

Is There Insurance Coverage for Tariffs?

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Reed Smith LLP

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We have heard this question, on repeat, for most of the last year. And now, during what is for many of us present-buying season, we are hearing about tariffs again as much as ever.

Here we address a specific question regarding how insurance policies might respond to tariffs and their effects; namely:

Are increased construction costs, driven by tariffs, covered by replacement cost provisions under first-party property insurance policies?

The short answer: **Yes**.

Purchasers of first-party or property insurance policies can elect replacement cost (new for old) or actual cash value (cost new minus depreciation) or agreed value recovery. Most choose replacement cost.

Often, where replacement cost is driven up by shortages of materials or labor – such as after a mass disaster like a hurricane or a tornado – replacement cost includes local spikes in cost driven by those shortages. Although insurers have tested this, it is generally accepted that replacement cost is the cost to replace at the time and place of the loss. Some policies also include language to that effect. Of course, if the policyholder replaces elsewhere, at less cost, that caps recovery. Further, many policies seek to avoid the inflationary effect on replacement cost by limiting the policyholder to actual cash if replacement is not effected within a certain time (typically two years).

The bigger issues related to how tariffs may affect replacement cost are (1) whether policyholders have purchased sufficient limits and (2) the premium to be charged for policies promising replacement cost. These issues have arisen in various areas of the United States over the past few years driven simply by generalized labor and materials shortages. There are, for instance, a number of articles discussing policyholders being surprised that the replacement cost of their property exceeds the market value (which is atypical, because market value includes the value of land).

Accordingly, while first party policies metering recovery by replacement cost will include cost spikes driven by tariffs, policyholders should be sure that they have adequate limits to cover those spikes and be prepared to pay more for replacement cost property insurance.

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