

# ENVIRONMENTAL LAW ALERT

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## What to do When the Snow Comes Down – on Your Roof: Rights and Obligations Under Insurance Policies for Damage Caused by Snow

There you are, snug in your house in the worst winter any of us can recall, when you hear an ominous sound. It might be a drip, it might be a groaning from your roof, or it might even be a crash. Or perhaps, as you sit snug in that house, you are worrying about all these possibilities. Should you worry, or should you be doing something more than worrying?

A few things to think about:

- Is there a risk of imminent damage — the kind of damage that will be covered under your policy?
- Are there things you can do to reduce or eliminate that damage?

Commercial and residential landlords, and anyone who represents tenants in a commercial setting, should also pay close attention to this issue. Snow damage can result in disruption of business, personal injury and destruction of property claims, not to mention lost rental income.

Let us introduce you to the "Sue and Labor" clause that may exist in your insurance policy. Originally a feature of maritime insurance policies, sue and labor clauses (or sometimes sue, travel and labor clauses) require you to take what steps are necessary to mitigate loss or damage to the property insured under the policy in question. Sue and labor clauses received attention during the concern over Y2K issues, when it was feared that there would be massive computer failures at the beginning of the year 2000. The concept is that if there are actions you can take to reduce imminent damage, you are required to do so and can be paid for the expense incurred. The question is not whether the remediation efforts may benefit the insurer, but rather whether the actions relate to a loss that is covered under the policy.

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Of course, if efforts toward the reduction or elimination of losses are covered under the policy, there is a benefit to the insurer because the claim is either eliminated or reduced in scope.

How does this relate to snow? If there is likely to be damage to your home or business from the accumulation of snow on the roof and you took steps to remove that snow, or mitigate its impact, you may have a claim for the costs of your removal efforts. (If, in the course of removing that snow, you fell off the roof, an entirely different insurance question is raised, and we send you our

wishes for a speedy recovery!) The difficulty will be in proving that the damage was imminent and that it would have been covered under your policy. Actually, Governor Malloy has helped you with that proof, by strongly suggesting that everyone in Connecticut remove snow from roofs.

There are bound to be questions – many, many questions. Did you take reasonable steps, was your cost justified, what if you did nothing at all – does that affect your coverage? Read your policy sooner rather than later. We are happy to help answer your questions.

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