ILLINOIS INSURANCE

Illinois Approves Modified CGL Form

On January 27, 1986, following months of careful study by Department officials, numerous meetings with regulators and various interest groups, and a public hearing, Director John E. Washburn approved a revised version of ISO's comprehensive general liability "claims-made" policy form. Washburn had disapproved the form earlier on December 30, 1985, citing three deficiencies that were potentially harmful to the public. The Insurance Services Office subsequently amended the form, thereby making certain risks more attractive and predictable and relieving some of the factors that have contributed to the current insurance crisis.

In addition to correcting the deficiencies identified in the December disapproval notice, ISO has addressed several areas of concern since making its original filing on March 7, 1984. As a result, the form finally approved by the Illinois Department differs substantially from the original filing:

Washburn said that the new policy form presents a new approach at a time when the market place is in desperate need of a tool to break the intolerable boom and bust cycle that has dominated liability markets for decades. "Companies will gain from the greater certainty which this policy brings, and at the same time, liability insurance purchases will no longer be simple 'take it or leave it' propositions because of the unprecedented access to loss information," the Director stated.

The new claims-made policy is intended to be used as an alternative to, rather than a replacement for the "occurrence" general liability form which is currently used for most commercial liability policies. Policies written on an occurrence basis provide coverage for liability losses occurring during the policy period, regardless of when the claim is actually filed with the insurance company. Claims-made policies, on the other hand, require that the claim be reported during the policy period.

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"Our approval is prospective in nature," Washburn continued, "and I expect that no policies or policy renewals which have been issued or are in the hands of the agent or the insured will be redone or reissued."

Washburn said proper implementation of this new form will require a thorough and detailed education of both agents and commercial insurance buyers. He said the industry had committed itself to such an effort before rushing into the use of this new form.

The following chart, prepared by Frank Weaver, Supervisor, P/C Product Evaluation Unit, illustrates the differences between the original filing and the approved filing. The deficiencies cited in the December disapproval are outlined in items 1a, 1b and 2.

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John E. Washburn, Director
Richard W. Carlson, Assistant Director

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Comparison of ISO's CGL Filings

Original Filing (3/7/84)	Approved Filing (1/27/86)
1. Extended Reporting Provisions	
a. Provided for purchase of supplemental tail coverage when cancelled or nonrenewed for any reason except non-payment of premium.	Provides for purchase of supplemental tail coverage when cancelled or nonrenewed for any reason including non-payment of premium.
b. No option to reinstate aggregate limit of liability either in whole or in part.	Provides for 100% reinstatement of aggregate limit of liability.
c. Option to purchase supplemental tail coverage must be made within 30 days after termination with no limit on amount charged.	Option to purchase supplemental tail coverage must be made within 60 days after termination; charge is limited to a maximum of 200% of annual premium of expiring policy. Also provides free 60 day tail to report occurrences and 5 year tail on claims made from occurrences during policy period and 60 day period.
2. Availability of Loss Information	
No provisions in policy.	Provides for summary of claims paid and reserved to be furnished to insured within 30 days after policy is cancelled or nonrenewed by company. If insured cancels, information will be provided if insured makes written request within 60 days after termination.
3. Coverage Trigger	
Insured was required to give notice of occurrence during policy period. This notice did not trigger coverage. Coverage triggered only after written notice of claim was received by insured or company, whichever came first.	Notice of occurrence still required, but coverage triggers when notice of claim is received and recorded by insured or company, whichever comes first.
4. Retroactive Date	
Filing allowed company to advance retroactive date upon replacement or renewal solely at discretion of company.	Policy language unchanged; however, special advisory manual rule developed to restrict advancement of retro date for four reasons with written consent of insured: i.e., insured changes insurers; a substantial change in insured's operations increases exposure to loss; insured fails to provide insurer with information which was known or should have been known about the nature of insured's business or premises; or insured agrees to a different retroactive date.
5. Policyholder Notice	
Filing program did not include any means of informing insureds of differences between claims-made and occurrence policies.	Revised program includes an eight-page informational notice to policyholders describing differences between claims-made and occurrence policies.
6. Laser Endorsements	
Endorsements CG-27-05 did not allow for purchase of tail if insured cancelled. CG-27-06 and 27-07 limited duration of tail for a specific number of years.	Endorsements CG-27-05, 06, 07 withdrawn. Filed CG-27-02 which excludes coverage for specific accidents, products, work or location on current policy. CG-27-03 limits coverage of extended reporting provisions to specific accidents, products, work or locations. CG-27-04 reinstates general aggregate and products aggregate. Endorsement CG-28-03 reinstates liquor liability aggregate. Endorsement CG-28-34 reinstates products aggregate. Endorsement CG-28-35 reinstates products aggregate for specific accidents, products, work or locations.

The Department will use items 1–5 as minimum, standard requirements for claims-made comprehensive general liability policies in future reviews of independent filings by individual companies. All special or "laser" type endorsements will be reviewed on their individual merits.

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