

COVID-19 Fact Sheet #1

April 9, 2020

Our co-founder Harlan Dodson always says, "We only represent our friends. They may be strangers when they come to us, but they'll soon be our friends"

In uncertain times, it is more important than ever to prioritize friendship. That's why we're launching a series of practical informational sheets addressing current needs and preparing for the future.

Feel free to share this fact sheet. But be sure to contact a lawyer to receive legal advice.

ARE YOU COVERED? BUSINESS INTERRUPTION INSURANCE FOR PANDEMIC LOSSES

This fact sheet covers business insurance in addition to information on unemployment benefits, business recovery loans, changes to retirement accounts, and estate planning in times of uncertainty.

Wondering if your business insurance covers pandemic losses? Here are three things to do today.

Your property insurance policy likely includes business interruption ("BI") coverage. BI insurance covers loss of business income and other reasonable and necessary expenses incurred when you have to suspend business operations from physical loss or damage to the insured property.

Whether the standard language in these policies provides you with coverage during the current coronavirus pandemic is a question that

has not yet been addressed by the courts. However, it is a good idea to examine the terms of your policy to determine whether it might be worthwhile to file a claim. Here are three things you can do right away.

1. See if your policy has a virus or bacteria endorsement.

A common endorsement on BI policies nullifies any coverage under your policy for pandemic losses that might otherwise exist. For example, this endorsement may state:

"We will not pay for loss or damage caused by or resulting from any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease."

A provision like this might mean that there is no coverage for claims related to the current pandemic.

We are continuing to update our [blog](#). Check there for more COVID-19 guides and information.

2. Understand what "direct physical loss or damage" means.

Standard BI coverage typically only covers "direct physical loss or damage" to insured property. While structural damage from something like a tornado is covered, coverage for the loss of business operations during a pandemic is not as clear.

Courts widely agree that physical loss or damage may occur in a variety of situations. This might include asbestos, mold, or chemical leaks that make the property unusable. These are dangers occurring directly on the insured property itself, and many courts have said this qualifies as "direct physical loss or damage." What happens if an employee tests positive for COVID-19 and this requires a shutdown of business in order to do a deep clean? At this time, we do not have any clear answers, but it is at least arguable that this situation may be covered by insurance as a direct loss.



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For most businesses, however, the current coronavirus pandemic has likely had an indirect effect. For example, the state may have deemed your business “nonessential” and forced you to close. Even businesses permitted to remain open during the pandemic may still lose income – either because of reduced operations required by a government order or because of the general slowdown in the economy.

Some courts have held that the standard BI policy language does not provide coverage for “indirect losses,” such as loss of use from a mere threat of damage to property, lack of access to property, or lack of power to the property. Therefore, unless you have a policy with extended coverage provisions, it is unlikely that your standard BI policy would apply to cover indirect losses from a pandemic.

3. Check for extended coverage.

While standard policies may not cover indirect losses from pandemic, many policies have extended coverage that broadens BI coverage. The terms tend to be very detailed and apply in limited situations, so it is important to check your policy carefully.

There are two common categories of extended coverage that do not typically require direct physical loss or damage. These policies are likely the best chance at securing BI coverage for indirect losses during the pandemic:

A. “Supply chain” extended coverage

“Supply chain” extended coverage broadly covers losses arising from disruption in a supply chain. For example, your business may require a product from a supplier to do business, but that supplier’s business has been interrupted or completely stopped due to the pandemic. This form of extended coverage would extend BI coverage to your business’s subsequent delayed product or service.

B. “Trade disruption” extended coverage

“Trade disruption” extended coverage covers loss of earnings, extra expenses, and contractual penalties incurred as a result of a delay or a disruption of the business’s trade. This form of extended coverage is often triggered when roads or borders are closed. During a pandemic, trade disruption extended coverage is likely to apply if the government closes all roads or borders to an area under a quarantine lockdown.

If you have either of these extended coverages, you may be able to recover for indirect losses from the pandemic.

There are other forms of extended coverage, such as “civil authority,” “ingress/egress,” “contingent business interruption,” or “stock throughput” coverage. Generally, these provisions still require direct losses, so it is difficult to predict whether BI coverage under these terms would apply for indirect losses from the pandemic.

The specific terms of your property insurance policy will dictate whether your BI insurance covers you during this pandemic. We recommend you contact your insurance agent to discuss any questions you have about your policy and coverages. And of course, we are here to help if you need our assistance in filing a claim.