MANUAL AMENDMENT BULLETIN #401

To All Bureau Members:

Re:  Workers Compensation and Employers Liability Insurance Policy
      Part Two - Employers Liability

The Commissioner of Banking and Insurance has approved the following changes effective January 1, 1999 on a new and renewal basis. The alterations recognize the litigious environment involving claims alleging discrimination, harassment etc. and are intended to discourage such activities in the workplace.

PART TWO - EMPLOYERS LIABILITY LIMIT TABLE AND CHARGES

Amend the first paragraph following the Table in 2:2-1 as follows:

The premium for higher limits shall be determined in accordance with the procedure described in 3:3-73 of this Manual. The charge is subject to experience rating.

Charges for limits other than shown above shall be obtained from the Rating Bureau.

This change provides for the application of the charges in the Table to premiums where the employment is subject to the New Jersey Workers Compensation Law.

FORMS

Amend 3:2 to eliminate New Jersey Part Two Limit of Liability Endorsement WC 29 03 01 and to revise New Jersey Workers Compensation and Employers Liability Coverage for Residence Employees Endorsement WC 29 03 02. A copy of the revised endorsement identified as WC 29 03 02 A is attached as Exhibit I. These changes are necessary to recognize the limited liability under Part Two for employments subject to the New Jersey Workers Compensation Law.

Amend 3:2 to add New Jersey Part Two Employers Liability Endorsement WC 29 03 06.

This new Endorsement makes clear that the policy does not provide protection for common law negligence damages when the provisions of Article 2 N.J.S.A. 34:15-7 et seq. of the New Jersey Law has been rejected pursuant to N.J.S.A 34:15-9. Also, the new Endorsement requires the insurer to defend suits for damages when the activity involves Exclusion C7 in Part Two and where bodily injury is alleged. A copy of the new Endorsement is attached as Exhibit II. The Endorsement must be attached to every standard New Jersey workers compensation and employers liability insurance policy.
Amend 3:2 to alter the New Jersey Retrospective Premium Endorsement - Part Two - Employers Liability Insurance - Excess Exclusion WC 29 05 09 A. The revised endorsement is shown in Exhibit III identified as WC 29 05 09 B. This change recognizes the extent to which Part Two losses may be excluded from retrospective rating. Consistent with this action, it is necessary to amend the present New Jersey Retrospective Rating - Notice of Election Form NJRR - 1 (7th Revision) to that shown in Exhibit IV (8th Revision).

The "Index - Policy Forms and Endorsements" is amended to include the above changes. The revised Index is included as Exhibit V.

With respect to the endorsements your attention is called to 3:2-1 of the Manual wherein it is stipulated that they must be filed in duplicate with the Rating Bureau and written approval secured before being placed in use. Please note that endorsements will not be approved unless the required alphabetic version identifier, if any, is included with the standard identification number.

PREPARATION AND AUDITING OF POLICIES

Amend 3:3-72 to read as follows:

72. Standard Limits of Liability. Except as may otherwise be provided, all premium rates include complete insurance for workers compensation without limit as to amount.

With respect to employers liability, except as may otherwise be provided, all premium rates contemplate a limit for bodily injury a.) by accident to one or more employees in any one accident or b.) by disease-each employee of $100,000. The total liability of all damages arising out of bodily injury by disease regardless of the number of employees is $500,000. No policy shall be written with limits less than these standard limits.

and

Amend the first paragraph of 3:3-73 to read as follows:

73. Charges for Higher Limits of Liability. The premium for limits higher than standard limits shall be determined by applying the appropriate factor to the total premium for the policy before application of (a) expense constant, (b) experience modification and (c) premium discount or retrospective rating. If the amount so determined is less than the appropriate minimum charge, the minimum charge shall prevail. The premium so determined shall be subject to the applicable experience modification, if any.

