

06-0859

**TEXAS DEPARTMENT OF INSURANCE
EXEMPT FILING NOTIFICATION PURSUANT TO THE
INSURANCE CODE, CHAPTER 5, SUBCHAPTER L, ARTICLE 5.96**

**ADOPTION OF FOUR ENDORSEMENTS
COVERING ADDITIONAL LIVING EXPENSES**

The Commissioner of Insurance adopts four endorsements proposed by the staff of the Personal and Commercial Lines Division of the Texas Department of Insurance. The adopted endorsements include HO-115, entitled "Loss of Use Due to Mandatory Evacuation" (for use with Texas Homeowners Policy Forms A, B, and C); HO-116, entitled "Loss of Use Due to Loss of Utilities" (for use with Texas Homeowners Policy Forms A, B, and C); HO-115A, entitled "Loss of Use Due to Mandatory Evacuation" (for use with Texas Homeowners Tenant Policy Forms B and C and Texas Homeowners Condominium Policy Forms B and C); HO-116A, entitled "Loss of Use Due to Loss of Utilities" (for use with Texas Homeowners Tenant Policy Forms B and C and Texas Homeowners Condominium Policy Forms B and C). The endorsements are for use by an insurer at the insurer's option when writing residential property insurance. HO-115, HO-116, and HO-116A are adopted without change, while HO-115A is adopted with changes to the proposal noticed in the June 23, 2006 issue of the *Texas Register* (31 TexReg 5149). No hearing was requested on the proposed endorsements. The Department received several comments concerning the proposed endorsements.

Staff of the Personal and Commercial Lines Division of the Texas Department of Insurance filed the original petition (Reference No. P-0606-09-I) on this matter June 14,

2006. The petition requested that the Commissioner adopt four optional endorsements to address the costs associated with additional living expenses that result from mandatory evacuations or an extended loss of utilities. For an additional premium, the endorsements would provide coverage for additional living expenses resulting from these events.

After a careful review of the staff's filing and in consideration of the comments submitted by outside parties, the Commissioner finds that the endorsements should be adopted subject to the following two provisos. First, the provision in proposed HO-115A that reads: "For the purpose of this endorsement, mandatory evacuation shall mean an evacuation ordered by any civil authority of all or part of the population from a stricken or threatened area under its jurisdiction" is changed to delete the words "a stricken or threatened" and to substitute the word "an." HO-115A provides coverage for additional living expenses for tenants and condominium unit owners under certain conditions when a civil authority orders a mandatory evacuation. This change in HO-115A is necessary for consistency with HO-115, which provides coverage for additional living expenses for homeowners under certain conditions when a civil authority orders a mandatory evacuation. Second, insurers that choose to use these endorsements must file rules and rates in accordance with the applicable provisions of the Insurance Code Article 5.13-2.

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A general description of the new endorsements adopted for use with Texas Homeowners Policy Forms A, B, and C follows:

- A new endorsement, HO-115, entitled "Loss of Use Due to Mandatory Evacuation." For an additional premium, the endorsement provides coverage for homeowners who incur additional living expenses when a civil authority orders a mandatory evacuation. The ordered evacuation must be in effect for a period of twenty-four consecutive hours for coverage to apply. The endorsement imposes other coverage limitations. No deductible clause applies.
- A new endorsement, HO-116, entitled "Loss of Use Due to Loss of Utilities." For an additional premium, the endorsement provides coverage for homeowners who incur additional living expenses as a result of an extended loss of utilities. Utility service, as defined in the endorsement, must be unavailable for a period lasting longer than twenty-four hours for coverage to apply. The endorsement imposes other coverage limitations. No deductible clause applies.

