

SERFF Tracking Number: ARKS-125401876 State: Arkansas
Filing Company: 00006 - INSURANCE SERVICES OFFICE, INC. State Tracking Number: #104638 \$500
Company Tracking Number: BP 2007-OTRP1
TOI: 05.0 Commercial Multi-Peril - Liability & Non- Sub-TOI: 05.0002 Businessowners
Liability
Product Name: TRIA
Project Name/Number: /

Filing at a Glance

Company: 00006 - INSURANCE SERVICES OFFICE, INC.

Product Name: TRIA SERFF Tr Num: ARKS-125401876 State: Arkansas
TOI: 05.0 Commercial Multi-Peril - Liability & Non-Liability SERFF Status: Closed State Tr Num: #104638 \$500

Sub-TOI: 05.0002 Businessowners Co Tr Num: BP 2007-OTRP1 State Status: Fees verified and received

Filing Type: Form Co Status: Reviewer(s): Betty Montesi, Llyweyia Rawlins, Brittany Yielding

Author: Disposition Date: 12/28/2007

Date Submitted: 12/26/2007 Disposition Status: Filed

Effective Date Requested (New): Effective Date (New): 01/01/2008

Effective Date Requested (Renewal): Effective Date (Renewal): 01/01/2008

State Filing Description:

General Information

Project Name: Status of Filing in Domicile:
Project Number: Domicile Status Comments:
Reference Organization: Reference Number:
Reference Title: Advisory Org. Circular:
Filing Status Changed: 12/28/2007
State Status Changed: 12/28/2007 Deemer Date:
Corresponding Filing Tracking Number:
Filing Description:

Company and Contact

Filing Contact Information

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Liability
Product Name: TRIA
Project Name/Number: /

NA NA, NA@NA.com
NA (123) 555-4567 [Phone]
NA, AR 00000

Filing Company Information

00006 - INSURANCE SERVICES OFFICE, CoCode: 6 State of Domicile: Arkansas
INC.
No Address Group Code: Company Type:
City, AR 99999 Group Name: State ID Number:
(999) 999-9999 ext. [Phone] FEIN Number: 99-9999999

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Filing Fees

Fee Required? No
Retaliatory? No
Fee Explanation:
Per Company: No

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Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
Filed	Llyweyia Rawlins	12/28/2007	12/28/2007

SERFF Tracking Number: ARKS-125401876 State: Arkansas
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Disposition

Disposition Date: 12/28/2007

Effective Date (New): 01/01/2008

Effective Date (Renewal): 01/01/2008

Status: Filed

Comment:

Rate data does NOT apply to filing.

SERFF Tracking Number: ARKS-125401876 *State:* Arkansas
Filing Company: 00006 - INSURANCE SERVICES OFFICE, INC. *State Tracking Number:* #104638 \$500
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Rate Information

Rate data does NOT apply to filing.

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Liability
Product Name: TRIA
Project Name/Number: /

Supporting Document Schedules

Unsatisfied -Name: Uniform Transmittal Document-
Property & Casualty **Review Status:** Filed 12/28/2007

Comments:

Satisfied -Name: ARKS-125401876 **Review Status:** 12/31/2007

Comments:

Attachment:
ARKS-125401876.pdf

ARKS-125401876

LR

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2828 EAST TRINITY MILLS ROAD SUITE 150 CARROLLTON, TX 75006
TEL: (214) 390-1825 FAX: (214) 390-1975

December 21, 2007

Honorable Julie Benafield Bowman
Commissioner of Insurance
Arkansas Insurance Department
1200 West Third Street
Little Rock, Arkansas 72201-1904

Attention: William R. Lacy, Director
Property and Casualty Division

RE: Insurance Services Office, Inc.
BP 2007-OTRP1
Businessowners
Forms Relating to Certified Acts Revised in Response to Terrorism
Risk Insurance Program Reauthorization Act of 2007
State of Arkansas

RECEIVED

DEC 26 2007

PROPERTY AND CASUALTY DIVISION
ARKANSAS INSURANCE DEPARTMENT

~~Approved until withdrawn
or revoked~~

DEC 28 2007

Arkansas Insurance Department

By: *AK-acknowledged*
Filed

Dear Mr. Lacy:

On behalf of those participating insurers that have authorized ISO to do so, we hereby file the captioned revision. The purpose of this filing is to introduce changes necessary to bring ISO's forms into compliance with the Terrorism Risk Insurance Program Reauthorization Act of 2007.

