



Tony Knowles, Governor

**Department of Community
and Economic Development**

Division of Insurance

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BULLETIN B 01-15

**TO: ALL PROPERTY AND CASUALTY INSURERS WRITING
COMMERCIAL LINES INSURANCE PRODUCTS AND OTHER
INTERESTED PARTIES**

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

FROM: Bob Lohr, Director

Background

There has been considerable uncertainty in the markets for commercial lines property and casualty insurance coverage in light of the substantial losses experienced by the industry on September 11, 2001. Soon after those events, many reinsurers announced that they did not intend to 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 temporary federal backstop to calm market fears over future terrorist attacks and the ability of the insurance industry to allocate capital to provide coverage for these unpredictable and potentially catastrophic events. To date, Congress has not reached agreement on the terms of a temporary federal solution. As a result, insurance regulators find themselves having to consider approval of certain coverage exclusions for acts of terrorism or risk possible serious solvency concerns in the insurance industry.

This bulletin is to inform you that the Alaska Division of Insurance has decided to approve certain limited exclusions for acts of terrorism and to provide a voluntary procedure to expedite the filing and timely review of these limited exclusions. As director, I was involved in discussions at the National Association of Insurance Commissioners (NAIC) related to this issue. In a recent conference call the members of the NAIC adopted my 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withdrawn 15 business days after the President signs into law a federal backstop to address insurance losses attributed to acts of terrorism, or be subject to other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. 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.

To date, many unacceptable exclusions have been filed by insurers to be attached to commercial lines insurance products. These endorsements will be disapproved for use in Alaska under AS 21.42.130 as they are ambiguous and include conditions that deceptively affect the risk purported to be assumed in the general coverage of the contract.

Instead of approving the very broad total exclusions of coverage for acts of terrorism, Alaska intends to grant approval to exclusions that are substantially similar to the series of optional endorsements developed by the Insurance Services Office, Inc. (ISO). **The exclusions will be given contingent approval. The approval will be automatically withdrawn 15 business days after the effective date of federal legislation that addresses insurance losses attributed to acts of terrorism.** The ISO endorsements include the following:

COMMERCIAL PROPERTY INTERLINE ENDORSEMENT: IL 09 41 01 02
COMMERCIAL GENERAL LIABILITY ENDORSEMENT: CG 21 69 01 02
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
BUSINESSOWNERS ENDORSEMENT: BP 05 13 01 02
FARM LIABILITY ENDORSEMENT: FL 10 30 01 02

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. **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 must execute a short, limited license agreement that authorizes the use of the exclusions listed above. ISO has stated 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 Alaska's filing requirements. 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 to be Used by Insurers Who Have Not

Previously Given ISO the Authority to File Forms on Their Behalf

The policy exclusions filed by ISO that have been given contingent approval by Alaska 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 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 \$25,000,000 for related incidents that occur within a 72-hour period; or
- If fifty or more persons sustain death or serious physical injury; for purposes of this limitation, 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 the 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.

Consistent with the ISO endorsements, Alaska will accept the following definition of "terrorism."

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 contingent approval of its exclusions for commercial lines insurance coverages, the exclusionary endorsements must comply with the terms and conditions set forth in this bulletin, be submitted in accordance with the instructions specified below, and the insurer must certify that it is using the ISO endorsements.

Forms with Instructions

Attached to this bulletin is a uniform filing transmittal form that has been agreed upon by Alaska and other states. An insurer that has not previously given ISO authority to file forms on its behalf and that wishes to receive expedited treatment of its filing for approval under AS 21.42.120 shall complete the EXPEDITED FILING—TERRORIST EXCLUSIONS APPLICATION Form Filing Transmittal as directed. In addition, the insurer submitting this filing must certify that it is using one or more of the ISO endorsements. Further, the insurer 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 on the appropriate line at the bottom of 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 the insurer has given ISO authorization to file them on the insurer's behalf; and
3. a postage-paid, self-addressed envelope **large enough to accommodate the return.**

Please note that a comparable filing transmittal form is available in SERFF.

If this filing is for multiple companies, please provide one copy of the transmittal header listing all companies to which the filing applies **and** an extra copy for return to the company. Please add an additional sheet if more room is needed to list all companies.

This bulletin takes effect December 31, 2001.

Dated this 31st day of December, 2001.



Robert A. Lohr
Director

**EXPEDITED FILING— COMMERCIAL LINES TERRORIST EXCLUSIONS
APPLICATION**

This page applies to the following state(s) _____

Department Use only

Company Name(s)	Domicile	NAIC #	FEI
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Contact Information for Filer

Name and address of Filer(s)	Telephone #	FAX #	e-m
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Filing information

Line of Insurance (see attachment)

Company Program Title (Marketing title) (if applicable)

Filing Type

This application is used with:

Effective Date Requested

Filing date

Company Tracking Number

Date filing approved in domiciliary state

<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		<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 submitting this filing certifies:

- *It is using one of the approved ISO endorsements;*
- *It agrees that the exclusions will be given contingent approval, which will be automatically withdrawn 15 business days after the effective date of federal legislation that addresses insurance losses attributed to acts of terrorism; and*
- *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**

This page applies to the following state(s) _____

Department Use only

Company Name(s)	Domicile	NAIC #	FEI
ABC Insurance Company	NY	0000-99999	99-123

Contact Information for Filer

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

Filing information

Line of Insurance (see attachment)	Commercial General Liability
Company Program Title (Marketing title) (if applicable)	General Liability Program
Filing Type	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 #)	Replacement	If replacement,	Previous State
		Include edition date	Or withdrawn?	give form #	Filing Number,
				it replaces	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*
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- *It is using one of the approved ISO endorsements;*
- *It agrees that the exclusions will be given contingent approval, which will be automatically withdrawn 15 business days after the effective date of federal legislation that addresses insurance losses attributed to acts of terrorism; and*
- *It is unable to obtain reinsurance coverage for acts of terrorism.*

Signature

Print Name:

Title: