



**DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE**

788 Fairview Drive, Suite 300
Carson City, Nevada 89701-5491
(775) 687-4270 • Fax (775) 687-3937
Internet Address: doi.state.nv.us
E-mail: insinfo@doi.state.nv.us

Bulletin No. 04-004

September 6, 2004

**UNCERTAINTY RELATED TO EXPIRATION OF THE TERRORISM RISK
INSURANCE ACT OF 2002, EXCLUSIONS RELATED TO ACTS OF TERRORISM**

Background

The Terrorism Risk Insurance Act of 2002 (TRIA), was adopted by Congress to provide a temporary federal shared loss program for incurred losses resulting from certain acts of terrorism to protect American businesses by minimizing market disruptions and ensuring the widespread availability and affordability of property and casualty insurance for terrorism risk. Recently, there has been uncertainty in the markets for commercial lines property and casualty insurance coverage because of the pending expiration of TRIA. While TRIA's December 31, 2005 expiration date appears to be in the distant future, insurers will be called upon to make decisions about commercial insurance coverage later this year.

The commercial insurance business cycle operates in such a way that insurers and their policyholders will be required to make decisions as early as September of this year that will affect coverage well into 2006. Annual policy renewals with effective dates of January 1, 2005, or later, will have to contemplate no federal backstop for any losses in 2006. For this reason, regulators expect that insurers and advisory organizations will file conditional exclusions for terrorism coverage and will attach them to renewal policies on a widespread basis.

This places insurers, businesses, and regulators in the same situation we encountered in the aftermath of September 11th and which, in large part, prompted TRIA's enactment. Once again, insurance regulators find themselves having to consider approval of certain coverage limitations for acts of terrorism or risk possible serious solvency concerns in the insurance industry.

The intent of this bulletin is to inform you of the decision in Nevada to approve certain conditional coverage limitations for acts of terrorism, to put insurers on notice that determination of certain contractual thresholds is subject to disclosure and review by this office, 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 agreed that the conditional endorsement approach, while not providing a perfect solution, offers the best hope for adding some certainty to address TRIA's hard ending should Congress fail to enact an extension of TRIA. 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 along with consumers' concerns that their businesses not be subject to uninsured events.

Instead of approving the very broad total exclusions of coverage for acts of terrorism, Nevada intends to grant approval to conditional coverage limitations that are substantially similar to those described in the following pages.

Explanation and Instructions for Expedited Review

The coverage limitations that will be approved by Nevada have some significant limitations; however, they continue to 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 million for related incidents that occur within a 72-hour period;
- Exclusions for acts of terrorism are not subject to limitations above if:
 - The act involves the use, release, or escape of nuclear materials, or that 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 million 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 that 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.

Nevada 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.

Nevada will allow insurers and advisory organizations to submit and receive approval for conditional endorsements. These conditional endorsements would only apply if Congress fails to enact an extension to TRIA or enacts changes to TRIA that substantially change the risk of loss that an insurer or policyholder has assumed.

For an insurer or advisory organization 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, insurers must certify that they are filing endorsements that provide coverage at least as broad as described in this bulletin.

Insurers should be aware that although policy form language will provide that the insurer is to make a determination regarding when any of the thresholds described in this bulletin have been reached for purposes of settling a claim, insurers should be ready to substantiate any decision made to deny benefits to a claimant. Pursuant to the provisions of Nevada Revised Statutes (NRS) 679B.230, the commissioner shall, as often as he deems advisable, examine the affairs, transactions, accounts, records, and assets of each authorized insurer.

Forms with Instructions

Attached to this bulletin is a uniform filing transmittal form that has been agreed upon by Nevada and other states. A filer wishing to receive expedited treatment of its filing shall complete the EXPEDITED FILING—TERRORIST EXCLUSIONS APPLICATION Form Filing Transmittal as directed. In addition, the filer submitting this filing must certify that the

endorsements filed provide coverage at least as broad as described in this bulletin. 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.
3. The appropriate filing fees (\$10 for each endorsement/form).
4. A postage-paid, self-addressed envelope **large enough to accommodate the return.**
Note that a comparable filing transmittal form is available through SERFF.

