

STATE OF NEBRASKA

DEPARTMENT OF INSURANCE

Tim Wagner
Director

May 1, 2002
CB-104



BULLETIN

SUBJECT: TERRORISM-RELATED EXCESS LOSSES INCURRED ON POLICIES
IN THE NEBRASKA WORKERS' COMPENSATION ASSIGNED RISK PLAN

Mike Johanns
Governor

The purpose of this bulletin is to notify insurers writing workers' compensation insurance in Nebraska of their liability should terrorism-related excess losses arise out of the operation of the Nebraska Workers' Compensation Assigned Risk Plan. We are also informing you that the loss cost multiplier used to determine assigned risk workers' compensation rates will be raised effective 7/1/2002 from 2.44 to 2.50.

From 7/1/1997 until 6/30/2002, the workers' compensation assigned risk plan in Nebraska was designed so that the voluntary market would not need to contribute to support operating losses. That is, there was no need for a "residual market load." Effective 7/1/2002, this will change – but only slightly. If a serious terrorism-related loss or losses are incurred on policies in the assigned risk plan with inception dates of 7/1/2002 or later, then voluntary insurers will need to pay for terrorism-related excess losses incurred by the Travelers Indemnity Company (Travelers), which is the insurer that writes assigned risk policies in Nebraska.

For assigned risk policies incepting 7/1/2002 or later, the Travelers' excess of loss reinsurance will cover individual losses exceeding \$500,000 per occurrence. This reinsurance will exclude nuclear, chemical and biological events related to terrorism. Furthermore, the reinsurance contract has an aggregate annual cap of \$9,500,000 for other terrorism-related losses that it covers.

If an event involving nuclear-chemical-biological terrorism results in excluded losses over the \$500,000 threshold, then Travelers will retain up to the first \$1,000,000 per occurrence. In addition, Travelers will retain the next \$750,000 of annual aggregate losses in excess of the per occurrence threshold and/or the \$9,500,000 terrorism cap. Losses that exceed these amounts will be apportioned amongst voluntary market carriers and governmental "self-insurance" pools in Nebraska in proportion to their written premiums.

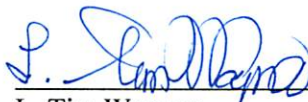
We view it as very unlikely that an event will occur that will necessitate an assessment and it is the Department's view that the indicated pricing recognition of this contingency for voluntary insurers should be a small fraction of a percent – certainly not enough to warrant a standalone rate filing. As such, we have not developed detailed rules or the administrative structure to collect funds from insurers. In the near term, we will only do that if a triggering event occurs. Nevertheless, insurers should be aware of this contingency as an additional risk involved with writing Nebraska business.

Because a triggering event would be likely to be a well publicized calamity, we would probably know about it right away. If that happens, then we will notify insurers so that they can establish appropriate reserves. In the meantime, we are not advising insurers to set up reserves of an IBNR nature. We believe the chances of a major terrorist event causing a multimillion dollar Nebraska assigned risk workers' compensation loss are small; it is difficult to imagine how such an event could happen and go undiscovered for an extended period of time.

At this time, it is not possible to say how long this arrangement will last. Barring some kind of federal legislation, our arrangement with the Travelers makes it a function of the availability of reasonably priced reinsurance that does not exclude terrorism. If you know how soon reinsurance of that nature will again become available, please let us know.

For your convenience, we have reproduced the text of subsection 48-146.01(2). This is the applicable section of Nebraska law that authorizes the assigned risk plan and the possibility of assessments on insurers in the voluntary market.

- (a) The director, after consultation with insurers authorized to issue workers' compensation insurance policies in this state, shall put into effect a reasonable system to guarantee that each assigned risk employer shall be covered by workers' compensation insurance covering its employees subject to the Nebraska Workers' Compensation Act following the assigned risk employer's application to the assigned risk plan and tender of the required premium.
- (b) The director shall enter into an agreement with one or more workers' compensation insurers to provide workers' compensation insurance to assigned risk employers. In selecting an insurer to become an assigned risk insurer, the director shall consider the cost of coverage to assigned risk employers, the loss control and claims handling services available from the workers' compensation insurer, the financial condition of the workers' compensation insurer, and any other relevant factors. An agreement entered into under this subsection may not exceed five years.
- (c) If the director determines that the cost of workers' compensation insurance premiums for an insurer to provide assigned risk coverage pursuant to such an agreement would be unreasonably high, the director may enter into an agreement in which the assigned risk insurer covers a portion of the losses incurred by the assigned risk employer. Any agreement that involves an average rate level of less than two and one-half times the prospective loss costs approved for an advisory organization pursuant to section 44-5020 shall not be considered unreasonably high for the purposes of this section. Pursuant to any such agreement, remaining losses shall be assessed against all workers' compensation insurers writing workers' compensation insurance in this state and risk management pools created under the Intergovernmental Risk Management Act based on their workers' compensation premiums written in this state or contributions made to risk management pools. (emphasis added) Assigned risk premiums shall be excluded from the basis for such assessments.



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