

# CORONAVIRUS (COVID-19): HEALTH SCREENING AND TEMPERATURE CHECKS

## TALKING POINTS

May 1, 2020

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### Background

As the country considers the ramifications of easing restrictions during the COVID-19 emergency, assuring safe workplaces is a central issue. State and local governments are beginning to discuss and implement plans to “reopen” the economy. The mandating of health screenings -- and temperature checks in particular -- may become a significant issue that to date has been the subject of little governmental guidance and would encounter significant hurdles.

Early evidence indicates that initiatives will impose mandates at the employer level or ask individuals to self-monitor, but local associations will need to remain vigilant -- the distinction between mandating at the employer level versus the property level may not always be clear to policymakers. Regardless, there are many considerable obstacles that would need to be addressed if mandated health screening is intended to be part of any reopening strategy.

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### Talking Points

The CRE sector is committed to helping slow the spread of the virus while allowing essential services to continue. BOMA International and the BOMA local associations have produced extensive guidance materials and assembled best practices and recommended protocols related to the protection of employees, tenants and the general public.

With all the activity that’s being undertaken by the industry during this challenging time, one issue that should not be mandated at the property level is health screening and temperature checks. Health screening is not a responsibility that should be mandated at the property level -- this is a responsibility that would be better placed with employers if mandated at all.

Mandating properties to implement health screening would be inappropriate and inadvisable for the following reasons:

- **Health care should be handled by health care workers.** Property staff lacks the expertise to be performing medical checks and should not be put in the position of conveying that they're medical experts. Additionally, many buildings do not have security staff or management offices onsite, and in some cases union agreements would not permit this type of work.
- **Temperature checks are an ineffective solution.** Temperature checks via infrared thermometers have become synonymous with efforts to contain COVID-19, and they likely will continue to play a role in emergency screenings. However, these thermometers are known to be inaccurate and unreliable. Most importantly, studies have shown that infected individuals may not develop a fever for several days and they may not ever develop a fever or display any symptoms. A large percentage of virus carriers remain asymptomatic, estimated by the director of the CDC to be 25 percent of individuals with the coronavirus, rendering temperature screening useless as a method to assure any significant level of public safety.

- **Property staff would unnecessarily be placed at risk.** While property staff will be in the significant position to implement and publicize a wide range of safety protocols, personally screening all tenants and visitors could create an unacceptable situation of putting staff members in danger of risking their personal health.
- **Implementation would be practically unworkable.** Many buildings do not have onsite managers, security, janitorial or other personnel to provide enforcement. Many larger properties would face difficult situations related to multiple entries and parking garages. Lines for screening would pose challenges to social distance protocols and would likely need to be arranged outside of buildings to avoid contamination of the interior. On top of all these concerns, the cost would be astronomical – five million U.S. commercial buildings purchasing multiple thermometer units could easily total more than a billion dollars.
- **There are serious legal concerns related to privacy.** The situation of a non-employer taking temperatures or performing other health screenings raises ADA, HIPAA and general privacy concerns. Even if these potentially significant concerns could be overcome, the government would need to grant liability waivers to protect properties and their staff from related lawsuits.
- **There are serious legal concerns related to enforcement.** If a high temperature is found, it's still doubtful that the individual could be denied entry to the building. The same problem would occur if properties are asked to police the wearing of face coverings. Properties generally do not have the authority to limit or deny access to tenant premises. Regardless of any indemnifications, there would also be no protection from individual lawsuits stemming from the screening process.

If governments intend to issue mandates at the property level related to health screening, the following significant issues would need to be addressed:

- Availability and cost of health screening equipment;
- Provision of personal protective equipment and other safety measures for employees; and
- Establishment of legal protections

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## Conclusions

- CRE is part of the nation's critical infrastructure and property owners and managers will continue to play a leadership role in ensuring that the nation's workplaces are safe; health screening should not be a part of this essential work.
- Building owners and managers should not be placed in a position of enforcing health safety compliance with tenants, visitors to tenant spaces or vendor employees. Property operations personnel should not be placed in the role of performing medical screenings such as temperature checks or be responsible to police the wearing of face coverings.
- BOMA looks forward to continuing to play a critical role during this emergency situation and would welcome the opportunity to assist in developing any plans and recommendations related to safe workspaces and the reopening of the economy.