If this filing is for multiple companies, please list each company under "Company Name" and provide an extra copy for return to the company.

Effective Date

This bulletin shall take immediate effect and shall expire on Dec. 31, 2005, unless Congress acts to extend or modify TRIA.


ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

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COMPLETED SAMPLE FORM

EXPEDITED FILING—COMMERCIAL LINES TERRORIST EXCLUSIONS APPLICATION

Ed. 6/1/04

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	08-01-04 (Enter your desired effective date)
Filing date	(Date Company sends filing)
Company Tracking Number	ABC-EP-2004-01 (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	Conditional Terrorism Coverage Limitation Endorsement	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.
- 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 endorsements that provide coverage that is at least as broad as described in the bulletin.

Signature

Print Name:

Title:



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NOTICE

April 11, 2003

PRODUCERS CALLED TO MILITARY SERVICE
OPERATION IRAQI FREEDOM

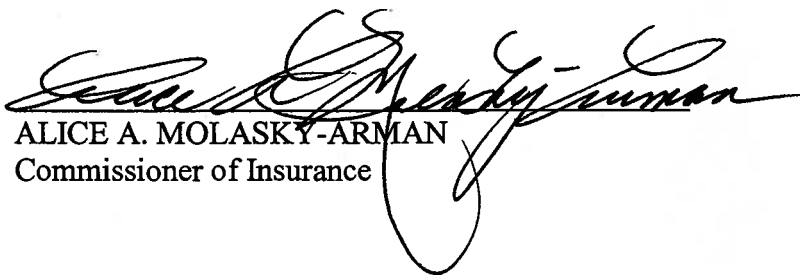
With the activation of United States military personnel for service both overseas and to protect our homeland, the Department of Business and Industry, Division of Insurance (Division), recognizes that there are concerns regarding military personnel who hold insurance licenses. We are aware that some producers may be unable to fulfill certain licensing renewal requirements, especially continuing education requirements. In order to avoid imposing additional burdens and hardships on those who have been called upon to serve their country, I have granted a waiver of insurance continuing education requirements and license renewal requirements, including fees, and the waiver of any fine or sanction for failure to comply with renewal procedures during the time in which a producer is called to active military service. I recognize that waiving such requirements will enable these individuals to immediately return to work and support their families.

I am requesting the assistance of every insurer to notify its appointed producers that these waivers exist. The Division is requesting that all affected individuals notify our producer licensing section upon their return home and provide a copy of their activation order for our files.

Because the Division is not notified in advance of the activation of military personnel, some non-resident licensees may receive notices of suspension. The records will be corrected upon notice and proof of activation.

I am also requesting that insurers file rules to consider and to give special accommodations for insureds serving in the military for Operation Iraqi Freedom. Some of the types of insurance affected are automobile, medical malpractice, life and health. These rules should establish programs for transactions such as premium reductions, deferments, suspension

of coverage, or other possible accommodations. An example is attached. The Division will compile a list of companies that offer such programs, and this will be made available upon request from the insureds' agents by calling the Division. The telephone numbers are: in Carson City (775) 687-4270; in Las Vegas, (702) 486-4009; or toll free anywhere in Nevada, 1-800-992-0900, extension 4270 for Carson City, and extension 4009 for Las Vegas.



ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

Attachment

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United States Military Call-Up

Handling of Military "Call Up" to Active Duty

This document summarizes the position of active, non-active and reserve military personnel called to active duty overseas. The following customer options should be made available to all distribution channels. We want to be very supportive of our customers who are armed services personnel called for active duty.

Background

Due to the recent tragedies and potential for worldwide dispersion of military personnel, clarification of the circumstances where policyholders are considering deletion of drivers, suspension of coverage's, suspending vehicles and/ or termination of policies is needed. We want all of our producers to have knowledge of these options.

Common and Likely Scenarios

This document attempts to identify some of the possible scenarios that customers might face in the event they are called into active military duty. *It is our intent to leave the decision up to the policyholder's discretion within the scenario that applies.* These scenarios assume that vehicle ownership is retained. (Note: if liability insurance is terminated but the license plates are not suspended with the Department of Motor Vehicles, the insured may be subject to a fine of \$250 per vehicle. We want to operate in a manner that avoids such a fine for our insureds.

