



# COMPENSATION RATING AND INSPECTION BUREAU

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

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## ADVISORY BULLETIN #1 PROCEDURES TO IMPLEMENT THE TERRORISM RISK INSURANCE ACT OF 2002

### THIS BULLETIN IS APPLICABLE TO WORKERS COMPENSATION ONLY

**INTRODUCTION:** Congress has enacted, and the President has signed the Terrorism Risk Insurance Act of 2002, HR 3210 (The Act, effective November 26, 2002). The Act provides a Federal mechanism to pay specified property casualty claims, which occur above a per company threshold, resulting from acts of terrorism, as defined in the Act. The Terrorism Insurance Program is mandatory for property casualty insurers as specified by the Act. It imposes certain obligations on property casualty insurers and partially and temporarily preempts state law by allowing for the use and filing of rates and forms, by individual carriers, and Rating Bureaus for "Terrorism Risk Insurance." This Bulletin is intended to provide guidance to members of the Compensation Rating and Inspection Bureau (The Bureau) regarding the imposition of a charge for Terrorism Risk Insurance, pursuant to Section 106 of the Act. **This Bulletin does not address post terrorism event procedures.** The U. S. Department of the Treasury is responsible for developing overall guidelines for implementation of the Act. Interim Treasury guidelines are available online at [www.treasury.gov/trip](http://www.treasury.gov/trip).

**THE STATUTE:** Section 106(a) (2)(B) of the Act provides that *"during the period beginning on the date of enactment (November 26, 2002) and ending on December 31, 2003, rates and forms for terrorism risk insurance covered by this title and filed with any State shall not be subject to prior approval or a waiting period under any law of a State that would otherwise be applicable, except that nothing in this title affects the ability of any State to invalidate a rate as excessive, inadequate or unfairly discriminatory, and with respect to forms, where a State has prior approval authority, it shall apply to allow subsequent review of such forms;---*"

**FILING REQUIREMENTS:** The Bureau will make a filing, under the Act, for a Terrorism Risk Insurance Charge on behalf of all members of the Bureau. The Bureau interprets the term "Terrorism Risk Insurance" under the Act as coverage for losses resulting from foreign terrorism, certified under the Act, net of Federal recoverables. Specifically, the Terrorism Risk Insurance Charge is to cover the cost of losses above the 5 million dollar threshold in Section 102 of the Act, but that are within the individual company thresholds in Section 102 (7) of the Act. Workers Compensation is statutorily mandated under State Law and no exclusions limiting coverage are permitted or in existence. Except for the herein referenced Terrorism Risk Insurance Charge, the exposure for terrorism is not specifically contemplated in the rates approved and effective beginning January 1, 2003.

**Rates (Terrorism Risk Insurance Charge)** New Jersey has an “administered pricing system” for workers compensation rates, and individual carrier rate filings do not exist. To assist both carriers and the Bureau in implementing the Act, the Bureau will file a Terrorism Risk Insurance Charge to be included on each policy written as follows:

**The Terrorism Risk Insurance Charge must be applied based upon the total payroll (in hundreds) for each employer times a \$0.02 (two) cents rate.** To avoid administrative problems for employers and carriers, **the Bureau requires that such charge be imposed only on new and renewal policies, effective on or after January 1, 2003, through December 31, 2003, regardless of any previously established anniversary rating date.** The charge must be clearly shown in item 4 on the policy “Information Page” (WC 00 00 01 B) and the policy must include the attached national reference endorsement (WC 00 04 20), copy attached. The terrorism charge cannot vary by the application of other rating factors. (Premium discount, experience rating or other rating factors)

**Forms:** For purposes of Bureau compliance, no forms, other than the national endorsement and the information page noted above are necessary to implement the Act.

**ASSIGNED RISK BUSINESS:** All carriers must apply the \$0.02 cents terrorism risk insurance charge uniformly to risks written through the Plan. Classifications subject to per capita charges in accordance with 3:5-12 of the Manual will be exempt from the application of terrorism charges.

**DISCLOSURE NOTICE:** The Act, in Section 103, requires each insurer to notify each of its policyholders “of the premium charged for insured losses covered by the program and the Federal share of compensation for insured losses under the program.” Pursuant to this Bulletin, and for Bureau compliance, the policy information page and the endorsement, WC 00 04 20 will serve as notice to the policyholder of the additional \$0.02 cents charge. The information page will show the total dollar amount of the Terrorism Risk Insurance Charge. It is our understanding that the use of the national endorsement and the line entry in the information page will satisfy the notice requirements of the Act.