This Act extends the federal Terrorism Risk Insurance Program (which was set to expire at the end of December 31, 2007) for a seven-year period, through December 31, 2014. Several other noteworthy changes in the Act include:

- Revision to the criteria for certification of an act to eliminate the requirement that the act be committed on behalf of a foreign person or foreign interest.
- Requirement to provide a clear and conspicuous disclosure of the \$100 billion cap on payments for insured losses, as well as a strengthening of that cap.
- Requirement that the Secretary of the Treasury develop regulations for determining the pro rata share of insured losses to be paid under the program when those insured losses exceed \$100 billion during any one program year.

Insurers are now faced with the task of overhauling policy administration systems to comply with the new requirements, including new policy language reflecting the revised definition of a certified act, additional disclosure requirements, and other issues. For this reason, we are proposing that this revision become effective in accordance with the following rule of application:

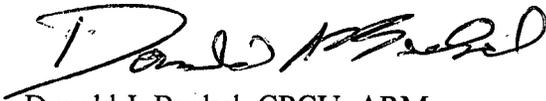
These changes are available for insurer use upon your approval.

To provide maximum flexibility to insurers in revising their policy administration systems, we propose that insurers are not required to advise you of the actual date on which they incorporate the attached into their workflow. This will avoid the need for unnecessary filings to delay effective dates, and takes into consideration the fact that insurers have varying system considerations and lead-time requirements.

It is very important that insurers have the tools contained in this filing available for use as soon as practicable. Your prompt approval of this critical filing is appreciated. Should you have any questions on the material contained herein, we would be happy to discuss them with you at your convenience.

Please return an acknowledged copy of this cover letter for our records. An addressed, stamped envelope is enclosed for your convenience.

Very truly yours,

A handwritten signature in black ink, appearing to read "Donald J. Beckel". The signature is written in a cursive style with a large initial "D".

Donald J. Beckel, CPCU, ARM
Assistant Regional Manager

DJB:db
Encl.

Arkansas Supplement To Revised Certified Acts Endorsements In Response To Terrorism Risk Insurance Program Reauthorization Act Of 2007

About This Filing

This filing revises Arkansas Exclusion Of Punitive Damages Related To A Certified Act Of Terrorism endorsement BP 05 43 in response to enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007.

Revised Forms

We are revising BP 05 43 01 03 Arkansas Exclusion Of Punitive Damages Related To A Certified Act Of Terrorism

We have used a format of ~~striking through~~ deletions, underlining additions and inserting a revision bar in the left margin to indicate changes from the above-referenced editions to the 01 08 editions. Concurrent with implementation, the 01 08 editions will supersede the prior editions.

Background

In multistate forms filing BP-2007-OTRP1, we revised certain terrorism endorsements in response to enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007, including Exclusion Of Punitive Damages Related To A Certified Act Of Terrorism endorsement BP 05 42. In Arkansas, endorsement BP 05 43 applies in lieu of multistate endorsement BP 05 42.

Explanation of Changes

We are revising Arkansas Exclusion Of Punitive Damages Related To A Certified Act Of Terrorism endorsement BP 05 43 to:

- ◆ Remove reference to the original enactment of TRIA, the Act "of 2002".
- ◆ Revise the definition of certified act of terrorism to:
 - Delete the text "acting on behalf of any foreign person or foreign interest", in line with the revision to Section 102(1)(A)(iv) of the Act.
 - Elaborate on the reference to aggregate losses, which are aggregate insured losses attributable to all types of insurance subject to TRIA.
- ◆ Remove reference to Businessowners Liability Coverage Form BP 00 06 since this form no longer applies in Arkansas.

