



## Pennsylvania Compensation Rating Bureau

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March 9, 2006

### **BUREAU CIRCULAR NO. 1509**

To All Members of the Bureau:

Re: **APPROVAL OF BUREAU FILING NO. 223**  
**TERRORISM RISK INSURANCE EXTENSION ACT ENDORSEMENT**  
**(WC 37 01 10) – *REVISED***

The Bureau has filed and the Insurance Commissioner has approved an amendment and clarification of the application of the above referenced endorsement retroactive to January 1, 2006.

As originally submitted in Bureau Filing No. 221, this endorsement was to be applied on a new and renewal basis effective January 1, 2006 for policies with normal anniversary rating dates on or after that date. Subsequent to the announcement of the approval of Bureau Filing No. 221, questions arose concerning differences in provisions in various jurisdictions' filings for the Terrorism Risk Insurance Extension Act Endorsement, application of Bureau Filing No. 221 to policies in force prior to January 1, 2006 and extending beyond December 31, 2006, and whether disclosure requirements of the Terrorism Risk Insurance Extension Act would be considered to have been met absent application of the captioned endorsement to policies effective prior to January 1, 2006 and remaining in force after that date.

Since the PCRB is not able to determine how disclosure requirements to the Terrorism Risk Insurance Extension Act may be interpreted as respects policies in force prior to January 1, 2006 and remaining in effect after that date, in an effort to allow carriers flexibility in complying with provisions of that law, the following procedures have been approved in regard to use of Endorsement WC 37 01 10:

- **WC 37 01 10 MUST be applied to the following:**

**Policies issued on a new or renewal basis effective January 1, 2006 or later (see *Case I in attached examples*)**

**One-year policies effective prior to January 1, 2006 that remained in force as of January 1, 2006 and having anniversary rating dates on or after January 1, 2006 (see *Case II in attached examples*)**

**Multiple-year policies issued prior to January 1, 2006 that will extend beyond December 31, 2006 (see *Case III in attached examples*)**

**One-year policies issued prior to January 1, 2006 extended to expire after December 31, 2006 (see *Case IV in attached examples*)**

- **WC 37 01 10 MAY be applied, at the option of each carrier, on an **OUTSTANDING** basis to policies effective prior to January 1, 2006 and remaining in force after that date. Such optional endorsements, if issued, must be effective as of January 1, 2006. (See *Case V in attached examples*)**

The PCRB will apply the following requirements and considerations to these procedures:

- A carrier opting to apply WC 37 01 10 on an outstanding basis to policies effective prior to January 1, 2006 and remaining in force after that date MUST apply the endorsement to ALL such policies.
- Carriers must file copies of WC 37 01 10 with the PCRB for every policy to which the endorsement is applied, whether such application is mandatory or optional.

In order to clarify the intent and effect of these procedures, a number of illustrative examples are provided as an attachment to this circular as a means of facilitating understanding of and compliance with these provisions by all Bureau members.

For carrier information only, the following language is included as a note with the form of Endorsement WC 37 01 10 in the Pennsylvania Manual:

**Note: This endorsement WC 37 01 10 is effective on a mandatory basis effective January 1, 2006 on new and renewal policies. At the carrier's option this endorsement may also be attached to outstanding policies effective January 1, 2006.**

A copy of the endorsement is also attached to this circular.

**Carriers are advised that endorsements previously issued for policies on a new and renewal basis and effective January 1, 2006 or later need not be re-issued or otherwise amended as a result of this filing.**

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

Timothy L. Wisecarver  
President

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

**CASE I: NEW OR RENEWAL POLICIES EFFECTIVE ON OR AFTER JANUARY 1, 2006**

**MANDATORY ENDORSEMENT APPLIES FOR WC 37 01 10**

The following endorsements are **REQUIRED** to be applied effective January 1, 2006 to all new or renewal policies:

- Terrorism Risk Insurance Extension Act Endorsement - **WC 37 01 10**
- Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement - **WC 00 04 21A**
- Foreign Terrorism Premium Endorsement - **WC 00 04 22**

Examples:

- A January 1, 2006 new or renewal policy must be endorsed with Forms **WC 37 01 10**, **WC 00 04 21A** and **WC 00 04 22**.
- A February 7, 2006 new or renewal policy must be endorsed with Forms **WC 37 01 10**, **WC 00 04 21A** and **WC 00 04 22**.

