

As the COVID-19 outbreak continues to escalate, businesses are facing unprecedented operational and financial challenges. In this time of uncertainty, you likely have several questions about your insurance and how you can protect your employees and minimize the impact on your business.

Your dedicated team at HUNTERS International Insurance is here to support you through this crisis.

Many of our Clients share the same concerns so we address the most common questions here. It is recommended that you contact your Account Manager directly to assess your specific situation, particularly if you have made changes in your operations following the COVID-19 outbreak. It is important that you discuss these changes and ensure that you have adequate coverage that fulfills any contractual obligations you have and provides the protection you need.

Our entire team is working remotely in order to be there for you.

In the meantime, may I extend my personal best wishes for your health and safety as the top priority.

Yours truly,

HUNTERS International Insurance



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## Is there any coverage for business interruption?

**A:** Based on an analysis of wordings for insurance products currently available on the market, business insurance policies would probably not cover losses resulting from the spread of COVID-19, as the introduction of a virus would not fall within their scope of coverage.

— **Business Interruption Insurance** Business Interruption Insurance provides coverage for lost revenue arising from physical damage to insured property at the premises, caused by a covered peril. Pandemics are not usually covered perils, as the introduction of a virus does not cause a physical loss to property, which must be evident in order for insurance to be triggered.

— **Civil Authority Coverage** Some Commercial property policies may include coverage for losses due to a forced closure by a government order resulting from physical damage to adjacent or nearby property. Again, there must be direct, physical property damage in order to trigger the coverage. You must also be able to establish a causal connection between the government order and the damage suffered. Otherwise, there will likely be no coverage. Civil Authority coverage is typically limited to a maximum of 30 days.

— **Contingent Business Interruption Coverage** Contingent Business Interruption coverage protects against economic losses due to supply chain disruptions resulting from direct physical loss or property damage on the premises of the direct supplier or indirect supplier, on whom the insured depends for its business operations. Unfortunately, disruptions due to COVID19 would probably not be covered.

— **Common Exclusions** Many policies contain a "Contamination Exclusion," which could apply in the event of a COVID-19 outbreak at an insured's premises. This means that any loss, cost or expense arising out of testing for, monitoring of, clean up, removal, containment or treatment of a noticeable infectious or contagious disease, including but not limited to viral or bacterial infections, is not likely to be covered.

— **Specialty Policy Extensions of Coverage** Some insurers may provide policy extensions, such as "Outbreak Extra Expense" or "Restricted Access" coverage under their Civil Authority coverage extension, but again, in order to trigger coverage, there must be direct physical loss or damage to any property in the vicinity of the premises and such loss or damage must be directly caused by an insured peril. Please note that in order to trigger this specialized coverage, someone at the insured premises would have to be diagnosed with a contagious or infectious disease, and the business would need to provide proof of closure resulting from an order by civil or health authorities.

## Should I make a claim?

**A:** Each claim is subject to review based on your specific insurance policy and legal interpretation by your insurer. This outline is not intended as legal advice but serves only as a general guide of how common commercial coverages may respond.

Case law is evolving even as we write with respect to this coverage. At this point, if Covid-19 was/is present within your premises, it may increase the likelihood of coverage under some policies.

Please discuss submitting a claim with your Account Manager. It really is your call as to submitting a claim. The "deadline" to submit a claim is not immediate. For example many policies specify one year and the statute of limitations in Ontario is two years. Therefore, it would be prudent to maintain evidence of your losses and expenses along with underlying cause - in case you decide to assert a claim at a later date. Given both Provincial and Federal Government announcements in the last few weeks regarding financial assistance, so far there's been no announcement on any requirement to obtain an insurance declination note for a business to access government-provided financial support.

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## If we are sued by someone alleging they contracted COVID-19 as a result of the business staying open, are we covered?

**A:** As negligence is the primary factor in determining liability, coverage would not respond to pay damages to a customer or invited person who contracted COVID-19 unless it was proven that your organization acted negligently and thus caused a person to contract the virus. Healthcare and hospitality industries are the most likely to be vulnerable to these claims. Typically, these types of claims would involve a bodily injury lawsuit, and the policy should provide a legal defense against a claim for failing to protect others from exposure to infection on the insured's premises. Should an incident arise, and you are in receipt of a demand letter, kindly advise your Account Manager and we will report the claim to your insurers. We expect to see exclusions on renewals from now on.

## Why would I maintain insurance on my business when we are not operating?

**A:** Loss or damage to property, equipment and vehicles can continue to happen while operations are shutdown or reduced. Pipes still burst in buildings; equipment can overheat or short out and cause fires; and inactive businesses are targets for vandalism and theft. Insufficient or underinsurance could lead to co-insurance penalties, which would be applied in the loss adjustment, reducing any potential claims settlement. It is more important than ever to strike a balance between reducing the cost of your insurance premiums and deductibles and maintaining your cash flow obligations. Unfortunately, during volatile economic times, it is common to see an increase in claims.

