

RULES – IMPLEMENTATION

MARCH 22, 2022

BUSINESSOWNERS

LI-BP-2022-040

## ILLINOIS VIRAL OR BACTERIAL INFECTION EXCLUSION RELATED RULE REVISIONS TO BE IMPLEMENTED

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### KEY MESSAGE

Rules filing BP-2022-ORU1 to be implemented.

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### BACKGROUND

In companion forms filing BP-2022-OEND1, we submitted an Illinois viral or bacterial infection exclusion endorsement for use with the Businessowners Coverage Form.

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### ISO ACTION

We revised an Illinois exception to reflect the introduction of the Illinois viral or bacterial infection exclusion endorsement.

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### EFFECTIVE DATE

We do not establish an effective date for businessowners rule revisions in this state. Each insurer that elects to utilize this revision is responsible for determining its own effective date.

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### COMPANY ACTION

ISO has not filed this revision.

You must independently determine what revision to make and when to make any revision effective. If you decide to use all or any part of our revision, you are NOT required to file anything with the Insurance Department.

You must document your files in case the Insurance Department wishes to review the information at a later date. In all internal correspondence on this revision, you should refer to ISO Filing Number BP-2022-ORU1, NOT this circular number. Communications with the regulator concerning a filing affecting multiple lines of business (i.e., CL, PL, AL filing designation) should specify the line(s) of business that you are addressing.

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### RATING SOFTWARE IMPACT

No new attributes are being introduced with this revision.

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## POLICYHOLDER NOTIFICATION

If you decide to implement this revision, you should check all applicable laws for the state(s) to which this revision applies, to determine whether or not a specific policyholder notice requirement may apply. Please note that circular [LI-CL-2022-006](#) contains the ISO Guide To Renewals With Changed Conditions For Commercial Lines, which is available only as a guide to assist participating companies in complying with various conditional renewal statutes or regulations, for the major commercial lines of insurance serviced by ISO. The information in the Guide does not necessarily reflect all requirements or exceptions that may apply, and it is not intended as a substitute for your review of all applicable statutes and regulations concerning policyholder notification.

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## REVISION DISTRIBUTION

We will issue a Notice to Manualholders with an edition date of 9-22 (or the earliest possible subsequent date), along with any new and/or revised manual pages.

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## RELATED FORMS REVISION

We are announcing in a separate circular the implementation of a corresponding forms revision. Please refer to the Reference(s) block for identification of that circular.

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## REFERENCE(S)

- [LI-BP-2022-039](#) (03/22/2022) Illinois Introduction Of Optional Viral Or Bacterial Exclusion Endorsement Filed And To Be Implemented
- [LI-CL-2022-006](#) (02/22/2022) Revised Lead Time Requirements Listing

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## ATTACHMENT(S)

Filing BP-2022-ORU1

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# Illinois Viral Or Bacterial Infection Exclusion Related Rule Revision

## About This Filing

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We are revising an Illinois rule exception in conjunction with the introduction of an Illinois viral or bacterial infection exclusion endorsement in companion forms filing BP-2022-OEND1

## Revised Rule

We are revising the following rule:

- ♦ Rule 29. Endorsements

We have used a format of ~~striking-through~~ deletions, underlining additions and inserting a revision bar in the left margin to indicate changes.

## Related Filing(s)

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- ♦ BP-2022-OEND1 (Forms)

## Background

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In companion forms filing BP-2022-OEND1, we are submitting an Illinois viral or bacterial infection exclusion endorsement for use with the Businessowners Coverage Form.

## Explanation of Changes

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We are revising an Illinois rule exception to reflect the introduction of an Illinois viral or bacterial infection exclusion endorsement.

## Copyright Explanation

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## 29. ENDORSEMENTS

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The following is added to Paragraph **A.20.c.**:

### **A. Property Endorsements**

#### **20. Ordinance Or Law Coverage**

##### **c. Rules**

Per Illinois law, for condominium association risks, the combined total limit of insurance of Coverages **2** and **3** shall be no less than 10 percent of each insured building value, or \$500,000, whichever is less.

