

May 6, 2020

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: Workers Compensation Insurance

Terrorism Risk Insurance Program Reauthorization Act of
2019 Endorsements & Policy Disclosure Notice

The North Carolina Rate Bureau (Bureau) has filed and the North Carolina Department of Insurance (DOI) has approved revisions and withdrawals of endorsements as a result of the recent enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2019 (TRIPRA of 2019). This approval is effective January 1, 2021 and is applicable to all new and renewal policies effective on or after January 1, 2021. The endorsement changes are consistent with NCCI's Item filing P-1417.

The changes are as follows:

1. The Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 C) has been revised to:
 - Update the TRIPRA references to 2019
 - Revise the program trigger amounts and the Federal share of compensation provisions
 - Make minor grammatical revisions
2. The Catastrophe (Other Than Certified Acts of Terrorism) Premium Endorsement (WC 00 04 21 E) has been revised to:
 - Update the endorsement number reference of the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement
 - Make minor grammatical revisions
3. The Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2015 (WC 00 01 15) has been withdrawn. The purpose of this endorsement was to notify policyholders of the impending expiration of TRIPRA. This is no longer needed with the enactment of TRIPRA of 2019.

The DOI issued Bulletin 20-B-08 that specifies filing procedures for compliance with the provisions of the Terrorism Risk Insurance Program Reauthorization of 2019. The Bureau filed and received approval for the Policyholder Disclosure Notice.

As referenced in Bulletin 20-B-08, workers compensation coverage is statutorily mandated and there is no option to waive the terrorism coverage provided by the workers compensation insurance policy. The copy of the Policyholder Disclosure Notice of Terrorism Insurance Coverage #2 (without policyholder acknowledgement) that was part of the DOI bulletin inadvertently included an acknowledgement statement for the insured. The Bureau has filed and received approval from the DOI for the attached revised Disclosure Notice. This notice is the only disclosure notice applicable to workers compensation.

The DOI requires that Disclosure Notice #2 be furnished to policyholders in this state for all offers and renewals. The disclosure form must be furnished in addition to the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 C). A copy of the disclosure notice to the employer does not need to be submitted to the Bureau.

Member companies do not need to file the disclosure form with the DOI. You may modify the form as needed to fit your Company requirements; however, the verbiage cannot be changed.

Refer to the attached materials for further details.

If you have any questions concerning this matter, please feel free to contact me.

Sincerely,

Joanna Biliouris

Chief Operating Officer

JB:ko
Attachments
C-20-15

**North Carolina Rate Bureau
Filing Memorandum**

**NCCI Item P-1417 – Terrorism Risk Insurance Program Reauthorization Act of 2019
Endorsements**

PURPOSE

As a result of the recent enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2019 (TRIPRA 2019), the purpose of this filing is to:

- Revise the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 B)
- Revise the Catastrophe (Other than Certified Acts of Terrorism) Premium Endorsement (WC 00 04 21 D)
- Withdraw the Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2015 (WC 00 01 15)

BACKGROUND

The Terrorism Risk Insurance Act of 2002 (TRIA) was implemented as a result of the US Congress recognizing that terrorism is a catastrophe exposure that is real and significant for insurers of workers compensation and other lines of insurance. It initially provided a temporary program under which the federal government would share in the payment of insured losses caused by certain acts of terrorism. TRIA was scheduled to expire on December 31, 2005. It was renewed as the Terrorism Risk Insurance Extension Act (TRIEA) in 2005, and as the Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) in 2007 and 2015. NCCI filed several national item filings that proposed the necessary miscellaneous values, rules, and policy forms to implement the original TRIA and each of its renewals.

Recognizing that terrorism continues to be a catastrophe exposure, the US Congress enacted TRIPRA of 2019 on December 20, 2019. The Act was extended for seven years and will expire on December 31, 2027.

The current 80% federal share of compensation under the Terrorism Insurance Program (Program) will continue to apply to aggregate industry insured losses occurring in any calendar year that exceed \$200,000,000.

North Carolina Rate Bureau (Bureau) has reviewed NCCI Item P-1417 and given consideration to the revisions and/or elimination of national endorsements as proposed by the NCCI. Based on their review and research staff recommends that the Bureau seek approval for all NCCI proposed revisions to national endorsements be applicable to North Carolina.

The NCCI Item P-1417 includes exhibits that identify changes to national endorsements.

PROPOSAL

The Bureau proposes the adoption of changes by way of NCCI P-1417.

