

FORMS – FILED AND APPROVED

NOVEMBER 8, 2022

COMMERCIAL PROPERTY

LI-CF-2022-148

MICHIGAN REVISED CHANGES ENDORSEMENT FILED AND APPROVED

KEY MESSAGE

In response to a request by the Michigan Department of Insurance and Financial Services, we are announcing the submission and approval of revisions to the ISO Commercial Property Changes endorsement in Michigan to more closely track with MCL 500.2833(1)(m) and for consistency with other ISO insurance lines.

Filing ID: CL-2022-OAC1

Effective Date: May 1, 2023

BACKGROUND

MICH. COMP. LAWS ANN. §500.2833(1)(m) provides, in part, that:

"(m) that if the insured and insurer fail to agree on the actual cash value or amount of the loss, either party may make a written demand that the amount of the loss or the actual cash value be set by appraisal. If either makes a written demand for appraisal, each party shall select a competent, independent appraiser and notify the other of the appraiser's identity within 20 days after receipt of the written demand. The 2 appraisers shall then select a competent, impartial umpire. If the 2 appraisers are unable to agree upon an umpire within 15 days, the insured or insurer may ask a judge of the circuit court for the county in which the loss occurred or in which the property is located to select an umpire. The appraisers shall then set the amount of the loss and actual cash value as to each item. If the appraisers submit a written report of an agreement to the insurer, the amount agreed upon shall be the amount of the loss. If the appraisers fail to agree within a reasonable time, they shall submit their differences to the umpire. Written agreement signed by any 2 of these 3 shall set the amount of the loss."

ISO ACTION

In endorsement CP 01 20, Michigan Changes, we revised the Appraisal conditions to more closely track with MICH. COMP. LAWS ANN. §500.2833(1)(m).

Additional editorial revisions have also been made.

Refer to the attached explanatory material for complete details about the filing.

INSURANCE DEPARTMENT ACTION

The Michigan Department of Insurance and Financial Services has approved this revision as filed.

EFFECTIVE DATE

The ISO revision is subject to the following rule of application:

These changes are applicable to all policies written on or after May 1, 2023.

COMPANY ACTION

If you have authorized us to file on your behalf and decide:

- To use our revision and effective date, you are not required to file anything with the Insurance Department.
- To use our revision with a different effective date, to use our revision with modification, or to not use our revision, you must make an appropriate submission with the Insurance Department.

For guidance on submission requirements, consult the ISO State Filing Handbook.

In all correspondence with the Insurance Department on this revision, you should refer to ISO Filing Number [CL-2022-OAC1](#) and SERFF Tracking Number [ISOF-133441709](#), 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.

RATING SOFTWARE IMPACT

New attributes being introduced with this revision:

- A new edition date of an existing form number is being introduced.

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.

REVISION DISTRIBUTION

We will issue a Notice to Portfolioholders with an edition date of 5-23 (or the earliest possible subsequent date), along with any new and/or revised forms.

REFERENCE(S)

[LI-CL-2022-006](#) (02/22/2022) Revised Lead Time Requirements Listing

ATTACHMENT(S)

Filing [CL-2022-OAC1](#)

Final copy of [CP 01 20 05 23](#)

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Please make sure that your company has authorized your use of this product and has complied with the requirements applicable in the jurisdiction where you plan to use it.

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We provide participating insurers with information concerning the jurisdictions for which our products and services are distributed. Even in those jurisdictions, each insurer must determine what filing requirements, if any, apply and whether those requirements have been satisfied.

Now, as in the past, all of our products and services are advisory, and are made available for optional use by participating insurers as a matter of individual choice. Your company must decide for itself which, if any, ISO products or services are needed or useful to its operation and how those selected for use should be applied. We urge that you be guided by the advice of your attorneys on the legal requirements.