The following is added to Paragraph **B.**:

Liability arising out of the actual or alleged transmission of viral or bacterial infections may be excluded by attaching Illinois – Exclusion – Viral Or Bacterial Infections – Exception For Designated Infection, Ongoing Operations Or Products Endorsement **BP 15 23**. This exclusion applies with respect to the actual or alleged transmission of a viral or bacterial infection that is transmitted through aerosol particles or respiratory droplets, and also with respect to a viral or bacterial infection that is transmitted through any individual or animal (including insects) by any means, other than through aerosol particles or respiratory droplets, including but not limited to viral or bacterial infections that are sexually transmitted. This exclusion does not apply to infections, ongoing operations or the named insured's products described in the Schedule of the endorsement.

Refer to company for rating.

Paragraph **B.7.b.(1)** is replaced by the following:

### **B. Liability Endorsements**

#### **7. Employment-related Practices Liability**

##### **b. Employment-related Practices Liability Coverage Endorsement**

###### **(1) Endorsement**

Illinois – Employment-related Practices Liability Endorsement **BP 06 95** provides coverage for liability arising out of claims for a wrongful act committed against an employee because of an employment-related offense, as well as a duty to defend. The Schedule of the endorsement provides an entry for:

- (a)** A Limit of Insurance for damages and defense expenses. Endorsement **BP 06 95** specifies that defense expenses do not include the fees and salaries of attorneys and paralegals employed by the insurer;
- (b)** A deductible amount. When deductible insurance is selected by the insured, the company's obligation to pay damages and defense expenses on behalf of the insured applies only to the amount of damages and defense expenses in excess of any deductible amount stated as applicable to such coverages. The deductible may be applied to the sum of both damages and defense expenses;
- (c)** A Pending Or Prior Litigation Date;
- (d)** An option to select malicious prosecution as a covered wrongful act;
- (e)** A retroactive date. If "none" is entered in the Schedule of the endorsement, there is no retroactive date. If there is no retroactive date, coverage may be afforded for wrongful acts occurring prior to the inception date of the policy.

Paragraph **B.11.** does not apply.

Paragraph **B.13.a.(2)** is replaced by the following:

- (2)** Illinois Liquor Liability Coverage Endorsement **BP 05 03** and Illinois Liquor Liability Coverage – Bring Your Own Alcohol Establishments Endorsement **BP 14 93** provide coverage against claims for bodily injury or property damage sustained by any person or organization if liability for such injury is imposed on the insured by reason of the selling, serving or furnishing of any alcoholic beverage. Endorsement **BP 14 93** extends such coverage to an insured who permits any person to bring alcoholic beverages on their premises, for consumption on their premises. The Schedule of the endorsement provides an entry for:

- (a)** A Liquor Liability Aggregate Limit;
- (b)** An Each Person Bodily Injury Limit;
- (c)** An Each Person Property Damage Limit; and
- (d)** A Loss Of Support Or Loss Of Society Limit.

Paragraph **B.13.b.(4)** is replaced by the following:

##### **b. Liquor Liability Grades**

- (4)** The Liquor Liability Numerical Grade is 3.

Citation of Statute: 235 ILL. COMP. STAT. ANN. Section 5/6-21(a)

Comments:

The statute provides, in part, that a person injured within Illinois, in person or property, by an intoxicated person, has a right of action against a liquor vendor who, by selling or giving liquor, causes the intoxication of the intoxicated person. However, the statute also provides:

For all causes of action involving persons injured, killed or incurring property damage after January 20, 2021, in no event shall the judgment or recovery for injury to the person or property of any person exceed \$72,671.25 for each person incurring damages, and recovery under this Act for either loss of means of support or loss of society resulting from the death or injury of any person shall not exceed \$88,820.41.

