



Real-Time Risk



TIMELY NEWS AND TIPS TO HELP REDUCE RISK

October 2021

HOW HB 3115 IMPACTS OREGON CITIES AND COUNTIES

By CIS Deputy Property/Casualty Trust Director Dave Nelson

It is time to review your city and county ordinances on sleeping, camping, or similarly related ordinances. On June 23, 2021, Governor Brown signed HB 3115 into law. HB 3115 requires cities and counties to review and update their ordinances primarily focusing on camping, sitting, sleeping, and staying warm and dry on public properties. Please pay close attention to the time, place, and manner language in the ordinance, which must be “objectively reasonable”. Local governments will have until July 1, 2023, to comply with the new law.

So, what do you need to do to comply with HB 3115? You need to focus on “reasonableness”. Review the policies of your organization as they relate to “sitting, lying, sleeping or keeping warm and dry while being outdoors which are objectively reasonable to time, place and manner with regards to someone facing homelessness”. Furthermore, your policies cannot conflict with ORS 203.077 and 203.079. The actions of government agencies will be viewed on the totality of the circumstances, including, but not limited to, the impact of the law on persons experiencing homelessness.

House Bill 3115 is the regulation of public property with respect to persons experiencing homelessness; and declaring an emergency.

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There are four actions several cities and counties are taking to address homelessness in their communities, which also help address HB 3115. These four actions are summarized below with a summary of CIS' liability and property coverage for each category.

1. Purchasing or using government owned land to provide those experiencing homelessness a place to set up their camp.

- CIS requires a policy addressing each of the exposures (each camp/facility).
- Preferably, a non-profit or faith-based organization will operate the facility.
- CIS will require additional contributions for this unique risk. (Please contact your agent or CIS Underwriting.)

Liability: CIS' liability coverage would apply as usual for the members' exposures. There is limited coverage for third-party pollution which include viruses. Claims related to zoning and land use are excluded from the CIS coverage.

Property: CIS property coverage covers member-owned buildings or equipment as scheduled. Pollution is excluded unless caused by a covered loss, and then limited to \$25,000.

2. Purchasing or using existing land and installing small shelters to allow individuals or in some cases, couples to move from a tent to a small shelter.

- CIS requires a policy addressing each of the exposures (each location).
- Preferably a non-profit or faith-based organization will operate the facility.

When preparing space for those experiencing homelessness, we encourage having policies to address:

- Non-profit contract and insurance
- Leases for private land
- Abuse protection
- Physical distancing
- Shelter residency eligibility
- Sanitation
- Rodent control
- Cooking/food handling
- Food storage
- Electric, gas, propane heating
- Drugs and alcohol
- Crime/victimization
- Environmental clean-up plan
- Spill response plan
- Individual camp/room clean-up plan
- Damage/theft of personal property plan
- Security plan
- Safety plan
- Medical response plan
- Communication plan
- Natural disaster and adverse weather response plan
- Safety audits/inspections plan
- Incident reporting plan
- Accident investigations
- Zoning and neighborhood conflicts

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- CIS will require additional contributions for this unique risk. (Contact your agent or CIS Underwriting for your unique risk.)

Liability: CIS' liability coverage would apply as usual for the members' exposures. There is limited coverage for third-party pollution which include viruses. Claims related to zoning and land use are excluded from the CIS coverage.

Property: CIS will not offer property coverage for the shelters. Pollution is excluded unless caused by a covered loss, and then limited to \$25,000.

3. Using government owned facilities such as community centers or senior centers as temporary housing.

- Members may be asked by order or a civil authority to use member-owned facilities for temporary sheltering.

Liability: The CIS Liability Coverage Agreement provides coverage for claims under the Oregon Tort Claims Act and several federal statutes. Coverage is for the named member, employees, elected officials, and volunteers. Claims are covered in accordance with the terms and conditions of the CIS Liability Coverage Agreement.

It is important to note that communicable disease is excluded, but \$100,000 defense coverage is provided. Pollution is also excluded except for \$100,000 limited third-party pollution coverage which may apply.

Property: The CIS Property Coverage Agreement covers most perils associated with members owning and operating a building. CIS does not cover the personal property of facility users.

4. Purchasing buildings, such as old motels/hotels to turn into temporary housing.

- CIS recommends a community or faith-based non-profit lease and operate the facility.

ADDITIONAL RESOURCES

- [Required Homelessness Policy Checklist](#)
- [Homeless Shelter/Operational Checklist](#)
- [House Bill 3115](#)

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Liability: CIS will provide coverage for long-term shelters for the homeless in facilities owned by the member. If operated by the member, CIS charges an extra contribution for the additional and unique risks associated with providing a homeless shelter. If the member-owned facility is operated by a non-profit or faith-based organization that agrees to provide insurance and indemnification to the member, CIS may reduce the additional contribution.

Property: CIS covers the member-owned scheduled property and equipment. If operated by a non-profit, the contract shall include the clauses found in the insurance section of this document.

Each of these solutions help those that are facing homelessness but can create risk for our members. We strongly encourage these homelessness shelters are ran by a third-party, and not by our member. The third-party will need to have insurance up to at least two-million dollars per occurrence and name the government entity, who is providing the land or building, as an additional insured and agrees to hold the entity harmless and promises indemnification.

Risk Management Considerations

There are several risk management concerns that need to be considered when developing one of the four options above. Many of these risk management tools will be conducted by the third-party operator, however, our member should review the process to ensure practice is meeting policy. Some of these risk management tools are listed below. Please see the CIS Risk Management Resource Library for checklists relating to homelessness.

- Screening of new residents:
 - Who is and is not allowed in the shelter?
 - Does screening include a criminal history check?

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- Is there a screening for mental health concerns?
- Are mental health services provided to residents of the shelter?
- Does the location allow women, men, families, or pets?
- What is the process for removal of non-compliment residents?
- Medical care:
 - Is there a medical screening process?
 - Is there a vaccine mandate?
 - Is onsite medical provided to residents?
 - Is transportation provided for residents to treatment providers?
- Essentials:
 - Water (three to five gallons per person per day)
 - Food and food preparation sites
 - Heating and cooling
- Onsite sanitation:
 - Toilet facilities. A minimum of one toilet for every 20 persons
 - Handwashing stations
 - Trash collection
 - Rodent control
- Other concerns:
 - Personal Protective Equipment (PPE) for staff serving these new residents
 - Weather concerns for campers
 - Evacuation plans for these new residents in the event of an emergency
 - Security of these locations

If you have questions, please contact your Risk Management Consultant or Underwriting for your unique risk.

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CIS recognizes there is not a one-size-fits all recommendation for how best to handle homelessness in your communities. The topic is both a difficult and complex matter to navigate, often fueling strong opinions. We strive to continue providing up-to-date information on the topic, so that you can make the decisions which matter most to your communities. Our commitment is to stand as a partner providing the resources needed to support your efforts.

