

FAQs on Lost Income Due to COVID-19

Ethan A. Gross, JD, CEO of Globe Midwest/ Adjusters International, answers important insurance coverage questions for business owners regarding how the Coronavirus (COVID-19) may impact their industry.



1

If my business is closed due to COVID-19, am I entitled to recover loss of income under my commercial property insurance policy?

Recovery under your commercial property insurance may be difficult. A detailed review of the language in your specific policy is the starting point. A standard **loss of business income policy** provides coverage for lost income when certain criteria are met.

First and foremost is that the cause of the property damage loss that generates the interruption be covered by the insurance policy.

Most commercial properties are “all risk,” meaning they cover loss by all direct physical damage to the property, unless excluded. It is important to note that insurance policies have numerous exclusions and other limitations, which may apply. For example, most commercial policies have an exclusion endorsement titled “Exclusions of Loss Due to Virus or Bacteria” which would prevent coverage for these losses. There are also exclusions for “pollution” that may apply. How courts would interpret this pollution exclusion in relation to COVID-19 will depend on specific policy language, circumstances surrounding the shutdown, and the jurisdiction.

If coverage for the loss were to be available, the following would apply:

Necessary Suspension: To qualify, your business must essentially be shut down and the shutdown must be “necessary,” not voluntary. There would be a difference between a voluntary action; e.g., closing a building voluntarily, and complying with a municipal or governmental directive to close; e.g., being quarantined due to confirmed virus contamination in the building.

Direct Physical Damage: The shutdown must be the result of direct physical loss or damage to the insured premises. So, if your staff is home sick, or afraid to come in, that is not physical damage to your property. There is a difference between “social distancing” and “physical damage.”

If your building is actually contaminated with the virus, the question becomes: “Is that physical loss or damage?” if it can be proven that the virus has physically settled on your property, an argument that



could be made is that the viral contamination on the surface of materials is direct physical damage and that it must be cleaned/decontaminated.

Additionally, coverage under other endorsements or provisions in your policy may also apply. Please see additional FAQs below.

2

If my business is shut down as a result of a governmental action related to COVID-19, such as prohibited access to my building, am I entitled to recover loss of income under my commercial property insurance policy?

Maybe, but only if there is coverage for the cause of loss; e.g., the virus. Some loss of income policies include coverage for shutdown due to **“Civil Authority.”** For this to apply, the civil authority must issue an order barring access to your insured property; however, the same requirements of “physical damage” and “covered cause of loss” as addressed in the FAQ above would apply here as well. As such, a thorough reading of your policy in conjunction with the applicable facts surrounding the prohibition of access to your business is essential to determine if this coverage would apply.

3

If my suppliers or clients are shut down due to COVID-19 and my business loses income, am I entitled to recover loss of income under my commercial property insurance policy?

Maybe, but only if there is coverage for the cause of loss; e.g., the virus. If so, there are endorsements available to cover lost income as a result of damage to property of your suppliers or clients. Some examples include:

Contingent Business Interruption (“CBI”): CBI insurance covers lost income when your business has not sustained any physical damage but a business you depend on has been disrupted. For example, your supplier is shut down and can no longer supply materials necessary for your business, or a customer is shut down and is no longer purchasing from your business. CBI Insurance may cover this lost income, however, the same hurdles of “physical damage” and “covered cause of loss” as addressed in the FAQs above would apply here as well.

FAQs on Lost Income Due to COVID-19

Page 3



Supply Chain Insurance: This is similar to CBI Insurance, but absent a specific coverage exclusion would be more likely to respond to a loss due to a COVID-19-related shutdown. Supply Chain Insurance covers lost income as a result of a disruption to your supply chain. Significantly, unlike most other lost income insurance, the disruption does not have to result from physical damage to property. For example, if a manufacturer's supplier were shut down due to a quarantine resulting from a viral or other disease outbreak, the manufacturer could recover lost income as a result of the disruption. As with the other examples provided the cause would have to be covered by your policy.

Conclusion

The above FAQs are based on general scenarios with common policy language. Coverage for your loss will depend on the specific language in your policy and your facts and circumstances. If your business suffers a substantial loss of income due to a shutdown that can be linked to COVID-19 being physically present in the building or if you think the loss may be covered under another endorsement in your policy, then it is recommended that you consult an expert to determine if a claim should be made.

If you have any questions feel free to contact Ethan A. Gross, JD at egross@globemwai.com.

About the Author

Ethan A. Gross, JD is the CEO of Globe Midwest Adjusters International where he exclusively represents property and business owners during the insurance claim process to ensure a fair and just settlement. Mr. Gross frequently presents on insurance claims issues to professional groups throughout the country and has published several articles on a variety of property insurance claim topics. He also presents insurance courses certified by the state of Michigan for Continuing Education credits.

Before joining Globe Midwest as a fourth-generation public adjuster, he worked as an attorney specializing in first party property insurance litigation. He is a member of the American and Michigan Bar Associations as well as the National Association of Public Insurance Adjusters. Ethan is the current President of the Michigan Association of Public Insurance Adjusters.

