

## Most Insurance Policies Unclear on Business Loss Insurance (UPDATED)

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**UPDATE, March 31:** Pennsylvania lawmakers have introduced legislation that could make business interruption insurance available to those affected by the COVID-19 pandemic and the large scale business closures across the state. You can [read the current copy of the bill here](#). We'll bring you updates as this legislation progresses.

Businesses suffering substantial losses of income and inventory will turn to their insurance policies to recover after the effects of the COVID-19 pandemic, but it may not be that simple. In determining whether your business's policy provides coverage for COVID-19 losses, there are four primary provisions that may affect coverage.

First, businesses should look to whether they have an all-risk policy or a named perils policy. An all-risk policy will cover all losses except those specifically excluded, whereas a named perils policy only will cover certain events. An all-risk policy is much more likely to afford coverage.

Next, businesses should look at their policy language to determine the exact circumstances under which business interruption coverage is provided. In many policies, there must be physical damage to a structure, though some will permit recovery for loss of use of a building. Likewise, some policies will provide for coverage for closure due to orders of civil authorities, though often these are accompanied by a requirement that there be at least a threat of physical damage to nearby properties. Whether or not a coronavirus contamination should be considered "physical damage" is likely to be the subject of substantial litigation in the coming years.

It is also important to inspect a policy to determine if partial business interruption, as opposed to total interruption, is covered. Some policies will not allow recovery if a portion of the business is permitted to continue, which could be particularly important for restaurants still offering take-out or businesses with some employees working from home.

Lastly, some insurance policies will specifically exclude coverage for losses caused by viral infections. These provisions may be difficult to overcome, but the individual policy and circumstances may allow for covered losses in unique situations.

If business owners believe they may have a claim for coronavirus related losses, they should promptly notify their insurers of their claim and submit a sworn proof of loss if requested, even if the insurer states that a claim will be denied. They should also be careful to document all losses and efforts to mitigate those losses. If any business has a question regarding interpretation of their particular policy please [reach out to me](#) or anyone in [Barley Snyder's Litigation Practice Group](#).

**DISCLAIMER:** As we face an unprecedented time of legal and business uncertainty, we are working to provide updates on the status of important legal news related to COVID-19. It is important to note that the situation is changing rapidly and the information provided in our alerts is not intended to create an attorney-client relationship. The information contained in our alerts is for general informational purposes only and should not be construed as legal advice or a substitute for legal counsel. If you have questions about your legal situation or about how to apply information contained in this alert to your situation or about how any other information found on our website may affect your business, you should reach out to one of our attorneys. We assume no responsibility for the accuracy or timeliness of any information provided herein or by any linked site. As information changes rapidly, users are strongly advised to verify any information before relying upon it.

## WRITTEN BY:

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**Paul W. Minnich**

Partner

Tel: (717) 852-4976

Email: [pminnich@barley.com](mailto:pminnich@barley.com)



**Lindsey M. Cook**

Partner

Tel: (717) 399-2160

Email: [lcook@barley.com](mailto:lcook@barley.com)