BERGER SINGERMAN
FLORIDA'S BUSINESS LAW FIRM

DON'T LET YOUR GUARD DOWN: THE AFTERMATH OF HURRICANE MATTHEW

October 10, 2016

By: Gina Clausen Lozier and Michael J. Higer

Most Floridians headed the warnings issued by Governor Rick Scott and the National Hurricane Center to prepare for the impacts of Hurricane Matthew. Although the storm has passed, and the winds subsided, those impacted by Hurricane Matthew should be vigilant of the new threats that will emerge in the aftermath.

Only contract with licensed professionals: In the wake of a disaster, oftentimes contractors or other emergency responders will offer to assist with the submission of an insurance claim. If they do so, they may be illegally engaging in the practice of public adjusting without the proper training, licensing, regulation and oversight required by the Florida Department of Financial Services. Illegally acting as a public adjuster in any manner by negotiating or effecting the settlement of an insurance claim on behalf of an insured for money, commission or anything of value without being properly licensed is subject to third degree felony charges.

Not only are these individuals engaging in unlicensed activity, their involvement may significantly jeopardize your right to recover insurance benefits from your property insurance carrier. Florida insurance companies have aggressively litigated and lobbied for better consumer protections for this type of unlicensed activity. The involvement of an unscrupulous contractor or other emergency restoration service in the submission and negotiation of an insurance claim will likely raise an immediate warning flag to the insurance company which may subject you to additional scrutiny, delay and denial of benefits.

If you are asked to execute an Assignment of Benefits or similar form by a contractor or other emergency restoration company, make sure you clearly understand what rights and benefits under your insurance policy you may be giving away. If it sounds too good to be true, it likely is. If substantial damages and benefits are at risk, consult with an experienced insurance coverage attorney. You are not required to sign an Assignment of Benefits to have your insurance claim processed.

Distinguish your damages: In some cases,Hurricane Matthew caused the perils of wind and flood to cause a total loss to property. Although it is unlikely that you were able to observe what specific damage wind forces caused before any flooding occurred, this distinction is critical in terms of identifying the scope of coverage potentially available to you for damage to the property.

Insurance companies generally investigate wind claims differently than flood claims. When multiple perils such as wind and flood are alleged to have caused damage during a hurricane, insurance companies are likely to consider each peril to be a separate event or occurrence even though the perils originated from the same storm. This distinction gives an insurer additional grounds for denying coverage in whole or in part and may greatly affect your entitlement to insurance benefits.

Be familiar with your obligations: All property insurance policies impose responsibilities on an insured in the event of a loss. One of those responsibilities is to provide notice of a claim. Under Florida law, a claim, supplemental claim or reopened claim caused by windstorms such as Hurricane Matthew is barred unless notice is given to the insurance company within 3 years.

Also, every insured has a duty to show the damaged property, mitigate the damage and keep a record of repairs. The failure to comply with any one of the obligations under the insurance policy can result in a denial of insurance benefits. Once again, because you're your compliance with obligations following a loss may affect your entitlement to recover insurance benefits, you should consult with a licensed professional and/or an attorney with insurance coverage experience.

Know your rights: Florida has a Homeowner Claims Bill of Rights which outlines your rights under a homeowner's property insurance policy. The Bill of Rights requires insurance companies to timely communicate with you in the event a claim is submitted and either pay or deny your claim within 90 days. You also have the right to a mediation of a disputed claim. The Bill of Rights is contained within Florida Statute Section 627.7142.

Related Practices

Insurance

Related Practice Teams

Dispute Resolution

Related Team Member(s)

Gina Clausen Lozier

Michael J. Higer