

Reviewing Your Insurance Coverage in Advance of Hurricane Season

by Joshua Gold

With weather patterns and storm severity growing less predictable, regions of the country that were traditionally thought to be immune from the most severe weather have learned they are not. Storm surge, flooding, hurricanes or a combination of these perils are real risks in our most populated areas. Thus, a comprehensive disaster recovery plan—including reliable insurance protection—is a vital risk management task for virtually any business.

REVIEW YOUR INSURANCE

Coverage for storm-related losses and damage can provide repair and replacement protection, insurance for time element losses, and recovery of research and development costs, claim adjustment expenses, loss mitigation expense and many other costs. But as with any type of insurance coverage, it is essential to analyze the policy language before buying, as well as when filing a claim.

Just because your policy indicates that it provides coverage for hurricanes and “named storms” does not mean the insurance company plans to have a check ready for you in the wake of heavy storm damage. Water damage exclusions, complex policy structures, sublimit clauses and time element waiting periods are all too often exploited in an attempt to reduce or void coverage payments. Accordingly, policyholders should review property insurance programs carefully and explore their purchasing options regularly with their brokers and consultants to make sure the fine print does not overwhelm the main insurance promises.

COVERAGE MAY PROTECT YOUR BUSINESS WITHOUT PROPERTY DAMAGE

Even policyholders lucky enough to escape the wrath of a severe weather event may suffer a loss of business income in the aftermath. Remember that you may have insurance coverage for business income losses or business operations disruption due to the damage suffered by essential business partners or customers, or for disruptions in the surrounding area, even where your own property makes it through the storm undamaged. Civil author-

ity, contingent business interruption, service interruption and ingress/egress coverage may well provide coverage for losses of business income when property damage takes place away from the policyholder’s premises.

PRESERVE YOUR INSURANCE RIGHTS

To preserve and maximize this coverage, develop a checklist of action items to address with your property insurance companies, including your excess insurance companies, after a loss occurs. These include providing timely notices of claim to all relevant insurance companies. Be sure to schedule and meet deadlines to file proofs or statements of loss. If the proof of loss deadline appears unrealistic given the scale of the damage, be proactive and get extensions (in writing) in advance of the looming deadline. If there is not enough time to do so, file a partial proof of loss reserving the right to amend or supplement the proof.

Furthermore, if your policy contains a suit limitation clause (and most do), this date must be conservatively calendared, no matter how friendly your local underwriter seems to be while handling your claim in the early stages. If claim resolution remains elusive as the suit limitation date nears, secure a tolling agreement or file a protective suit to stop the limitation period from running further.

Finally, check your insurance policy to see if there is any deadline by which the insurance policy seeks to have you elect the valuation method for the loss claimed.

While this list is not exhaustive, reviewing your policies carefully and preserving important rights will go a long way in making the best out of a storm-related disaster. ■

Joshua Gold is a shareholder in Anderson Kill’s New York office and chair of Anderson Kill’s Cyber Insurance Recovery Group. He regularly represents policyholders in insurance coverage matters and disputes concerning arbitration, time element insurance, electronic data and other property/casualty insurance coverage issues.

**RISK
MANAGEMENT**

Reprinted with permission from *Risk Management*.
Copyright © 2016 Risk and Insurance Management Society, Inc.
All Rights Reserved.
www.rmmagazine.com