



Current Articles 2009 – December

Declaration of Emergency Endorsement

This proposed endorsement was initiated by the Insurance Brokers Association of Canada (IBAC) and the Toronto Insurance Conference (TIC) and has been approved by the board of the Insurance Bureau of Canada (IBC).

The premise is that no policyholder should be penalized because of a disruption arising from a pandemic or similar disaster scenario such as a hurricane, earthquake or flood. The endorsement will extend the term of an expiring policy, or suspend the notice period for a pending cancellation, after the declaration of an emergency. Any time limit described in the Termination condition, with respect to termination by the insurer, will NOT continue to run until the “emergency” is terminated plus the lesser of 1) 30 days; or 2) the number of days equal to the total “emergency” order was in effect.

Similarly the same will apply during an emergency if the policy is due to expire.

- The extension is triggered by the declaration of an emergency by a civil authority, rather than by an otherwise insured occurrence.
- The emergency must have a direct impact on:
 - i The Insured, the insured site or insured property located on the declared emergency area; or**
 - ii The operations of the Insurer or its agent/broker located in the declared emergency area.**
- The extension period is tied to the length of the emergency itself, with a corresponding recovery stage allowed for resumption of normal business. There is a maximum total time of 120 days (90 days plus up to 30 days' recovery period)
- Cancellations cannot be initiated by Insurers during this extension period.

The endorsement states that the insured agrees to pay the pro rata premium earned for the additional time the Insurer remains on risk as a result of a declared emergency.

For the purpose of this endorsement “Emergency” means the first statutory declaration of an emergency:

- a. with respect to a situation of an impending situation that constitutes a danger of major proportions that could result in serious harm to persons or substantial damage to property and that is caused by the forces of nature, a disease or other health risks, an accident or an act whether intentional or otherwise; or
- b. as provided for by the relevant governing legislation if different from a.).

It does not apply to automobile policies. As automobile policies are government-mandated, any pandemic endorsement for auto policies must therefore be approved by individual provincial jurisdictions.

There are several things that the endorsement will not do such as:

- extending the indemnity period for B.I. claims already in progress or which occur during the emergency period
- It does not create additional coverage, and cannot reinstate coverage for which the cancellation notice period has already expired.
- It does not extend any claims reporting period unless these limitations are specifically tied to the policy expiration.

Many insurers are not aware of this endorsement. This is not a mandated form and many insurers may adopt their own. It is important that brokers ask Insurers to add this endorsement to their portfolios on a blanket basis. The message must come from all brokers/ agents and from coast to coast... It is also important and since insurers may introduce a variance to the IBC wording that you know the terms of this endorsement being used by ALL your insurers.

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