

Government of the District of Columbia
Department of Insurance and Securities Regulation

Lawrence H. Mirel
Commissioner



BULLETIN 01-LG-005-12/26

**TO: ALL PROPERTY & CASUALTY INSURERS WRITING
COMMERCIAL LINES INSURANCE PRODUCTS**

**RE: VOLUNTARY EXPEDITED FILING PROCEDURES FOR
EXCLUSIONS RELATED TO ACTS OF TERRORISM**

FROM: LAWRENCE H. MIREL, COMMISSIONER

DATE: DECEMBER 26, 2001

In the aftermath of the horrendous losses sustained by the insurance industry in the terrorist attacks of September 11, companies licensed in the District of Columbia have been seeking approval for terrorism exclusions in commercial forms. For a while it looked as if the Federal Government was prepared to provide a financial “backstop” to insurers against losses due to future terrorism attacks, but Congress has now adjourned for the year without action on any backstop legislation. Accordingly, the District of Columbia will allow terrorism exclusions in commercial policies as outlined below:

The intent of this bulletin is to inform you of the decision in the District to approve certain limited exclusions for acts of terrorism and to provide a voluntary procedure for insurers to use to expedite the filing and timely review of these limited exclusions. As Commissioner I was involved in recent discussions at the National Association of Insurance Commissioners (NAIC) related to this issue. In a recent conference call the members of the NAIC adopted a motion that “if the Congress adjourns without enacting federal terrorism legislation, the states should grant conditional approval to commercial lines endorsements that exclude coverage for acts of terrorism consistent with the exclusion framework developed by ISO. To the extent permitted by state law, such approvals would sunset or be withdrawn 15 business days after the President signs into law a federal backstop to address insurance losses attributed to acts of terrorism, or be subject to other conditions on the approval consistent with state law.” By this bulletin, I am informing you of my intent to act in a manner consistent with the recommendation from the NAIC membership. I believe this to be the best course of action as it balances the need of insurers to have some certainty related to solvency concerns with the business consumers’ concerns that their businesses not be subject to uninsured events.

The District intends to grant approval to exclusions that are substantially similar to the series of optional endorsements developed by the Insurance Services Office, Inc. (ISO). These endorsements include the following:

COMMERCIAL PROPERTY INTERLINE ENDORSEMENT: IL 09 41 01 02
 (N/A to Standard Fire Policy States)
 COMMERCIAL PROPERTY INTERLINE ENDORSEMENT: IL 09 40 01 02
 (Applies in Standard Fire Policy States)
 COMMERCIAL PROPERTY INTERLINE ENDORSEMENT: IL 09 42 01 02
 (Applies in Standard Fire Policy States)
 COMMERCIAL GENERAL LIABILITY ENDORSEMENT: CG 21 69 0102
 COMMERCIAL GENERAL LIABILITY ENDORSEMENT: CG 31 42 01 02
 COMMERCIAL GENERAL LIABILITY ENDORSEMENT: CG 31 43 01 02
 COMMERCIAL LIABILITY UMBRELLA ENDORSEMENT: CU 21 29 01 02
 BUSINESSOWNERS ENDORSEMENT: BP 05 11 01 02 (N/A to Standard Fire Policy States)
 BUSINESSOWNERS ENDORSEMENT: BP 05 12 02 (Applies in Standard Fire Policy States)
 BUSINESSOWNERS ENDORSEMENT: BP 05 13 01 02
 FARM LIABILITY ENDORSEMENT: FL 10 30 01 02

In an unprecedented move in recognition of the seriousness of the situation, ISO has indicated that it will permit the use of its copyrighted language by any insurer, including one that is not a current licensee of ISO for policy forms. Insurers that are current licensees of ISO for policy forms can use the new language pursuant to their current ISO agreements and approval by the District of its forms. If you are properly affiliated with ISO, and have given them authorization to file on your behalf, no further action is needed on your part.

Any insurer that does not have a license agreement in effect with ISO for policy forms is required to execute a short, limited license agreement that authorizes the use of the new language. ISO has indicated that there will be no fee for this limited license. You may contact ISO's Customer Service department directly for more information at 1-800-888-4ISO(4476) using option 2. You may also contact ISO at "info@ISO.com." You will be responsible for assuring compliance with the District's filing requirements. However, you may find that the expedited approval process outlined in this bulletin to be helpful in receiving prompt approval of your filing.

Explanation and Instructions for Expedited Review

The policy exclusions filed by ISO and approved by the District have some significant limitations that provide coverage for acts of terrorism under certain circumstances. For policies providing property insurance coverage the following limitations apply:

- Exclusion for acts of terrorism only apply if the acts of terrorism result in industry-wide insured losses that exceed \$25,000,000 for related incidents that occur within a 72 hour period;
- Exclusions for acts of terrorism are not subject to the limitations above if:
 - The act involves the use, release or escape of nuclear materials, or the act directly or indirectly results in nuclear reaction or radiation or radioactive contamination;
 - The act is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
 - Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

For policies providing liability insurance coverage the following limitations apply:

- Exclusion for acts of terrorism only apply if the acts of terrorism result in industry-wide insured losses that exceed \$25,000,000 for related incidents that occur within a 72 hour period; or
- Fifty or more persons sustain death or serious physical injury. For purposes of this provision serious physical injury means:
 - Physical injury that involves a substantial risk of death;
 - Protracted and obvious physical disfigurement; or
 - Protracted loss of or impairment of the function of a bodily member or organ.
- Exclusions for acts of terrorism are not subject to limitations above if;
 - The act involves the use, release or escape of nuclear materials, or the act directly or indirectly results in nuclear reaction or radiation or radioactive contamination;
 - The act is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
 - Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

The District will accept the following definition of acts of terrorism or definitions that are more liberal to policyholders:

Terrorism means activities against persons, organizations or property of any nature:

1. That involve the following or preparation for the following:
 - a. Use or threat of force or violence; or
 - b. Commission or threat of a dangerous act; or
 - c. Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
2. When one or both of the following applies:
 - a. The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
 - b. It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or to express opposition to) a philosophy or ideology.