Multistate Form Not Applicable

Multistate form, Exclusion Of Punitive Damages Related To A Certified Act Of Terrorism BP 05 42 submitted in filing BP-2007-OTRP1 is not applicable in Arkansas.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ARKANSAS EXCLUSION OF PUNITIVE DAMAGES RELATED TO A CERTIFIED ACT OF TERRORISM

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following provisions are added to the ~~Businessowners Liability Coverage Form BP 00 06 and Section II – Liability~~ of the Businessowners Coverage Form BP 00 03:

A. The following exclusion is added:

This insurance does not apply to:

TERRORISM PUNITIVE DAMAGES

Damages arising, directly or indirectly, out of a "certified act of terrorism" that are awarded as "punitive damages".

B. The following definition is added:

1. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002. ~~The criteria contained in the federal Terrorism Risk Insurance Act of 2002 sets forth the following criteria for a "certified act of terrorism" include the following:~~

a. The act resulted in insured aggregate losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and

b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals ~~acting on behalf of any foreign person or foreign interest,~~ 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.

2. "Punitive damages" means damages that may be imposed to punish a wrongdoer and to deter others from similar conduct.

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Forms Relating To Certified Acts Revised In Response To Terrorism Risk Insurance Program Reauthorization Act Of 2007

About This Filing

This filing revises certain terrorism endorsements, and withdraws others, in response to enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007.

Revised Forms

We are revising the following endorsements:

- ◆ **BP 05 15 01 06** Disclosure Pursuant To Terrorism Risk Insurance Act [**new edition is BP 05 15 01 08**]
- ◆ **BP 05 23 11 02** Cap On Losses From Certified Acts Of Terrorism [**new edition is BP 05 23 01 08**]
- ◆ **BP 05 24 12 02** Exclusion Of Certified Acts Of Terrorism [**revised title conforms to the new edition BP 05 24 01 08**]
- ◆ **BP 05 26 12 03** Exclusion Of Certified Acts Of Terrorism Involving Nuclear, Biological, Chemical Or Radiological Terrorism; Cap On Covered Certified Acts Losses [**revised title conforms to the new edition BP 05 26 01 08**]
- ◆ **BP 05 27 12 03** Limitation Of Coverage For Certified Acts Of Terrorism [**new edition is BP 05 27 01 08**]
- ◆ **BP 05 42 11 02** Exclusion Of Punitive Damages Related To A Certified Act Of Terrorism [**new edition is BP 05 42 01 08**]

We have used a format of ~~striking through~~ deletions, underlining additions and inserting a revision bar in the left margin to indicate changes from the current editions to the new editions. Concurrent with implementation, the new editions will supersede the prior editions.

Withdrawn Form

We are withdrawing endorsement **BP 05 25 12 02** Exclusion Of Certified Acts Of Terrorism

Related Filing(s)

Rules Filing BP-2007-RTRP1

Background

The Terrorism Risk Insurance Act (TRIA) of 2002 established a program (Terrorism Risk Insurance Program) within the Department of the Treasury, under which the federal government shares, with the insurance industry, the risk of loss from future terrorist attacks. Pursuant to Section 103(c) of the Act, all insurers providing insurance for applicable lines of business are required to participate in the program by making available coverage for insured losses resulting from an act of terrorism as defined by the Act (so-called certified acts coverage). The Terrorism Risk Insurance Program was extended for two years, until December 31, 2007, by the Terrorism Risk Insurance Extension Act of 2005, which incorporated various changes with respect to federal share of losses and affected lines of business. We responded in the past to each of these enactments, with filings of disclosure forms and various endorsements addressing the terrorism risk.

Current Environment

The federal Terrorism Risk Insurance Program has been revised and extended by the Terrorism Risk Insurance Program Reauthorization Act of 2007, which incorporates various changes to the Program. Certain changes, summarized as follows and recognized in the next section of this filing document, have an impact on ISO terrorism forms:

- ◆ Under Section 102(1)(A)(iv) of the Act, the definition of an act of terrorism (with respect to certification of such act) is revised by eliminating the criterion that the act be committed on behalf of a foreign person or foreign interest. As revised, the definition, in part, requires the act 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.
- ◆ Section 103(b)(3) of the Act requires disclosure of the existence of the \$100 billion cap on payments by insurers.

