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Articles for Lexology

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Date: July 29, 2025

Topic: “Obligation for conclusion of insurance for partial coverage of material damages caused by fire, flood, or earthquake, classified as natural catastrophes, applicable to businesses and vehicles’

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After many decades of deliberation on the introduction of a legislative framework for the compulsory insurance against material damages to buildings caused by earthquakes, Law 5116/2024 was published, introducing the obligation for businesses with annual gross revenues of €500,000 or more to be insured against material damages caused by earthquakes, as well as forest fires and floods. This obligation applies both to the obliged businesses’ privately owned building facilities as well as to other assets such as equipment, raw materials, merchandise, trucks and professional-use vehicles, production means, and stored products. Compulsory insurance coverage must cover at least 70% of the total value of these assets. Notably, there is already a requirement for the conclusion of civil liability insurance or the obtainment of other financial guarantees, as defined by EU Directive 2004/35 and Presidential Decree 148/2009, covering the costs of restoration of environmental damage caused by any person engaging in potentially environmentally harmful activities covered by this Directive.

Similar with the aforesaid compulsory insurance of businesses against natural catastrophes is the newly inserted compulsory insurance coverage of material damage caused to cars with a usual parking place in Greece solely by forest fire and flood risks, which must be concluded by the owner/owner of them. This compulsory insurance should cover the commercial value of the car and is provided together with the compulsory coverage of the owner's civil liability towards third parties. Such insurance is provided without the need for submission of a relevant request by the liable party to the insurance undertaking which already covers the risk of civil liability towards third parties, and the liable party may not refuse to accept such additional coverage. The obligation exists continuously, from the granting of the car's registration certificate, irrespectively of the actual movement or operation of the car. In addition to public vehicles, trucks and commercial vehicles belonging to businesses with an annual gross income of more than 500,000 euros, are excluded from the obligation of insurance coverage against forest fire and flooding, provided that they are insured against material damages at 100% of their current commercial value and this is included in 70% of the value of the insured property of the company; that is, those that fall under the insurance obligation of art. 5 of Law 5116/2024 as belonging to the property of the company. Of course, since such cars are insured as assets of the company against the same risks, it is not required to be insured separately, as vehicles.

Business insurance is a new type of compulsory insurance, the "peculiarity" of which lies in the fact that it covers risks of purely material damage suffered by the insured, and not risks of civil liability towards third parties, as is the case with many other compulsory - but not widely known - insurances in force in the Greek market. This is because the introduction of this compulsory insurance is not aimed at the protection of third parties, damaged by the activity of the compulsorily insured entity through the "addition" of a solvent insurer standing "behind" the liable party and covering any liability of the latter - as is the case in all compulsory civil liability insurances - but rather the provision of compensation to the insured parties themselves for damages / losses caused to their business by risks of natural catastrophe (nat/cat), the increasing occurrence of which is attributed, inter alia, to climate change. Moreover, any coverage of such risks by the State imposes a burden on the public budget.

Nevertheless, the highly general description of the insurance obligation in question in the law makes it impossible to define its structure in an equitable manner for the various obliged entities, leaving many gaps which render this insurance partially inapplicable. This remains the case despite the recent issuance of a regulatory implementing act - Joint Ministerial Decision No. 96806 EX 2025 (and JMD 94798 EX 2025, regarding insurance of vehicles, pursuant to article 5A of Law 5116/2024) - which neither regulates all aspects pertaining to the application of the said insurance nor includes a relevant sample insurance policy, despite the enabling provision of article 47 paragraph 2 of Law 5116/2024. Neither the law nor the relevant Joint Ministerial Decision regulate matters such as how to calculate that the insurance covers 70% of the "total of the aforementioned assets" of the business, given that this sum consists of elements with "fluctuating quantity" such as goods and means of production; the procedure for monitoring compliance with the obligation of continuous coverage; the permissible percentage of the insured's own retention; the right to receive government aid for material damage to the insured company's assets in the event the insurance undertakings rejected coverage due to breaches of contractual terms; and others.

Violation of the obligation to obtain insurance against the aforementioned "natural catastrophes" risks, results in the case of businesses – but not in the case of vehicles - in the imposition of an administrative fine of €10,000, which is doubled in the event of non-compliance with the obligation for conclusion of insurance within 30 days from the determination of the violation. In addition, uninsured businesses, in breach of the obligation thereof, automatically forfeit their right to receive any form of state aid or housing assistance if their businesses - which should have been insured against natural disasters under the new legislation - are affected.

In summary, Law 5116/2024 marks the transition to a mixed system of private and public coverage of the financial consequences of natural disasters. Compulsory private insurance, if properly implemented, is expected to enhance economic resilience, facilitate businesses in developing their productive initiatives, boost the insurance and capital market, and reduce pressure on the state budget, while also promoting a culture of prevention.