

SPECIAL REPORT

PROTECTIVE SAFEGUARDS CLAUSES

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DO NOT BE FOOLED. THE POLICYHOLDER IS NOT THE ONE BEING PROTECTED BY A “PROTECTIVE SAFEGUARDS PROVISION” AND IT COULD COST YOU MILLIONS OF DOLLARS IN UNCOVERED LOSSES.

A protective safeguards provision allows the insurance company to deny coverage if certain conditions are not satisfied at the time of loss.

For example, a reading of this form tells us that if the fire sprinkler system does not operate properly because it was not maintained in “complete working order”, there is no coverage. If the burglar alarm system does not go off for the same reason, there is no coverage. If the smoke detectors do not work, there is no coverage, and so on.

A common protective safeguards provision that is included in most property policies is included below.

Protective Safeguards:

We will not pay for loss or damage caused by or resulting from fire if, prior to the fire, you:

1. Knew of any suspension or impairment in any protective safeguard listed in the Schedule above and failed to notify us of that fact; or
2. Failed to maintain any protective safeguard listed in the Schedule above, and over which you had control, in complete working order.

If part of an Automatic Sprinkler System is shut off due to breakage, leakage, freezing conditions or opening of sprinkler heads, notification to us will not be necessary if you can restore full protection within 48 hours.

Here are some reasons an insurance carrier could deny a loss under this clause:

1. The water valve for the fire suppression valve was not chained in the full open position prior to the loss.
2. An impairment was caused by uncorrected maintenance problems.
3. Microbiologically influenced corrosion (MIC) affects water flow.
4. Failure to have a flow alarm connected to a central station reporting source allows the water to flow for a long period of time undetected.

What is important here, with or without this protective safeguard warranty, is to be sure that you have an annual comprehensive inspection performed of your entire automatic sprinkler and alarm systems by an experienced fire sprinkler system contractor and that you maintain records supporting compliance with any recommendation that it may make.

This can also be supported by frequent mid-year inspections of your sprinkler system by your employees and that you have documented checklists and inspection forms showing these inspections.

Last, and this is critical –

AVOID INSURANCE CARRIERS THAT INSIST ON USING THIS AMBIGUOUS AND POORLY WRITTEN ENDORSEMENT THAT, IF ENFORCED, COULD COST YOU MILLIONS OF DOLLARS BECAUSE OF A CLAIM THAT IS DENIED.

IF THERE IS NO INSURANCE CARRIER THAT WILL WRITE YOUR PROPERTY POLICY WITHOUT THIS PROTECTIVE SAFEGUARDS PROVISION, BE SURE THAT YOU CAN PROVE THAT YOUR SYSTEM WAS, IN FACT, IN GOOD WORKING ORDER.

For questions or an additional discussion regarding this topic, contact any of our account directors.

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