CONTACT INFORMATION

If you have any questions concerning:

- The content of this circular, please contact:

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- Other issues for this circular, please contact Customer Support:

E-mail: info@verisk.com

Phone: 800-888-4476

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Revised Michigan Changes Endorsement

Applicable Lines of Business

This filing applies to the following lines of business:

- ◆ Agricultural Capital Assets (Output Policy)
- ◆ Businessowners
- ◆ Capital Assets Program (Output Policy)
- ◆ Commercial Fire and Allied Lines
- ◆ Commercial Flood
- ◆ Commercial Inland Marine
- ◆ Equipment Breakdown
- ◆ Farm

About This Filing

This filing revises various Commercial Lines endorsements in Michigan to more closely track with MCL 500.2833(1)(m) and for consistency with other ISO insurance lines.

Revised Forms

We are revising the following forms:

- ◆ AG 01 25 04 21 – Michigan Changes
- ◆ BP 01 36 04 21 – Michigan Changes
- ◆ BP 47 01 04 21 – Michigan Changes – Micro-Businessowners
- ◆ CM 01 11 04 21 – Michigan Changes
- ◆ CP 01 20 04 21 – Michigan Changes
- ◆ EB 01 08 04 21 – Michigan Changes
- ◆ FC 01 21 04 21 – Michigan Changes
- ◆ FL 01 04 04 21 – Michigan Changes
- ◆ OP 01 16 04 21 – Michigan Changes

We have used a format of ~~striking through~~ deletions, underlining additions and inserting a revision bar in the left margin to indicate changes from the above-referenced editions to the 05 23 editions. Concurrent with implementation, the 05 23 editions will supersede the prior editions.

Introduction

At the request of the Michigan Department of Insurance and Financial Services we have revised various Commercial Lines endorsements in Michigan to more closely track our Appraisal condition provision with MCL 500.2833(1)(m).

Background

MICH. COMP. LAWS ANN. §500.2833(1)(m) provides, in part, that:

"(m) that if the insured and insurer fail to agree on the actual cash value or amount of the loss, either party may make a written demand that the amount of the loss or the actual cash value be set by appraisal. If either makes a written demand for appraisal, each party shall select a competent, independent appraiser and notify the other of the appraiser's identity within 20 days after receipt of the written demand. The 2 appraisers shall then select a competent, impartial umpire. If the 2 appraisers are unable to agree upon an umpire within 15 days, the insured or insurer may ask a judge of the circuit court for the county in which the loss occurred or in which the property is located to select an umpire. The appraisers shall then set the amount of the loss and actual cash value as to each item. If the appraisers submit a written report of an agreement to the insurer, the amount agreed upon shall be the amount of the loss. If the appraisers fail to agree within a reasonable time, they shall submit their differences to the umpire. Written agreement signed by any 2 of these 3 shall set the amount of the loss."

Explanation of Changes

In response to correspondence from the Michigan Department of Insurance and Financial Services regarding our Appraisal condition, we are revising the Appraisal conditions in various Michigan Changes commercial lines endorsements to more closely track with MICH. COMP. LAWS ANN. §500.2833(1)(m).

Also, we are further revising our Appraisal conditions in various Michigan Changes commercial lines endorsements for consistency with other ISO insurance lines that have previously been filed and approved, where applicable.

While MICH. COMP. LAWS ANN. §500.2833 applies to fire insurance policies, we are also revising the Appraisal Condition in FC 01 21, to maintain consistency with prior ISO Commercial Flood program revisions.

Additional editorial revisions are also being made.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

MICHIGAN CHANGES

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART STANDARD PROPERTY POLICY