Carriers writing workers compensation and employers liability coverage for residence employees under New Jersey endorsement WC 29 03 02 A, may need to send a disclosure notice to their homeowners policyholders or other policies providing comprehensive personal liability insurance. No terrorism charge will be applicable to this coverage. Disclosure will be necessary to have any certified claims arising from this endorsement to be covered under the Act. The premium written under this endorsement is included on page 14 of the NAIC Annual Statement in line 16 as workers compensation premium. Because no Terrorism Risk Insurance Charge will be imposed on these policies, a version of the NAIC Model Notice form may be used to satisfy the notice requirement.

**DATA REPORTING:** The NCCI has established Class Code 9740 to report premium generated under the Terrorism Risk Insurance Act of 2002. It is further anticipated that any losses from terrorism will be captured as catastrophe losses and assigned a specific catastrophe number (Cat. No.).

**MANUAL AMENDMENT BULLETIN:** A Manual Amendment Bulletin containing the necessary changes to the Manual will be issued in due course.

**EFFECTIVE DATE: This Bulletin is effective as of January 6, 2003. Carriers must apply the Terrorism Risk Insurance Charge of \$0.02, and a disclosure notice to policies effective on or after January 1, 2003. For policies effective on or after November 26, 2002, through January 1, 2003, a version of the NAIC disclosure notice must be provided to each policyholder.**

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Grover E. Czech  
Executive Director

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**TERRORISM RISK INSURANCE ACT ENDORSEMENT**

This endorsement addresses requirements of the Terrorism Risk Insurance Act of 2002.

**Definitions**

The definitions provided in this endorsement are based on the definitions in the Act and are intended to have the same meaning. If words or phrases not defined in this endorsement are defined in the Act, the definitions in the Act will apply.

“Act” means the Terrorism Risk Insurance Act of 2002, which took effect on November 26, 2002, and any amendments.

“Act of terrorism” means any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State, and the Attorney General of the United States as meeting all of the following requirements:

- a. The act is an act of terrorism.
- b. The act is violent or dangerous to human life, property or infrastructure.
- c. The act resulted in damage within the United States, or outside of the United States in the case of United States missions or certain air carriers or vessels.
- d. The act has been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

“Insured terrorism or war loss” means any loss resulting from an act of terrorism (including an act of war, in the case of workers compensation) that is covered by primary or excess property and casualty insurance issued by an insurer if the loss occurs in the United States or at United States missions or to certain air carriers or vessels.

“Insurer deductible” means:

- a. For the period beginning on November 26, 2002 and ending on December 31, 2002, an amount equal to 1% of our direct earned premiums, as provided in the Act, over the calendar year immediately preceding November 26, 2002.
- b. For the period beginning on January 1, 2003 and ending on December 31, 2003, an amount equal to 7% of our direct earned premiums, as provided in the Act, over the calendar year immediately preceding January 1, 2003.
- c. For the period beginning on January 1, 2004 and ending on December 31, 2004, an amount equal to 10% of our direct earned premiums, as provided in the Act, over the calendar year immediately preceding January 1, 2004.
- d. For the period beginning on January 1, 2005 and ending on December 31, 2005, an amount equal to 15% of our direct earned premiums, as provided in the Act, over the calendar year immediately preceding January 1, 2005.

**Limitation of Liability**

The Act may limit our liability to you under this policy. If annual aggregate insured terrorism or war losses of all insurers exceed \$100,000,000,000 during the applicable period provided in the Act, and if we have met our insurer deductible, the amount we will pay for insured terrorism or war losses under this policy will be limited by the Act, as determined by the Secretary of the Treasury.

**Policyholder Disclosure Notice**

- 1. Insured terrorism or war losses would be partially reimbursed by the United States Government under a formula established by the Act. Under this formula, the United States Government would pay 90% of our insured terrorism or war losses exceeding our insurer deductible.
- 2. The additional premium charged for the coverage this policy provides for insured terrorism or war losses is shown in Item 4 of the Information Page or the Schedule below.

**Schedule**

**State**

**Rate per \$100 of Remuneration**

**Note:**

- 1. This endorsement addresses requirements of the Terrorism Risk Insurance Act of 2002.
- 2. This endorsement is effective 12:01 a.m. on January 1, 2003 applicable to new and renewal policies only.