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**NEW JERSEY
CERTIFIED TERRORISM FILING DISAPPROVED**

Reference Bulletins: 02-0550, 03-0089, & 03-0142

The New Jersey Department of Banking and Insurance has disapproved the filing that included endorsement FL 0670, Certified Terrorism Loss, and its accompanying manual supplement. Companies are advised to cease using the endorsement and supplement until further notice.

BACKGROUND

The Terrorism Risk Insurance Act of 2002 (TRIA) established a mechanism whereby insurance companies that comply with specified disclosure requirements will be partially reimbursed by the United States Government for losses resulting from acts of terrorism that are certified as such by the Secretary of the Treasury. Refer to Bulletins 02-0550 and 03-0089, posted on the AAIS public Web site, AAISonline.com, for additional information regarding TRIA and its disclosure requirements.

The Department of the Treasury has issued a number of interim guidelines regarding the implementation of TRIA, and on February 28, 2003, it published an Interim Final Rule and related Supplementary Information. The Supplementary Information identifies the lines and types of insurance that are subject to TRIA.

There are varying interpretations of the Supplementary Information as to whether, with respect to TRIA, insurance written to cover the exposures of the owner of a one to four family dwelling regularly rented or held for rental to others is personal insurance or commercial insurance. Endorsement FL 0670 and its companion manual supplement were filed in the Dwelling Properties and Personal & Premises Liability programs to provide companies with a means to qualify for federal reinsurance under TRIA should the Department of the Treasury determine that policies covering the exposures of owners of one to four family dwellings regularly rented or held for rental to others constitute commercial insurance. The endorsement and supplement were filed solely for use with policies covering premises regularly rented or held for rental to others for residential purposes. The endorsement *covers* certified terrorism loss and includes provisions for fulfilling the line item disclosure notice requirements of TRIA. The provisions of the endorsement apply only in the event that the Secretary of the Treasury determines that the exposures covered by such policies are subject to TRIA.

Page 2
Bulletin 03-0212

At this time, AAIS is not filing materials that enable a policyholder to reject, nor a company to exclude, coverage for certified terrorism losses. (To date, regulators in most jurisdictions have permitted terrorism exclusions for policies covering premises used primarily for residential purposes only in rare, company-specific circumstances. AAIS believes that until such time as Treasury determines that policies covering dwellings regularly rented or held for rental to others constitute commercial insurance, most regulators will remain unwilling to approve an exclusion for terrorism loss, regardless of whether it applies to certified or non-certified acts of terrorism.)

FUTURE BULLETIN

The filing was submitted on a 'file and use' basis as permitted under the terms of TRIA. AAIS believes that the terms of TRIA and the guidelines distributed by the Department of the Treasury support the filing of these materials. We are continuing our communications with the insurance department, and we are hopeful that the issue will be resolved in the near future. If the department does withdraw its disapproval, announcement of that action will be made by bulletin posted to the public Web site at AAISonline.com and publicized through AAIS's e-mail notification service, *Product Advisory*.

Given the need for timely communications on this subject, most future updates regarding these Dwelling Properties and Personal & Premises Liability program filings and or availability of new materials that address terrorism will be posted to the public Web site. *Product Advisory* will be used to direct company attention to new Web site postings.

Companies that are not signed up for *Product Advisory* are urged to do so. Go to www.AAISonline.com and click on the home page link that reads "AAIS Product Advisory Sign up" or contact Pat Peters at Patp@AAISonline.com.

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