

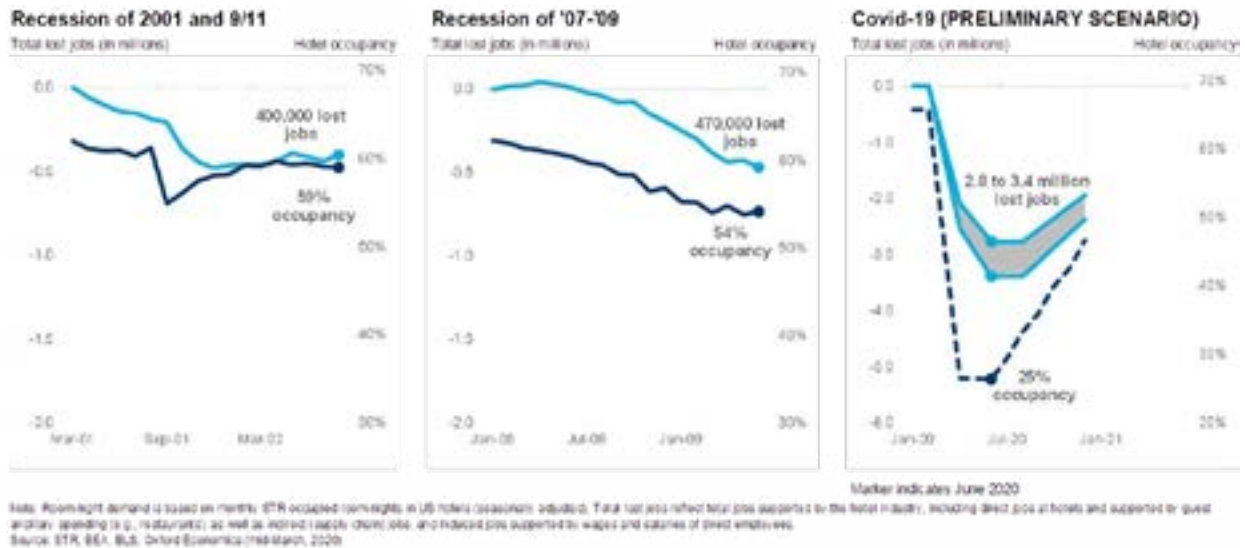
Lockton Real Estate Practice Update

COVID - 19 - Hospitality Impact

March 2020



The coronavirus (Covid-19) situation is disrupting all business across the globe and the hospitality/travel industry is feeling the negative impact to the economy more than most. In the United States, over 61% of hotel properties are small businesses which are experiencing significant decreases to occupancy, if not closing altogether. The American Hotel & Lodging Association (AHLA) has released the following information to show the potential impact to revenues and jobs lost due to this global crisis, which is greater than both the terrorist attacks of 9/11 and the financial crisis of 2009.



As a business and risk management partner to hospitality companies, we at Lockton are here to navigate these uncertain times both from a risk management and insurance perspective. It is important to note that every company's situation and insurance needs are unique, therefore we recommend an engaged discussion about your specific circumstances with your risk and insurance advisor at Lockton.

Potential Impacts

- **Associate and Guest Safety**
 - The health and safety of guests and associates is paramount during this time. Each hospitality company should take the proper steps to ensure health and safety during this time. We recommend that you continue to monitor the information provided by [Centers for Disease Control and Prevention \(CDC\)](#) and the [World Health Organization \(WHO\)](#). These centers provide up to date information with regards to guidance on hygiene and cleaning of hotels. Specific steps to ensure the proper cleanliness levels should include, proper hand washing and hygiene measures, additional hand sanitizers around the property, ongoing training about the safety measures, and communication. Proper communication with guests and associates will make each person feel more comfortable and will provide a safer, more relaxed environment.

- **Cleaning Protocols**
 - Virus killing products should be used in all areas of the property. We recommend that each company follow the guidelines provided by the Environmental Protection Agency (EPA) to ensure that safe and effective products are being used. There should be specific protocols for cleaning all areas of the hotel / property such as for guest rooms, public spaces and the back of the house. For guest rooms, pay particular attention to high-touch items, such as remotes, telephones, faucets, and other frequently used items. In public spaces, disinfect areas such as elevator buttons, door handles, room keys, etc. as much as possible. For back of the house areas, increase the frequency of cleansing this area and make employees feel as though they are in a safe environment.
- **Brand and Reputation Protection**
 - Communication during this time is key to maintaining your brand and reputation. Keep associates and guests informed of your coronavirus protocols and provide updates as to your company's operations. Being flexible in this environment will help to boost your brand as well. Flexible cancellation policies will make guests feel more comfortable when planning their travel.

Insurance Considerations

1. **Upcoming Insurance Renewals** – What was already a hardened insurance marketplace has now become even more challenging to navigate as underwriters process financial and liquidity concerns over the impact coronavirus is having on organizations in the hospitality industry, among other industries. Underwriting appetite is changing, and we are seeing adjustments in both premium and attachment points. We recommend thoughtful and engaged discussions with all stakeholders (risk, finance, compliance, legal) to develop alternatives that will attract acceptable renewal terms from incumbent and potentially new partners. Difficult choices may have to be made, so prioritization will be key.

