

Tornado Relief: Tips for Commercial Property Owners/Interests/Managers

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 and commercial automobile policies are an obvious starting place. Confirm whether you have business interruption or business income coverage. Next, 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. 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. Consult your insurance policy to ensure you are providing the proper “notice” of a claim to the insurance company or companies. The policy should be consulted regarding any special requirements regarding notice. Be careful not to go into detail regarding actual, specific causes of loss until the claim has been investigated by the carrier and your own investigation team.
- c. 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.
- d. 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.
- e. 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.

3. 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 and 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 to 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.

4. SECURE YOUR PROPERTY

- a. It is likely that a claim will take time. You have a duty to “mitigate damages”, which means a duty to take reasonable steps to avoid further damage or losses.
- b. Water should be dried out as soon as practicable. **DO NOT WAIT FOR AN ADJUSTER.** In conjunction with documenting damage, you should take steps to secure your property to mitigate against further damage or losses.
- c. Most policies will cover expense to prevent further damage, and it will be part of your claim.
- d. Take photographs of and inventory 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.
- e. Make sure vendors assisting with offsite transport and storage are insured and bonded.

5. DOCUMENT YOUR LOSSES

- a. Insurance companies 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. Prior appraisals and inspections should be assembled to assist in this process.
- 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 and text messages that show work performed, communication with contractors, government agencies and insurance adjusters.

6. 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 specialists in dealing with business loss insurance claims. 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.

7. OTHER PRACTICAL TIPS

- a. Where possible, communicate with emails or, if relying in writing, return-receipt mail.
- b. Storm damages bring with them public adjusters and unscrupulous contractors who can take advantage of victims by promising to help secure insurance money for a percentage of the total amount received. In many cases the insurance claim will be the same regardless of the involvement of a public adjuster.
- c. There are many scams associated with disasters, so be careful! Work with people you know and trust where possible, and research the rest.

Tornado Relief: Tips for Homeowners

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: homeowners policy, auto policy and other specialty coverages.
- b. Your insurance agent(s) will assist you with identifying each policy that may be applicable.

2. 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. Consult your insurance policy to ensure you are providing the proper “notice” of a claim to the insurance company or companies. Typically, “notice” means (i) written letters or emails providing information about your claim or (ii) certified return receipt correspondence through the US Postal Service or whatever other means is allowed by your insurance policy.
- c. While notifying your agent(s) may or may not be sufficient notice to start a claim, your agent is a good resource to assist you with providing official “notice” to the insurance carriers.
- 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 may need to consult an attorney who understands or specializes in insurance coverage issues.

3. FIND AN ALTERNATIVE PLACE TO LIVE AND ALTERNATIVE LIVING EXPENSES

- a. Policies typically provide coverage for alternative living expenses. The first couple of weeks after a loss are tricky. A hotel or motel may be used. Care must be taken to preserve proof of charges and payment. Since you are out of your home without access to your kitchen, reasonable expenses related to eating out will be covered. The same is true for temporary or replacement clothing.
- b. You must use reasonable efforts to procure alternative living facilities besides a hotel or motel if the repairs are going to take a long time. Seeking out rental homes or apartments will be necessary. Care must be taken to involve the carrier as much as possible in the process to avoid surprise complaints.
- c. We do not recommend any rental arrangements with relatives. Carriers will typically question and scrutinize whether such arrangements are real or a form of scam.

4. SECURE YOUR PROPERTY

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- b. Water should be dried out as soon as practicable. **DO NOT WAIT FOR AN ADJUSTER.** In conjunction with documenting your damage, you should take steps to secure your property to mitigate against further damage or losses.
- c. Most policies will cover extra expense to prevent further damage, and will be part of your claim.
- d. Take photographs of and inventory 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.
- e. Make sure vendors assisting with offsite transport and storage are insured and bonded.

5. DOCUMENT YOUR LOSSES

- a. Insurance companies generally 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 your home or businesses damaged in the storm. Also, locate and secure copies of any invoices, work orders, and other documentation that may be used to confirm the type, quality and cost of materials used during construction.
- c. Locate and secure video or photographs of your home or business and personal property taken before the storm. This can help establish the type and quality of construction and ownership of personal property that was destroyed or disposed of as part of the post-storm clean-up. This includes personal items, clothing, furniture, electronics and other items in the house.
- 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 and text messages that show work performed, communication with contractors, government agencies and insurance adjusters.

6. OTHER PRACTICAL TIPS

- a. Where possible, communicate with emails or, if relying in writing, return-receipt mail.
- b. Storm damages bring with them public adjusters and unscrupulous contractors who can take advantage of victims by promising to help secure insurance money for a percentage of the total amount received. In many cases the insurance claim will be the same regardless of the involvement of a public adjuster.
- c. There are many scams associated with disasters, so be careful! Work with people you know and trust where possible, and 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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