The "3" designation reflects the fact that the total amount of damages that may be awarded to any person is limited by the statute. However, the Supreme Court of Illinois in *Ryan T. Simmons v. John D. Homatas (On Stage Productions, Inc.)*, 925 N.E.2d 1089 (Ill. 2010) concluded that with respect to a suit against the operator of a bring your own (BYO) establishment, the plaintiff's common law negligence claim(s) were not preempted by the dram shop laws of the state and noted that the operator is not in the business of selling liquor in the state.

Paragraph **B.18.c.** does not apply.

Paragraph **B.32.** does not apply.

Paragraph **D.3.** is replaced by the following:

**D. Endorsements Applicable To Specific Classes**

**3. Professional Liability Endorsements**

**a. Illinois – Barber Shops And Hair Salons Professional Liability**

**(1) Description Of Coverage**

This endorsement is used to provide professional liability coverage for bodily injury, property damage, personal injury and advertising injury or other injury that results from the rendering of or failure to render professional services in the operation of a barber shop or hair salon.

**(2) Endorsement**

Use Illinois – Barber Shops And Hair Salons Professional Liability Endorsement **BP 08 50**.

**(3) Rules**

Use the Schedule of Endorsement **BP 08 50** to indicate the per-occurrence and aggregate Professional Liability Limits of Liability. These limits of liability are the only limits of liability applicable to the coverage provided under this endorsement. The coverage is not subject to the Liability and Medical Expenses Limit of Liability or the policy aggregate.

**(4) Premium Determination**

Refer to company.

**b. Illinois – Beauty Salons Professional Liability**

**(1) Description Of Coverage**

This endorsement is used to provide professional liability coverage for bodily injury, property damage, personal injury and advertising injury or other injury that results from the rendering of or failure to render professional services in the operation of a beauty salon.

**(2) Endorsement**

Use Illinois – Beauty Salons Professional Liability Endorsement **BP 08 60**.

**(3) Rules**

Use the Schedule of Endorsement **BP 08 60** to indicate the per-occurrence and aggregate Professional Liability Limits of Liability. These limits of liability are the only limits of liability applicable to the coverage provided under this endorsement. The coverage is not subject to the Liability and Medical Expenses Limit of Liability or the policy aggregate.

**(4) Premium Determination**

Refer to company.

**c. Illinois – Funeral Directors Professional Liability**

**(1) Description Of Coverage**

This endorsement is used to provide professional liability coverage for bodily injury, property damage, personal injury and advertising injury or other injury arising out of the rendering of or failure to render professional services as a funeral director.

**(2) Endorsement**

Use Illinois – Funeral Directors Professional Liability Endorsement **BP 08 51**.

**(3) Rules**

Use the Schedule of Endorsement **BP 08 51** to indicate the per-occurrence and aggregate Professional Liability Limits of Liability. These limits of liability are the only limits of liability applicable to the coverage provided under this endorsement. The coverage is not subject to the Liability and Medical Expenses Limit of Liability or the policy aggregate.

**(4) Premium Determination**

Refer to company.

**d. Illinois – Optical And Hearing Aid Establishments**

**(1) Description Of Coverage**

This endorsement is used to provide professional liability coverage for bodily injury, property damage, personal injury and advertising injury arising out of the rendering of or failure to render professional services by an establishment's certified/licensed opticians or hearing aid specialists while performing professional services at the designated premises.

**(2) Endorsement**

Use Illinois – Optical And Hearing Aid Establishments Endorsement **BP 08 52**.

**(3) Rules**

Use the Schedule of Endorsement **BP 08 52** to indicate the per-occurrence and aggregate Professional Liability Limits of Liability. These limits of liability are the only limits of liability applicable to the coverage provided under this endorsement. The coverage is not subject to the Liability and Medical Expenses Limit of Liability or the policy aggregate.

**(4) Premium Determination**

Refer to company.