There are a few other items to consider when you prepare for your renewals.

Business Interruption Values – Many hospitality companies are revising their 2020 financial guidance. Some companies are pulling their forecasts altogether. Discussing these values on your policy early are vital to ensuring proper insurance coverage.

Vacancy Provisions – The vacancy and unoccupied provisions found in most commercial property policies, severely restricts coverage in connection with buildings that have been vacant for a specified number of days (typically, 60 days).

In some situations, normal use of the premises may change due to local populations' needs (such as drive through testing, temporary medical facility, housing of emergency personnel or other temporary tenants). These changes may result in a shifting of exposure profile, ensuring contractual risk transfer when available, and insurance implications.

If any of your locations are to close indefinitely or are utilized for different purpose, it is important to notify your insurance broker, who in turn will advise your insurance partners.

Premium Financing – During this time when cash restrictions are being implemented, premium financing may be a viable option. Considering lender insurance requirements, having alternative methods to finance insurance premiums may be a valuable strategy to preserve cash.

2. Property Insurance and Business Interruption – The travel restrictions imposed by governmental authorities and social distancing practices are causing hotel cancellations for individual travelers, but also cancellations of large group events, such as weddings and business conferences. As part of a standard property insurance policy, Business Interruption coverage is meant to protect businesses against loss of income in the event of a disruption to their normal operations. Contingent Business Interruption is coverage for loss of revenue due to the disruption of a company’s suppliers, vendors, etc. who may not be able to provide their typical goods or services. Typically, business interruption and contingent business interruption are “triggered” when a company (or a vendor / supplier) experiences direct physical loss or damage to its insured property by a peril covered within its policy. In the event of a claim for coronavirus cancellations or complete closings, most carriers, based on the policy terms and conditions, may deny these claims citing that no physical damage has occurred, thus no “triggering” of the coverage. These are unprecedented times and each potential claim scenario is unique, therefore, it’s critical to engage your insurance broker to examine each situation and perform a full review of all potentially available coverage. Any potential COVID-19 losses being experienced by your organization, should be reported to applicable policies as soon as possible.

The question of “Civil or Military Authority” comes up occasionally as a potential source of recovery in the event of government closure and travel restrictions. However, in some situations this coverage runs into the same challenging issue described in the Business Interruption discussion above. Typical insurance policy language for this coverage is: insurance companies will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises due to direct physical loss of or damage to property, other than at your premises, caused by or resulting from any Covered Cause of Loss.

There are also specialty non-physical damage property damage / business interruption coverages that may be included in your policy, such as, “communicable or infectious disease”, “loss of attraction”, or “cancellation of bookings”. These coverages, if available, likely have low sublimits and may require that the virus itself was known to be present at your property. We recommended reviewing your specific policy for any of these coverages. It’s worth noting that other non-physical damage covers such as “Crisis Response” and “Emergency Evacuation” are now being removed entirely or heavily reduced from a sublimit standpoint in quick response to the coronavirus situation. Any new request for these types of coverages will most likely exclude the coronavirus in its current state.

3. Liability and Workers’ Compensation – During this time of uncertainty, hotels and other hospitality locations may face claims from third parties that they contracted the coronavirus at their location. Third party claimants could state that the location failed to provide reasonable care in assuring the safety of their guests. Unless otherwise specifically excluded, the commercial general liability should respond and at the very least, provide defense costs.

Similar to general liability claims for bodily injury brought by third parties, companies are beginning to see claims from its own employees. For workers’ compensation claims from employees, most states’ workers’ compensation statutes provide that an employee is entitled to benefits for “occupational diseases.” There are exclusions on most workers’ compensation policies for “ordinary diseases of life” such as common colds or the flu, however, depending on circumstances specific to the role of the employee, there could be a valid argument for compensability. The issues are nuanced, so we recommend engaging a member of the Lockton team to assess your particular situation.

Please note that additional coverages may be found in ancillary policies such as your pollution policy. Additional information can be found in [Lockton’s COVID-19 coverage and claim guidance document](#).

Please review each policy with your Lockton team if you have any questions.

Important Links

Lockton's Coronavirus Advisory Practice is closely monitoring the outbreak on behalf of our clients. The situation is fast-developing, and local health agencies should be consulted for the latest news and directives. The Coronavirus Advisory Practice page has been established as the central source of Lockton's thought leadership and supporting materials on the coronavirus. It includes access to our coronavirus Advisory Practice leaders as well as the latest available resources, such as:

- [Podcast ERISA is a Friend of Mine](#)
- [House Imposes Temporary Paid Leave and Healthcare Mandates](#)
- [CDC Risk Assessment](#)
- [State and Local Health Department Gateway](#)

Please note: For the most up-to-date information and resources, visit the [Centers for Disease Control and Prevention's National Institute for Occupational Safety and Health \(NIOSH\)](#). This should be your primary source for emergency preparedness and response to the coronavirus.

We would be more than happy to answer any questions you may have regarding the above and would also be happy to participate in any calls with any clients where they have questions around this topic.

Regards,

Lockton Real Estate Team



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