These changes recognize the elimination of unlimited liability as respects employments subject to the New Jersey Workers Compensation Law as previously discussed.
RETROSPECTIVE RATING

Amend 3:12-9(d) Policy Preparation to read as follows:

(d) Each policy which excludes from retrospective rating the premium and losses for Part Two in excess of standard limits shall also include the New Jersey Part Two - Employers Liability Insurance Excess Exclusion Endorsement and the New Jersey Premium Discount Endorsement.

Amend 3:12-14(b) Incurred Losses to read as follows:

(b) If losses in item 7 of the Notice of Election of Retrospective Rating are excluded, employers liability losses under Part Two of the policy shall be limited per accident to standard limits for employment in New Jersey, or limited to the standard limits for Admiralty or the Federal Employers’ Liability Act, as the case may be, subject to any further limitation of ratable losses in accordance with 14(d).

The above changes affect the limits of liability in Part Two “Employers Liability”. The revised language extends the limits of liability to all employment in New Jersey.

Joseph Di Martino
Executive Director

JDM:njl
Att.
WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

NEW JERSEY WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE MANUAL

EXHIBIT I

NEW JERSEY
WORKERS COMPENSATION AND EMPLOYERS LIABILITY COVERAGE
FOR RESIDENCE EMPLOYEES ENDORSEMENT

We agree, with respect to residence employees:

**Under Coverage I**
To pay when due all benefits required of an insured by the New Jersey Workers’ Compensation Law; and

**Under Coverage II**
To pay on behalf of an insured all damages for which the insured is legally liable because of bodily injury sustained by a residence employee. The bodily injury must be caused by accident or disease and arise out of and in the course of employment by the insured while:

a. in the United States of America, its territories or possessions, or Canada, or

b. temporarily elsewhere if the residence employee is a citizen or resident of the United States or Canada. Coverage II does not apply to any suit brought in or judgment rendered by any court outside the United States of America, its territories and possessions, or Canada or to any action on such judgment.

**Application of Coverage**
This insurance applies only to:

a. bodily injury occurring during the policy period, or

b. occupational disease or cumulative injury of a residence employee who during the term of this policy actually worked for the insured during the last day of employment, which exposed the employee to the hazard of the occupational disease or cumulative injury.

**Policy Provisions**
This insurance is subject to all the provisions of this endorsement and the following provisions of this policy:

a. Under Section I and II—Conditions:
   5. Cancelation.
   7. Assignment.
   8. Subrogation.

b. Under Section II—Conditions:
   3. Duties After Loss.
   6. Suit Against Us.

c. Our agreement to defend the insured as provided under Coverage E—Personal Liability.

d. Under Section II—Additional Coverages:
   1. Claim Expenses.
   2. First Aid Expenses.

e. The definition of “bodily injury,” “business,” “insured” and “residence employee.”

**Limit of Liability—Coverage II**
Our total limit of liability shall not exceed $100,000 for all damages because of bodily injury:

a. sustained by one or more residence employees in any one accident; or

b. caused by disease and sustained by a residence employee.

Our total limit of liability shall not exceed $500,000 for all damages arising out of bodily injury by disease regardless of the number of residence employees who sustain bodily injury by disease.
Other Insurance
If a loss covered by this policy is also covered by other insurance, we will pay only the proportion of the loss that the limit of liability that applies under this policy bears to the total amount of insurance covering the loss.

Conformity to Statute
Terms of this insurance which are in conflict with the New Jersey Workers’ Compensation Law are amended to conform to that law.

Exclusions
This insurance does not apply:
   a. to liability for bodily injury arising out of business pursuits of the insured;
   b. Under Coverage II
      1. to liability assumed by the insured under any contract or agreement
      2. to bodily injury by disease unless a written claim is made or suit brought against the insured within 36 months after the end of the policy period
      3. to any obligation under a workers compensation, unemployment or disability benefits law or any similar law
      4. to punitive or exemplary damage because of bodily injury to any employee employed in violation of law or to any employee employed in violation of law with the knowledge or consent of the insured.