IMPACT

No statewide premium impact will result from the changes proposed in this item.

**North Carolina Rate Bureau
Filing Memorandum**

**NCCI Item P-1417 – Terrorism Risk Insurance Program Reauthorization Act of 2019
Endorsements**

IMPLEMENTATION

These endorsement revisions proposed by way of NCCI Item P-1417 are applicable to new and renewal voluntary and assigned risk policies with an effective date on or after January 1, 2021.

FILING MEMORANDUM

ITEM P-1417—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2019 ENDORSEMENTS

PURPOSE

This item revises and withdraws endorsements in NCCI's *Forms Manual of Workers Compensation and Employers Liability Insurance (Forms Manual)* as a result of the recent enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2019 (TRIPRA of 2019).

BACKGROUND

The Terrorism Risk Insurance Act of 2002 ("TRIA" or the "Act") was implemented as a result of the US Congress recognizing that terrorism is a catastrophe exposure that is real and significant for insurers of workers compensation and other lines of insurance. It initially provided a temporary program under which the federal government would share in the payment of insured losses caused by certain acts of terrorism. TRIA was scheduled to expire on December 31, 2005. It was renewed as the Terrorism Risk Insurance Extension Act (TRIEA) in 2005, and as the Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) in 2007 and 2015. NCCI filed several national item filings that proposed the necessary miscellaneous values, rules, and policy forms to implement the original TRIA and each of its renewals.

Recognizing that terrorism continues to be a catastrophe exposure, the US Congress enacted TRIPRA of 2019 on December 20, 2019. The Act was extended for seven years and will expire on December 31, 2027.

The current 80% federal share of compensation under the Terrorism Insurance Program (Program) will continue to apply to aggregate industry insured losses occurring in any calendar year that exceed \$200,000,000.

PROPOSAL

To implement the changes as a result of the enactment of TRIPRA of 2019, this item proposes the following revisions to NCCI's *Forms Manual*:

1. The Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 B) must be revised to:
 - Update the TRIPRA references to TRIPRA of 2019
 - Revise the Program trigger amounts and the federal share of compensation provisions
 - Make minor grammatical revisions
2. The Catastrophe (Other Than Certified Acts of Terrorism) Premium Endorsement (WC 00 04 21 D) must be revised to:
 - Update the endorsement number reference of the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement
 - Make minor grammatical revisions
3. The Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2015 (WC 00 01 15) must be withdrawn. The purpose of this endorsement is to notify policyholders of the impending expiration of TRIPRA. However, with the enactment of TRIPRA of 2019, this endorsement is no longer needed.

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FILING MEMORANDUM

ITEM P-1417—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2019 ENDORSEMENTS

4. The Florida Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 09 04 03 B) must be revised to:
- Update the TRIPRA references to TRIPRA of 2019
 - Revise the Program trigger amounts and the federal share of compensation provisions
 - Make minor grammatical revisions

IMPACT

There will be no premium impact as a result of the changes proposed in this item.

EXHIBIT COMMENTS AND IMPLEMENTATION SUMMARY*

Exhibit	Exhibit Comments	Implementation Summary
1	<ul style="list-style-type: none"> • Details the revisions to the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 B) in NCCI's Forms Manual • Applies in all states except FL; refer to Exhibit 4 for state-specific endorsement for FL 	<ul style="list-style-type: none"> • In all states except Hawaii, this item is to become effective for new and renewal policies effective on and after 12:01 a.m. on January 1, 2021 • In Hawaii, the effective date is determined upon regulatory approval of the individual carrier's election to adopt this change
2	<ul style="list-style-type: none"> • Details the revisions to the Catastrophe (Other Than Certified Acts of Terrorism) Premium Endorsement (WC 00 04 21 D) in NCCI's Forms Manual • Applies in all states except FL, MO, NM, TX, and VA 	
3	<ul style="list-style-type: none"> • Details the withdrawal of the Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2015 (WC 00 01 15) in NCCI's Forms Manual. • Applies in all states except FL. In FL, Form 09 A-Notice—Florida Notice of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2015 applies. This nonfiled form was provided for carriers to use at their underwriting discretion. Since it is a nonfiled form in FL, an exhibit to withdraw the form is not included in this item filing. However, the form will be removed from NCCI's Forms Manual effective January 1, 2021. 	

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FILING MEMORANDUM

ITEM P-1417—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF
2019 ENDORSEMENTS

Exhibit	Exhibit Comments	Implementation Summary
4	<ul style="list-style-type: none">• Details the revisions to the Florida Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 09 04 03 B) in NCCI's Forms Manual• Applies in FL	

* Independent administrative bureaus file endorsements on behalf of their members.

