

PROPERTY INSURANCE QUICK REFERENCE

PROPERTY DAMAGE OR LOSS: WHAT STEPS SHOULD I TAKE?

Protect life and property. It is important to notify the insurance company and get it 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. 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), gather up your complete insurance policy. If you don't have your policy (many policyholders do not), you can request your full policy from your insurance broker or the insurance company itself.

Give initial notice. As soon as reasonably possible, give notice to your insurance company that you or your business has experienced an event for which you're seeking coverage. Often, your insurance policy will have specific direction about how and to whom notice should be given, such as a phone number, email address, or 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 insurance company that 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 make contact with you and request more information.

Document as much as possible. Do everything you can to document all of the damage experienced. Capture videos and photographs if safe to do so. If possible, and especially if damaged property is valuable, preserve damaged property so that the insurance company can inspect and examine it.

Record expenses and keep receipts. 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, identify any express consent provisions in the insurance policy. In other words, the policy might 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 provisions for you. When in doubt, to minimize and mitigate your damages, try to get your insurance company's approval before you make repairs or incur expenses.

WHAT KINDS OF COVERAGE DO I HAVE?

The coverage you have depends on the terms of your insurance policy. Generally, "property" policies will include the following and provide broader coverage than coverage for the cost to repair or replace damaged property:

- **Property Coverage.** Your policy will provide some form of coverage for damage to your premises and define what kinds of perils are covered. Some policies provide "all-risk" coverage; others identify the specific perils covered. Personal property should also be covered. The policy will set out in detail the specific form of coverage, whether there is coverage for replacement costs or actual cash value, and how the valuation works.
- **Business Income Loss Coverage.** Most policies will include some form of benefits for the lost income resulting from the interruption. 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 "extra expense," which is often defined as the non-ordinary expenses your business incurs to mitigate losses and continue to offer your product(s) or services during the down time. For example, the cost to rent space to continue business operations while your primary space is shut down or repaired should be covered.
- **Other Miscellaneous Coverages.** Property policies often include other coverages with sub-limits, such as debris removal, that may be overlooked. An insurance coverage lawyer can help you carefully review your policy and identify these kinds of coverages to help you maximize your recovery.

PROPERTY INSURANCE QUICK REFERENCE (continued)

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, the insurance company will usually appoint an insurance adjuster promptly. This person's 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 and minimize coverage. Many adjusters are doing 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 interests. If you have issues or problems with your adjuster, contact an insurance coverage lawyer for help.

What is a proof of loss? Most property policies provide a "proof of loss" process through which the policyholder presents its claim for benefits to the insurance company. The policy often includes guidelines about what the proof of loss should include, and some companies have a specific form they provide for completion. 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.

DENIAL OF COVERAGE

Insurance companies often aggressively deny coverage initially and benefit, in the aggregate, from policyholders who walk away from coverage. Many states' laws are set up to favor the policyholder and try to correct the power imbalance between insurance companies and policyholders.

How should I respond to a 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. The legal expense is relatively modest, and the minimal work to review and contest a denial of coverage can deliver substantial value to your bottom line.

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.

CONTACT US

Maslon has one of the nation's top insurance recovery practices. Whether obtaining coverage for the defense or settlement of a lawsuit, maximizing insurance proceeds for a catastrophic loss, or litigating a coverage dispute, we help clients ensure the coverage they bought is there when they need it.



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