R.C. 2021

To the Members of the Board

Re:  Terrorism Risk Insurance Act of 2002

As most of you are aware, President Bush has signed into law the Terrorism Risk Insurance Act of 2002, effective November 26, 2002. This law, administered by the U.S. Department of The Treasury, provides a temporary federal backstop for commercial property and casualty insurance covering acts of terrorism, and also imposes certain obligations on insurers regarding the disclosure to policyholders of coverage and premium charges relating to terrorism.

This bulletin will provide guidance to the membership regarding immediate compliance with the Act and the Board’s intended actions regarding future rates and terrorism premiums.

In order to be eligible to receive federal monies in the event of a future terrorist act, the Act requires insurers to provide clear and conspicuous disclosure to the policyholder of the coverage provided and the premium charged for insured losses covered by the Act in the following manner and timeframes;

A. in the case of any policy that is issued before the date of enactment of the Act – not later than 90 days after the date of enactment;
B. in the case of any policy that is issued within 90 days of the date of enactment – at the time of offer, purchase and renewal of the policy; and
C. in the case of any policy that is issued more than 90 days after the date of enactment – on a separate line item in the policy at the time of offer, purchase and renewal.

To satisfy the requirements of A. and B. above, the National Association of Insurance Commissioners (NAIC) has developed a sample disclosure notice that is appropriate for workers compensation and is attached to this bulletin. An insurer may use this exact notice or this notice without the acknowledgement/signature section, or develop its own notice so long as it contains the same or similar information as contained in the NAIC form. The Treasury Department’s interim guidance specifically indicates that the NAIC model notice constitutes compliance with the Act’s disclosure requirements. Insurers are not required to file or submit the disclosure notices they will be using to either the Rating Board or the New York State Insurance Department.
The Act requires that the policyholder disclosure notice contain a premium amount that is attributable to the coverage for terrorism. Since a terrorism provision of 3% was approved in New York in conjunction with the October 1, 2002 rate revision, the premium amount shown on the notices will be different for New York policies effective before October 1, 2002 and those effective on and after that date. For policies with effective dates of September 30, 2002 and prior, a “$0” premium amount must be shown since, although there was coverage for terrorism, no premium attributable to terrorism was charged. For policies effective October 1, 2002 and thereafter, an average charge of $.034 per $100 of total policy payroll should be used to determine the appropriate New York premium amount for terrorism on these policies. For non-payroll exposure base classes such as per capita, volunteer ambulance, volunteer firefighters and building wrecking, 2.5% of the manual premium for these classes should be used to identify the terrorism premium amount. Please note that this premium amount is only for informational purposes to the policyholder and not an additional charge for terrorism since the October 1, 2002 rates already contain a terrorism provision.

As noted in item C. above, the Act also requires that, for policies issued more than 90 days after enactment, a separate line item be shown on each policy for the terrorism premium. To satisfy this requirement, the Rating Board intends to unwind the provision for terrorism from its October 1, 2002 rates and establish a separate single rate for terrorism coverage subject to the Act. This will result in revised class rates becoming effective February 24, 2003, which is 90 days after the date of enactment, at which time the separate identification of the terrorism premium must be shown on all policies. Statistical code 9740, which is being used countrywide for this purpose, will be established in New York for the recording and reporting of the separate terrorism premium amount. In addition, it is also our intention to adopt a countrywide policy endorsement that will serve as the policyholder disclosure notice for those policies effective February 24, 2003 and later. The Rating Board is working with the New York State Insurance Department to ensure that the new rate structure and endorsement can be implemented as quickly as possible.

Until such time as the 2/24/03 rates are finalized and published, the Pending Rate Change Endorsement (WC 00 04 04) should be attached to all policies effective on and after this date. Copies of these endorsements should not be submitted to the Rating Board.

We will provide you with further information as it becomes available.

Very truly yours,

Monte Almer

President

MH/ab
Encl.
POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM
INSURANCE COVERAGE

Coverage for acts of terrorism is already included in your current policy. You should know that, effective November 26, 2002, under your existing coverage, any losses caused by certified acts of terrorism would be partially reimbursed by the United States under a formula established by federal law. Under this formula, the United States pays 90% of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The portion of your annual premium that is attributable to coverage for acts of terrorism is: $_________.

I ACKNOWLEDGE THAT I HAVE BEEN NOTIFIED THAT UNDER THE TERRORISM RISK INSURANCE ACT OF 2002, ANY LOSSES CAUSED BY CERTIFIED ACTS OF TERRORISM UNDER MY POLICY COVERAGE WILL BE PARTIALLY REIMBURSED BY THE UNITED STATES AND I HAVE BEEN NOTIFIED OF THE AMOUNT OF MY PREMIUM ATTRIBUTABLE TO SUCH COVERAGE.

__________________________
Policyholder/Applicant’s Signature

__________________________
Print Name

__________________________
Date

Name of Insurer: ______________________
Policy Number: ______________________

DRAFTING NOTE: An insurer may choose not to use the acknowledgement section for workers compensation.