- ◆ Section 103(e)(2)(A) of the Act eliminates the provision asserting that Congress may take action to increase the \$100 billion cap in the event that insured losses exceed such cap; and Section 103(e)(2)(B) requires the Secretary of the Treasury to issue regulations for determining the pro rata share of insured losses to be paid under the Program (up to \$100 billion) when insured losses exceed \$100 billion.

Explanation of Changes

Cap On Losses From Certified Acts Of Terrorism Endorsement BP 05 23

Exclusion Of Certified Acts Of Terrorism Involving Nuclear, Biological, Chemical Or Radiological Terrorism; Cap On Covered Certified Acts Losses BP 05 26

Limitations Of Coverage For Certified Acts Of Terrorism BP 05 27

Exclusion Of Punitive Damages Related To A Certified Act Of Terrorism BP 05 42

These endorsements are revised to:

- ◆ Remove reference to the original enactment of TRIA, the Act "of 2002".
- ◆ Revise the definition of certified act of terrorism:
 - To delete the text "acting on behalf of any foreign person or foreign interest", in line with the revision to Section 102(1)(A)(iv) of the Act.
 - To elaborate on the reference to aggregate losses, which are aggregate insured losses attributable to all types of insurance subject to TRIA.
 - In endorsement BP 05 42 to reflect the fact that the definition includes appropriate details, but not all of the statutory wording, in setting forth the criteria for a certified act of terrorism.
- ◆ Revise the language expressing the existence and effect of the cap. As revised, the language explicitly refers to the amount of the cap and addresses allocation of insured losses, pursuant to Sections 103(e)(2)(A) and 103(e)(2)(B) of the Act. This revision is not applicable to BP 05 42.

In addition, the word "Radiological" is added to the title of BP 05 26, thereby recognizing the contemporary expression of the so-called NBCR exposure. Further, such expression is consistent with the current content of Paragraphs B.1.a.(1) and B.1.a.(2) of this endorsement.

Exclusion Of Certified Acts Of Terrorism Endorsement BP 05 24

This endorsement is revised to:

- ◆ Remove reference to the original enactment of TRIA, the Act "of 2002".
- ◆ Revise the definition of certified act of terrorism to:
 - Delete the text "acting on behalf of any foreign person or foreign interest", in line with the revision to Section 102(1)(A)(iv) of the Act.
 - Elaborate on the reference to aggregate losses, which are aggregate insured losses attributable to all types of insurance subject to TRIA.
- ◆ Revise the language expressing the existence and effect of the cap. As revised, the language explicitly refers to the amount of the cap and addresses allocation of insured losses, pursuant to Sections 103(e)(2)(A) and 103(e)(2)(B) of the Act.
- ◆ Add a Schedule to indicate applicability of the Exception Covering Certain Fire Losses, which applies in situations where a statutory Standard Fire Policy precludes excluding fire following terrorism. To complement the Schedule, introductory text is added to Paragraph B.2. With the addition of a Schedule under endorsement BP 05 24, endorsement BP 05 25 Exclusion Of Certified Acts Of Terrorism will be withdrawn; for more information, refer to the explanation concerning the withdrawal of endorsement BP 05 25.
- ◆ Revise the title of the endorsement, to remove reference to Coverage For Certain Fire Losses, because such coverage applies only to risks indicated in the Schedule as explained above.

**Disclosure Pursuant To Terrorism Risk Insurance Act – Line Item
Disclosure Endorsement BP 05 15**

This endorsement is revised as follows:

- ◆ The Schedule entry for disclosure of the federal share of terrorism losses is being removed. Paragraph B. of the endorsement discloses the federal share of 85%. The Schedule entry had accommodated the possibility of change in the federal share for Program Years after 2007. With the 2007 extension of TRIA, the 85% federal share will remain constant for the life of the extension, that is, through December 31, 2014.
- ◆ In compliance with the disclosure requirement of Section 103(b)(3) of the Act, Paragraph B. of the endorsement is revised and Paragraph C. is added to address the \$100 billion cap. Paragraph C. also advises, in accordance with the provisions of Section 103(e)(2)(B), that all insured losses are subject to pro rata allocation when aggregate insured losses exceed \$100 billion.

