

Insurance Coverage for Protest-Related Property Damage & Civil Closure Orders

Alert

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As riots have swept across our cities, businesses have suffered direct property losses, including looting, broken storefront glass and signage, damaged inventory and business property, and smoke and fire damage. Businesses have also been closed by civil authority orders prohibiting access to the premises, from blocked streets to government-ordered business closures in hot zones. Businesses are looking to their property insurance policies as a potential source of relief from these losses.

In insurance parlance, this damage is caused by "riot" or "civil commotion," which are "perils" under a property insurance policy. These policies may cover both direct physical loss or damage to property and business income losses. Business interruption coverage may result from direct physical loss or damage to the business's own property, or it may result from physical loss or damage to nearby properties that caused the government to issue orders blocking access to the insured's premises. Following is a description of coverages that may be triggered by these losses.

Property Damage — Building or Business Personal Property

Some businesses have all-risk property policies that cover all risks of direct physical loss except those specifically excluded. Other businesses have coverage for certain named perils identified in the policy. Either way, these property policies generally provide coverage for damage to an insured building caused by riot, civil commotion and vandalism, including damage to building exteriors, broken glass, and attached signage. Policies also typically insure business personal property from these risks of loss. Looting that occurs at the time and place of the riot or civil commotion is also typically covered. Landscaping, outdoor signage not attached to the building, and certain types of outdoor business property (such as fences and antennas) may be excluded, but limited coverage is often provided for these types of property under

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coverage extensions, subject to significant sublimits.

Protection and Preservation of Property

An insured business may also be entitled to recover the costs to move its property from an insured location to a different location to protect it from loss or damage (and to move it back). Some businesses have even broader coverage for expenses (and sometimes business interruption) for actions taken to temporarily protect or preserve the property from impending physical loss or damage of the type insured under the policy. This is typically described in the policy as "preservation of property" or "protection and preservation of property" and is frequently subject to sublimits.

Business Interruption Arising from Property Damage

In the event of physical loss or damage to insured property, a property insurance policy usually also provides coverage for lost business income during the time that the policyholder is repairing, replacing, or otherwise restoring that property. This time period is often labeled the "period of restoration." Sometimes a property policy will also provide coverage for an additional period to account for the fact a business usually has some ramp up time after the property is restored before business operations are back to normal.

Business Interruption Arising from Civil Authority Order

A business that has not suffered any physical damage to its own property but has lost access to the premises due to government-ordered closures may have "civil authority" coverage for business income losses. Civil authority coverage applies where there is damage to other property within a certain distance of the insured business, of a type otherwise insured under the policy, and, as a result, civil authorities take action that prohibits access to the insured property. If the governmental authority issues an order that either compels the business to close its operations or fully prohibits access to the business premises, the property insurance policy would potentially cover associated business income losses under the civil authority coverage. Street and sidewalk closures that prohibit all customer access to the premises are a typical example of a trigger for civil authority coverage. This coverage is frequently subject to a waiting period (e.g., coverage only after 24 hours) and applies only for a defined period of time (e.g., 30 or 60 days).

Potential Coverage Expansions and Restrictions for Riot or Civil Commotion Loss

Loss caused by riot or civil commotion is generally covered subject to the same terms as other causes of loss under a property policy, but there are some exceptions. Riots and civil commotion are ordinarily labeled as "specified causes of loss" under the policy, along with certain other named perils such as fire, lightning and explosion. As a result, policies that otherwise provide coverage for certain types of losses - like

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interruption of power supply - may limit or exclude that coverage where that loss is caused by riot or civil commotion. And, in rare circumstances, riot or civil commotion may create coverage when combined with another cause of loss that would otherwise be excluded under the policy.

As always, you will want to review the terms of your particular policy in order to assess what coverage you may have. Coverage counsel can help you understand the terms and conditions of your policy.

Steps After the Loss

When a business suffers potentially insured losses, it is extremely important to preserve evidence. For these particular types of losses, that evidence may include the damaged property itself, if practicable, as well as photographs, video, and inventories. Property policies contain certain requirements in the event of a loss, including providing the insurer prompt notice of the loss or damage and taking all reasonable steps to protect the property from further damage. The policy may also require notification to authorities if laws have been broken. When potentially criminal activity is involved, insurers will ask for police reports and may attempt to hold it against businesses if there are none. In addition, the business should take steps to establish and properly document business income losses. Calculation of these losses can be complicated and time consuming, and it often pays to involve claims consultants, including forensic accountants.

Property insurance policies vary, sometimes substantially. Figuring out whether a loss is covered, determining how best to present the loss to the insurer, and knowing whether an insurer's requests and other conduct is appropriate, may be beyond the ken of a business or even a lawyer not versed in the area. Experienced insurance coverage counsel can help.

For more information on insurance coverage for protest-related property damage and civil closure orders, please contact [Christina Arnone](#), [Scott Hecht](#), [Chris Sevedge](#) or the Stinson LLP contact with whom you regularly work.

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