forensic accountant to consult in dealing with the insurance company and their accountant. An ordinary accountant or bookkeeper will seldom suffice if conflicts arise. Some policies provide for recovery of at least a portion of the expense of hiring someone to assist with the business loss process.
- c. Care should be taken to assess available limits of business loss and extra expense. How your insurance dollars are allocated can be important in stretching your coverage to match big losses.
- d. Some carriers insuring a specialty business may invite the insured to serve as their own general contractor in doing the repairs. This can be a difficult and dangerous approach. Delays can become a basis for the carrier attempting to limit the period of restoration and, thus, the extent of the business income loss.

## 8. OTHER PRACTICAL TIPS

- a. Where possible, communicate with emails or letters sent via return-receipt mail.
- b. After large storms like this many insurance companies may work to unfairly limit or exclude yours losses. When in doubt talk to an attorney experience in first-party coverage.
- c. Storm damages bring with them unscrupulous contractors who can take advantage of victims by promising to help secure insurance money for a percentage of the total amount received. There are many scams associated with disasters, so be careful! Work with people you know and trust where possible – research the rest.

**If you have any questions about insurance coverage, the claim process, how your claim is being handled or other matters that may arise during the recovery process, you may want to contact an attorney to provide guidance or assistance.**



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