

# AMERICAN ASSOCIATION OF INSURANCE SERVICES SUPPLEMENT TO HAWAII MANUALS

## TERRORISM LOSSES -- RULES

These pages provide rules addressing coverage and exclusions for losses arising from acts of terrorists.

**Certified Terrorism Losses** -- In accordance with the Terrorism Risk Insurance Act of 2002 (the Act), companies writing commercial property and casualty insurance must make available to policyholders coverage for certified terrorism losses. A certified terrorism loss is any loss that is covered by an applicable coverage part and that results from an act of terrorism if:

1. such loss occurs:
  - a. within the United States; or
  - b. to an air carrier (as defined in section 40102 of title 49, United States Code); to a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs; or at the premises of any United States mission; and
  
2. the act of terrorism is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States:
  - a. to be an act of terrorism;
  - b. to be a violent act or an act that is dangerous to human life, property, or infrastructure;
  - c. to have resulted in damage:
    - 1) within the United States; or
    - 2) outside of the United States in the case of an air carrier or vessel described in paragraph 1.b. above or at the premises of any United States mission; and

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- d. to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as a 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.

An act of terrorism resulting in losses less than \$5,000,000 in the aggregate will not be certified by the Secretary of the Treasury as an act of terrorism. In addition, when the Secretary of the Treasury determines that certified terrorism losses have exceeded the maximum annual liability as set forth in the Act (or any amendments thereto) and a company has met its deductible as required by the Act, the company is not liable for the payment of any portion of certified terrorism losses that exceed the maximum annual liability.

The Act requires that companies notify policyholders of the availability of coverage for certified terrorism losses and the premium charge applicable to such coverage. In addition, for policies issued on or after February 25, 2003, the premium charged for the portion of coverage the company retains and the Federal share of compensation for insured losses must be disclosed on a separate line item of the policy.

With respect to policies providing property coverage for loss by fire, other than coverage provided under the Commercial Inland Marine Program (filed classes), the requirements of the Standard Fire Policy do not permit policyholders to reject coverage for certified terrorism losses resulting from fire.

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When a policyholder accepts coverage for certified terrorism losses, attach the endorsement shown below for the applicable program to exclude coverage for certified terrorism losses that exceed the maximum annual liability as set forth in the Act. Use the rating information shown for Coverage for Certified Terrorism Losses Accepted provided in the Terrorism Losses -- Rating Information page to determine the additional premium charge.

Commercial Inland Marine (Filed Classes)	CL 0600
Commercial Liability	GL 0250
Commercial Output	CL 0600
Contractors & Developers Output	CL 0600

Crime	CL 0600
Glass	CL 0600
Personal & Premises Liability (Farm Only)	GL 0310

When a policyholder rejects coverage for certified terrorism losses, attach the endorsement shown below for the applicable program to exclude coverage for such losses. Use the rating information shown for Coverage for Certified Terrorism Losses Rejected provided in the Terrorism Losses - - Rating Information page to determine the additional premium charge, if applicable.

Commercial Inland Marine (Filed Classes)	CL 0610
Commercial Liability	GL 0260
Commercial Output	CL 0620
Contractors & Developers Output	CL 0620

Crime	CL 0610
Glass	CL 0610
Personal & Premises Liability (Farm Only)	GL 0320

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**Non-certified Terrorism Losses** -- At the option of the company, a commercial lines property and/or casualty policy can be endorsed to exclude coverage for non-certified terrorism losses and to restate the war exclusion. The exclusion pertaining to non-certified terrorism losses can be limited to nuclear (liability coverages only), biological, or chemical events, or it can apply to those events as well as to others meeting certain specified thresholds. (The property terms that address terrorism will rely on the Nuclear Hazard exclusion that is currently included in forms and coverage parts.)

A non-certified terrorism loss is any loss covered by an applicable coverage part that results from a violent act or an act that is dangerous to human life, property, or infrastructure that:

1. is committed by an individual or individuals; and
2. appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion; and
3. is not certified as a terrorist act pursuant to the Federal Terrorism Risk Insurance Act of 2002; and
4. for the type of coverage being provided and the type of exclusion attached, meets one or more of the criteria shown below.
  - a. Property Coverages
    - 1) Exclusion pertaining only to losses resulting from biological or chemical events
      - a) The loss is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
      - b) pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

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- 2) Exclusion pertaining to losses resulting from biological or chemical events and other events
  - a) The loss meets one or more of the criteria shown above for losses resulting from biological or chemical events; or
  - b) the total of insured damage to all types of property in the United States, its territories and possessions, Puerto Rico, and Canada and business interruption losses exceeds \$25,000,000.
  
- b. Liability Coverages
  - 1) Exclusion pertaining only to losses resulting from nuclear, biological, or chemical events
    - a) The loss 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 loss 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) Exclusion pertaining to losses resulting from biological or chemical events and other events
    - a) The loss meets one or more of the criteria shown above for losses resulting from nuclear, biological, or chemical events; or

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- b) the total of insured damage to all types of property and business interruption losses exceeds \$25,000,000; or
- c) 50 or more persons sustain death or serious physical injury.

However, exclusions for non-certified terrorism losses do not apply to any loss that results from an act that is not certified by the Secretary of the Treasury to be an act of terrorism solely because the property and casualty losses resulting from the act do not exceed \$5,000,000 in the aggregate.

In addition, the non-certified terrorism losses exclusions that are filed under programs providing property coverage for loss by fire, other than the Commercial Inland Marine Program (filed classes), make an exception for loss or damage caused by fire resulting from a terrorist act. However, the exception applies only to direct loss or damage by fire to covered property and does not apply to other loss, such as business interruption loss.

No premium adjustment applies.

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An endorsement must be attached to exclude coverage for non-certified terrorism losses. Use the endorsement shown below for the applicable program and type of exclusion.

<b>Program</b>	<b>NBC/BC- only Non- Certified Terrorism Losses</b>	<b>NBC/BC and other Non- Certified Terrorism Losses</b>
Commercial Inland Marine (Filed Classes)	CL 0650	CL 0630
Commercial Liability	GL 0280	GL 0270
Commercial Output	CL 0660	CL 0640
Contractors & Developers Output	CL 0660	CL 0640
Crime	CL 0650	CL 0630
Glass	CL 0650	CL 0630
Personal & Premises Liability (Farm Only)	GL 0340	GL 0330

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**Interstate Accounts** -- Any manual rules specifying that policies covering property located in more than one state may be written subject to the rules, forms, and endorsements for the state with either the largest values or where the insured's headquarters are located do not apply with respect to terrorism losses. When a policy covers property located in more than one state or jurisdiction, exclusions and/or coverage for terrorism losses for each location must be written in accordance with the forms, rules, and rating information applicable in that state or jurisdiction.

When a policy covers property located in more than one state or jurisdiction and more than one endorsement must be attached, indicate on the declarations the location(s) to which each endorsement applies.