**Withdrawn Endorsement Exclusion Of Certified Acts Of Terrorism
BP 05 25**

This endorsement is a version of the certified act exclusion. **Revised Endorsement BP 05 24, as described above is being filed for use in all states in which this filing (BP-2007-OTRP1) is made, and replaces the aforementioned withdrawn endorsement.** This action will streamline the portfolio of terrorism forms and simplify the issuance of multi-state accounts. In the current portfolio of terrorism forms, multiple versions of the certified acts exclusion are employed to reflect the variations in the applicability of a statutory Standard Fire Policy (SFP) requirement (requiring coverage for fire following terrorism) in the various states. The endorsement being retained enables the insurer to use one certified acts exclusion form to reflect the SFP status in a given state. It will contain the Exception Covering Certain Fire Losses and a Schedule. The Schedule is used to indicate the state(s) in which the SFP – and therefore the Exception – applies. [The approach of using a Schedule is already in use currently for endorsements BP 05 26 and BP 05 27.] Refer to the appendix of this explanatory memorandum for a chart of SFP status. Similar information is and will continue to be published in the ISO Terrorism Supplement to the Commercial Lines Manual, for guidance on applicability of the Exception Covering Certain Fire Losses.

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APPENDIX A

Statutory Standard Fire Policy (SFP) Status

SFP States: CA, **CT***, **GA***, HI, IA, IL, MA, ME, **MO***, NC, NJ, **NY***, OR, RI, **VA***, VI, **WA***, WI, WV

In these states, coverage is required for fire following terrorism (except that the SFP statutes in CT and VA enable an exclusion of fire following a certified act of terrorism).

Current Endorsement BP 05 24 is used in these states.

Non-SFP States: **AK***, AL, AR, **AZ***, CO, DC, DE, **FL***, GU, **ID***, IN, KS, KY, LA, MD, MI, MN, MS, MT, ND, NE, NH, NM, NV, OH, OK, PA, **PR***, SC, SD, TN, TX, UT, VT, WY

In these states, there is no statutory SFP, or the SFP contains an exception enabling exclusion of fire following terrorism. (In ID, terrorism is defined in the statute. In AZ, coverage for fire following terrorism is required for residential risks.)

Current Endorsement BP 05 25 is used in these states.

***NOTE:** The states of AK, AZ, CT, FL, GA, ID, MO, NY, PR, VA and WA are addressed in this chart only for the purpose of providing a countrywide overview of SFP status. These states will receive state-specific filings and thus we are not submitting this multi-state filing in these states.

THIS ENDORSEMENT IS ATTACHED TO AND MADE PART OF YOUR POLICY IN RESPONSE TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT. THIS ENDORSEMENT DOES NOT GRANT ANY COVERAGE OR CHANGE THE TERMS AND CONDITIONS OF ANY COVERAGE UNDER THE POLICY.

DISCLOSURE PURSUANT TO TERRORISM RISK INSURANCE ACT

SCHEDULE

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Terrorism Premium (Certified Acts) \$

Additional information, if any, concerning the terrorism premium:

Federal share of terrorism losses % Year: 20 _____
(Refer to Paragraph B. in this endorsement.)

Federal share of terrorism losses % Year: 20 _____
(Refer to Paragraph B. in this endorsement.)

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Disclosure Of Premium

In accordance with the federal Terrorism Risk Insurance Act, we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to coverage for terrorist acts certified under the Terrorism Risk Insurance Act. The portion of your premium attributable to such coverage is shown in the Schedule of this endorsement or in the policy Declarations.