## Can we get relief on paying my insurance premiums in the short-term?

**A:** The decision to allow a deferral of premium payment is made by the insurance company. Unfortunately, insurers have not been consistent regarding offering premium payment deferral options. Some insurers have said they will attempt to work with customers, while other insurers are maintaining payment requirements. Insurance companies, unlike other financial institutions, do not have collateral or assets they can attach to, which makes requests for premium payment deferral difficult for them to manage. We are advocating on behalf of our clients for flexibility with payment terms. Third party premium financing can also be an option.

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## Do I need to alert the insurance company if my building is going to be vacant?

**A:** You need to notify your Account Manager if the occupancy of your premises changes. The consequence of inaction is potentially no coverage for even basic things like fire and water damage.

Generally insurance policies allow for 30 days vacancy. Beyond that, the insurance underwriter must provide written agreement of coverage and in many cases the policy must be revised to include what is commonly referred to as a "Vacancy Permit."

We highly recommend you do the following to protect your property during the vacancy. Your insurer may have more specific requirements once notified.

- Have the building checked regularly inside and out. Take a walk through, paying particular attention to any areas with plumbing such as washrooms, kitchens and mechanical rooms.
- We would suggest that all visits and inspections are logged by your designated person.
- Keep alarm systems armed, fire protection functioning and maintain a normal level of exterior and interior lighting.
- If possible, have a minimum of one vehicle on-site to create the appearance that someone is in the building.
- Ensure that the heat is on and operational.
- Keep exterior areas swept and clean to discourage vagrancy and vandalism.

## How can I save on my insurance premiums during this crisis?

**A:** There are options that can be considered to save on premiums, including amending coverage limits, removing coverages and adjusting deductibles. However, there are several factors to consider prior to making these types of changes:

- Do you have any contractual obligations that include insurance provisions on your buildings, equipment or stock? Mortgages, loans and leases typically have insurance obligations that must be met. Before coverage is amended it is important to review the contract terms. Changes to the insurance program may require changes to the lending terms.
- Vehicle leases and financing programs commonly have specific coverage requirements. Prior to parking units that are not being driven and deleting liability or collision coverage, make sure the lender consents to removing the coverage. Also, it is important to ensure these units are not parked or sitting idle on government roads.
- Tenants in leased or rented space likely have a lease agreement in place with the landlord. The lease will contain insurance provisions for the tenant. It is important to review your lease obligations and seek approval from the landlord prior to making any changes.
- Have you agreed to have insurance in place for specific clients or jobs? Will customers or vendors require specific coverages before you can attend a job site or ship your product?
- Franchise agreements have specific clauses requiring insurance to be in place. Any changes to your insurance typically must be approved by the franchisor.
- If you have Certificates of Insurance issued to customers that require these for their own contractual obligations, please be mindful that these certificates typically have a 30-day notice clause related to making any material changes.

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## Can I cancel my insurance?

**A:** Insurance can be canceled at any time. Premiums paid would be refunded for the remaining policy term. Many policies have a “minimum retained premium” in the event of cancellation. Each policy wording is subject to its own cancellation terms.

It is important to consider the insurance requirements of any contracts and loan commitments. Your business may still be exposed to certain risks and we encourage you to speak with your Account Manager before making a decision to cancel.

## Are we at an increased risk of cyber attacks with employees working from home?

**A:** With an increase of remote workers, networks may be more vulnerable to data breaches. Make sure your employees are aware of spam emails that contain malicious attachments and/or links purporting to contain vital information on COVID-19, but instead contain malicious code that harvest personal information. With larger-scale cyber attacks being predicted, your company needs to be more cautious and it is necessary to educate your employees. Cyber liability policies provide critical coverage, each claim will be evaluated based on the coverage purchased and the insurer’s policy wordings. Please contact your Account Manager to purchase Cyber/Privacy Breach as coverage is not automatically included in property/liability insurance programs.

## Can I be accused of discrimination if I advise someone to go home?

**A:** Human rights legislation applies in that employers must bear in mind they cannot treat employees or members of the public differently or assume they might be infected with COVID-19 on the bases of their race, place of origin, citizenship, ethnic origin or ancestry. Assuming that someone has the virus because they happen to have exhibited one of the symptoms of the virus and because of an assumption about where they are from based upon how they look would most likely be considered discrimination. If an employer were aware of this differential treatment and chose not to respond, they could be exposed to liability since employers are in most cases vicariously liable for the actions of their employees. This could be addressed by Employment Practices Liability insurance which may be a separate Policy or part of D&O (Directors & Officers Insurance.) Please contact your Account Manager to purchase this form of insurance as coverage is not automatically included in property/liability insurance programs.

**Please note that these FAQs contain generalizations and do not necessarily apply to all situations. It is highly recommended that you speak directly to your HUNTERS Account Manager for a review of your circumstances and your program.**