A general description of the new endorsements adopted for use with Texas Homeowners Tenant Policy Forms B and C and Texas Homeowners Condominium Policy Forms B and C follows:

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- A new endorsement, HO-115A, entitled "Loss of Use Due to Mandatory Evacuation." For an additional premium, the endorsement provides coverage for tenants and condominium unit owners who incur additional living expenses when a civil authority orders a mandatory evacuation. The ordered evacuation must be in effect for a period of twenty-four consecutive hours for coverage to apply. The endorsement imposes other coverage limitations. No deductible clause applies.
- A new endorsement, HO-116A, entitled "Loss of Use Due to Loss of Utilities." For an additional premium, the endorsement provides coverage for tenants and condominium unit owners who incur additional living expenses as a result of an extended loss of utilities. Utility service, as defined in the endorsement, must be unavailable for a period lasting longer than twenty-four hours for coverage to apply. The endorsement imposes other coverage limitations. No deductible clause applies.

The Commissioner of Insurance has jurisdiction over this matter pursuant to Article 5.13-2 and Article 5.96 of the Insurance Code. The proposed endorsements are adopted pursuant to the Insurance Code Articles 5.13-2 and 5.96. Article 5.13-2 §8(e) provides that the Commissioner may promulgate policy forms, endorsements, and other related forms that insurers may use, at their discretion, in lieu of the insurer's own forms in writing insurance subject to Article 5.13-2. Article 5.96 authorizes the Commissioner

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to promulgate policy and endorsement forms for fire and allied lines of insurance, which includes residential property insurance.

This notice is made pursuant to the Insurance Code Article 5.96. Article 5.96(k) exempts it from the requirements imposed by the Administrative Procedure Act, Government Code Chapter 2001. Pursuant to Article 5.96(i), the order will take effect fifteen days after this notice is published in the *Texas Register*. The endorsements as adopted by the Commissioner are on file with the Chief Clerk's Office of the Texas Department of Insurance and are incorporated by Commissioner Order No.

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Issued in Austin, Texas on August 18, 2006.


Gene C. Jarmon
General Counsel and Chief Clerk
Texas Department of Insurance


IT IS THEREFORE THE ORDER of the Commissioner of Insurance that Endorsement Number HO-115, entitled "Loss of Use Due to Mandatory Evacuation;" Endorsement Number HO-116, entitled "Loss of Use Due to Loss of Utilities;" Endorsement Number HO-115A, entitled "Loss of Use Due to Mandatory Evacuation;" and Endorsement Number HO-116A, entitled "Loss of Use Due to Loss of Utilities," which are attached to

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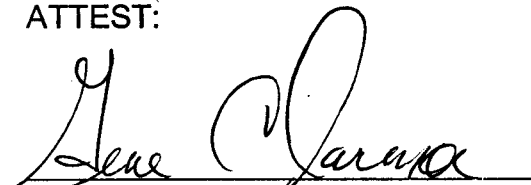
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this order and incorporated into this order by reference, are adopted to be effective fifteen days after notice of this adoption is published in the *Texas Register*.

AND IT IS SO ORDERED.


MIKE GEESLIN
COMMISSIONER OF INSURANCE

ATTEST:


Gene C. Jarmon
General Counsel and Chief Clerk
Texas Department of Insurance

COMMISSIONER'S ORDER NO. **06-0859**

AUG 18 2006

Endorsement No. HO-115**Effective****September 16, 2006****LOSS OF USE****DUE TO****MANDATORY EVACUATION**

For an included additional premium, the following coverage is added to your policy.

MANDATORY EVACUATION. For the purpose of this endorsement, mandatory evacuation shall mean an evacuation ordered by any civil authority of all or part of the population from an area under its jurisdiction.

When your dwelling is subject to a mandatory evacuation order, we will cover your additional living expense, meaning any necessary and reasonable increase in living expense you incur so that your household can maintain its normal standard of living, less any expenses that do not continue.

Coverage provided by this endorsement is available when the ordered evacuation has been in effect for a period longer than twenty-four (24) consecutive hours, not to exceed fourteen (14) days. The total limit of liability under this endorsement for all loss of use is 10% of the Coverage A (Dwelling) limit of liability. No coverage will be provided under this endorsement for any additional living expense incurred during the first twenty-four (24) consecutive hours after the mandatory evacuation. This is additional insurance and does not reduce the Coverage A (Dwelling) limit of liability under this policy.

