

# PUBLICATION

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## Coronavirus: Review Your Business Interruption Insurance Policy Now

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**As our nation deals with the far-reaching consequences of the coronavirus (COVID 19), the impact will range from grocery store shortages, school closings, and many businesses closing or reducing hours or services, to casinos closing in many jurisdictions, all for the benefit and safety of their employees, customers, and the general public. As closures increase, we will see many of these impacted businesses pursuing claims on their business interruption policies, which protect businesses from interruptions in their respective operations.**

Many of us have dealt with business interruption claim issues in past natural disasters like Hurricane Katrina, where there were disputes and, in many instances, litigation surrounding business interruption coverage. These policies have evolved significantly over the last 15 years.

These policies are sold by both licensed and surplus lines commercial insurers. Since there are a wide range of policy languages from insurer to insurer and each policy may have differences, it is important to understand those differences in surplus line products and those sold by licensed insurers. The two are treated and regulated differently by the state insurance regulators.

Regardless of the issuer, all business interruption policies normally require some form of a waiting period of at least 24 hours before any coverage begins. Many policies may have a longer waiting period, so make sure you understand what your policy requires.

These policies would normally require some form of physical damage to the insured property resulting in the property having to shut down. The language in each policy will control if there is coverage for the shutdown of a business due to the coronavirus without any physical damage to the insured structure. Therefore, everyone should review their policy and exclusions and endorsements closely to determine if there is coverage.

In addition, many policies have multiple types of exclusions ranging from flooding, war and terrorism, to nuclear action, and some may even have exclusions for "virus" or "other bacteria." Again, each policy may differ so make sure you review your policy language. We anticipate significant litigation in the coming weeks, months, and years similar to what has happened following other natural disasters like hurricanes and flooding. In fact, we have already seen some suits filed on this business interruption insurance issue.

Business interruption policies may also provide coverage when the business is shut down due to an Order of Civil Authority. However, these policies may also require physical damage to the structure to trigger coverage and the reason for the shutdown must still be a covered peril. Therefore, if the policy excludes "virus" or "other bacteria," we recommend that you review your policy for specific guidance to determine what it does cover.

Commercial policies may also offer a remediation benefit (sometimes called decontamination) under which there could be coverage to clean a structure. However, in many instances these coverages are only applicable if the triggering cause/event requiring the remediation/decontamination was a covered peril under the policy language.

Commercial insurers may also offer specific riders/endorsements to add excluded coverages, including coverage for virus or bacteria, back to your policy.

If you haven't already done so, we urge you to review your policy coverages and seek counsel as needed. This is a complicated and constantly evolving issue, and we will continue to monitor legal and public policy developments for our clients.

For more information, feel free to contact the authors or any member of [Baker Donelson's Insurance Regulatory Group](#). Also, please visit the [Coronavirus \(COVID-19\): What you Need to Know](#) information page on our website.