- A. When this endorsement is attached to the Standard Property Policy **CP 00 99**, the term Coverage Part is replaced by the term Policy.
- B. When Causes Of Loss – Special Form is attached to this policy, Exclusion **2.h.** of that form is replaced by the following:
- h. Dishonest or criminal act (including theft) by a "perpetrator", or theft by any person to whom you entrust the property for any purpose, whether acting alone or in collusion with any other party.
- This exclusion:
- (1) Applies whether or not an act occurs during your normal hours of operation;
 - (2) Does not apply to acts of destruction by your employees (including temporary employees and leased workers) or authorized representatives; but theft by your employees (including temporary employees and leased workers) or authorized representatives is not covered.
- However, with respect to loss or damage caused by or resulting from a criminal act, this exclusion only applies to the extent that a "perpetrator", or a person to whom you entrusted the property:
- (1) Admits, under oath; or
 - (2) Is determined in any legal proceeding; to have committed or directed the criminal act. For purposes of this exclusion, a determination in any legal proceeding includes, but is not limited to, a criminal conviction, a judgment, decree, ruling or order pronounced by any court of competent jurisdiction or an order or ruling pronounced by any administrative agency.
- C. Paragraphs **1., 2., 3.** and **5.** of the **Cancellation** Common Policy Condition are replaced by the following:
1. The first Named Insured shown in the Declarations may cancel this policy by giving us or our authorized agent notice of cancellation.
 2. We may cancel this policy by mailing or delivering to the first Named Insured, with postage fully prepaid, written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
 3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us or our authorized agent.
 5. If this policy is cancelled, we will send the first Named Insured any pro rata premium refund due. The minimum earned premium shall not be less than the pro rata premium for the expired time or \$25.00, whichever is greater. The cancellation will be effective even if we have not made or offered a refund.
- D. The following is added to the:
1. **Loss Payment** Condition; and
 2. **Mortgageholders** Condition:

If a municipality has elected to apply the provisions of 1998 Michigan Public Act 217, a part of our payment for fire, explosion, vandalism, windstorm or hail, or riot or civil commotion loss or damage to your covered real property in that municipality will be withheld if the loss or damage is subject to the provisions of the Act. The withheld amount will be paid either to:

 - (a.) The municipality;

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- (b.) You and the mortgageholder, if any; or
- (c.) With your consent, the licensed contractor hired by you to perform repair, replacement, or removal services on the lost or damaged real property;

according to the provisions of Public Act 217. We will notify you, any mortgageholder and the municipality of any loss subject to the provisions of Public Act 217.

If a municipality has elected to apply the provisions of MICH. COMP. LAWS § 500.3011, any further payment for claims for loss or damage to your covered property caused by fire or explosion of \$2,000 or more will be withheld if you have failed to submit a required report to the fire or law enforcement authority designated by the municipality.

E. The paragraph relating to prejudgment interest in Supplementary Payments in:

1. Legal Liability Coverage Form **CP 00 40**; and
2. Mortgageholders Errors And Omissions Coverage Form **CP 00 70**;

is replaced by the following:

Prejudgment interest awarded against the insured on the part of the judgment we pay.

F. Commercial Property Coverage Part – Duties Amended

1. The following, **F.2.** through **F.4.**, apply to the:
 - a. Mortgageholders Errors And Omissions Coverage Form – Condition **F.4.c.(2) – Duties In The Event Of Loss** – Coverages **C** and **D**; and
 - b. Legal Liability Coverage Form – Condition **D.1. – Duties In The Event Of Accident, Claim Or Suit.**

2. Paragraph F.4.c.(2)(a) in the Mortgageholders Errors And Omissions Coverage Form and Paragraph D.1.b. in the Legal Liability Coverage Form are replaced by the following:

If a claim is made or "suit" is brought against you, you must see to it that we receive prompt notice of the claim or "suit".

3. Notice given by or on behalf of the insured to our authorized agent, with particulars sufficient to identify the insured, shall be considered notice to us.

4. Failure to:

- a. Give us prompt notice of an accident, claim or "suit"; or
- b. Immediately send us copies of demands, notices, summonses or legal papers received in connection with a claim or "suit";

shall not invalidate a claim made by you if it shall be shown that it was not reasonably possible to give us prompt notice or to immediately send us copies, and that you gave us notice and sent us copies as soon as was reasonably possible.

G. The following is added to the Legal Action Against Us Commercial Property Condition:

The time for commencing an action against us is tolled from the time you notify us of the loss or damage until we formally deny liability for the claim.