**e. Illinois – Pharmacists**

**(1) Description Of Coverage**

This endorsement is used to provide professional liability coverage for bodily injury, property damage and personal and advertising injury caused by the rendering of or failure to render professional services in connection with services in the practice of a retail pharmacist or pharmacy.

This endorsement excludes injury:

- (a)** Caused by the willful violation of any applicable state statutes or ordinance relating to the sale of pharmaceuticals by or with the knowledge or consent of any insured;
- (b)** Arising out of an insured's consulting, diagnostic, referral or similar service including performing blood tests, prescribing or administering any drugs or vaccinations, and managing drug therapy as required under any state statutes; and
- (c)** Arising out of goods or products prescribed by any insured as permitted by any applicable statute.

**(2) Endorsement**

Use Illinois – Pharmacists Endorsement **BP 08 56**.

**(3) Rules**

Use the Schedule of Endorsement **BP 08 56** to indicate the per-occurrence and aggregate Professional Liability Limits of Liability. These limits of liability are the only limits of liability applicable to the coverage provided under this endorsement. The coverage is not subject to the Liability and Medical Expenses Limit of Liability or the policy aggregate.

**(4) Premium Determination**

**(a) Premium**

- (i)** Refer to the multistate rate to determine the premium.
- (ii)** Multiply the Pharmacists Professional Liability multistate rate by the annual gross sales (per \$1,000), derived from pharmacist operations, to determine the additional premium.

**(b) Optional Higher Limits Of Insurance**

For optional higher limits of insurance, multiply the premium determined in Paragraph **(a)** by a factor in multistate Table **29.D.3.e.(1)(c)(ii)(RF)**. The limits of insurance must be the same as those provided for Liability and Medical Expenses Coverage.



**(5) Deductible**

Optional deductibles do not apply.

**f. Illinois – Printers Errors And Omissions Liability**

**(1) Description Of Coverage**

This endorsement provides liability coverage for the insured's negligent acts, errors or omissions in providing printing services. The endorsement does not apply to any claim resulting from any publishing function.

**(2) Endorsement**

Use Illinois Printers Errors And Omissions Liability Endorsement **BP 08 53**.

**(3) Rules**

Use the Schedule of Endorsement **BP 08 53** to indicate the per-occurrence and aggregate Professional Liability Limits of Liability. These limits of liability are the only limits of liability applicable to the coverage provided under this endorsement. The coverage is not subject to the Liability and Medical Expenses Limit of Liability or the policy aggregate.

**(4) Premium Determination**

Refer to company.

**g. Illinois – Veterinarians Professional Liability Coverage**

**(1) Description Of Coverage**

This endorsement is used to provide professional liability coverage for bodily injury, property damage, personal injury and advertising injury arising out of the rendering of or failure to render professional services as a veterinarian.

**(2) Eligible Veterinarians**

Veterinarians specializing in the treatment of house pets.

**(3) Ineligible Veterinarians**

Veterinarians providing veterinary services for:

- (a)** Animals used or bred for professional racing, show or delivering;
- (b)** Animals belonging to zoos, circuses, carnivals, rodeos, theatrical or other show enterprises;
- (c)** Training or obedience schools;
- (d)** Laboratory animal breeders;
- (e)** Animal shelters;
- (f)** Commercial cattle or hog confinement operations;
- (g)** Animal auctions; or
- (h)** Prize livestock.

**(4) Endorsement**

Use Illinois – Veterinarians Professional Liability Endorsement **BP 08 54**.

**(5) Rules**

Use the Schedule of Endorsement **BP 08 54** to indicate the per-occurrence and aggregate Professional Liability Limits of Liability. These limits of liability are the only limits of liability applicable to the coverage provided under this endorsement. The coverage is not subject to the Liability and Medical Expenses Limit of Liability or the policy aggregate.

**(6) Premium Determination**

Refer to company.