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**ITEM P-1417—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF
2019 ENDORSEMENTS**

EXHIBIT 1

**FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT DISCLOSURE
ENDORSEMENT (WC 00 04 22 B)**

**(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, KS, KY, LA, MD, ME, MO, MS, MT,
NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)**

Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 B C)

This endorsement addresses the requirements of the Terrorism Risk Insurance Act of 2002 as amended and extended by the Terrorism Risk Insurance Program Reauthorization Act of ~~2015~~ 2019. It serves to notify you of certain limitations under the Act, and that your insurance carrier is charging premium for losses that may occur in the event of an Act of Terrorism.

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, and any applicable federal and/or state laws, rules, or regulations.

Definitions

The definitions provided in this endorsement are based on and have the same meaning as the definitions in the Act. 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 thereto, including any amendments resulting from the Terrorism Risk Insurance Program Reauthorization Act of ~~2015~~ 2019.

“Act of Terrorism” means any act that is certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, 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 the premises of United States missions or certain air carriers or vessels.
- d. The act has been committed by an individual or individuals 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 Loss” means any loss resulting from an act of terrorism (and, except for Pennsylvania, 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 the premises of United States missions or to certain air carriers or vessels.

“Insurer Deductible” means, for the period beginning on January 1, ~~2015~~ 2021, and ending on December 31, ~~2020~~ 2027, an amount equal to 20% of our direct earned premiums, during the immediately preceding calendar year.

ITEM P-1417—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2019 ENDORSEMENTS

**EXHIBIT 1 (CONT'D)
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT DISCLOSURE
ENDORSEMENT (WC 00 04 22 B)**

(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

Limitation of Liability

The Act limits our liability to you under this policy. If aggregate Insured Losses exceed \$100,000,000,000 in a calendar year and if we have met our Insurer Deductible, we are not liable for the payment of any portion of the amount of Insured Losses that exceeds \$100,000,000,000; and for aggregate Insured Losses up to \$100,000,000,000, we will pay only a pro rata share of such Insured Losses as determined by the Secretary of the Treasury.

Policyholder Disclosure Notice

1. Insured Losses would be partially reimbursed by the United States Government. If the aggregate industry Insured Losses occurring in any calendar year exceed \$200,000,000, the United States Government would pay 80% of our Insured Losses that exceed our Insurer Deductible.:-
 - a. ~~\$100,000,000, with respect to such Insured Losses occurring in calendar year 2015, the United States Government would pay 85% of our Insured Losses that exceed our Insurer Deductible.~~
 - b. ~~\$120,000,000, with respect to such Insured Losses occurring in calendar year 2016, the United States Government would pay 84% of our Insured Losses that exceed our Insurer Deductible.~~
 - c. ~~\$140,000,000, with respect to such Insured Losses occurring in calendar year 2017, the United States Government would pay 83% of our Insured Losses that exceed our Insurer Deductible.~~
 - d. ~~\$160,000,000, with respect to such Insured Losses occurring in calendar year 2018, the United States Government would pay 82% of our Insured Losses that exceed our Insurer Deductible.~~
 - e. ~~\$180,000,000, with respect to such Insured Losses occurring in calendar year 2019, the United States Government would pay 81% of our Insured Losses that exceed our Insurer Deductible.~~
 - f. ~~\$200,000,000, with respect to such Insured Losses occurring in calendar year 2020, the United States Government would pay 80% of our Insured Losses that exceed our Insurer Deductible.~~
2. Notwithstanding item 1 above, the United States Government will not make any payment under the Act for any portion of Insured Losses that exceed \$100,000,000,000.
3. The premium charge for the coverage your policy provides for Insured Losses is included in the amount shown in Item 4 of the Information Page or in the Schedule below.

Schedule

State	Rate	Premium
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ITEM P-1417—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2019 ENDORSEMENTS

**EXHIBIT 2
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
CATASTROPHE (OTHER THAN CERTIFIED ACTS OF TERRORISM) PREMIUM
ENDORSEMENT (WC 00 04 21 D)
(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, KS, KY, LA, MD, ME, MS, MT, NE,
NH, NV, OK, OR, RI, SC, SD, TN, UT, VT, WV)**

Catastrophe (Other Than Certified Acts of Terrorism) Premium Endorsement (WC 00 04 21 D E)

This endorsement is notification that your insurance carrier is charging premium to cover the losses that may occur in the event of a Catastrophe (~~Other Than~~ Certified Acts of Terrorism) as that term is defined below. Your policy provides coverage for workers compensation losses caused by a Catastrophe (~~Other Than~~ Certified Acts of Terrorism). This premium charge does not provide funding for Certified Acts of Terrorism contemplated under the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 BC), attached to this policy.