H. Except as provided in Paragraph I. of this endorsement, the Appraisal Loss Condition is replaced by the following:

Appraisal

If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and independent appraiser and notify the other of the appraiser's identity within 20 days after receiving a written request from the other. The two appraisers will select a competent and impartial umpire. If they cannot agree upon an umpire within 15 days, either we or you may request that selection be made by a judge of the circuit court for the county in which the loss occurred or in which the property is located. The appraisers will state separately the value of the property and amount of loss. If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the amount of loss. If they fail to agree within a reasonable time, they will submit their differences to the umpire. A decision agreed to by any two will set the amount of loss. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

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- I. The **Appraisal** Loss Condition in:
 - 1. Business Income (And Extra Expense) Coverage Form **CP 00 30**; and
 - 2. Business Income (Without Extra Expense) Coverage Form **CP 00 32**;

is replaced by the following:

Appraisal

If we and you disagree on the amount of Net Income and operating expense or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and independent appraiser and notify the other of the appraiser's identity within 20 days after receiving a written request from the other. The two appraisers will select a competent and impartial umpire. If they cannot agree upon an umpire within 15 days, ~~either we or you~~ may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the amount of Net Income and operating expense or amount of loss. If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the amount of loss. If they fail to agree within a reasonable time, they will submit their differences to the umpire. A decision agreed to by any two will be ~~binding~~ set the amount of loss. Each party will:

- a. Pay its chosen appraiser; and

- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

- J. When Causes Of Loss – Special Form is attached to this policy, the following ~~definition~~ is added to Paragraph **G. Definitions** of that form:

- 3. "Perpetrator" means:

- a. You; or
- b. Any of your partners, members, officers, managers, employees (including temporary employees or leased workers), directors, trustees or authorized representatives;

whether acting alone or in collusion with each other or with any other party who commits the dishonest or criminal act.

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MICHIGAN CHANGES

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COMMERCIAL PROPERTY COVERAGE PART STANDARD PROPERTY POLICY

- A.** When this endorsement is attached to the Standard Property Policy **CP 00 99**, the term Coverage Part is replaced by the term policy.
- B.** When Causes Of Loss – Special Form is attached to this policy, Exclusion **2.h.** of that form is replaced by the following:
- h.** Dishonest or criminal act (including theft) by a "perpetrator", or theft by any person to whom you entrust the property for any purpose, whether acting alone or in collusion with any other party.
- This exclusion:
- (1)** Applies whether or not an act occurs during your normal hours of operation;
- (2)** Does not apply to acts of destruction by your employees (including temporary employees and leased workers) or authorized representatives; but theft by your employees (including temporary employees and leased workers) or authorized representatives is not covered.
- However, with respect to loss or damage caused by or resulting from a criminal act, this exclusion only applies to the extent that a "perpetrator", or a person to whom you entrusted the property:
- (1)** Admits, under oath; or
- (2)** Is determined in any legal proceeding; to have committed or directed the criminal act. For purposes of this exclusion, a determination in any legal proceeding includes, but is not limited to, a criminal conviction, a judgment, decree, ruling or order pronounced by any court of competent jurisdiction or an order or ruling pronounced by any administrative agency.
- C.** Paragraphs **1., 2., 3.** and **5.** of the **Cancellation** Common Policy Condition are replaced by the following:
- 1.** The first Named Insured shown in the Declarations may cancel this policy by giving us or our authorized agent notice of cancellation.
 - 2.** We may cancel this policy by mailing or delivering to the first Named Insured, with postage fully prepaid, written notice of cancellation at least:
 - a.** 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b.** 30 days before the effective date of cancellation if we cancel for any other reason.
 - 3.** We will mail or deliver our notice to the first Named Insured's last mailing address known to us or our authorized agent.
 - 5.** If this policy is cancelled, we will send the first Named Insured any pro rata premium refund due. The minimum earned premium shall not be less than the pro rata premium for the expired time or \$25.00, whichever is greater. The cancellation will be effective even if we have not made or offered a refund.
- D.** The following is added to the:
- 1. Loss Payment** Condition; and
 - 2. Mortgageholders** Condition:

If a municipality has elected to apply the provisions of 1998 Michigan Public Act 217, a part of our payment for fire, explosion, vandalism, windstorm or hail, or riot or civil commotion loss or damage to your covered real property in that municipality will be withheld if the loss or damage is subject to the provisions of the Act. The withheld amount will be paid either to:

 - a.** The municipality;

- b. You and the mortgageholder, if any; or
- c. With your consent, the licensed contractor hired by you to perform repair, replacement, or removal services on the lost or damaged real property;

according to the provisions of Public Act 217. We will notify you, any mortgageholder and the municipality of any loss subject to the provisions of Public Act 217.