For an insurer to receive expedited approval of its exclusions for commercial lines insurance coverages, the exclusionary endorsements must comply with the terms and conditions set forth in this bulletin and be submitted in accordance with the instructions specified below. Further, you must certify that you are either using the ISO endorsements or using an endorsement that provides coverage at least as broad as the approved ISO endorsements.

Forms with Instructions

Attached to this bulletin is a uniform filing transmittal form that has been agreed upon by the District and other states. An insurer wishing to receive expedited treatment of its filing for approval shall complete the EXPEDITED FILING—TERRORIST EXCLUSIONS APPLICATION Form Filing Transmittal as directed. In addition, the insurer(s) submitting this filing must certify that it is either using one or more of the ISO endorsements or has developed its own exclusionary language that provides coverage at least as broad as the approved ISO endorsement with respect to coverage granted to policyholders. Further, the insurer(s) must certify that the reason for seeking approval of these endorsements is that it is unable to obtain reinsurance coverage for acts of terrorism. Certification is made by signing the appropriate blank on the transmittal form.

To be complete, a form filing must include the following:

1. A completed, certified Form Filing Transmittal Header for each insurer
2. One copy of each endorsement, unless you have given ISO authorization to file them on your behalf.
3. A postage-paid, self-addressed envelope **large enough to accommodate the return**. Note that a comparable filing transmittal form is available in SERFF.

If this filing is for multiple companies, please provide a copy of the transmittal header for each company and an extra copy for return to the company. (i.e. 7 companies = 8 copies)

Effective Date

This bulletin shall take immediate effect.

EXPEDITED FILING— COMMERCIAL LINES TERRORIST EXCLUSIONS APPLICATION

Ed. 12/21/01

This page applies to the following state(s) _____

Department Use only

Company Name(s)	Domicile	NAIC #	FEIN #

Contact Info for Filer

Name and address of Filer(s)	Telephone #	FAX #	e-mail

Filing information

Line of Insurance (see attachment)	
Company Program Title (Marketing title) (if applicable)	
Filing Type ** see note below	
This application is used with:	
Effective Date Requested	
Filing date	
Company Tracking Number	
Date filing approved in domiciliary state	

	Component/Form Name /Description/Synopsis	Form #) Include edition date	Replacement Or withdrawn?	If replacement, give form # it replaces	Previous State Filing Number, if required by state
01			<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input type="checkbox"/> Neither		
02			<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input type="checkbox"/> Neither		

To be complete, a form filing must include the following:

- A completed Form Filing Transmittal Header for each insurer
- One copy of each endorsement, unless you have given ISO authorization to file them on your behalf.
- The appropriate filing fees, if required
- A postage-paid, self-addressed envelope **large enough to accommodate the return.**

The insurer(s) submitting this filing certifies that it is:

Using one of the approved ISO endorsements; or

Using an endorsement that provides coverage that is at least as broad as the ISO endorsements.

That it is unable to obtain reinsurance coverage for acts of terrorism.

Signature

Print Name:

Title:

COMPLETED SAMPLE FORM

EXPEDITED FILING—COMMERCIAL LINES TERRORIST EXCLUSIONS APPLICATION

Ed. 12/21/01

This page applies to the following state(s) _____

Department Use only

Company Name(s)	Domicile	NAIC #	FEIN #
ABC Insurance Company	NY	0000-99999	99-1234567

Contact Information for Filer

Name and address of Filer(s)	Telephone #	FAX #	e-mail
John Doe (Form Filing) Regulatory Compliance ABC Insurance Co. 12345 Fifth Ave New York, NY 10234	501-555-5555	501-555-5551	John.doe@abcins.com

Filing information

Line of Insurance (see attachment)	Commercial General Liability
Company Program Title (Marketing title) (if applicable)	General Liability Program
Filing Type ** see note below	Form (Endorsement)
This application is used with:	(Insert policy form number to which the application attaches)
Effective Date Requested	01-01-02 (Enter your desired effective date)
Filing date	(Date Company sends filing)
Company Tracking Number	ABC-EP-2001-01 (Enter your filing tracking number, if applicable)
Date filing approved in domiciliary state	Not approved yet. Filed on same date as this filing.

	<u>Component/Form Name</u> <u>/Description/Synopsis</u>	Form #) Include edition date	Replacement Or withdrawn?	If replacement, give form # it replaces	Previous State Filing Number, if required by state
01	War or Terrorism Exclusion	CG 21 69 01 02	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
02			<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input type="checkbox"/> Neither		

To be complete, a form filing must include the following:

- A completed Form Filing Transmittal Header for each insurer
- One copy of each endorsement, unless you have given ISO authorization to file them on your behalf.
- The appropriate filing fees, if required
- A postage-paid, self-addressed envelope **large enough to accommodate the return.**

The insurer(s) submitting this filing certifies that it is:

- Using one of the approved ISO endorsements; or
- Using an endorsement that provides coverage that is at least as broad as the ISO endorsements; and
- That it is unable to obtain reinsurance coverage for acts of terrorism.

Signature

Print Name:

Title:

