

Coronavirus (COVID-19) and Insurance Coverage Implications

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Will insurance cover business interruption losses due to the Coronavirus?

Not likely, for two different reasons:

- a. Coverage is triggered by direct physical loss, damage, or destruction to tangible property. The Coronavirus does not meet the coverage trigger threshold in and of itself, because it does not cause physical damage.
- b. Most policies contain a communicable disease exclusion like a virus or bacteria outbreak.

Will insurance cover losses due to forced shutdown by government agencies?

Not likely, this coverage will not meet two key trigger details:

- a. The action of civil authority prohibiting access to the described premises must be caused by direct physical loss of or damage to property other than at the described premises.
- b. The loss or damage to property other than the described premises is caused by or a result from a covered cause of loss as set forth in the policy.

Will any "force majeure" insurance respond to Coronavirus losses?

Not likely, these coverages are rare and have similar cause of loss restrictions as other property or business income coverages.

Other lines of coverages expected to be impacted:

Liability Coverages- The industry is expecting to see some liability claims. However, most liability policies have exclusions including "Absolute Mold" and "Environmental Exclusions" that expressly exclude coverage for damages "related or attributed to, arising out of, resulting from, or in any way caused by any bacteria, virus,..." so losses from the Coronavirus would not be covered.

Directors and Officers- These policies are likely to be triggered by the current economic situation caused by the Coronavirus. According to an article from the law firm Hunton Andrews Kurth, "a company's directors and officers may be subjected to shareholder suits alleging that unreasonable actions (or inaction) in response to the Coronavirus, caused the company economic loss." Insurers are already preparing for this portion of coverage to respond to those claims and provide defense.

Workers Comp- This will be a case by case basis and depends heavily on local state laws, and judicial interpretations of coverages provided. The sector most likely to successfully claim under workers comp are those in the medical fields dealing with the contagion on a daily basis.

Advise Borrowers of Need to Adhere to Insurance Policy Conditions: Property policies have conditions related to vacancy exposures and builder's risk policies may require security measures. While the mortgagee enjoys significant independent protection via "mortgagee clauses" of the policies irrespective of a borrower/owner violation of policy conditions, we recommend that you advise borrowers to alert their insurance agents/brokers/insurers to material changes of occupancy or operations at insured properties.

Conclusion: These are our current observations of the situation as it stands today. These items may change as the legal and political systems get more involved. We are keeping close track of this constantly evolving situation and will provide any additional insights as it develops. Above all, everyone please be safe.