If a municipality has elected to apply the provisions of MICH. COMP. LAWS § 500.3011, any further payment for claims for loss or damage to your covered property caused by fire or explosion of \$2,000 or more will be withheld if you have failed to submit a required report to the fire or law enforcement authority designated by the municipality.

E. The paragraph relating to prejudgment interest in **Supplementary Payments in:**

- 1. Legal Liability Coverage Form **CP 00 40**; and
- 2. Mortgageholders Errors And Omissions Coverage Form **CP 00 70**;

is replaced by the following:

Prejudgment interest awarded against the insured on the part of the judgment we pay.

F. Commercial Property Coverage Part – Duties Amended

- 1. The following, **F.2.** through **F.4.**, apply to the:
 - a. Mortgageholders Errors And Omissions Coverage Form – Condition **F.4.c.(2) – Duties In The Event Of Loss** – Coverages **C** and **D**; and
 - b. Legal Liability Coverage Form – Condition **D.1. – Duties In The Event Of Accident, Claim Or Suit.**

2. Paragraph **F.4.c.(2)(a) in the Mortgageholders Errors And Omissions Coverage Form and Paragraph **D.1.b.** in the Legal Liability Coverage Form are replaced by the following:**

If a claim is made or "suit" is brought against you, you must see to it that we receive prompt notice of the claim or "suit".

3. Notice given by or on behalf of the insured to our authorized agent, with particulars sufficient to identify the insured, shall be considered notice to us.

4. Failure to:

- a. Give us prompt notice of an accident, claim or "suit"; or
- b. Immediately send us copies of demands, notices, summonses or legal papers received in connection with a claim or "suit";

shall not invalidate a claim made by you if it shall be shown that it was not reasonably possible to give us prompt notice or to immediately send us copies, and that you gave us notice and sent us copies as soon as was reasonably possible.

G. The following is added to the **Legal Action Against Us Commercial Property Condition:**

The time for commencing an action against us is tolled from the time you notify us of the loss or damage until we formally deny liability for the claim.

H. Except as provided in Paragraph **I. of this endorsement, the **Appraisal** Loss Condition is replaced by the following:**

Appraisal

If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and independent appraiser and notify the other of the appraiser's identity within 20 days after receiving a written request from the other. The two appraisers will select a competent and impartial umpire. If they cannot agree upon an umpire within 15 days, we or you may request that selection be made by a judge of the circuit court for the county in which the loss occurred or in which the property is located. The appraisers will state separately the value of the property and amount of loss. If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the amount of loss. If they fail to agree within a reasonable time, they will submit their differences to the umpire. A decision agreed to by any two will set the amount of loss. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

- I. The **Appraisal** Loss Condition in:
1. Business Income (And Extra Expense) Coverage Form **CP 00 30**; and
 2. Business Income (Without Extra Expense) Coverage Form **CP 00 32**;

is replaced by the following:

Appraisal

If we and you disagree on the amount of Net Income and operating expense or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and independent appraiser and notify the other of the appraiser's identity within 20 days after receiving a written request from the other. The two appraisers will select a competent and impartial umpire. If they cannot agree upon an umpire within 15 days, we or you may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the amount of Net Income and operating expense or amount of loss. If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the amount of loss. If they fail to agree within a reasonable time, they will submit their differences to the umpire. A decision agreed to by any two will set the amount of loss. Each party will:

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- J. When Causes Of Loss – Special Form is attached to this policy, the following is added to Paragraph **G. Definitions** of that form:

3. "Perpetrator" means:

- a. You; or
- b. