

*State of Idaho*  
**DEPARTMENT OF INSURANCE**

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**BULLETIN NO. 20-08**

DATE: April 23, 2020  
TO: All Property or Casualty Insurance Companies, Agents, Consumers, and Other Interested Parties  
FROM: Dean L. Cameron, Director  
SUBJECT: Applicability of business interruption coverage to COVID-19 related claims

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The Department has received significant questions and concerns about whether business property insurance policies that cover business interruption losses apply to businesses that have been closed as a result of the COVID-19 emergency.

This Bulletin provides a general overview of this type of coverage and the types of policy provisions that consumers have the most questions about. This Bulletin also provides guidance to property and casualty agents and carriers about the Department's expectations about how business interruption claims should be handled.

This Bulletin is not an exhaustive discussion of issues related to business interruption coverage. Additionally, the Department may issue additional bulletins on this topic as issues arise. Furthermore, the Department has posted an FAQ on this subject on its website.

The Department encourages policyholders to review their policies and to contact their agent or carrier to discuss their coverages. If afterwards a policyholder still has questions or concerns, please contact the Department's Consumer Affairs team at (208) 334-4319 or (800) 721-3272 or at [doi.idaho.gov/consumer](https://doi.idaho.gov/consumer).

**Business Interruption Coverage**

The Department recognizes that all business interruption policies are not identical, and the coverage provided by a given policy depends on the specific wording of the contract. However, the following principles generally apply.

Business interruption insurance is typically an optional coverage that can be purchased to protect businesses against income losses incurred when the business is fully or partially shut down as a result of sustaining a covered loss. The policies typically pay when the following four elements are met:

1. The policyholder has sustained physical damage to insured property;
2. The damage is caused by a covered peril;
3. The damage results in quantifiable business losses; and

4. The losses take place during the time it takes to restore the property.

### **Virus or Communicable Disease Exclusions**

Some policies may expressly exclude payment for damage caused by viruses or communicable diseases. They may either contain clauses stating that viruses and communicable diseases are not a form of physical damage, or that viruses and communicable diseases are not a covered peril and therefore may not be covered. Any given policyholder's loss may warrant review to determine applicability of specific exclusion language.

### **Civil Authority Clauses**

In some cases, business interruption coverage contains a "civil authority" clause. Like other business interruption coverage, this clause may require physical damage to property caused by a covered peril, but not necessarily the insured's property or at the insured location. Dependent on the specifics of a given policyholder's situation and policy language, there may be coverage for closure of the business because of an action by a governmental entity (a "civil authority") because of health and safety concerns, so long as the covered physical loss or damage has occurred.

### **Instructions to Carriers Regarding the Reporting of Negative Claims**

Because of the magnitude and unprecedented nature of COVID-19 related losses, policyholders should not be penalized for attempting to determine the boundaries of their coverage. The Department instructs insurance carriers that they shall not report as negative claims activity or report as a claim denial when an insured or policyholder contacts the company or its agent or broker to ask about business interruption coverage for COVID-19 under its policy.

### **Due Diligence and Good Faith in the Evaluation of Claims**

The Department strongly encourages carriers to consider all the foregoing factors, at a minimum, when determining whether coverage exists in any given situation. Each situation must be considered on a case-by-case basis. The Department reminds carriers of their responsibility to act in good faith when dealing with their insureds.