- **Single or Multi Item when the policy has a single (one) operator**
 - No changes to the policy
 - Suspend coverages (except Comprehensive) provided the item(s) previously had Comprehensive Coverage
 - Terminate the policy (if liability only)

- **Single or Multi Item when the policy has multiple operators**
 - No changes to Policy
 - Remove an operator and re-rate as appropriate
 - Suspend coverages on unused item(s)

- **Single or Multi Item when there is one licensed operator who is called to military duty (provided remaining spouse is not licensed)**
 - No changes to the policy
 - Suspend coverages (except Comprehensive) provided the item(s) previously had Comprehensive Coverage
 - Terminate policy

- **Single or Multi Item when the remaining additional operator is not the principle owner**
 - Terminate policy

In all of the above scenarios, we would recommend the possibility of installment payments (if applicable) or credit card payment as a customer convenience.

Reactivation of Coverage's/ Operators/ Policy

□ Coverage(s)

Upon customer notification of return, coverages that were previously suspended are removed from suspense via policy endorsement. This restores the policy to its pre-endorsement status for coverage purposes.

□ Operator(s)

Upon notification of return, operator(s) that were previously removed from the policy are re-added via policy endorsement. This restores the policy to its pre-endorsement status for coverage purposes.

□ Policies

Upon customer notification of return, policies that were terminated can be reinstated. This restores the policy to its status prior to termination (subject to interim rules & rate changes). This action will reactivate the policy without a lapse, and a credit endorsement will be applied to the policy to account for the time the policy was terminated.

Note: This procedure may need to be subsequently evaluated based upon events and changes that are not known at this time. This would include, but not be limited to, documentation and verification.

Military Call up handling process for Late Payments

We are prepared to reinstate policies for Military Call Ups for active, nonactive and reserve military personnel called to active duty overseas! The agents will have to provide a narrative indicating that the customer was called to active duty and will need to retain documentation in their agency to support that the insured is in an area overseas where mail time is unfavorably impacted. At that point, we will reinstate coverage.

Additionally, we have provided three examples below for active policies and how to handle processing.

Reactivation of Coverage's/Operators

- 1. Military Insured on parent's policy without car.** The parents can remove him from the policy. Upon return, add him back as an operator.
- 2. Military Insured on parent's policy with car.**
 - a. The Military Insured can be removed from policy, but the car stays on and parent's pay premium, because the car may be used by them. Add the operator upon return.
 - b. Military Insured is removed and the coverages on the car are suspended. This supposes that the car will not be used by the parents and also covers the situation if the car is sold.

3. Military Insured on Own Policy

- a. Single Person, Single Car. There are two choices:
 - (1) Keep the insurance in effect, premiums are paid.
 - (2) Suspend coverages or cancel / term policy. This assumes that the car will not be used by anyone while the serviceman is away or the car is sold.
- b. Married Person, Single Car. Keep the insurance in effect because the spouse will use the auto.
- c. Married Person, Multi Car. Two choices:
 - (1) Keep the insurance in effect on all autos.
 - (2) Suspend the coverages or remove the auto not being used, also remove the military person from the policy until they return. This assumes that the vehicle is not being used until the serviceman's return.

Reinstatement

The reinstatement of policies for our military customers is intended for active, non-active and reserve military personnel called to active duty overseas. It is not intended for customers who simply missed their premium payment and terminated for non-payment of premium. Keep in mind that we can provide special billing options that our agencies may utilize in these situations, which should be discussed with our customers whenever possible.

- Upon customer notification of return, policies that were terminated can be reactivated. This restores the policy to its status prior to termination (subject to interim rules and rate changes). **If this option is selected, a credit endorsement will be applied to the policy to account for the time the policy was terminated. This procedure may need to be subsequently evaluated based upon events and changes that are not known at this time. This would include, but not be limited to, documentation and verification.**

This document is intended to cover the most common scenarios. If you have any questions regarding these scenarios or other questions regarding the handling of military customers called to active duty outside of these scenarios, please contact us. Again, we want to be very supportive of our customers who are armed services personnel called for active duty.

H://staff/shared/United States Armed Service Call Up