

Issue Brief: **COVID-19, business insurance and recovery**

Responses to the present COVID-19 (coronavirus) pandemic have included, in Washington, Oregon and Idaho, orders from state or local authorities to close businesses to arrest the spread of the COVID-19 among vulnerable populations. Businesses ordered closed include restaurants, bars, health clubs/gyms, salons & barber shops and many others. The impact of these closures is immediate and very challenging for employers and employees of these small businesses across the Northwest.

NW Insurance Council offers this information about the role and limitations of business insurance and resources to help business owners and employees find assistance to help survive these unprecedented challenges.

Business Interruption Coverage for businesses closed “by civil authority” due to COVID-19

Standard commercial property policies (including business interruption) typically provide coverage for *physical damage* from covered risks – like fire, theft or closure of the business due to a covered disaster event, like a snow or wind storm or wildfire, including times when such covered disasters result in an order from a **civil authority** – city, county, state or federal government – to close businesses. When such events occur, these policies can cover things like wages for employees, damage to business structures and loss of perishable foods or other inventory, and damage to or loss of furniture & equipment, up to the limits of the policy selected by the policyholder. Premiums for these policies vary by risk level, coverages and policy limits, deductibles and other factors disclosed and negotiated by the insurance company, the agent or broker and the policyholder.

Exclusions for virus/bacterial epidemics

Standard Business Owners Policies, or “BOPs” – as well as other commercial policies and business interruption provisions within such policies – specifically **exclude** losses caused by communicable disease, including viruses and bacterial infections. These are longstanding policy exclusions. They are not new, nor have they been adopted specifically in response to COVID-19.

While some policies or endorsements may have been available to provide at least limited coverage for virus or bacteria-related illness in specific business types, these are currently rare in the insurance marketplace, and it is unlikely many business owners have purchased this additional coverage. Even where it may have been available, it is not possible to purchase the coverage today and apply it to current business closures (it would be the equivalent of purchasing fire insurance coverage *after* your business has burned down).

Insurers oppose retroactively “overturning” policy provisions

In New Jersey, legislators have seen introduced – but have not approved – legislation requiring Property & Casualty (home, auto, business) insurers to waive the policy exclusions currently in business interruption policies *retroactively*, to allow claims from owners of closed businesses. Insurers oppose this proposal for two reasons.

- The insurer and the policyholder have a binding contract that states viruses are **not covered**, which means *no premium has been paid by the policyholder or collected by the insurance company to pay those claims*. The policy purchased by each policyholder is priced to cover what it *covers*, not what it *excludes*. Unlike “localized” disasters, like fires or hail/wind/snow/rainstorms, the COVID-19 pandemic is a *worldwide* crisis that would bankrupt insurers if every business could file claims for damages for which no premiums have ever been paid. The other causes of loss – fires, theft, storms and other factors – still

occur and must be paid by insurers under the terms of the policies in force; there is no “extra money” to pay claims resulting from excluded losses.

- Requiring insurers to accept claims for business interruption despite the exclusion could interfere with the ability for those same businesses to seek federal relief currently being offered on an expanded basis across the nation. As an example, a business seeking a Small Business Administration low-interest loan is required by that agency to exhaust all other potential sources of relief, including any available insurance recovery, BEFORE beginning the SBA loan process.

Assistance available

Federal, state and local agencies have initiated programs, funding and regulatory changes on an unprecedented scale to help mitigate the impact of business closures across the United States – most recently with passage of a \$2 trillion federal stimulus package. Insurers have joined with a coalition of business groups asking President Trump and Congress to establish a [COVID-19 Business & Employee Continuity & Recovery Fund](#) as a national response to providing assistance to closed and disrupted businesses across the U.S. And in Oregon, a special [Joint Committee on Coronavirus Response](#) has developed a list of recommendations that could be approved in a special legislative session in April to provide assistance to business owners, employees, families and individuals affected by the COVID-19 pandemic.

Temporary endorsements for delivery drivers

With statewide emergency orders in place, home delivery has become a critical need for consumers and small businesses alike. Typically, a person’s private passenger auto policy **excludes** coverage when the insured is using his/her vehicle to make business deliveries. But in response to the crisis, some insurers are offering temporary endorsements – sometimes free of charge – to extend coverage to drivers using their personal vehicles to deliver food, medicine, groceries or other consumer necessities. **Check with your insurer to review this option.**

Here are links to state resources to help business owners and employees find financial aid, small business loans, unemployment/health coverage options, tax payment delays and other assistance.

Washington:

[Information for Washington employers from the Association of Washington Business](#)
[Business Insurance Information from the Washington Office of the Insurance Commissioner](#)
[Washington Governor’s COVID-19 response page](#)

Oregon:

[State of Oregon COVID-19 Information & Resources](#)
[Insurance information from the Oregon Division of Financial Regulation/DCBS](#)
[Oregon Governor’s COVID 19 response page](#)

Idaho:

[Idaho Governor’s COVID-19 response page](#)

What should owners of closed businesses do?

Your business owners policy probably excludes coverage for the COVID-19 pandemic. But don’t give up! It’s still a good idea to check with your insurance company, agent or broker to better understand your coverage and see if you have any options for the present crisis or for future disasters. Once you’ve confirmed your understanding of your policies, check out the resources in the links provided here and reach out to these agencies for assistance, guidance and support.

NW Insurance Council is a non-profit, insurer-supported organization providing information about home, auto and business insurance to consumers, media and policymakers in Washington, Oregon and Idaho. Find us: www.nwinsurance.org.

Issued: April 1, 2020