

When a disaster happens, whether natural or otherwise, there are a number of steps that you can take to maximize your insurance recovery.

Before a Loss

Establish relationships with relevant service providers.

- Do you have coverage counsel?
- Do you have a relationship with specialists that can help you establish a business interruption claim? (e.g., forensic accountants, public adjusters)
- Do you have a relationship with contractors that can help you get back on your feet? (e.g., remediation specialists, contingency service providers, engineers)

Evaluate your recordkeeping system.

- Do you have a backup system that would still be available if you lost your building?
- Would you be able to quickly compile records to demonstrate costs and projected losses (including recent photographs of your premises)?

Review your insurance program.

- Have you had a recent conversation with your broker about your current business structure to ensure that all of your major risks covered?
- Is there any policy language you should try to renegotiate? (See companion list of Important Insurance Policy Provisions, Relevant Coverage Issues, and Practical Tips)

After a Loss

Identify all potentially applicable insurance policies.

- Have you located all of your policies (for your own damage and/or third party liability)?
 - Property policies (in addition to physical damage coverage, may include business interruption, contingent business interruption, extra expense, contingent extra expense, increased cost of construction, upgrade, civil authority, ingress/egress, etc.)
 - Special risk policies (e.g., flood, wind, tornado, earthquake, fire, etc.)
 - General liability policies (e.g., commercial or comprehensive general liability, multi-risk)
 - Umbrella or other excess policies
 - Specialty pollution policies (e.g., environmental impairment liability, pollution legal liability)
 - If there are gaps, check with your broker to see if something is missing.
- Have you looked into possible coverage under someone else's insurance? Depending on circumstances, you may be covered under another entity's policy:
 - Is there a parent company or subsidiary with separate coverage?
 - Are there predecessors or successors in interest with separate coverage?
 - Are you an additional insured based on an agreement?

Read the policies to identify applicable deadlines and requirements.

- Have you documented your losses and the physical condition of your property with photograph and/or video?
- Have you collected all of the necessary records to support a business interruption claim? (e.g., payroll records; contracts; communications with employees, clients, service providers, government officials; etc.)
- Have you performed any necessary emergency mitigation? (e.g., boarded up broken windows, taken steps to fulfill contracts, secured a temporary location, etc.)
- Have you otherwise complied with the specific requirements of the policy in the event of a loss? (Check your policy for its unique terms and conditions.)

Give notice to the insurance company according to the terms of the policy.

- Are you giving notice as 'soon as practicable,' or within the otherwise designated period?
- Have you included all of the requested information? (e.g., how, when, and where the occurrence took place; names and addresses of injured persons and witnesses; nature and location of injury or damage; etc.)
- For your own losses, have you submitted a sworn proof of loss within the required time frame (usually 60 or 90 days)?
- Have you demanded that the insurer fulfill its obligations?
- Have you reserved rights under any other policies the insurer might have issued?

Respond to insurer communications and information requests.

- Have you evaluated the grounds for any insurer coverage denial or reservation and objected to all of the grounds set forth?
- Have you carefully considered your responses to requests for information, as the insurer's questions may raise coverage issues and any privilege covering responsive documents could be waived by providing copies?

Be aware of relevant limitations periods for bringing suit against the insurer under the terms of the policy and under applicable law (usually 12 to 24 months for property policies; typically longer for liability coverages).

Beveridge & Diamond's Insurance Recovery Practice represents policyholders in evaluating their insurance programs, negotiating policies to best protect their needs, and pursuing coverage after a loss. For more information, please contact John Kazanjian (+1.212.702.5420, jkazanjian@bdlaw.com), Ken Finney (+1.415.262.4007, kfinney@bdlaw.com), Edward Grauman (+1.512.391.8025, egrauman@bdlaw.com), Megan Brillault (+1.212.702.5414, mbrillault@bdlaw.com), Rusty Pomeroy (+1.212.702.5419, rpomeroy@bdlaw.com), Jake Duginski (+1.415.262.4018, jduginski@bdlaw.com), or Nicole Weinstein (+1.212.702.5416, nweinstein@bdlaw.com).