

COVID-19 Impact On Business Insurance Coverage

The COVID-19 pandemic has caused significant interruption in nearly all sectors of business. So far, most sectors of business in Asia and Europe have been affected, including hospitality, tourism, food and beverage, entertainment, manufacturing, as well as supply chain and logistics. The overall financial impact is still unknown, but will likely involve supply chain interruption, and lost sales. Travel restrictions, containment zones and government ordered shutdowns are expected to negatively impact many industries and employers of all sizes. Business owners should expect that property, special event and travel insurance policies may be impacted as well.

A. Coverage for Business Interruption Claims

Anticipated losses from COVID-19 will involve the cost of sanitizing and testing the insured property, evacuation, and the extra expense of re-locating a business. Losses are especially likely for businesses impacted by government ordered containment zones or closures as well as travel and event cancellations.

Generally, businesses are expected to experience interruptions, such as, plant shutdowns, or loss of sales. Business interruption claims generally cover loss of income, but only when caused by property damage to the insured's premises. Insurers are likely to argue that without physical damage to an insured location, the introduction of a virus does not constitute property damage. Insurers may also exclude coverage for COVID-19 claims whether under your property, or special event policy because such policies include virus, or disease exclusions that were added to policies after the Severe Acute Respiratory Syndrome (SARS) outbreak in Asia would preclude coverage for COVID-19 related losses. Our expectation is that most policies likely will not cover business interruption claims, but we recommend a case by case review to make sure that nothing is missed, especially if the insured negotiated modifications to its policy. An Insurer's coverage position may be tested if your damages are caused by a mandated shutdown or containment order from the federal, state or local government, rather than, by the presence of the virus within your business.

B. Next Steps if your Business is Impacted by COVID-19

If COVID-19 has impacted your business, we recommend a review of your existing policies to better understand the relevant coverage issues. If a claim does occur within your business, preservation of records is critical, especially records of any visitors who may have been on site. Companies should closely segregate COVID-19 related expenses. Document unusual costs for cleaning, sanitizing, production loss, media communication, and any other related extra expense you incur. Monitor and calculate your business interruption impact, such as order cancellations, supply chain breaks, and lost profits. Validate the reasons for any closure (such as virus remediation, company order, government order, etc.) and undertake a review of your policies so as to determine and understand the nature and extent of your available coverage. Finally, keeping a detailed log of employees and visitors on site (including contact information) will be necessary if notification of an outbreak is required. Also, consider your obligation to protect employee and visitor health privacy when collecting data or addressing an outbreak.

If you have questions, please contact your Bodman attorney, Michael G. Costello at mcostello@bodmanlaw.com - **248-743-6027** or Michelle Thurber Czapski at mzczapski@bodmanlaw.com - **248-743-6056**.