Any amounts payable for expenses under this endorsement shall be reduced by any amounts paid or payable for the same expenses under this policy.

The deductible clause does not apply to mandatory evacuation coverage.

Endorsement No. HO-115A**Effective****September 16, 2006****LOSS OF USE****DUE TO****MANDATORY EVACUATION**

For an included additional premium, the following coverage is added to your policy.

MANDATORY EVACUATION. For the purpose of this endorsement, mandatory evacuation shall mean an evacuation ordered by any civil authority of all or part of the population from an area under its jurisdiction.

When the structure you reside in is subject to a mandatory evacuation order, we will cover your additional living expense, meaning any necessary and reasonable increase in living expense you incur so that your household can maintain its normal standard of living, less any expenses that do not continue.

Coverage provided by this endorsement is available while the ordered evacuation is in effect for a period longer than twenty-four (24) consecutive hours, not to exceed fourteen (14) days. The total limit of liability under this endorsement for all loss of use is 10% of the Coverage B (Personal Property) limit of liability. No coverage will be provided under this endorsement for any additional living expense incurred during the first twenty-four (24) consecutive hours after the mandatory evacuation. This is additional insurance and does not reduce the Coverage B (Personal Property) limit of liability under this policy.

Any amounts payable for expenses under this endorsement shall be reduced by any amounts paid or payable for the same expenses under this policy.

The deductible clause does not apply to mandatory evacuation coverage.

Endorsement No. HO-116**Effective****September 16, 2006****LOSS OF USE DUE TO****LOSS OF UTILITIES**

For an included additional premium, the following coverage is added to your policy.

LOSS OF UTILITIES. For the purpose of this endorsement, loss of utilities shall mean the loss or interruption of one or more utility service usually connected to your dwelling on the residence premises. A utility service shall include electricity, water, sewer, and natural gas. Loss of utility service shall not include a loss or interruption of one or more utility service due to your failure to pay for such service.

When your dwelling has a loss of utilities, we will cover your additional living expense, meaning any necessary and reasonable increase in living expense you incur so that your household can maintain its normal standard of living.

Coverage provided by this endorsement is available only if the loss of utilities occurs for a period longer than twenty-four (24) consecutive hours and until the loss of utilities is restored, not to exceed fourteen (14) days. The total limit of liability under this endorsement for all loss of use is 10% of the Coverage A (Dwelling) limit of liability. No coverage will be provided for any additional living expense incurred during the first twenty-four (24) consecutive hours after the loss of utilities. This is additional insurance and does not reduce the Coverage A (Dwelling) limit of liability under this policy.

Any amounts payable for expenses under this endorsement shall be reduced by any amounts paid or payable for the same expenses under this policy.

The deductible clause does not apply to loss of utilities coverage.

Endorsement No. HO-116A**Effective****September 16, 2006****LOSS OF USE DUE TO****LOSS OF UTILITIES**

For an included additional premium, the following coverage is added to your policy.

LOSS OF UTILITIES. For the purpose of this endorsement, loss of utilities shall mean the loss or interruption of one or more utility service usually connected to the structure you reside in on the residence premises. A utility service shall include electricity, water, sewer, and natural gas. Loss of utility service shall not include a loss or interruption of one or more utility service due to your failure to pay for such service.

When the structure you reside in has a loss of utilities, we will cover your additional living expense, meaning any necessary and reasonable increase in living expense you incur so that your household can maintain its normal standard of living, less any expenses that do not continue.

Coverage provided by this endorsement is available only if the loss of utilities occurs for a period longer than twenty-four (24) consecutive hours and until the loss of utilities is restored, not to exceed fourteen (14) days. The total limit of liability under this endorsement for all loss of use is 10% of the Coverage B (Personal Property) limit of liability. No coverage will be provided for any additional living expense incurred during the first twenty-four (24) consecutive hours after the loss of utilities. This is additional insurance and does not reduce the Coverage B (Personal Property) limit of liability under this policy.

Any amounts payable for expenses under this endorsement shall be reduced by any amounts paid or payable for the same expenses under this policy.

The deductible clause does not apply to loss of utilities coverage.