For purposes of this endorsement, the following definitions apply:

- Catastrophe (~~Other Than~~ Certified Acts of Terrorism): Any single event, resulting from an Earthquake, Noncertified Act of Terrorism, or Catastrophic Industrial Accident, which results in aggregate workers compensation losses in excess of \$50 million.
- Earthquake: The shaking and vibration at the surface of the earth resulting from underground movement along a fault plane or from volcanic activity.
- Noncertified Act of Terrorism: An event that is not certified as an Act of Terrorism by the Secretary of the Treasury pursuant to the Terrorism Risk Insurance Act of 2002 (as amended) but that meets all of the following criteria:
 - a. It is an act that is violent or dangerous to human life, property, or infrastructure;
 - b. The act results in damage within the United States, or outside of the United States in the case of the premises of United States missions or air carriers or vessels as those terms are defined in the Terrorism Risk Insurance Act of 2002 (as amended); and
 - c. It is an act that has been committed by an individual or individuals 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.
- Catastrophic Industrial Accident: A chemical release, large explosion, or small blast that is localized in nature and affects workers in a small perimeter the size of a building.

The premium charge for the coverage your policy provides for workers compensation losses caused by a Catastrophe (~~Other Than~~ Certified Acts of Terrorism) is shown in Item 4 of the Information Page or in the Schedule below.

Schedule

State	Rate	Premium
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ITEM P-1417—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2019 ENDORSEMENTS

EXHIBIT 3

**FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
NOTIFICATION ENDORSEMENT OF PENDING LAW CHANGE TO TERRORISM RISK
INSURANCE PROGRAM REAUTHORIZATION ACT OF 2015 (WC 00 01 15)**

**(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, KS, KY, LA, MD, ME, MO, MS, MT,
NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)**

**Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program
Reauthorization Act of 2015 (WC 00 04 15)**

This endorsement is being attached to your workers compensation and employers liability insurance policy. This endorsement does not replace the separate Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 B) that is attached to your current policy and which remains in effect as applicable.

The Terrorism Risk Insurance Act of 2002 (TRIA), as previously amended and extended by the Terrorism Risk Insurance Program Reauthorization Act of 2015 (TRIPRA 2015), provides for a 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 US Congressional action to extend, update, or otherwise reauthorize TRIPRA 2015, in whole or in part, TRIPRA 2015 is scheduled to expire on December 31, 2020.

Since the timetable for any further Congressional action regarding TRIPRA 2015 is presently unknown, and exposure to acts of terrorism remains, we are providing policyholders with relevant information concerning their workers compensation policies in the event of the TRIPRA 2015's expiration.

Your policy provides coverage for workers compensation losses caused by acts of terrorism, including workers compensation benefit obligations dictated by state law, except in Pennsylvania, where injuries or deaths resulting from certain war-related activities are excluded from workers compensation coverage. Coverage for such losses is still subject to all terms, definitions, exclusions, and conditions in your policy.

The premium charge for the coverage that your policy provides for terrorism losses is shown in Item 4 of the policy information Page or the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 B) Schedule that is attached to your policy. This amount may continue or change for new, renewal, and in-force policies in effect on or after December 31, 2020, in the event of TRIPRA 2015's expiration, subject to regulatory review in accordance with applicable state law.

You need not do anything further at this time.



Bulletin 20-B-08
TRIA Reauthorization Act of 2019

**TO: ALL PROPERTY & CASUALTY INSURERS WRITING
COMMERCIAL LINES INSURANCE PRODUCTS
ALL INSURERS ON THE NAIC QUARTERLY
LISTING OF ALIEN INSURERS**

FROM: PROPERTY AND CASUALTY DIVISION

DATE: April 28, 2020

**SUBJECT: FILING PROCEDURES FOR COMPLIANCE
WITH THE PROVISIONS OF THE TERRORISM RISK INSURANCE
PROGRAM REAUTHORIZATION ACT OF 2019**

The purpose of this bulletin is to advise you of certain provisions of the Terrorism Risk Insurance Program Reauthorization Act of 2019 amending and extending the Terrorism Risk Insurance Act of 2002 (the Act) by reauthorization, which may require insurers to submit a filing in this state of disclosure notices, policy language, and applicable rates as a result of the Act. For further details related to the Act, please consult the Act itself.

