

COVID-19: Vacant or Unoccupied Property

Tips to Minimize Risk

With non-essential businesses closing their doors to help reduce the spread of COVID-19, a new issue has emerged—the impact of your business premises being vacant or unoccupied which triggers a potential coverage limitation on your commercial insurance policy.



WHAT IS THE BIG DEAL?

Occupancy of a building is a key factor in risk selection and rating. Insurance policies for commercial property are assigned rates based on a number of factors including the type of business that occupies an insured premises. Any change to that occupancy may present an increase or a decrease in the risk to the insurer and has a corresponding effect on the premium for that property.

“Vacancy or Unoccupancy” fits into this category of risk factors. The lack of someone present in a building to monitor or otherwise reduce the possibility of a claim either happening, or realizing one has already happened, increases the risk of loss. When a building becomes vacant or unoccupied, most insurers will want more information, and may want to charge an additional premium based on their assessment of the increased chance of a claim occurring. Depending on the length of the period, or the conditions of the building itself, an insurer may no longer wish to insure a premises.

To address this issue proactively, insurers add a Vacancy or Unoccupancy provision to the policy, which requires the insured to notify the insurer within a stipulated time frame if an insured building becomes vacant or unoccupied. If the insured fails to notify the insurer within that time frame, certain coverages are restricted, and claims that were previously covered may be excluded. While this time frame will vary, a **common period in many policies is 30 days**, during which time the insurer must be notified, and steps must be taken to address the increased risk of loss.

VACANT VS. UNOCCUPIED

Vacant and unoccupied have specific meanings in insurance and are uniquely defined in many policies.

In simple terms, a building is **unoccupied** when the building is otherwise ready to be used for its intended purpose but is closed or otherwise unattended. A business that closes overnight is technically unoccupied during the period that it is closed, but this is not an “unusual” period of unoccupancy.

An unoccupied building is **vacant** when it is has either never been occupied (in the case of a new building), or, has no tenant, no ongoing business operations, and typically, no intent or expectation that the building will be used or occupied in the foreseeable future.

In most cases where businesses are closed due to COVID-19, whether voluntary or otherwise, the critical issue is not vacancy, but **unoccupancy**. However, the restriction in most policies does not distinguish between the two, so while a premises may contain furnishings, equipment, and supplies, and there may be an intention to return to occupancy, the strict definitions of “vacancy or unoccupancy” have been met. As such, the insurer will need to be notified and business owners should be taking additional steps to secure their premises.

Due to the date most COVID-19 emergency measures went into effect, the period of notification in policies for many businesses will be reached soon.



HOW ARE INSURANCE COMPANIES HANDLING COVID-19 CLOSURES TO BUSINESSES?

Insurance companies do not currently have a unified response, but most fall into one of the following **two** categories:

1. Insurers who will automatically extend or waive applicability of the restriction for temporary unoccupancy due to either forced or voluntary closures during the current pandemic.
2. Insurers who are relying on the written policy terms but may be willing to review situations with notification on a case-by-case basis. This also means that you will not have coverage following the determined period if no action is taken.

In both cases, while it is important to be proactive in finding out which category your insurer falls into and openly communicating with your Advisor—it is equally important that notification occur quickly and risk mitigation steps be undertaken as well.

We are here to support and guide you through this process, and our feedback from many insurers has been that they will be reasonable given the current circumstances.

RISK MITIGATION

The main causes of loss during closure are:

- Escape of water
- Theft
- Vandalism/malicious damage
- Fire

It is up to the Insured to ensure risk mitigation due diligence is performed and maintained throughout a vacancy or unoccupied period.

There are several steps you can take to minimize the risk of property damage to your buildings, stock, and equipment.



MAINTENANCE TIPS TO MITIGATE RISK

□ Maintain Fire Protection Systems

Ensure that sprinkler systems and early warning fire detection systems have the proper controls in place, are monitored and that pressures and temperatures are within normal range.

□ Security & Surveillance Protocols

Lock external (and internal doors) and ensure that the intrusion alarms are set and operational. Consider hiring a security company to monitor your premises during extended shutdown periods. Ensure surveillance cameras are online and fully functional, and that security pass systems are monitored and/or restricted.

□ Daily Site Visits

Ideally, both internal and external inspections should be performed—including monitoring for roof leaks or damage. Keep a written record or log of visits, along with photographic records if possible. Ensure building heat is on and functional.

□ Garbage & General Maintenance

Ensure that all garbage, dumpsters, pallets etc. are at least twenty-five feet from the building where possible. Chain or secure dumpsters and remove valuables from property if possible. General maintenance (ie, grass cutting or snow removal) should be maintained.

□ Restrict Access

Close and lock gates, and block off parking lots.

□ Environmental Hazards

Chemicals or other pollutants should be removed or securely stored—the Insured may be held liable for any hazardous materials that contaminate groundwater or other nearby natural resources. Underground fuel tanks present serious challenges and should be frequently and carefully inspected by professionals.

□ Be prepared for Bad Weather

Wind, flooding, or snow and freezing temperatures all present risks for unoccupied properties, the best recourse is to prepare a pre-emergency plan and to complete regularly scheduled property visits. Wind storm - ensure roofing is secure especially roof flashing

□ Lighting

Ensure that there are working lights around the facility. Set internal lights on timers to give the impression that the premises are occupied at night.

□ Notify Proper Authorities & Insurer

Local authorities/police should be notified if a property is vacant or unoccupied for a period of time. In addition, insurers should be advised formally of any properties that are vacant or unoccupied.

This checklist includes best practices and general guidelines, but is not exhaustive. When dealing with a vacant or unoccupied building, it is important to speak with your Insurance Advisor.

If your property was vacant prior to the shutdown, you may require a vacancy permit from your current Insurer, or a specialized Insurance policy.

Keeping control of your costs is now more important than ever, and we would be happy to provide a review to ensure that you have the proper risk management protocols and coverages in place, and that you are maximizing the opportunity for premium reductions during COVID-19.

For more information and strategies to help protect your assets and mitigate loss, contact your Jones DesLauriers Advisor today.

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