

SPECIAL REPORT

DON'T COUNT ON YOUR PROPERTY INSURANCE POLICY TO PROVIDE COVERAGE FOR EVERY WATER EVENT THAT COULD AFFECT YOUR BUSINESS

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The standard Special Cause of Loss form that is typically used by insurance companies to cover damage to buildings, business personal property and resulting loss of income has an easy-to-understand water exclusion. It states as follows:

Water Exclusion

- 1) Flood, surface water, waves, tides, tidal waves, overflow of any body of water, or their spray, all whether driven by wind or not;
- 2) Mudslide or mudflow;
- 3) Water that backs up or overflows from a sewer, drain or sump; or
- 4) Water under the ground surface pressing on, or flowing or seeping through:
 - (a) Foundations, walls, floors or paved surfaces;
 - (b) Basements, whether paved or not; or
 - (c) Doors, windows or other openings.

Most insureds will focus on (1) that starts with the word "flood", thinking that they are not near a body of water and therefore the Water Exclusion is not meant for them.

Nothing is further from the truth.

Insureds that are not near a body of water that rises or falls still have a significant exposure as a result of surface water caused by an excessive rainfall that cannot be handled by the storm sewer system.

Surface water, of course, can also be as a result of a water main break.

Early on Sunday, November 13, 2016, a large water main break north of the Somerset Collection in Troy caused flooding and road closures. The water main break was an 84-inch Great Lakes Water Authority main. As a result of the break, all restaurants and food establishments at the Somerset Collection North were closed for at least an entire day. This resulted in business interruption claims to businesses in the area.

The standard Special Cause of Loss policy form would not cover this claim because it most likely would be construed to be a surface water claim or water under the ground surface pressing on, or flowing or seeping through foundations, walls, floors or paved surfaces and so forth.

Another common event that we see is water seepage through lower levels of buildings either through walls or floors. This clearly is also excluded.

You will also note that there is an exclusion for backup or overflow of a sewer, drain or sump. This is the most frequent claim that we see and is the cause of many claim denials.

Sump pumps frequently overflow because the sump pump motor itself fails and nobody knows about it and there typically is no backup system.

In addition, a backup of sewer or drain caused by an obstruction in the system can cause substantial damage inside a building and this is not covered either.

Most insurance carriers will add, if asked, a separate endorsement for water that backs up or overflows from a sewer, drain or sump pump, but typically this is subject to a small sublimit of as low as \$5,000.

Also, these endorsements frequently have limitations if the sewer or drain system was not maintained properly or if the sump pump also was not properly functioning. These limitations alone make this coverage add-on somewhat illusory.

One of the better ways to solve this problem is to add a flood endorsement to the Property insurance policy issued by most carriers. (The problem is

that if the insurance company determines that the location that is at risk is in a flood zone, that coverage may not be available by way of an endorsement.)

There are some carriers that will add a flood endorsement and will provide water backup, sump pump overflow and surface water coverage within its basic terms and conditions, but be careful. One very large carrier offers "flood" coverage, but still excludes loss or damage resulting from an insured's failure to:

- a) Keep a sump pump or its related equipment in proper working condition; or
- b) Perform routine maintenance or repair necessary to keep a sewer or drain free from obstruction.

It seems to me that almost every sump pump or sewer backup loss is as a result of an insured's failure to perform in these two areas, so it is highly unlikely that coverage would be provided, even with a flood endorsement.

The purpose of this Special Report is to alert you to these issues so that you are not surprised in the event that there is an unusual water event that is excluded by your insurance policy.

There are insurance carriers that will provide the coverage that you need for exterior water events that cause water to enter your building.

When it comes to insurance, the devil, as usual, is always in the details.

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