

MODEL BULLETIN

TO: ALL PROPERTY AND CASUALTY INSURERS WRITING
COMMERCIAL LINES INSURANCE PRODUCTS
ALL INSURERS ON THE NAIC QUARTERLY
LISTING OF ALIEN INSURERS

RE: FILING PROCEDURES FOR COMPLIANCE
WITH THE PROVISIONS OF THE TERRORISM RISK INSURANCE PROGRAM
REAUTHORIZATION ACT OF 2015

FROM: [Insert name and title]

DRAFTING NOTE: This bulletin was drafted to expedite the delivery of a common message to insurers related to implementation issues that have developed as a result of the extension of the Terrorism Risk Insurance Act. The basic bulletin recognizes that jurisdictions have allowed some coverage limitations related to non-certified acts of terrorism that are affected by the reauthorization of the Act. A few jurisdictions have not generally allowed coverage limitations related to other acts of terrorism. Each state needs to review the provisions of the bulletin as they relate to the Act and to existing state regulatory requirements and determine which of its provisions relate to their specific situation. Please note that states might wish to distinguish between filing requirements that apply to admitted insurers and those applicable to surplus lines insurers.

The purpose of this bulletin is to advise you of certain provisions of the Terrorism Risk Insurance Program Reauthorization Act of 2015 amending and extending the Terrorism Risk Insurance Act of 2002 (the Act) by reauthorization, which may require insurers to submit a filing in this state of disclosure notices, policy language, and applicable rates as the result of the Act. For further details related to the Act, please consult the Act itself.

Background

Uncertainty in the markets for commercial lines property and casualty insurance coverage following the substantial loss of lives and property experienced on September 11, 2001. Soon after these tragic events, many reinsurers announced that they would no longer 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 federal backstop to facilitate the ability of the insurance industry to continue to provide coverage for these unpredictable and potentially catastrophic events. As a result, Congress enacted and the President signed into law in November 2002, the Terrorism Risk Insurance Act of 2002. This federal law provided a federal backstop for defined acts of terrorism and imposed certain obligations on insurers. The Act was extended for a two-year period covering Program Years 2006 and 2007, and an additional seven years through December 31, 2014 with the enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007. The Act has now been extended again with the enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2015.

The reauthorized Act as amended and extended included several changes including:

- x Extending the program through December 31, 2020.
- x Fixing the Insurer Deductible at 20% of an insurer's direct earned premium of the preceding calendar year and a federal share of compensation at 85% of insured losses that exceed insurer deductibles until January 1, 2016, at which

DRAFTING NOTE: In past bulletins, some states included language similar to what is in the following paragraph concerning non-certified acts. Your state may wish to evaluate whether such language is needed.

This state will not allow exclusions of coverage for acts of terrorism that fail to be certified losses solely because they fall below the \$5,000,000 threshold in Section 102(1)(B) on any policy that provides coverage for acts of terrorism that fail to be certified. Insurers required to file policy forms may submit language containing coverage limitations for certified losses that exceed \$100 billion in the aggregate.

Insurers subject to policy form regulation must submit the policy language that they intend to use in this state. The policy should define acts of terrorism in ways that are consistent with the Act, as amended, state law and the guidance provided in this bulletin. The definitions, terms and conditions should be complete and accurately describe the coverage that will be provided in the policy. Insurers may conclude that current filings are in compliance with the Act, as amended, state law and the requirements of this bulletin.

DRAFTING NOTE: Additional filings may be necessary under state law.

A change introduced in the Terrorism Risk Insurance Program Reauthorization Act of 2007 requires disclosure requirement for any policy issued after the enactment of the Act. Specifically, in addition to other disclosure requirements previously contained in TRIA, insurers since 2007 have had to provide clear and conspicuous disclosure to the policyholder of the existence of the \$100 million cap under Section 102(2), at the time of offer, purchase and renewal of the policy.

The [insert applicable term: commissioner, director, superintendent, insurance administrator] requests that the disclosure notices be filed for informational purposes, along with the policy forms, rates and rating systems as they are an integral part of the process for notification of policyholders in this state and should be clear and not misleading to business insurers in this state. The disclosures should comply with the requirements of the Act, as amended, and should be consistent with the policy language and rates filed by the insurer.

DRAFTING NOTE: Your state may require disclosure notices be filed as a policy form, and not for informational purposes. If so, the second to the last sentence should be modified to eliminate the reference to informational purposes.

Given that the provisions of the Terrorism Risk Insurance Program Reauthorization Act of 2007 are already in effect, and insurers and advisory organizations must accelerate filing activity in order to achieve compliance with the revised provision of TRIA, this state will permit insurers and advisory organizations to place new rates, policy forms and disclosure notices into immediate use without receiving prior approval from the [insert applicable term]

Reauthorization Act of 2015. The SERFF system alleviates the need to provide additional information in support of a request for expedited review although some states may have additional requirements.

