



OKLAHOMA INSURANCE DEPARTMENT
State of Oklahoma

BULLETIN NO. PC 2006-03

**TO: ALL PROPERTY AND CASUALTY INSURERS LICENSED IN OKLAHOMA
ALL RATING AND ADVISORY ORGANIZATIONS
ATTENTION: STATE FILING DIVISION**

FROM: OKLAHOMA INSURANCE DEPARTMENT

**RE: EXCLUSIONARY FORMS RELATED TO ACTS OF TERRORISM
(DOMESTIC OR FOREIGN)**

DATE: March 27, 2006

PURPOSE OF THIS BULLETIN

This bulletin applies in conjunction with Bulletin No. PC 2005-08 issued on December 30, 2005 regarding acts of terrorism. The intent of this bulletin is to inform you of the position in Oklahoma on terrorism exclusions, regarding coverage lines the Terrorism Risk Insurance Act Extension of 2005 did not address.

1. Personal lines, workers' compensation, commercial auto liability for the amounts required due to the financial responsibility laws, federal backed crop and flood coverage: Exclusionary endorsements will be disapproved.
2. Products not addressed in #1 or the TRIA Extension: Oklahoma understands that reinsurance is available for terrorism coverage. As such, the Oklahoma Insurance Department **expects** insurance companies to "make available" terrorism coverage to policyholders in a similar manner to those lines addressed by the Extension.

LEGAL ANALYSIS APPLICABLE TO COMMERCIAL AUTO FINANCIAL RESPONSIBILITY LIMITS

A review of Oklahoma cases by the Department's Legal Division shows a strong Oklahoma public policy towards instances of coverage under the compulsory

minimum liability limits. To paraphrase several Oklahoma Supreme Court cases ¹, Oklahoma has a public policy that innocent victim of negligent vehicle operators should be compensated for their injuries. A minimum amount of liability insurance is a mandatory requirement to vehicle registration in Oklahoma, showing a strong Legislative intent to protect Oklahoma citizens.

This protection of the public overrides private agreements that may place restrictions on the minimum amounts of coverage. Policy clauses that deny coverage to the general public may be found void as contrary to public policy by Oklahoma courts.

LINES OF INSURANCE IDENTIFIED IN #1 FOR WHICH EXCLUSIONARY ENDORSEMENTS WILL NOT BE APPROVED

Any insurer that is able to demonstrate an actual threat to its solvency from possible terrorist attacks based on the amount, location and type of risks it has written in Oklahoma, may apply to the Insurance Department for consideration of an exemption. The company will be expected to demonstrate that 1) it has lost terrorism reinsurance coverage, 2) it cannot obtain terrorism reinsurance coverage, 3) terrorism reinsurance coverage is obtainable only at a cost that is so great as would make the primary types or lines of insurance unmarketable; 4) the inability to exclude the risk of terrorism will adversely affect the company's solvency. Questions regarding this matter should be directed to Kathie Stepp at kathiestepp@insurance.state.ok.us.

LINES OF INSURANCE IDENTIFIED IN #2 FOR WHICH THE MAKE AVAILABLE OFFER IS EXPECTED

An insurer that chooses not to comply with the expectations of the Oklahoma Insurance Department outlined in item #2 may apply to the Insurance Department for consideration of exclusionary endorsements. The company will be expected to demonstrate that 1) it has lost terrorism reinsurance coverage, 2) it cannot obtain terrorism reinsurance coverage, 3) terrorism reinsurance coverage is obtainable only at a cost that is so great as would make the primary types or lines of insurance unmarketable; 4) the inability to exclude the risk of terrorism will adversely affect the company's solvency. The company will be expected to also provide 1) the status of the exclusionary endorsements countrywide 2) the number of current Oklahoma policyholders effected, 3) the manner in which the policyholder will be made aware of the exclusion.

EXPEDITED TRANSMITTAL FORMS AND REVIEW PROCESS

Oklahoma has chosen not to use the NAIC Expedited Transmittal Form or the Review process that went into effect on 11/01/04. However, insurance companies may take

¹ Footnote 1: See Hartline v. Hartline, 2001 OK 15; Harkrider v. Posey, 2000 OK 94; for Oklahoma case law.

advantage of Oklahoma's Self-Certification Program available for form filings as outlined in Commissioner's Order 04 -1714 - PRJ, located on the Department website in the Property and Casualty Division's section, <http://www.oid.state.ok.us/www2.oid.state.ok.us/Divisions/P&C.asp>. Please review the order completely as the Self-Certification Program is not applicable to all lines of insurance. Effective November 1, 2004, the rate and manual rule filings for each of the coverages listed on page 1 of this bulletin are under a "use and file" system thus making the NAIC expedited process unnecessary in Oklahoma.

WHAT MUST THE INSURER FILE?

As is the case with all filings, Oklahoma requires the form filing to be submitted separately from the manual rate and rule filing. Form filings must include the filing forms, endorsements, transmittal forms, filing fees and all requirements listed in the NAIC Product Requirements Locator. Rate/rule filings must include the manual pages containing rate and or manual rules, supplementary rate information, the supporting documentation, transmittal forms, filing fees and all requirements listed in the NAIC Product Requirements Locator. The interactive filing forms are located on the Department website in the Property and Casualty Division's section, <http://www.oid.state.ok.us/www2.oid.state.ok.us/Other/Forms.asp#P&C>.

Questions applicable to this bulletin should be directed to kathiestepp@insurance.state.ok.us of the Property and Casualty Division, or robertnoll@insurance.state.ok.us of the Legal Division of the Oklahoma Insurance Department, P. O. Box 53408, Oklahoma City, OK 73152-3408.

The Oklahoma Insurance Department encourages readers of this bulletin to periodically check the Department's web site (www.oid.state.ok.us) for news and updates to Bulletins and other relevant material.