Background

Uncertainty in the markets for commercial lines property and casualty insurance coverage arose following the substantial loss of lives and property experienced on September 11, 2001. Soon after these tragic events, many reinsurers announced that they would no longer provide coverage for acts of terrorism in future reinsurance contracts. This led to a concerted effort on behalf of all interested parties to seek a federal backstop to facilitate the ability of the insurance industry to continue to provide coverage for these unpredictable and potentially catastrophic events. As a result, Congress enacted and the President signed into law in November 2002, the Terrorism Risk Insurance Act of 2002. This federal law provided a federal backstop for defined acts of terrorism and imposed certain obligations on insurers. The Act was extended for a two-year period covering Program Years 2006 and 2007, and for an additional seven years through December 31, 2014 with the enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007. The Act was extended again with the enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2015, which made substantial changes to the program parameters, including to the insurer deductible, the mandatory recoupment percentage, and the insurance marketplace aggregate retention amount. Most recently, the Act was extended

through 2027 with the enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2019, which made no major changes to the parameters of the program.

The reauthorized Act, as amended and extended, contains minimal changes, including:

- Extending the program through December 31, 2027.
- Changing the timing of the mandatory recoupment by moving the date of each referenced year back five years.
- Requiring the Secretary of the Treasury to include in this annual report an evaluation of the availability and affordability of terrorism risk insurance, specifically for places of worship.
- Requiring the Comptroller General of the United States to conduct a study on: overall vulnerabilities and potential costs of cyber attacks on the U.S.; whether state-defined cyber liability under a property/casualty (P/C) line of insurance is adequate coverage for an act of cyber terrorism; whether such risks can be adequately priced by the private market; and whether the current risk-share systems under TRIA are appropriate for a cyber terrorism event.
- Eliminating outdated language relating to past United States Government reimbursement levels. The reimbursement level of covered terrorism losses exceeding the statutorily established deductible is now (as of January 1, 2020) a fixed 80%.

Definition of Act of Terrorism

Section 102(1) defines an act of terrorism for purposes of the Act. Please note that the unmodified reference to “the Secretary” refers to the Secretary of the Treasury. The revised Section 102(1)(A) states, “The term ‘act of terrorism’ means any act that is certified by the Secretary, in consultation with the Secretary of Homeland Security, and the Attorney General of the United States—(i) to be an act of terrorism; (ii) to be a violent act or an act that is dangerous to—(I) human life; (II) property; or (III) infrastructure; (iii) to have resulted in damage within the United States, or outside the United States in the case of—(I) an air carrier or vessel described in paragraph (5)(B); or (II) the premises of a United States mission; and (iv) to have been committed by an individual or individuals, 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.” Section 102(1)(B) states, “No act shall be certified by the Secretary as an act of terrorism if—(i) the act is committed as part of the course of a war declared by the Congress, except that this clause shall not apply with respect to any coverage for workers’ compensation; or (ii) property and casualty insurance losses resulting from the act, in the aggregate, do not exceed \$5,000,000.” Section 102(1)(C) and (E) specify that the determinations are final and not subject to judicial review and that the Secretary of the Treasury cannot delegate the determination to anyone.

Submission of Rates, Policy Form Language and Disclosure Notices

If an insurer relies on an advisory organization to file loss costs and related rating systems on its behalf, no rate filing is required unless an insurer plans to use a different loss cost multiplier than is currently on file for coverage for certified losses. Insurers that develop and file rates independently may choose to maintain their currently filed rates or submit a new filing. The rate filing should provide sufficient information for the reviewer to determine what price would be charged to a business seeking to cover certified losses. This state will accept filings that contain a specified percentage of premium to provide for coverage for certified losses. Insurers may also choose to use rating plans that take into account other factors such as geography, building profile, proximity to target risks, and other reasonable rating factors. The insurer should state in the filing the basis that it has for selection of the rates and rating systems that it chooses to apply. The supporting documentation should be sufficient for the reviewer to determine whether the rates are excessive, inadequate or unfairly discriminatory. For the convenience of insurers, this state will waive its requirements for supporting documentation for rates for certified losses for filings that apply an increased premium charge of between 0% and 3% and do not vary by application of other rating factors.