SCHEDULE—COMPLETE ONLY FOR FULL-TIME SERVANTS

<table>
<thead>
<tr>
<th>Code No.</th>
<th>Classification of Employees</th>
<th>No. of Employees</th>
<th>Rate Per Employee</th>
<th>Premium</th>
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</thead>
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<td>Private Residence or Estate—Full-Time Inservants</td>
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<td>0912</td>
<td>Private Residence—Full-Time Outservants incl. drivers</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0915</td>
<td>Private Estate—Full-Time Outservants incl. drivers</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes:
1. This endorsement is required to insure the New Jersey statutory workers compensation obligations of an employer of a domestic servant or household employee or the dependents thereof as mandated by Chapter 28 Public Laws of 1979.
2. This endorsement is designed to be used with a New Jersey homeowners policy or other policy providing comprehensive personal liability insurance.
3. There may be need to make changes in the endorsement to properly identify policy provisions which may apply to the endorsement.
EXHIBIT II

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY  WC 29 03 06

NEW JERSEY PART TWO EMPLOYERS LIABILITY ENDORSEMENT

This endorsement applies only to the insurance provided by Part Two (Employers Liability Insurance) because New Jersey is shown in Item 3.A. of the information page.

1. With respect to Exclusion C7 we will defend any claim, proceeding or suit for damages where bodily injury is alleged. We have the right to investigate and settle. We will not defend or continue to defend after the applicable limits of the insurance have been paid. Such policy limits include any legal costs assessed against you on behalf of your employee(s).

2. We may not limit our liability to pay damages for which we become legally liable to pay because of bodily injury to an infant under the age of 18 years in a proceeding made pursuant to Article 2 as provided in N.J.S.A. 34:15-10.

3. This insurance does not provide for the payment of any common law negligence damages or other damages when the provisions of Article 2 of the New Jersey Workers Compensation Law have been rejected by you and your employee(s) as provided in N.J.S.A. 34:15-9.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective  Policy No.  Endorsement No.
Insured  Premium $

Insurance Company  Countersigned By ____________________________

Note:

This endorsement must be attached to a policy showing New Jersey in Item 3.A. of the Information Page.

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EXHIBIT III

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

NEW JERSEY RETROSPECTIVE PREMIUM ENDORSEMENT

PART TWO - EMPLOYERS LIABILITY INSURANCE

EXCESS EXCLUSION

This endorsement changes the Retrospective Premium Endorsement attached to the policy:

1. Standard Premium. The premium developed for Part Two limits of liability in excess of the standard limits shown in the Schedule below for employment in New Jersey and, if applicable, for coverage under Admiralty or the Federal Employers' Liability Act will be excluded in determining the standard premium.

2. Incurred Losses. Subject to any lower loss limitation in the Retrospective Premium Endorsement attached to the policy, the portion of each Part Two liability loss in excess of the standard limits shown in the Schedule below for employment in New Jersey and, if applicable, for coverage under Admiralty Law or the Federal Employers' Liability Act will be excluded in determining the incurred losses.

Schedule

<table>
<thead>
<tr>
<th>Bodily Injury by Accident</th>
<th>$100,000 each accident</th>
<th>Bodily Injury by Accident</th>
<th>$25,000 each accident</th>
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</thead>
<tbody>
<tr>
<td>Bodily Injury by Disease</td>
<td>$100,000 each employee</td>
<td>Bodily Injury by Disease</td>
<td>$25,000 each employee</td>
</tr>
<tr>
<td>Bodily Injury by Disease</td>
<td>$500,000 policy limit</td>
<td>Bodily Injury by Disease</td>
<td>$25,000 state limit</td>
</tr>
</tbody>
</table>

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Policy No. Endorsement No.
Insured Premium $
Insurance Company Countersigned By ____________________________

Notes:

1. This endorsement is to be attached to a policy which is subject to retrospective rating when it is agreed between the insured and the carrier that the premium for increased Part Two limits and Part Two losses in excess of standard limits are to be excluded from the retrospective rating.