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**CASE II: ONE-YEAR POLICIES EFFECTIVE PRIOR TO JANUARY 1, 2006, IN FORCE AS OF JANUARY 1, 2006, AND HAVING ANNIVERSARY RATING DATES ON OR AFTER JANUARY 1, 2006**

**MANDATORY ENDORSEMENT APPLIES FOR WC 37 01 10**

The following endorsements, which were **REQUIRED** to have been issued on the policy, are to remain on the policy:

- Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Act of 2002 – **WC 37 01 09**
- Terrorism Risk Insurance Act Endorsement - **WC 37 04 06**

Regardless of whether or not the carrier has elected to endorse such policies with **WC 37 01 10** on an outstanding basis effective January 1, 2006, the following endorsements are **REQUIRED** to be applied **EFFECTIVE WITH THE FIRST ANNIVERSARY RATING DATE FALLING ON OR AFTER JANUARY 1, 2006**:

- Terrorism Risk Insurance Extension Act Endorsement - **WC 37 01 10**
- Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement - **WC 00 04 21A**
- Foreign Terrorism Premium Endorsement - **WC 00 04 22**

Examples:

- An August 1, 2005 policy that is subject to a January 1, 2006 anniversary rating date must be endorsed with Forms **WC 37 01 10**, **WC 00 04 21A** and **WC 00 04 22** as of January 1, 2006.
- A September 12, 2005 policy that is subject to an April 1, 2006 anniversary rating date must be endorsed with Forms **WC 37 01 10**, **WC 00 04 21A** and **WC 00 04 22** as of April 1, 2006.

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**CASE III: MULTIPLE-YEAR POLICIES ISSUED PRIOR TO JANUARY 1, 2006 THAT WILL EXTEND BEYOND DECEMBER 31, 2006**

**MANDATORY ENDORSEMENT APPLIES FOR WC 37 01 10**

The following endorsements, which were **REQUIRED** to have been issued on the policy, are to remain on the policy:

- Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Act of 2002 – **WC 37 01 09**
- Terrorism Risk Insurance Act Endorsement - **WC 37 04 06**

Regardless of whether or not the carrier has elected to endorse such policies with **WC 37 01 10** on an outstanding basis effective January 1, 2006, the following new endorsement **MUST** be applied to the policy **AS OF THE NEXT ANNIVERSARY RATING DATE FALLING ON OR AFTER JANUARY 1, 2006**:

- Terrorism Risk Insurance Extension Act Endorsement - **WC 37 01 10**
- Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement - **WC 00 04 21A**
- Foreign Terrorism Premium Endorsement - **WC 00 04 22**

Example:

- A multiple-year policy issued for the period October 1, 2004 – October 1, 2007 and having an anniversary rating date of October 1 **MUST** be endorsed as of October 1, 2006 to apply **WC 37 01 10**, **WC 00 04 21A** and **WC 00 04 22**.

