



## Pennsylvania Compensation Rating Bureau

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October 18, 2004

### **BUREAU CIRCULAR NO. 1488**

To All Members of the Bureau:

Re: **TERRORISM RISK INSURANCE ACT OF 2002 (TRIA) ENDORSEMENTS**  
**BUREAU FILING NO. 216**  
**APPROVED EFFECTIVE JANUARY 1, 2005**

The Bureau has filed and the Insurance Commissioner has approved the following endorsements pertaining to the Terrorism Risk Insurance Act of 2002 (TRIA):

- New endorsement – WC 37 01 09
- Replacement endorsement – WC 37 04 06 which replaces existing endorsement - WC 00 04 20

The new endorsement, WC 37 01 09, is an adaptation of National Council on Compensation Insurance, Inc. (NCCI) Item Filing No. 1392 with language changes in conformance with Pennsylvania law. The new endorsement is available on a new and renewal basis only. The Bureau believes that carriers can consider and respond to those limited circumstances in which policies effective prior to January 1, 2005 may extend or be extended beyond December 31, 2005, as respects the implications of the absence or extension of TRIA, and wishes to avoid a potential proliferation of endorsements being issued on an outstanding basis for policies which will expire on or before December 31, 2005.

The replacement endorsement, WC 37 04 06, differs from the existing endorsement, WC 00 04 20, primarily in respect to language omitting “war risks” which the previous endorsement included and which are not, in fact, covered in Pennsylvania by existing law. The Bureau will not require that the previous endorsement issued on policies effective prior to January 1, 2005 be revised or reissued, as the cost and potential confusion that would be attendant with such an endeavor would far outweigh any potential benefit of enhanced clarity and precision in having the revised endorsement attached to in force or even expired policies. Had a question of such coverage arisen in the time since the original endorsement was filed, the Bureau believes that Pennsylvania law would have superseded the language of the endorsement.

Copies of the new endorsement, the replacement endorsement in both legislative and revised text formats and the original endorsement being replaced all accompany this circular.

Questions about these endorsements should be directed to Betty Ann Campbell, Director – Rating Rules & Policy Reporting at Extension 4425 or [bcampbell@pcrb.com](mailto:bcampbell@pcrb.com).

Timothy L. Wisecarver  
President

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DCirc

Attachments

***Remember to visit our web site at [www.pcrb.com](http://www.pcrb.com) for more information about this and other topics.***

**WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY**

**PENNSYLVANIA - NOTIFICATION ENDORSEMENT OF PENDING LAW CHANGE TO  
TERRORISM RISK INSURANCE ACT OF 2002**

This endorsement is being sent to you with respect to your workers compensation and employers liability insurance policy. This endorsement does not replace the separate Terrorism Risk Insurance Act Endorsement (WC 37 04 06) that is attached to your current policy and which remains in effect as applicable.

The Terrorism Risk Insurance Act of 2002 (TRIA) took effect on November 26, 2002 and provides for a three-year program under which the Federal government will share in the payment of insured losses caused by certain acts of terrorism. In the absence of affirmative U. S. Congressional action to extend, update or otherwise reauthorize in whole or in part, TRIA is scheduled to expire December 31, 2005.

Since the timetable for any further Congressional action respecting TRIA is unknown at this time and the exposure to acts of terrorism remains, we are providing our policyholders with relevant information concerning their workers compensation policies effective on a new and renewal basis on or after January 1, 2005 in the event of TRIA's expiration.

Your policy provides coverage for workers compensation losses caused by acts of terrorism, including workers compensation benefit obligations dictated by state law. Coverage for such losses is still subject to all terms, definitions, exclusions, and conditions in your policy.

**The premium charge for the coverage your policy provides for terrorism losses is shown in Item 4 of the Information Page or the Schedule in the Terrorism Risk Insurance Act Endorsement (WC 37 04 06) that is attached to your policy, and this amount may continue or change effective on or after December 31, 2005 in the event of TRIA's expiration, subject to regulatory review in accordance with applicable state law.**

You need not do anything further at this time.

## WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

### PENNSYLVANIA - TERRORISM RISK INSURANCE ACT ENDORSEMENT

[WC 00 04 20]WC 37 04 06

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.

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

PENNSYLVANIA - TERRORISM RISK INSURANCE ACT ENDORSEMENT

[WC 00 04 20]WC 37 04 06  
(Continued)

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 [December 20, 2002] January 1, 2005 applicable to new and renewal voluntary and assigned risk policies [only].
- [3.] [This endorsement is effective 12:01 a.m. on January 1, 2003 applicable to new and renewal assigned risk policies only.]

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## WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

### PENNSYLVANIA - TERRORISM RISK INSURANCE ACT ENDORSEMENT

WC 37 04 06

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“Insured terrorism loss” means any loss resulting from an act of terrorism 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.

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**WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY**

**PENNSYLVANIA - TERRORISM RISK INSURANCE ACT ENDORSEMENT**

**WC 37 04 06  
(Continued)**

**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, 2005 applicable to new and renewal voluntary and assigned risk policies .

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**WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY**

**TERRORISM RISK INSURANCE ACT ENDORSEMENT**

**WC 00 04 20  
(Continued)**

**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 December 20, 2002 applicable to new and renewal voluntary policies only.
3. This endorsement is effective 12:01 a.m. on January 1, 2003 applicable to new and renewal assigned risk policies only.