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How Cannabis Businesses Can Leverage Insurance in the Wake of Natural Disasters

Many of Florida's medical cannabis operators suffered damage in the wake of Hurricane Ian, which made landfall Sept. 28. Insurance may be available to cover at least some of these losses.

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A monumental storm, Hurricane Ian left behind a devastating trail of death and destruction. Tragically, more than 100 people reportedly have died as a result of the powerful hurricane, which first made landfall in Florida as a Category 4 storm on Sept. 28, 2022. And, according to multiple reports, the economic damage caused by the catastrophic storm is expected to total tens of billions of dollars.

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Unfortunately, but not surprisingly, the cannabis industry (specifically in Florida) did not escape Hurricane Ian unscathed. To the contrary, like other businesses, cannabis-related businesses suffered property damage and (presumably) business-income losses.

Fortunately, insurance may be available to cover at least some losses. To maximize the potential for any insurance recovery, cannabis-related businesses—again, like other businesses—can and should take several important steps as soon as possible.

Hurricane Ian Hurts Cannabis Industry

In a [press release](https://investors.getfluent.com/news-releases/news-release-details/cansortium-provides-business-update-following-hurricane-ian) (<https://investors.getfluent.com/news-releases/news-release-details/cansortium-provides-business-update-following-hurricane-ian>) dated Oct. 6, 2022, Cansortium Inc., “a vertically-integrated cannabis company operating under the Fluent brand,” disclosed that, in addition to some “minimal physical damage” that certain of its stores suffered, one of its “cultivation and packaging facilit[ies] … sustained moderate damage to its HVAC and fertigation system.” The company—which also had to close 12 of its dispensaries “for various periods due to forced evacuations and the uncertain path Hurricane Ian”—further announced that, due to the storm’s impact, it “currently anticipates that it will take approximately 12 weeks to return the [damaged cultivation and processing] facility to the production level that existed prior to the hurricane.”

The storm also, for example, forced Verano Holdings’ Müv Medical Cannabis Dispensaries to close retail locations across Florida. According to “Hurricane Ian Updates” [posted on its website](https://www.muvfl.com/post/severe-weather) (<https://www.muvfl.com/post/severe-weather>), as of mid-afternoon on Sept. 28, “36 [Müv] dispensaries [were] closed” in Florida. The next afternoon, many Müv dispensaries were still closed “due to Hurricane Ian and ongoing power issues.” Even as of Oct. 9, 2022, certain Müv locations remain closed, while others are “operating on limited hours due to the impact of Hurricane Ian.”

These companies, of course, are not alone.

Insurance May Offer Some Relief

Insurance may cover at least some of the losses/damage cannabis-related businesses suffered. While coverage can and does differ from insurance policy to insurance policy, commercial property insurance policies, for example, generally provide that the insurer “will pay for direct physical loss of or damage to Covered Property.”

Certain of those policies may also provide coverage for business-interruption losses and/or extra expenses. A policy, for example, may cover “the actual loss of Business Income [a business] sustain[s] due to the necessary ‘suspension’ of [the business] ‘operations’ during the ‘period of restoration.’” Note that, generally, “[t]he ‘suspension’ must be caused by direct physical loss of or damage to property at [covered] premises” and “[t]he loss or damage must be caused by or result from a Covered Cause of Loss.”

Certain policies also may provide coverage for “Extra Expenses” that a business incurs to, among other purposes, “[a]void or minimize the ‘suspension’ of business and to continue operations at the [covered] premises or at replacement premises or temporary locations, including relocation expenses and costs to equip and operate the replacement location or temporary location.”

Commercial property insurance policies also may cover, for example, “contingent business interruption,” “utility service interruption,” and “civil authority” claims.

Key Steps to Take Now

To maximize the potential for insurance recovery, there are several important steps that a cannabis-related business, like any business, can and should take in the immediate aftermath of Hurricane Ian. For example:

- **A business should document all physical property damage it suffered.** For instance, it could take and preserve photographs of the damage (e.g., broken windows, damaged roofs, flooded areas).
- **A business should keep detailed records of its financial losses.** Important documents may include, for example, ones evidencing costs incurred to repair damaged property and/or to continue normal business operations. Important documents also may include records of cancelled orders or lost income. These documents can be useful later to quantify the business’ total loss and total insurance claim.
- **A business should locate its relevant insurance policies.** Insurance brokers—or even insurance companies themselves—may be able to assist with this task.
- **A business should consult with and engage experienced insurance coverage counsel.** In addition to providing legal advice, counsel hopefully can help with other tasks, such as freeing the business and its management to focus on the health and safety of its employees and on quickly and safely resuming operations.
- **With the assistance of counsel, a business should carefully review its insurance policies to determine relevant deadlines and should provide prompt notice of any loss/claim.** Many insurance policies require that a policyholder provide notice of a claim or loss—or take other steps, including submitting a proof of loss—within a specified time period.

Therefore, it is imperative that a business review its insurance policies as soon as possible and make sure that it understands and complies with all relevant provisions and deadlines.

- **A business should determine whether its insurer(s) has a list of approved/preferred disaster-management, mitigation, and/or restoration (and/or other) vendors, which may be necessary for a business to hire in the storm's aftermath.** If the insurer does have such a list and the policyholder uses a vendor(s) from the list, the business may receive a discounted rate from the vendor(s) and/or enhance the likelihood that the insurer will cover the costs of the vendor(s).
- **Also, a business should be sure to communicate with its insurer(s).** To the extent possible, a business should do so in writing, creating a record of all communications. If communications occur orally, however, a business should keep detailed notes about those conversations.

These steps are only the first ones on the policyholder's path to coverage. There are certainly other steps a policyholder can and likely will need to take in the wake of Hurricane Ian to make the path as direct as possible—including, but not limited to, acting reasonably at all times. That said, taking these initial, important steps should help position the policyholder to successfully submit a complete and detailed insurance claim and/or to litigate any coverage disputes that unfortunately occur.

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