B. Disclosure Of Federal Participation In Payment Of Terrorism Losses

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. For losses occurring in 2006, the federal share equals 90% of that portion of the amount of such insured losses that exceeds the applicable insurer retention. For losses occurring in 2007, the federal share equals 85% of that portion of the amount of such insured losses that exceeds the applicable insurer retention. If the federal program is extended beyond 2007, the applicable percentage is shown in the Schedule of this endorsement or in the policy Declarations. However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31), the Treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

**C. Cap On Insurer Participation In Payment Of
Terrorism Losses**

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31) and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

- A. The following provisions are added to the Businessowners Policy and apply to Property and Liability Coverages:

CAP ON CERTIFIED TERRORISM LOSSES

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured aggregate losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals acting on behalf of any foreign person or foreign interest, 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.

~~With respect to any one or more "certified acts of terrorism" under the federal Terrorism Risk Insurance Act of 2002, we will not pay any amounts for which we are not responsible under the terms of that Act (including subsequent action of Congress pursuant to the Act) due to the application of any clause which results in a cap on our liability for payments for terrorism losses.~~

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31) and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

- B. The following provision is added to Businessowners Standard Property Coverage Form **BP 00 01**, Businessowners Special Property Coverage Form **BP 00 02** or **Section I – Property** of Businessowners Coverage Form **BP 00 03**:

APPLICATION OF OTHER EXCLUSIONS

The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any loss which would otherwise be excluded under this Coverage Form or Policy, such as losses excluded by the Nuclear Hazard Exclusion or the War And Military Action Exclusion.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF CERTIFIED ACTS OF TERRORISM; COVERAGE FOR CERTAIN FIRE LOSSES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

The **Exception Covering Certain Fire Losses** (Paragraph B.2.) applies to property located in the following state(s):

--

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

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A. The following provisions are added to the Businessowners Policy and apply to Property and Liability Coverages:

The following definition is added with respect to the provisions of this endorsement:

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured aggregate losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals ~~acting on behalf of any foreign person or foreign interest~~, 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.

B. The following provisions are added to Businessowners Standard Property Coverage Form **BP 00 01**, Businessowners Special Property Coverage Form **BP 00 02** or **Section I – Property of Businessowners Coverage Form BP 00 03**:

1. The following exclusion is added:

CERTIFIED ACT OF TERRORISM EXCLUSION

We will not pay for loss or damage caused directly or indirectly by a "certified act of terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

2. **Exception Covering Certain Fire Losses**

The following exception to the exclusion in Paragraph B.1. applies only if indicated and as indicated in the Schedule of this endorsement.

If a "certified act of terrorism" results in fire, we will pay for the loss or damage caused by that fire. Such coverage for fire applies only to direct loss or damage by fire to Covered Property. Therefore, for example, the coverage does not apply to insurance provided under Business Income and/or Extra Expense Additional Coverages.

~~With respect to fire resulting from any one or more "certified acts of terrorism" under the federal Terrorism Risk Insurance Act of 2002, we will not pay any amounts for which we are not responsible under the terms of that Act (including subsequent action of Congress pursuant to the Act) due to the application of any clause which results in a cap on our liability for payments for terrorism losses.~~

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31) and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

3. Application Of Other Exclusions

The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any loss which would otherwise be excluded under this Coverage Form or Policy, such as losses excluded by the Nuclear Hazard Exclusion or the War And Military Action Exclusion.

C. The following provision is added to the Businessowners Liability Coverage Form **BP 00 06** and **Section II – Liability** of the Businessowners Coverage Form **BP 00 03**:

1. The following exclusion is added:

This insurance does not apply to:

TERRORISM

"Any injury or damage" arising, directly or indirectly, out of a "certified act of terrorism".

2. The following definition is added:

For the purposes of this endorsement, "any injury or damage" means any injury or damage covered under any Coverage Form to which this endorsement is applicable, and includes but is not limited to "bodily injury", "property damage" or "personal and advertising injury" as may be defined in any applicable Coverage Form.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF CERTIFIED ACTS OF TERRORISM INVOLVING NUCLEAR, BIOLOGICAL, ~~OR CHEMICAL~~ OR RADIOLOGICAL TERRORISM; CAP ON COVERED CERTIFIED ACTS LOSSES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

The Exception Covering Certain Fire Losses (Paragraph B.2.) applies to property located in the following state(s):
State(s)
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following definition is added with respect to the provisions of this endorsement:

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured aggregate losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals ~~acting on behalf of any foreign person or foreign interest~~, 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.

