

# Can You Disaster-Proof Your Business?

INSURANCE CHECKLIST



**FROM TSUNAMIS IN JAPAN** to hurricanes in the United States, natural disasters cause businesses to suffer property damage and revenue losses.

In the aftermath of a disaster, our team of experienced insurance coverage lawyers work with you from the start of an incident through the claim's resolution, helping you coordinate and maximize your loss recovery efforts.

The ideal time to focus on insurance protection for these types of disasters is prior to the incident. The first step is to know what coverage your policy provides. Below are examples of standard commercial coverage that your business should have in its portfolio.

*Eleven disaster events in 2012 cumulatively caused more than \$110 billion in damages.*

– National Climatic Data

## PROPERTY COVERAGE



If a natural disaster causes physical damage to your company's real or personal property, your first-party property insurance policy should indemnify you. To recover these insurance proceeds, a policyholder must prove that its property sustained physical damage due to a covered event. Many policies cover "all risks," although some are written on a "named perils" basis, i.e. fire, lightning, earthquakes, wind, etc. and exclude all other risks. Make a thorough review of your property policy to determine which possible causes of business loss are covered events.

## BUSINESS INTERRUPTION COVERAGE



Should your company's property damage lead to an interruption of your business, any revenue lost due to that interruption may be covered under the Business Interruption provision of your property policy. To recover a business interruption loss, the policyholder must prove the following:

- Property damage sustained due to a covered event
- Interruption of business (suspension of operations) caused by the property damage
- Actual loss of business income during the period of interruption
- The loss of income was caused by the interruption of business, not other factor(s)

This provision indemnifies the policyholder for revenue it would have received during the period of interruption if the covered event and resulting property damage had never occurred.

## CONTINGENT BUSINESS INTERRUPTION COVERAGE



Even if your business does not suffer any property damage from a natural disaster, you may still experience a business interruption or slowdown if your customers or suppliers sustain damage to property due to a natural disaster. If your policy provides for "Contingent Business Interruption" coverage, you may receive compensation for lost revenue and profits from an interruption of business resulting from damage to a customer's or supplier's property. To recover a contingent business interruption loss, the type of covered event and damage that your customer or supplier sustains must be the same type of covered event and damage covered under your company's own property policy.

**EXTRA EXPENSE AND CONTINGENT EXTRA EXPENSE COVERAGE**

Your policy's Business Interruption coverage may also indemnify you for expenses in excess of normal operating costs that your business incurs to continue operations while your damaged property is repaired or replaced. Such "extra expenses" typically include the cost to rent substitute facilities, move equipment and pay overtime wages. Similarly, contingent extra expense insurance reimburses the policyholder for costs that result from a contingent loss, such as a contingent business interruption loss.

**FIRST STEPS AFTER A DISASTER STRIKES: NOTICE, PROOF OF LOSS AND FILING A CLAIM**

Documentation is essential to help maximize your insurance recovery. Your business should thoroughly document the facts of the loss and keep track of all related expenses. In addition, virtually all property insurance policies require the policyholder to perform certain duties within a specific time period following a loss. For example, most policies require the policyholder to:

- give notice of a claim as soon as practicable;
- submit a proof of loss, often with a deadline of as little as 60 days from the date of loss; and
- file suit against the insurer over any disputes by the deadline set forth in the policy, which can be as little as one year from the date of loss.

Failure to comply with these conditions and timelines may result in a complete loss of coverage. If your business intends to submit a claim but is unable to meet the deadlines specified in your policy, contact your insurer immediately and ask for an extension.

**REPRESENTATIVE EXPERIENCE**

**HURRICANE KATRINA** Represented a major educational institution in three separate actions against its property insurers for coverage for property damage and business interruption losses.

**SUPERSTORM SANDY** Advised a global financial services firm, railroad company, grocery chain and other businesses regarding coverage for property damage and business interruption losses from the storm and resulting closure of the New York Stock Exchange.

**HURRICANE RITA** Representing a developer in a dispute with a bank and its insurer over the extensive damage to a large Caribbean resort property.

**HURRICANE FLOYD** Represented the operator of a nationwide network of automated teller machines that suffered a significant business-interruption loss when its main data center was flooded, shutting down the network for several days.

**HURRICANE IKE** Recovered full policy limits from insurer on behalf of Texas homeowners for damage; recovered millions of dollars in contingent business interruption insurance for manufacturer that could not operate due to destruction of railroad lines after the hurricane.

**FIRE AND LIGHTNING/CONTINGENT BUSINESS INTERRUPTION** Represented a major Midwestern electrical utility company in a multimillion-dollar property claim for contingent business interruption and other time-element coverages following a fire and lightning strike at its supplier's facility.

**PERKINS COIE'S INSURANCE RECOVERY PRACTICE**

Perkins Coie is among the elite firms in the country that represent only policyholders with respect to insurance coverage disputes, including those related to a range of natural disasters.

Our Insurance Recovery attorneys have a diverse background and history of achievement in enforcing policyholders' rights to coverage under nearly every type of commercial insurance policy associated with a wide spectrum of losses and liabilities. We have negotiated with, and litigated against, every major insurer in the domestic insurance market as well as in the London and Bermuda insurance markets. Perkins Coie attorneys represent public sector policyholders and leading companies in almost every industry, including FORTUNE 500 and Global 500 companies.