2. The information in the Schedule is for the convenience of the insured and the carrier but does not determine the Part Two - Employers Liability Insurance limits in the policy.

3. This endorsement is to be supplemented with the New Jersey Premium Discount Endorsement.

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NEW JERSEY RETROSPECTIVE RATING
Notice of Election of Retrospective Rating

Compensation Rating and Inspection Bureau
60 Park Place
Newark, New Jersey 07102

The undersigned certify that the named insured has elected and the carrier has accepted this New Jersey Retrospective Rating Plan. The name and address of the insured subject to this rating plan is as follows. The use of “et al.” is not acceptable:

1.

2. ______________________________________  Effective From ____________________________  To ____________________________

3. (Retrospective Rating or Large Risk Alternative Rating Option)  (1 or 3 Yr. or Long-Term Rating Period)  Effective

4. Total Estimated New Jersey Workers Compensation Annual Standard Premium $ ____________________________

4a.*Total Estimated Countrywide Workers Compensation Annual Standard Premium Including the Premium in Item 4 above $ ____________________________

5. Loss Limitation selected $ ____________________________ (Dollar Amount or “None”) See 3:12-20(e) of the N.J. Manual.

6. N.J. classification code with the highest estimated premium in the policy is # ____________________________ Hazard Group is # ________

7. Premium for Part Two—Employers Liability Limits and Part Two—Employers Liability Losses in excess of Standard Limits for operations in N.J. ____________________________ (Included, excluded, or not applicable if Part Two of the policy is written at Standard Limits)

8. The entire New Jersey operations of the insured are included except: ____________________________

It is understood by the insured and this insurance carrier that New Jersey Retrospective Rating is not available unless the Rating Bureau receives this notification of the election and acceptance of New Jersey Retrospective Rating within sixty days after the beginning of the retrospective rating period in complete detail as required by the front and reverse of this form and the applicable Manual rule. The Bureau’s acknowledgment of the receipt of this notice is requested.

9. ______________________________________  (Name of Insurance Carrier)

10. Signed  Printed  
     (Carrier)  (Title)  (Address)

11. Signed  
     (Insured)  (Title)  (Address)

*Complete item 4a only when this filing is less than that required for a Large Risk Alternative Rating Option in 3:12-1 of the N.J. Manual.
Retrospective Rating or
*Large Risk Alternative Rating Option

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<tr>
<th>Calculation of Rating Values</th>
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<th>100%</th>
<th>150%</th>
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<tr>
<td>(a) **Minimum Premium Factor</td>
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<tr>
<td>(b) Maximum Premium Factor</td>
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<td>(c) Loss Conversion Factor</td>
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<tr>
<td>(d) New Jersey Tax Multiplier</td>
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<tr>
<td>(e) Expected Loss Ratio</td>
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<tr>
<td>(f) Hazard Group Differential</td>
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<tr>
<td>(g) ***Excess Loss Factor or Zero</td>
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<tr>
<td>(h) ****Loss Group Adjustment Factor or 1.000</td>
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1. Estimated New Jersey Annual Standard Premium
2. Expected Losses \((e) \times (1)\)
3. Expense and Profit or Contingency Ratio
4. Expense and Profit or Contingency, Excluding Taxes \((3) \times (1)\)
5. Expected Loss and Expense Ratio \([\frac{(2) + (4)}{1}]\)
6. Loss and Expense in Converted Losses \((e) \times (c)\)
7. Expense and Profit or Contingency in Basic Premium Factor \((5) - (6)\)
8. Expected Limited Loss Ratio \((e) - (g)\)
9. Adjusted Expected Losses \((2) \times (f) \times (h)\)
9a. Expected Loss Group for One Year Rating Period
9b. ****Expected Loss Group for Three Year or Long-Term Rating Period
10. Minimum Factor Excluding Taxes \((a) / (d)\)
11. Maximum Factor Excluding Taxes \((b) / (d)\)
12. **Table of Insurance Charges Value Difference \([\frac{(5) - (10)}{(c) \times (8)}]\)
12a. **Saving \([\frac{(11) - (5)}{(c) \times (8)}]\)
13. Table of Insurance Charges Entry Difference \([\frac{(11) - (10)}{(c) \times (8)}]\)
14. Ratio of Minimum Rated Losses to Expected Losses
15. Ratio of Maximum Rated Losses to Expected Losses
16. Table of Insurance Charges Premium Charge for (15)
17. Table of Insurance Charges Premium Saving for (14)
18. Net Insurance Charge \([\frac{(16) - (17)}{(c) \times (8)}]\)
19. Basic Premium Factor \((7) + (18)\)