This state will not allow exclusions of coverage for acts of terrorism that fail to be certified losses solely because they fall below the \$5,000,000 threshold in Section 102(1)(B) on any policy that provides coverage for acts of terrorism that fail to be certified. Insurers required to file policy forms may submit language containing coverage limitations for certified losses that exceed \$100 billion in the aggregate.

Insurers subject to policy form regulation must submit the policy language that they intend to use in this state. The policy should define acts of terrorism in ways that are consistent with the Act, as amended, state law and the guidance provided in this bulletin. The definitions, terms and conditions should be complete and accurately describe the coverage that will be provided in the policy. Insurers may conclude that current filings are in compliance with the Act, as amended, state law and the requirements of this bulletin.

A change introduced in the Terrorism Risk Insurance Program Reauthorization Act of 2007 was a disclosure requirement for any policy issued after the enactment of the Act. Specifically, in addition to other disclosure requirements previously contained in TRIA, insurers since 2007 have had to provide clear and conspicuous disclosure to the policyholder of the existence of the \$100 billion cap under Section 103(e)(2), at the time of offer, purchase, and renewal of the policy.

The Commissioner requests that the disclosure notices be filed for informational purposes, along with the policy forms, rates and rating systems as they are an integral part of the process for notification of policyholders in this state and should be clear and not misleading to business owners in this state. The disclosures should comply with the requirements of the Act, as amended, and should be consistent with the policy language and rates filed by the insurer.

Filers should use the SERFF system for submitting revised terrorism product filings. In support of speed to market initiatives, filers should use the term “TRIA2019” in the product name field in SERFF to indicate a filing related to terrorism made in connection with the Terrorism Risk Insurance Program Reauthorization Act of 2019. The SERFF system alleviates the need to provide additional information in support of a speed to market tool.

Optional Provision for Standard Fire Policy States

In this state, the requirements for fire coverage are established by law and where applicable, must meet or exceed the provisions of the Standard Fire Policy. These legal requirements cannot be waived. Thus, a business cannot voluntarily waive this statutorily mandated coverage.

Provision for Workers’ Compensation Policies

Workers’ compensation insurance coverage is statutorily mandated for nearly all U.S. employers and exemptions are barred in all states. Thus, a business cannot voluntarily waive workers’ compensation insurance (or terrorism coverage provided by a workers’ compensation insurance policy), nor can an insurer exempt terrorism risk from a workers’ compensation policy.

Effective Date

This bulletin shall take immediate effect and shall expire on December 31, 2027, unless Congress extends the duration of the Act.

Any questions can be addressed to Tim Johnson, Operations Manager, Property and Casualty Division at timothy.johnson@ncdoi.gov and (919) 807-6084.

Disclosure No. 2

**POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM
INSURANCE COVERAGE**

Coverage for acts of terrorism is included in your policy. You are hereby notified that the Terrorism Risk Insurance Act, as amended in 2019, defines an act of terrorism in Section 102(1) of the Act: The term “act of terrorism” means any act or acts that are certified by the Secretary of the Treasury—in consultation with the Secretary of Homeland Security, and the Attorney General of the United States—to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals 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. Under your coverage, any losses resulting from certified acts of terrorism may be partially reimbursed by the United States Government under a formula established by the Terrorism Risk Insurance Act, as amended. However, your policy may contain other exclusions which might affect your coverage, such as an exclusion for nuclear events. Under the formula, the United States Government generally reimburses 80% beginning on January 1, 2020, of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The Terrorism Risk Insurance Act, as amended, contains a \$100 billion cap that limits U.S. Government reimbursement as well as insurers’ liability for losses resulting from certified acts of terrorism when the amount of such losses exceeds \$100 billion in any one calendar year. If the aggregate insured losses for all insurers exceed \$100 billion, your coverage may be reduced.

The portion of your annual premium that is attributable to coverage for acts of terrorism is _____, and does not include any charges for the portion of losses covered by the United States government under the Act.

I ACKNOWLEDGE THAT I HAVE BEEN NOTIFIED THAT UNDER THE TERRORISM RISK INSURANCE ACT, AS AMENDED, ANY LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM UNDER MY POLICY COVERAGE MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT AND MAY BE SUBJECT TO A \$100 BILLION CAP THAT MAY REDUCE MY COVERAGE, AND I HAVE BEEN NOTIFIED OF THE PORTION OF MY PREMIUM ATTRIBUTABLE TO SUCH COVERAGE.

Name of Insurer: _____

Policy Number: _____