



April 5, 2010

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: Revised Commercial Auto Policy Forms

The Reinsurance Facility has recently filed and received approval of the CA 01 26 07 10 – North Carolina Changes Endorsement for use in connection with ceded commercial auto insurance business. Insurance Services Office (ISO) has previously received approval of this same form for voluntary commercial auto insurance business.

A copy of the CA 01 26 07 10 – North Carolina Changes is attached. The Reinsurance Facility has filed this form for use by its member companies in connection with commercial auto insurance business ceded to the Reinsurance Facility, to the extent that the coverages afforded therein are eligible for cession to the Reinsurance Facility.

As part of this filing, the Reinsurance Facility also withdrew endorsement CA 01 26 04 10.

These changes become effective in accordance with the following Rule of Application:

These changes are applicable to all policies becoming effective on or after July 1, 2010.

Please note that the edition of this endorsement which is being withdrawn (CA 01 26 04 10) was the edition that becomes effective and available for use with ceded policies becoming effective on or after May 1, 2010. That edition of this form is therefore available for use only with ceded policies becoming effective during the period May 1, 2010 through June 30, 2010.

This filing affords many of our member companies the opportunity to utilize the same forms in insuring risks ceded to the Reinsurance Facility that they utilize in connection with their voluntary commercial auto insurance business. Please note that coverages may be afforded in these forms that are not eligible for cession to the Reinsurance Facility and that the Reinsurance Facility does not intend by this filing to suggest or imply that any such coverages may be ceded to the Reinsurance Facility.

Please see to it that this circular letter is brought to the attention of all interested personnel in your company.

Very truly yours,

F. Timothy Lucas

Automobile Manager

FTL:dms

Attachment

RF-10-6

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NORTH CAROLINA CHANGES

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

For a covered "auto" licensed or principally garaged in, or "garage operations" conducted in, North Carolina, the policy is changed as follows:

A. Changes In Liability Coverage

1. The Limit of Insurance applies except that we will apply the limit shown in the Declarations to first provide the separate limits required by North Carolina law as follows:
 - a. \$30,000 for "bodily injury" to any one person caused by any one "accident";
 - b. \$60,000 for "bodily injury" to two or more persons caused by any one "accident"; and
 - c. \$25,000 for "property damage" caused by any one "accident".

This provision will not change the Limit of Insurance.

2. If the policy provides Liability Coverage only for owned "autos", a temporary substitute for one of these will also be considered a covered "auto", subject to the following provisions:
 - a. The owned "auto" must be out of service because of its breakdown, repair, servicing, loss or destruction.
 - b. The temporary substitute must be owned by someone other than you or a member of your household.
 - c. The temporary substitute must be with the permission of the owner.
 - d. The Liability Coverage for the temporary substitute is excess over any other collectible insurance.

B. Changes In Physical Damage Coverage

Paragraph A.3. Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles is replaced by the following:

Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles

If you carry Comprehensive Coverage for the damaged covered "auto", we will pay for the following under Comprehensive Coverage:

- a. Glass breakage;
- b. "Loss" caused by hitting a bird or animal; and
- c. "Loss" caused by falling objects or missiles.

However, you have the option of having glass breakage caused by covered "auto's" collision or overturn and "loss" caused by hitting a bird or animal considered a "loss" under Collision Coverage.

C. Changes In Uninsured Motorists Coverage

The Limit of Insurance applies except that we will apply the limit shown in the Declarations to first provide the separate limits required by North Carolina Law as follows:

1. \$30,000 for "bodily injury" to any one person caused by any one "accident";
2. \$60,000 for "bodily injury" to two or more persons caused by any one "accident"; and
3. \$25,000 for "property damage" caused by any one "accident".

This provision will not change the total Limit of Insurance.

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D. Auto Medical Payments Coverage

Exclusion C.5. of Auto Medical Payments Coverage, relating to "bodily injury" to an "insured" while working in a business of selling, servicing, repairing or parking "autos", applies only if workers' compensation benefits are available.

E. Changes In Garagekeepers Coverage

If the policy provides Garagekeepers Coverage, any deductible will apply only to the amount of "loss" and will not reduce the Limit of Insurance.

F. Changes In Conditions

1. Paragraph 2. of the **Cancellation Common Policy** Condition is replaced by the following:

We may cancel any type or limit of coverage provided by this policy to the extent that it cannot be ceded to the North Carolina Reinsurance Facility as follows:

a. If this policy has been in effect for less than 60 days, we may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:

- (1) 15 days before the effective date of cancellation if we cancel for nonpayment of premium; or
- (2) 30 days before the effective date of cancellation if we cancel for any other reason.

b. If this policy has been in effect for 60 days or more, or is a renewal of a policy we issued, we may cancel this policy prior to the:

- (1) Expiration of the policy term; or
 - (2) Anniversary date;
- stated in the policy only for one or more of the following reasons:

(a) Nonpayment of premium. Cancellation for nonpayment of premium is not effective if the amount due is paid before the effective date set forth in the notice of cancellation.

(b) An act or omission by the "insured" or his or her representative that constitutes material misrepresentation or nondisclosure of a material fact in obtaining this policy, continuing this policy, or presenting a claim under this policy.

(c) Increased hazard or material change in the risk assumed that could not have been reasonably contemplated by the parties at the time of assumption of the risk.

(d) Substantial breach of contractual duties, conditions, or warranties that materially affects the insurability of the risk.

(e) A fraudulent act against us by the "insured" or his or her representative that materially affects the insurability of the risk.