* The rating values for the Large Risk Alternative Rating Option are calculated as agreed upon by the insured and carrier. See the exception to 3:12-7 of the N.J. Manual.

** If no minimum (BPxTM) was elected, items 10, 12, 14 and 17 should be left blank and 12a should be used rather than 12.

*** If loss limit was not elected, the Excess Loss Factor should be zero. The Loss Group Adjustment Factor is always 1.000 when loss limit is not elected.

**** If a three year rating period was elected, multiply the annual adjusted expected losses in item 9 by 3 (years) to determine the loss group for 9b. If a long-term rating period was elected, multiply the annual adjusted expected losses in item 9 by the number of years of the long-term construction project.
## EXHIBIT V

### FT Federate Providers and Exclusions

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<td>Workers Compensation and Employers Liability Insurance Policy</td>
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<td>WC 00 00 01 A</td>
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### MARITIME COVERAGES AND EXCLUSIONS

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<td>Maritime Coverage Endorsement</td>
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### OTHER COVERAGE AND EXCLUSIONS

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<td>Alternate Employer Endorsement</td>
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<td>Designated Workplaces Exclusion Endorsement</td>
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<td>Insurance Company as Insured Endorsement</td>
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<td>Joint Venture as Insured Endorsement</td>
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<td>Rural Electrification Administration Endorsement</td>
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<td>WC 29 03 02 A</td>
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<tr>
<td>New Jersey Employee Leasing Labor Contractor Endorsement</td>
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<td>New Jersey Employee Leasing Client Exclusion Endorsement</td>
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<td>New Jersey Employee Leasing Labor Contractor Exclusion Endorsement</td>
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<td>New Jersey Part Two Employers Liability Endorsement</td>
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### PREMIUM

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<td>New Jersey Premium Discount Endorsement: Schedule Y</td>
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<td>New Jersey Premium Discount Endorsement: Schedule X</td>
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<td>New Jersey Approved Managed Care Program Endorsement</td>
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<td>New Jersey Construction Classification Premium Adjustment Endorsement</td>
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### RETROSPECTIVE PREMIUM

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<td>New Jersey Retrospective Premium Endorsement - Three Year Rating Period</td>
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<td>New Jersey Retrospective Premium Endorsement Renewal Policies - Three Year or Long Term Rating Period</td>
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<td>New Jersey Retrospective Premium Endorsement Aviation Exclusion</td>
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<td>New Jersey Retrospective Premium Endorsement Non-Ratable Catastrophe Element</td>
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<td>New Jersey Participating Provisions Endorsement</td>
<td>WC 29 06 03</td>
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### NEW JERSEY NOTICES

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<tbody>
<tr>
<td>New Jersey Notice of Cancelation</td>
<td>Form 116-B</td>
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<tr>
<td>New Jersey Notice of Reinstatement</td>
<td>Form 117-A</td>
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<tr>
<td>New Jersey Posting Notice</td>
<td>Form 16N</td>
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</table>

† Absence of a version identifier denotes original printing

‡ The version identifier for these endorsements will be governed by revisions in verbiage or change in the Discount Percentages/Table of Rating Values forming a part of the endorsements