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**CASE IV: ONE-YEAR POLICIES ISSUED PRIOR TO JANUARY 1, 2006 EXTENDED TO EXPIRE AFTER DECEMBER 31, 2006**

**MANDATORY ENDORSEMENT APPLIES FOR WC 37 01 10**

The following endorsements, which were **REQUIRED** to have been issued on the policy, are to remain on the policy:

- Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Act of 2002 – **WC 37 01 09**
- Terrorism Risk Insurance Act Endorsement - **WC 37 04 06**

If the carrier has elected to endorse outstanding policies with **WC 37 01 10** effective January 1, 2006, the following new endorsements **MUST** be applied to such policies effective with the next renewal after the extension period:

- Terrorism Risk Insurance Extension Act Endorsement - **WC 37 01 10**
- Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement - **WC 00 04 21A**
- Foreign Terrorism Premium Endorsement - **WC 00 04 22**

Example:

- A policy extended to be effective for the period December 20, 2005 through January 4, 2007 **MUST** be endorsed as of **JANUARY 4, 2007** to apply **WC 37 01 10, WC 00 04 21A and WC 00 04 22**.

If the carrier has elected **NOT** to endorse outstanding policies with **WC 37 01 10** effective January 1, 2006, the following new endorsement **MUST** be applied to such policies effective with the end of the original 12-month period:

- Terrorism Risk Insurance Extension Act Endorsement - **WC 37 01 10**

Example:

- A policy extended to be effective for the period December 20, 2005 through January 4, 2007 **MUST** be endorsed as of **DECEMBER 20, 2006** to apply **WC 37 01 10**.

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**CASE V: POLICIES EFFECTIVE PRIOR TO JANUARY 1, 2006 AND IN FORCE AS OF JANUARY 1, 2006**

**OPTIONAL ENDORSEMENT APPLIES FOR WC 37 01 10**

The following endorsements, which were **REQUIRED** to have been issued on the policy, are to remain on the policy:

- Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Act of 2002 - **WC 37 01 09**
- Terrorism Risk Insurance Act Endorsement - **WC 37 04 06**

**AT THE CARRIER'S DISCRETION**, the following new endorsement **MAY** be applied to the policy on an outstanding basis as of January 1, 2006:

- Terrorism Risk Insurance Extension Act Endorsement - **WC 37 01 10**

A carrier electing to apply **WC 37 01 10** on an outstanding basis must endorse **ALL** outstanding policies.

Example:

- A March 1, 2005 policy **MAY** be endorsed (optional for the carrier) as of January 1, 2006 to include **WC 37 01 10**. At the next normal renewal of March 1, 2006, **WC 37 01 10**, **WC 00 04 21A** and **WC 00 04 22** would **ALL** apply on a **MANDATORY, NEW AND RENEWAL** basis.

WC 37 01 10

**WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY**  
**TERRORISM RISK INSURANCE EXTENSION ACT ENDORSEMENT**

This endorsement addresses the requirements of the Terrorism Risk Insurance Act of 2002 as amended and extended by the Terrorism Risk Insurance Extension Act of 2005.

**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 resulting from the Terrorism Risk Insurance Extension Act of 2005.

“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 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.
- e. For the period beginning on January 1, 2006 and ending on December 31, 2006, an amount equal to 17.5% of our direct earned premiums, as provided in the Act, over the calendar year immediately preceding January 1, 2006.
- f. For the period beginning on January 1, 2007 and ending on December 31, 2007, an amount equal to 20% of our direct earned premiums, as provided in the Act, over the calendar year immediately preceding January 1, 2007.

### **Limitation of Liability**

The Act may limit our liability to you under this policy. If annual aggregate insured terrorism 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 under this policy will be limited by the Act, as determined by the Secretary of the Treasury.

### **Policyholder Disclosure Notice**

1. Insured terrorism 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% for Program Year 4 and 85% for Program Year 5 of our insured terrorism losses exceeding our insurer deductible.
2. The premium charged for the coverage this policy provides for insured terrorism losses is included in the amount shown in Item 4 of the Information Page or in the Schedule in the Foreign Terrorism Premium Endorsement (WC 00 04 22) attached to this policy.

**Note: This endorsement WC 37 01 10 is effective on a mandatory basis effective January 1, 2006 on new and renewal policies. At the carrier's option this endorsement may also be attached to outstanding policies effective January 1, 2006.**