



October 19, 2020

VIA SERFF

The Honorable Trinidad Navarro
Insurance Commissioner
Department of Insurance
State of Delaware
1351 West North Street, Suite 101
Dover, DE 19004

Attention: Harding Drane, Deputy Insurance Commissioner

**RE: DCRB Filing No. 2011 – Proposed Effective January 1, 2021
Proposed Amended Effective Date to the Terrorism Risk Insurance Program
Reauthorization Disclosure Endorsement and Revisions to the related Rules in the
Basic Manual**

Dear Commissioner Navarro and Deputy Commissioner Drane:

The Delaware Department of Insurance approved DCRB Filing 2003 to be effective January 1, 2021 with respect to new and renewal policies. On behalf of the members of the Delaware Compensation Rating Bureau (DCRB), this submission proposes an effective date amendment that will clarify the availability of the Terrorism Risk Insurance Program Reauthorization Disclosure Endorsement (WC 00 04 22 C) for use on any in-force policy in effect on or after January 1, 2021.

This amended effective date will fulfill the policyholder disclosure requirements for the federal share of reimbursement for eligible insured losses as provided in the Terrorism Risk Insurance Act of 2002 and subsequent amendments which include the Terrorism Risk Insurance Program Reauthorization Act of 2019. This submission only proposes a change to the effective date for the Terrorism Risk Insurance Program Reauthorization Disclosure Endorsement (WC 00 04 22 C). There is no change to the endorsement language for WC 00 04 22 C; no change to the withdrawal effective date of the Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Act of 2015 (WC 00 01 15); and no change to the effective date of the Catastrophe (Other than Certified Acts of Terrorism) Premium Endorsement (WC 00 04 21 E).

The proposed effective date amendment is intended to maintain Delaware's standard workers compensation insurance policy language and forms in conformance and alignment with countrywide usage. The attached NCCI Item P-1417(A) provides additional insight for the countrywide proposals.

Thank you in advance for your review and attention to this filing. The DCRB is pleased to answer any questions that you or the Department of Insurance Staff may have regarding these proposals.

Sincerely,

William V. Taylor
President

**DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND
RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE**

Proposed Effective January 1, 2021

SECTION 3

ENDORSEMENTS

EXHIBIT 3

Workers Compensation and Employers Liability Insurance Policy

WC 00 04 22 C

TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT DISCLOSURE ENDORSEMENT

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 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 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, 2021, and ending on December 31, 2027, an amount equal to 20% of our direct earned premiums, during the calendar year immediately preceding calendar year.

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.

DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE

Proposed Effective January 1, 2021

SECTION 3

ENDORSEMENTS

EXHIBIT 3

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 :
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.

State	Schedule Rate	Premium
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FILING MEMORANDUM

ITEM P-1417(A)—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2019 ENDORSEMENTS (AMENDED EFFECTIVE DATE)

AMENDED EFFECTIVE DATE

The effective date of the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 C) in Item P-1417 is revised as follows:

In all states except Hawaii, this item is to become effective for:

- New and renewal policies with effective dates on and after 12:01 a.m. on January 1, 2021
- Any in-force policy in effect on and after January 1, 2021

The above-referenced endorsement in Item P-1417 was approved in NCCI jurisdictions for new and renewal policies effective on and after 12:01 a.m. on January 1, 2021. NCCI is clarifying that the endorsement also is available for use on any in-force policy in effect on and after January 1, 2021. Upon approval of Item P-1417(A), the endorsement will continue to fulfill the policyholder disclosure requirements for the federal share of reimbursement for eligible Insured Losses as provided in the Terrorism Risk Insurance Act of 2002 and subsequent amendments, including the Terrorism Risk Insurance Program Reauthorization Act of 2019.

The only change proposed in Item P-1417(A) is the effective date for WC 00 04 22 C as revised in the effective date language shown in the Implementation Summary of the Filing Memorandum. The remainder of the Filing Memorandum, shown below, remains unchanged. The approved endorsement exhibit(s) in Item P-1417 also are unchanged and are attached for informational purposes only.

Original P-1417 Filing Memorandum is shown below. Changes were made only to the Implementation Summary to show the revised effective date.

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.

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FILING MEMORANDUM

ITEM P-1417(A)—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2019 ENDORSEMENTS (AMENDED EFFECTIVE DATE)

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.
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.

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FILING MEMORANDUM

ITEM P-1417(A)—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF
 2019 ENDORSEMENTS (AMENDED EFFECTIVE DATE)

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 	<p>In all states except Hawaii, this item is to become effective for:</p> <ul style="list-style-type: none"> <u>New and renewal policies with effective dates on and after 12:01 a.m. on January 1, 2021</u> <u>Any in-force policy in effect on and after January 1, 2021</u> <p>In Hawaii, the effective date is determined upon regulatory approval of the individual carrier's election to adopt this change.</p>
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. 	
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 	

The enclosed materials are copyrighted materials of the National Council on Compensation Insurance, Inc. ("NCCI"). The use of these materials may be governed by a separate contractual agreement between NCCI and its licensees such as an affiliation agreement between you and NCCI. Unless permitted by NCCI, you may not copy, create derivative works (by way of example, create or supplement your own works, databases, software, publications, manuals, or other materials), display, perform, or use the materials, in whole or in part, in any media. Such actions taken by you, or by your direction, may be in violation of federal copyright and other commercial laws. NCCI does not permit or acquiesce such use of its materials. In the event such use is contemplated or desired, please contact NCCI's Legal Department for permission.

Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement

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 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 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, 2021, and ending on December 31, 2027, an amount equal to 20% of our direct earned premiums during the immediately preceding calendar year.

(Ed. 01-2021)

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.
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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This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Insured	Policy No.	Endorsement No. Premium
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Insurance Company	Countersigned by _____
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Catastrophe (Other Than Certified Acts of Terrorism) Premium Endorsement

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 C), 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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This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Date	Policy No.	Endorsement No.
Insured		Premium

Insurance Company _____ Countersigned by _____