(f) Willful failure by the "insured" or his or her representative to institute reasonable loss control measures that materially affect the insurability of the risk after written notice by us.

(g) Loss of facultative reinsurance, or loss of or substantial changes in applicable reinsurance as provided in G.S. 58-41-30.

(h) Conviction of the "insured" of a crime arising out of acts that materially affect the insurability of the risk.

(i) A determination by the Commissioner of Insurance that the continuation of the policy would place us in violation of the laws of North Carolina.

(j) You fail to meet the requirements contained in our corporate charter, articles of incorporation, or bylaws, when we are a company organized for the sole purpose of providing members of an organization with insurance coverage in North Carolina.

We may cancel any type or limit of coverage provided by the policy to the extent that it can be ceded to the North Carolina Reinsurance Facility only for one or more of the following reasons by mailing to the first Named Insured at least 15 days' notice at the last address known to us:

- (1) Nonpayment of premium.
- (2) You become a nonresident of North Carolina and are not otherwise entitled to insurance through the Reinsurance Facility.

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- (3) Our contract with the agent through whom this policy is written is terminated for reasons other than the quality of the agent's "insureds".
- (4) This policy is cancelled pursuant to a power of attorney given a company licensed according to the provisions of G.S. 58-56.

To the extent that any type or limit of coverage provided by this policy cannot be ceded to the North Carolina Reinsurance facility, the following provisions are added and supersede any other provisions to the contrary:

G. Nonrenewal

- 1. If we elect not to renew this policy, we will mail or deliver to the first Named Insured shown in the Declarations written notice of nonrenewal at least 45 days prior to the:
 - a. Expiration of the policy if it has been written for one year or less; or
 - b. Anniversary date if it is a continuous policy or has been written for more than one year or for an indefinite term.
- 2. We need not mail or deliver the notice of nonrenewal if you have:
 - a. Insured property covered under this policy under any other insurance policy;
 - b. Accepted replacement coverage; or
 - c. Requested or agreed to nonrenewal of this policy.
- 3. If notice is mailed, proof of mailing will be sufficient proof of notice.
- 4. The written notice of cancellation or nonrenewal will:
 - a. Be mailed or delivered to the first Named Insured and any designated loss payee at their addresses shown in the policy, or if not indicated in the policy, at their last known addresses; and
 - b. State the reason or reasons for cancellation or nonrenewal.

5. To the extent that any type or limit of coverage provided by this policy can be ceded to the North Carolina Reinsurance Facility, the following provision is added and supersedes any other provision to the contrary:

H. Nonrenewal

We may nonrenew this policy only for one or more of the following reasons:

- 1. Nonpayment of premium.

- 2. You become a nonresident of North Carolina and are not otherwise entitled to insurance through the Reinsurance Facility.
- 3. Our contract with the agent through whom this policy is written is terminated for reasons other than the quality of the agent's "insureds".
- 4. This policy is cancelled pursuant to a power of attorney given a company licensed according to the provisions of G.S. 58-56.
- 5. You fail to meet the requirements contained in our corporate charter, articles of incorporation, or bylaws, when we are a company organized for the sole purpose of providing members of an organization with insurance coverage in North Carolina.

I. Common Policy Condition B. Changes, is changed to read as follows:

This policy contains all the agreements between you and us. Its terms may not be changed or waived except by endorsement issued by us. If a change requires a premium adjustment, we will adjust the premium for that change as of the effective date of change. If we revise this policy form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

J. Loss Condition 1. Appraisal For Physical Damage Loss is replaced by the following:

Appraisal For Physical Damage Loss

If you and we disagree on the amount of "loss", either may demand an appraisal of the "loss". In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of "loss". If they fail to agree, they will submit their differences to the umpire. A decision, in writing, agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

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K. Appraisal For Property Damage

In the event of an "accident":

1. If the claimant and we fail to agree as to the difference in fair market value of the motor vehicle immediately before and immediately after the "accident" and the difference in the claimant's and our estimate of the diminution in fair market value of the vehicle is greater than two thousand dollars (\$2,000) or twenty-five percent (25%) of the fair market retail value of the vehicle prior to the "accident" as determined by the latest edition of the National Automobile Dealers Association Pricing Guide Book or other publications approved by the Commissioner of Insurance, whichever is less; and

2. Coverage for the liability claim is not in dispute; then on the written demand of either the claimant or us, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days after the demand.

Should the appraisers fail to agree, they shall then select a competent and disinterested appraiser to serve as an umpire. If the appraisers cannot agree upon an umpire within 15 days, either the claimant or we may request that a magistrate resident in the county where the insured motor vehicle is registered or the county where the "accident" occurred select the umpire.

The umpire then shall prepare a report determining the amount of "property damage" and shall file the report with us and the claimant.

The claimant or we shall have 15 days from the filing of the report to reject the report and notify the other party of such rejection. If the report is not rejected within 15 days from the filing of the report, the report shall be binding upon both the claimant and us.

Each appraiser shall be paid by the party selecting the appraiser, and the expenses of appraisal and umpire shall be paid by the parties equally.

~~If the umpire determines the amount of "property damage" exceeds our original estimate of diminution in fair market value, we shall pay the appraisers, the expenses of appraisal, and the umpire.~~

If either party elects to have an appraisal to determine the amount of "property damage", then the amount of "property damage" cannot be decided through arbitration.

L. Changes In General Conditions

Paragraph 2. of the **Concealment, Misrepresentation Or Fraud** General Condition is amended by the addition of the following:

This condition does not apply for coverage up to the minimum limits of liability required by the North Carolina Financial Responsibility Act of 1957.

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