B. Section I – Property is amended as follows:

1. The following exclusion is added:

a. Limited Exclusion Of Certified Acts Of Terrorism

We will not pay for loss or damage caused directly or indirectly by a "certified act of terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. But this exclusion applies only when one or more of the following are attributed to such act:

- (1) The terrorism is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
- (2) Radioactive material is released, and it appears that one purpose of the terrorism was to release such material; or

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- (3) The terrorism is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical material; or
- (4) Pathogenic or poisonous biological or chemical material is released, and it appears that one purpose of the terrorism was to release such material.

When this terrorism exclusion is made applicable ~~applies~~ in accordance with the terms of Paragraph B.1.a.(1) or B.1.a.(2), the terrorism exclusion applies without regard to the Nuclear Hazard Exclusion in this Coverage Form.

2. Exception Covering Certain Fire Losses

The following exception to the Exclusion in Paragraph B.1. above applies only if indicated and as indicated in the Schedule of this endorsement.

If a "certified act of terrorism" excluded under Paragraph B.1. results in fire, we will pay for the loss or damage caused by that fire, subject to all applicable policy provisions including the Limit of Insurance on the affected property. Such coverage for fire applies only to direct loss or damage by fire to Covered Property. Therefore, for example, the coverage does not apply to insurance provided under business income and/or extra expense coverage or endorsements that apply to those coverages.

3. Application Of Exclusions

The terms and limitations of any terrorism exclusion, or the non-applicability or omission of a terrorism exclusion, do not serve to create coverage for any loss which would otherwise be excluded under this Coverage Form, such as losses excluded by the War And Military Action Exclusion.

C. Section II – Liability is amended as follows:

- 1. The following exclusion is added:

This insurance does not apply to:

TERRORISM

"Any injury or damage" arising, directly or indirectly, out of a "certified act of terrorism". However, this exclusion applies only when one or more of the following are attributed to such act:

- a. The terrorism involves the use, release or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination; or

- b. The terrorism is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
- c. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

2. The following definition is added:

- a. For the purposes of this endorsement, "any injury or damage" means any injury or damage covered under this coverage form or any applicable endorsement, and includes but is not limited to "bodily injury", "property damage" or "personal and advertising injury" as may be defined in this coverage form or any applicable endorsement.

- 3. In the event of any incident of a "certified act of terrorism" that is not subject to this exclusion, coverage does not apply to any loss or damage that is otherwise excluded under this coverage form or endorsement.

D. Section I – Property and Section II – Liability are amended as follows:

CAP ON CERTIFIED TERRORISM LOSSES

The following limitation applies to coverage for any one or more "certified acts of terrorism" that are not excluded by the terms of the exclusion in Paragraphs B.1. and C.1. and to any loss or damage that is covered and to which the exception in Paragraph B.2. applies.

~~We will not pay any amounts for which we are not responsible under the terms of the Terrorism Risk Insurance Act of 2002 (including subsequent action of Congress pursuant to the Act) due to the application of any clause which results in a cap on our liability for payments for terrorism.~~

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31) and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITATIONS OF COVERAGE FOR CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

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SCHEDULE PART I – Applicability Of Terrorism Sub-Limit (refer to Paragraph B.2.) – Property Coverage – Terrorism Sub-limit	
Description Of Property Or Coverage	Certified Acts Sub-Limit
SCHEDULE PART II – Exception: Non-applicability Of Certified Acts Sub-Limit To Certain Fire Losses (refer to Paragraph B.3.) – Property Coverage	
State(s):	
SCHEDULE PART III – Certified Acts Of Terrorism Aggregate Limit (refer to Paragraph C.2.) \$ – Liability And Medical Expenses Coverage: \$	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. The following definition is added with respect to the provisions of this endorsement:

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured aggregate losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and

2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals acting on behalf of any foreign person or foreign interest, 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.