**(7) Deductible**

Optional deductibles do not apply.

Paragraph **D.5.b.** is replaced by the following:

**5. Illinois – Condominiums, Co-ops, Associations – Directors And Officers Liability Endorsement**

**b. Endorsement**

Use Illinois – Condominiums, Co-ops, Associations – Directors And Officers Liability Endorsement **BP 17 31**.

Endorsement **BP 17 31** provides coverage for liability arising out of wrongful acts committed by an insured, as defined. The Schedule of the endorsement provides an entry for:

- (1) The name of the insured association;
- (2) A Limit of Insurance for damages and defense expenses;
- (3) A deductible amount. The company's obligation to pay damages and defense expenses on behalf of the insured applies only to the amount of damages and defense expenses in excess of any deductible amount stated as applicable to such coverages. A single deductible applies to the coverages provided under the three Insuring Agreements;
- (4) The date of pending or prior litigation;
- (5) A retroactive date. If "none" is entered in the Schedule of the endorsement, there is no retroactive date. If there is no retroactive date, coverage may be afforded for wrongful acts committed before the inception date of the policy; and
- (6) An extended reporting period, as described in Paragraph e.

Paragraph E.1.a.(1)(d) is replaced by the following:

**E. Other Endorsements**

**1. Information Security Protection Endorsement**

**a. Description Of Coverage**

**(1) Insuring Agreements**

**(d) Insuring Agreement d. Security Breach Liability**

This insuring agreement provides coverage for both loss that the insured becomes legally obligated to pay and defense expenses as a result of a claim first made against the insured during the policy period or Extended Reporting Period for a wrongful act or series of interrelated wrongful acts taking place on or after the Retroactive Date. Wrongful act, as it pertains to this insuring agreement, is defined to mean any actual or alleged neglect, breach of duty or omission by an insured that results in a security breach, as that term is defined in the endorsement, or transmission of a computer virus to another person or organization.

Loss, as it pertains to this insuring agreement, does not include civil or criminal fines or penalties imposed by law, or punitive or exemplary damages.

Coverage may also be provided for defense expenses in connection with a regulatory proceeding as a result of a wrongful act covered under the insuring agreement.

Paragraphs E.1.g.(1), E.1.g.(2) and E.1.g.(3) are replaced by the following:

**g. Premium Determination**

- (1) For Tier 1 coverages, based on the limit of insurance and deductible selected, refer to state rates Table 29.E.1.g.(1)(LC) to determine the additional premium.
- (2) For Tier 1 and Tier 2 coverages, based on the limit of insurance and deductible selected, refer to state rates Table 29.E.1.g.(2)(LC) to determine the additional premium.
- (3) For Tier 1, Tier 2 and Tier 3 coverages, based on the limit of insurance and deductible selected, refer to state rates Table 29.E.1.g.(3)(LC) to determine the additional premium.

Paragraph E.1.h.(2) is replaced by the following:

**h. Supplemental Extended Reporting Period**

- (2) Refer to company for rating. However, the premium charged for the Supplemental Extended Reporting Period may not exceed 2.00 times the annual premium for Endorsement BP 15 07.

Paragraph E.1.i. is replaced by the following:

**i. Payment Card Industry Coverage**

**(1) Description Of Coverage**

This endorsement provides coverage for defense expenses as a result of a claim in the form of an action taken by a card company for noncompliance with Payment Card Industry Data Security Standards first made against the insured during the policy period or during the Extended Reporting Period in response to a wrongful act or series of interrelated wrongful acts covered under Insuring Agreement d. Security Breach Liability.

**(2) Endorsement**

Use Payment Card Industry (PCI) – Provide Coverage For Defense Expenses Endorsement BP 15 09.

**(3) Premium Determination**

Develop the additional premium by multiplying the premium determined in Paragraphs E.1.g.(2) through E.1.g.(6) by the factor shown in state Table 29.E.1.i.(3)(RF).