

BUSINESS OWNERS PROPERTY INSURANCE—QUICK REFERENCE

WHAT SHOULD I DO FIRST?

Protect life and property.

It is important to try to get the insurance company notified and involved as soon as reasonably possible, but when in doubt take all reasonable measures to protect life and property. Most insurance policies will require and allow for this expressly. And the law requires policyholders to do what they can, within reason, to mitigate damage.

Gather Your Insurance Policies.

Once you think you may have a basis to seek insurance coverage (i.e., your business experiences property damage or business interruption), try to gather up your complete business insurance policy. If you don't have your policy (many policyholders do not), you can request your full policy from your insurance agent or the insurance company itself. You know you have a full policy if it is very large, usually over 100 pages.

Give Initial Notice.

Try to give notice to your insurance company as soon as reasonably possible, to tell the insurer that you or your business has experienced an event for which you're seeking insurance coverage. Often, your insurance policy will have specific direction about how to give notice and who to give it to. Sometimes this is a phone number or email address, and sometimes it is a mailing address. You can also advise your insurance agent, who will often help with this process.

How Do I Give Notice and What Should It Include?

Your initial notice does not need to be lengthy or detailed. It should explain who you are, identify your policy number if you have it, and inform the insurer you've experienced an event (e.g., property damage) for which you are seeking all available insurance coverage and assistance. Once initial notice is given, an insurance adjuster will likely contact you and request more information.

Document The Damage and Loss As Much As Possible.

It is important that you do everything you can to document all of the damage experienced, including video and photographs if possible to do so safely. If possible, and especially if damaged property is valuable, preserve damaged property so that the insurance company has the opportunity to inspect and examine it.

Record Expenses and Keep Receipts.

It is important that you do everything you can to record all of the expenses you incur as a result of the event. Keep all receipts, if possible. It is a good idea to start a spreadsheet early on to record all of your expenses and losses, including name of vendor, amount, form of payment, and date of expense.

Identify Consent Provisions.

Once time permits, it is important to identify any express consent provisions in the insurance policy, meaning that sometimes insurance policies will say that the insurance company will only pay for a certain category of expense if the insurance company agrees to the expense in advance. An insurance coverage lawyer can help you with this, and the insurance adjuster should also identify these areas for you as well. When in doubt, try to get your insurance company's approval before you make repairs or incur expenses to minimize and mitigate your damages.

WHAT KINDS OF COVERAGE DO I HAVE?

The coverage you have is a function of the terms of your insurance policy. But generally, "property" policies will include the following coverage and provide broader coverage than coverage for the cost to repair or replace damaged property:

- **Business Property Coverage.** Your policy will provide some form of coverage for damage to your premises, and define what causes of loss are covered, the amounts of coverage available, your deductible, and any limitations or exclusions that might apply. Some policies provide "all-risk" coverage and others identify the specific causes of loss, or "perils," that are covered. Personal property should also be covered. The specific form of coverage and whether the policy provides coverage for replacement costs or actual cash value will be set out in detail in the policy, including how the valuation works. Business property policies typically cover damage due to civil commotion, riot and vandalism.
- **Business Income Loss Coverage.** Most policies will include some form of business income coverage, providing benefits for the lost income resulting from the interruption due to the property damage. This coverage is designed to put your business in the financial position it would have been in had there been no interruption.
- **Extra Expense Coverage.** Most policies will include coverage for what is called "extra expense," which is often defined to mean the non-ordinary expenses your business incurs to mitigate losses and keep your business going as much as reasonably possible during the down-time. For example, if you were forced to rent space to continue business operations while your

primary space is shut down or repaired, that additional "extra" cost incurred to allow you to continue to offer your product or services should be covered.

- Civil Authority Coverage. Business income coverage typically includes Civil Authority coverage, which provides loss of income that occurs because access to your premises has been prohibited by civil authority, such as a government entity.
- Other Miscellaneous Coverages. Property policies also often include other coverages with sub-limits that are often overlooked. These can include things like debris removal. An insurance coverage lawyer can help you carefully review your policy and identify these kinds of coverages to help you try to maximize your insurance recovery.

WHAT WILL HAPPEN AFTER I GIVE NOTICE AND HOW DO I PRESENT A CLAIM?

Assignment of An Insurance Adjuster.

After you give notice to your agent or the insurance company, often, the insurance company will promptly appoint an insurance adjuster. This person works for the insurance company (either as an employee or independent contractor) and their job is to investigate the loss, value the loss, and determine for the insurance company what is covered.

Should I Trust The Adjuster?

Many policyholders wonder, "can I trust the adjuster"? You should cooperate with the adjuster, but also understand that the adjuster represents the insurance company, which has a financial incentive to save money. Many adjusters do their best to process claims, but you should not view the insurance adjuster as your advocate or someone who has a duty to look out for your interest. A common problem policyholders encounter with adjusters is delayed response and changing personnel. If you have issues or problems with your adjuster, contact an insurance coverage lawyer for help.

What Is A Proof of Loss?

Most insurance policies provide a "proof of loss" process through which the policyholder presents its claim for benefits to the insurance company. The policy will often include guidelines about what the proof of loss should include, and some companies have a specific form they will provide for completion. Insurance policies also often include a specific timeframe for submission of the proof of loss, though this can often be negotiated if more time is needed. As part of the proof of loss, the policyholder submits the detail and documentation of its losses, including records of payments.

WHAT IF THE INSURER DENIES COVERAGE?

What is a denial of coverage?

Insurance companies often "reserve their rights" to deny coverage, or issue an outright denial of all or part of the claim. If you receive such a denial, either verbally or in writing, you should immediately consult with a coverage lawyer. Do not give up! You may well be entitled to coverage under the policy language and laws of Minnesota.

How should I respond to denial of coverage?

If you receive a denial of coverage, contact an insurance coverage lawyer for advice on your rights and options for pursuing insurance recovery.

Should I consider litigation against my insurance company?

When necessary, coverage litigation can be an effective and efficient way to protect your rights. And depending on applicable state law, policyholders have strong remedies available to them, including the right to recover attorneys' fees, substantial prejudgment interest at double-digit rates, bad-faith penalties, consequential damages, punitive damages, and more.

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