For other states:

We encourage filers to take advantage of the SERFF system for submitting such filings. Filers should use the term "TRIA2015" in the product name field in SERFF to indicate a filing related to terrorism made in connection with the Terrorism Risk Insurance Program Reauth T93tw 22.771 0 Td (.). Tau-5(i)-5(o)-12(n)-12(w)5(A)-3(t)-5(i)-5t0A-5(i)r) nec .1.157>3

POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM
INSURANCE COVERAGE

You are hereby notified that under the Terrorism Risk Insurance Act, as amended, you have a right to purchase insurance coverage resulting from acts of terrorism. As defined in Section 102(1) of the Act, the term "act of terrorism" means any act or acts that are certified by the Secretary of the Treasury in consultation with the Secretary of Homeland Security and the Attorney General of the United States to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have caused damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a business; and to have been committed by an individual or individuals as part of an effort to coerce the population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

YOU SHOULD KNOW THAT WHERE COVERAGE IS PROVIDED BY THIS POLICY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM, SUCH LOSSES MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. HOWEVER, YOUR POLICY MAY CONTAIN OTHER EXCLUSIONS WHICH MIGHT AFFECT YOUR COVERAGE, SUCH AS AN EXCLUSION FOR NUCLEAR EVENTS. UNDER THE FORMULA, THE UNITED STATES GOVERNMENT GENERALLY REIMBURSES 85% THROUGH 2015; 84% BEGINNING ON JANUARY 1, 2016; 83% BEGINNING ON JANUARY 1, 2017; 82% BEGINNING ON JANUARY 1, 2018; 81% BEGINNING ON JANUARY 1, 2019 and 80% BEGINNING ON JANUARY 1, 2020, OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURANCE COMPANY PROVIDING THE COVERAGE. THE PREMIUM CHARGED FOR THIS COVERAGE IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS THAT MAY BE COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT.

POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM
INSURANCE COVERAGE

Coverage for acts of terrorism is included in your policy. You are hereby notified that under the Terrorism Risk Insurance Act, as amended in 2015, the definition of act of terrorism has changed. As defined in Section 102(1) of the Act: The term "act of terrorism" means any act or acts that are certified by the Secretary of the Treasury in consultation with the Secretary of Homeland Security and the Attorney General of the United States to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, the outside United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have 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. Under your coverage, any losses resulting from certified acts of terrorism may be partially reimbursed by the United States Government under a formula established by the Terrorism Risk Insurance Act, as amended. However, your policy may contain exclusions which might affect your coverage, such as an exclusion for nuclear events. Under the Act, the United States Government generally reimburses 85% through 2015; 84% beginning on January 1, 2016; 83% beginning on January 1, 2017; 82% beginning on January 1, 2018; 81% beginning on January 1, 2019 and 80% beginning on January 1, 2020. Covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The Terrorism Risk Insurance Act, as amended, contains a \$100 billion cap that limits U.S. Government reimbursement as well as insurers' liability for losses resulting from certified acts of terrorism when the amount of such losses exceeds \$100 billion any one calendar year. If the aggregate insured losses for all insurers exceed \$100 billion, your coverage may be reduced.

The portion of your annual premium that is attributable to coverage for acts of terrorism _____, and does not include any charges for the portion of losses covered by the United States government under the Act.

I ACKNOWLEDGE THAT I HAVE BEEN NOTIFIED THAT UNDER THE TERRORISM RISK INSURANCE ACT, AS AMENDED, ANY LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM UNDER MY POLICY COVERAGE MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT AND MAY BE SUBJECT TO A \$100 BILLION CAP THAT MAY REDUCE MY COVERAGE AND I HAVE BEEN NOTIFIED OF THE PORTION OF MY PREMIUM ATTRIBUTABLE TO SUCH COVERAGE.

Policyholder/Applicant's Signature

Print Name

Date

Name of Insurer: _____

Policy Number: _____

DRAFTING NOTE: An insurer may choose not to use the acknowledgement section for work purposes.

EXPEDITED SERFF FILING TRANSMITTAL DOCUMENT
FOR TERRORISM RISK INSURANCE FORMS AND PRICING

Indicate Type of Filing
<input type="checkbox"/> Filing Related to Certified Losses
<input type="checkbox"/> Filing Related to Non-Certified Losses
<input type="checkbox"/> Filing Applicable to Both Certified and Non-Certified Losses

This abbreviated filing transmittal document should be used in conjunction with a SERFF filing only.

To be complete, a filing must include the following:

- A completed Expedited SERFF Filing Transmittal Document.
- One copy of each endorsement, disclosure form and/or other policy language, unless the insurer has given an advisory organization authorization to file them on its behalf.
- A copy of the rates, rating systems and supporting documents, if applicable.
- The appropriate filing fees, if applicable

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

- Is in compliance with the terms of the Terrorism Risk Insurance Act, as amended, and/or the laws of this state; and
- Is in compliance with the requirements of the bulletin containing the voluntary expedited filing procedures.

Electronic Signature: [This would be replaced with a prompt for an Adobe electronic signature.]

