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How Businesses Can Protect Insurance Claims After Winter Storm Fern

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Winter Storm Fern left a historic trail of damage across more than 30 states, affecting an estimated 230 million Americans. With a predicted six more weeks of winter ahead, property owners face a critical window to protect both their physical assets and their legal rights to insurance recovery.

The steps you take can make the difference between a successful insurance claim and a denied or underpaid one. This guide outlines essential actions for business owners navigating the aftermath of Winter Storm Fern.

Here are some immediate steps to take to protect your claim.

Document Everything—Now

Thorough documentation is the foundation of any successful insurance claim. Before making any repair or cleanup, capture comprehensive evidence of all damage:

- **Photographs and videos:** Take extensive photographs and videos of all damage from multiple angles. Include wide shots showing context and close-ups showing detail.
- **Timestamps:** Ensure your camera or phone settings include date and time stamps. This creates a verifiable timeline.
- **GPS data:** Keep location services enabled when photographing damage to embed geographic data in

your files.

- **Written inventory:** Create a detailed list of damaged property, including descriptions, approximate values and purchase dates where known.
- **Roof documentation:** If safe to do so, document roof conditions. Consider hiring a professional inspector to assess structural damage and provide a written report.

Documentation created now establishes the baseline condition of your property after Fern but before subsequent weather events. This is critical because insurers may later argue that damage occurred during a different storm or preexisted the covered event.

Provide Prompt Notice to Your Insurer

Most insurance policies contain strict notice requirements. Failing to report a claim promptly can jeopardize your coverage.

- Contact your broker and/or coverage counsel to assist in immediately reporting the loss to the insurance company.
- Document the date, time and method of your notification.
- Request a claim number and the name of your assigned adjuster.

- Follow up any phone notifications with written confirmation via email.

Businesses should review all potentially applicable policies, including property insurance, business interruption coverage, equipment breakdown policies and any utility service interruption endorsements. Each may require separate notification.

Mitigate Further Damage — Especially as Another Storm Approaches

You have a legal duty to take reasonable steps to prevent additional damage to your property. With a prolonged winter forecast, this obligation is particularly urgent.

- **Emergency repairs:** Cover broken windows, tarp damaged roofs and address any openings that could further water or weather intrusion.
- **Protect against pipe bursts:** If power has been restored, ensure heating systems are operational. If pipes were damaged, shut off water supply and drain the system.
- **Remove standing water:** Extract water from flooded areas to prevent mold growth and additional structural damage.
- **Secure the premises:** Businesses should ensure damaged areas are secured against unauthorized entry.
- **Preserve receipts:** Keep all receipts for emergency repairs, temporary housing, equipment rental and mitigation expenses. These are typically reimbursable under your policy.

It is important, however, to not make

permanent repairs until the insurance adjuster has inspected the property, unless absolutely necessary to prevent further damage. If you must make permanent repairs before inspection, document the damage extensively first.

Preserve Damaged Property

Do not discard damaged items until the adjuster has had an opportunity to inspect them. If items must be removed for health or safety reasons (such as wet carpeting that poses a mold risk), photograph and video the items thoroughly before disposal and retain samples where possible.

Obtain Professional Inspections

Certain types of damage may not be immediately visible but can have significant long-term consequences.

- **Roof inspections:** Ice dams and heavy snow loads can cause damage that may not be apparent from the ground. Professional inspections can identify compromised shingles, membrane damage and structural stress.
- **Structural assessments:** For commercial buildings, particularly those with flat roofs, consider engineering assessments to identify hidden damage.
- **Water intrusion testing:** Hidden moisture behind walls can lead to mold and structural deterioration. Professional moisture testing can identify these issues before they worsen.

Professional reports can provide independent evidence of the nature and extent of damage — evidence that can be critical if coverage disputes arise.

Red Flags: Recognizing Unfair Claim Handling

After catastrophic weather events, insurance companies face a surge in claims that can strain their resources. Unfortunately, this sometimes leads to claim handling practices that disadvantage policyholders.

Be alert to the following warning signs:

- **Blanket preexisting damage denials:** Insurers may allege that damage existed before the storm without conducting a thorough investigation. Request specific evidence supporting any such determination.
- **Unreasonably low initial offers:** First offers after catastrophic events are often significantly below actual repair costs. Obtain independent contractor estimates before accepting any settlement.
- **Improper maintenance exclusion denials:** Some insurers attempt to characterize storm damage as the result of wear and tear or deferred maintenance. Document the sudden nature of the damage and any pre-storm maintenance you performed.
- **Delayed inspections and processing:** While some delays are understandable after widespread disasters, unreasonable delays may violate state insurance regulations.
- **Pressure to accept quick settlements:** Be wary of pressure to sign releases or accept payments before you fully understand the extent of your damage.

Many states' insurance codes impose strict requirements on insurers' claims handling practices. For instance, the Texas Insurance Code, particularly Chapters 541 and 542, imposes various requirements on insurers and provides remedies

for unfair claim practices, including potential recovery of attorneys' fees and penalties for delayed payments.

Special Considerations for the Coming Days — Preparing for the Next Storm

With a longer winter and the potential of another storm, you must balance the need to protect your property with the need to preserve evidence of any Fern-related damage.

- **Documents before you protect.** Before installing tarps, covering damaged areas or making any preparations for the incoming storm, thoroughly document the current state of all Fern damage.
- **Photograph your mitigation efforts.** Take photos showing the protective measures you implement. This demonstrates your good-faith efforts to prevent additional damage.
- **Keep separate records.** Maintain distinct documentation for damage from each weather event. This will be essential if coverage disputes arise about which storm caused which damage.
- **Communicate with your insurer.** If you have an open claim from Fern and sustain additional damage from the subsequent storm, notify your insurer promptly. These may be separate claims under your policy.

Understanding the Flood Coverage Gap

As temperatures rise and accumulated snow begins to melt, many property owners will face a potential coverage gap as many commercial property policies exclude flood damage — and rapid snowmelt that enters your property from outside constitutes flooding under most policy definitions. That said, burst pipes

are generally covered under standard policies so long as any damage constitutes “sudden and accidental” water damage. But rising water from outside a structure is typically not covered without separate flood insurance, regardless of what caused the water to rise.

When to Seek Professional Assistance

While many claims proceed smoothly, certain situations warrant consultation with an experienced insurance coverage attorney, such as:

- Your claim has been denied in whole or in part;
- The offered settlement appears significantly below your actual losses;
- Your insurer cites policy exclusions you believe are inapplicable;
- You have substantial business interruption losses;
- Multiple policies may apply to your loss;
- Causation issues arise (e.g., disputes about whether damage was caused by covered wind versus excluded flood); or
- Your claim involves complex commercial coverage.

Early involvement of coverage counsel can help frame the claim properly, preserve critical evidence and avoid common pitfalls that can compromise recovery.

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