



# Legal Alert

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## Disaster Planning

BY

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According to the U.S. Bureau of Labor, since only about 25 percent of U.S. companies prepare for disaster recovery, most companies that experience major disasters go out of business within five years of the disaster. Major disasters such as earthquakes, fires, and floods strike with little or no warning. The devastating effects include employee deaths, system failures, and business interruption.

Consider Hurricane Katrina—offices were destroyed, and along with them office contents, including computers and files. Many businesses had to essentially start over. Beyond the costs of starting over, the disaster raised legal issues most businesses had never previously faced. Among these perplexing questions:

- Could the business rebuild, restore, or relocate offices?
- Would creditors allow forbearance for payments or refinancing of debts?
- Would customers and suppliers revise contracts?
- Would employees renegotiate pay and hours?
- Could corporations prepare annual reports and other required paperwork to meet state and federal requirements?
- How could businesses locate or recreate lost business records to prepare tax returns?

A few simple steps can mitigate or prevent some of these problems. Disaster plans vary from business to business. A disaster planning team should analyze the vulnerability of the business in light of the potential disasters, develop a plan to deal with those vulnerabilities, and implement the plan.

First, the disaster plan should include steps to protect a business's employees:

- Develop a warning system to quickly notify employees of a disaster.
- Provide training about emergency procedures.
- Store emergency supplies, such as water, food, or first aid supplies, in the building in case of a disaster.

Second, the disaster plan should include procedures designed to protect information critical to the company:

- Label vital records so that they can be located and salvaged easily.
- Back up computer systems frequently.
- Store tapes and disks in insulated containers.
- Store valuable documents, disks, or other records off site.
- Arrange for and practice evacuation of important records to backup facilities.

Businesses affected by sudden disasters will encounter difficulties in recovery. But, a disaster recovery plan will help mitigate the damages and make a business's probability of survival much higher. For more detailed information about disaster planning, see <http://www.cdc.gov/niosh/topics/prepared/>.

If a disaster strikes your business, KDG is equipped to assist you. But, please consider calling on us to help you with your business's disaster plan now, before disaster strikes.

This Legal Alert publication does not constitute legal advice to be applied in any specific circumstance or situation. Any such advice is conditioned upon the specifics of a particular case and, therefore, cannot be addressed generally.



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