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BATTENING THE HATCHES: Know What Your BI Insurance Covers

by Kevin R. Boyle and Joshua N. Silverstein

Business owners who have been harmed by the recent devastation of Hurricane Sandy should know that their insurance policies may cover more than just property damage.

Business interruption (BI) insurance has long been an important component of most commercial coverage programs. This specialized form of first-party insurance is designed to cover lost income arising from the inability to continue the normal operation and functions of a given business. To trigger business interruption coverage, a claimed loss (or “time-element” loss) generally must result directly from a specified peril that causes damage to a specified property at a particular location. The coverage is provided under most package policies for businesses, or as an endorsement to a property insurance policy.

The types of loss commonly covered by BI insurance include:

- **Business Income.** This replaces income that would otherwise have been earned by the business had no loss taken place. Operating expenses, such as those for electricity and phone service, as well as employee salaries, may be covered.
- **Extra Expense.** This pays for necessary expenses incurred during the period of restoration for the property out of which the business interruption arises.
- **Contingent Business Interruption.** This is an extension of coverage designed to cover loss of income due to property loss at a key supplier or customer location.
- **Service Interruption.** This generally covers the insured for losses relating to electric or other power supply interruption.
- **Defense.** This may cover the insured for defense costs arising from claims alleging that the insured is responsible for damage to third-party property.

As a general rule, in order to trigger BI coverage under virtually all policy forms, there must be some covered damage to or loss of physical property. Business owners should note that determining whether there has been covered damage can

often be a complicated question of policy interpretation. For example, a question can arise as to whether a windstorm is really a “hurricane,” or whether water damage was caused by the hurricane or by flooding. In addition, although some policies may extend coverage for partial interruptions, most policies require an actual “suspension of operations.” Most importantly, the physical loss must be causally tied to the suspension of operations.

If a business didn’t experience damage to physical property, there still may be coverage under BI insurance if the business owner couldn’t reach the business location due to an Order of Civil Authority. Specifically, coverage may be available when there has been some physical damage to the general area where the business is located, and usually lasts up to 30 days. ■



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Experienced counsel may be able to help business owners with determining the viability of their potential claims. For more information, please contact Kevin R. Boyle at 215.564.8708 or kboyle@stradley.com, or Joshua N. Silverstein at 856.321.2416 or jsilverstein@stradley.com.



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