Lawyer Insights

Navigating through proof of loss requirements during the COVID-19 pandemic

It is vital for insureds to pay close attention to the time limitation for submitting the proof of loss.

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As businesses begin to reopen, companies face the difficult task of getting their operations back to normal. For some, this includes navigating the claims process for their business interruption insurance claim relating to COVID-19. Having a basic understanding of specific post-loss obligations set forth in most commercial property insurance policies can expedite the claims process. One example is the proof of loss requirement, which can arise early in the claims process. Businesses may have a variety of questions about the proof of loss necessary to recover under an insurance policy.

What is a proof of loss? The proof of loss requirement requires the insured to submit a sworn proof of loss to its insurer within a specified amount of time. A proof of loss generally is a statement completed by an insured under oath, which provides information about the alleged damage or losses resulting from a covered cause of loss. Insurance policies typically set forth the information that must be included in the proof of loss. In certain circumstances, the insurer will provide the insured a separate document listing the information requested.

When is the proof of loss due? It is vital for insureds to pay close attention to the time limitation for submitting the proof of loss. Many policies require an insured to complete a proof of loss within a certain amount of time after the insurer makes a request for a proof of loss (e.g., within 30 to 90 days after receiving notice from the insurer). However, some insurance policies require an insured to complete a proof of loss within a certain amount of time after the loss occurred. Accordingly, pinpointing the date of loss can be a critical issue.

What if the proof of loss is untimely? If an insured fails to comply with the proof of loss requirement, that can create additional potential hurdles for recovery. Insureds risk denial of their claim if they do not abide by the time requirement set forth in the policy. In some states, an untimely proof of loss submission will not result in forfeiture of coverage, unless the insurer suffered actual prejudice from the insured's delay. However, some states do not require a showing of prejudice when an insurer relies on the late submission of a proof of loss to deny coverage.

COVID-19 has drifted the world of insurance into uncharted waters. With that, many businesses face some uncertainty regarding claims for business interruption losses resulting from the pandemic. Understanding post-loss obligations should streamline the claims process and help avoid potential hurdles regarding critical deadlines. The specific language in a policy will control the proof of loss requirements, including what must be provided and when it must be provided. Compliance will vary from claim to claim, but the key is that any proof of loss deadline should be flagged early. That will allow an insured to seek an extension to a deadline, given the uncertainty involved.

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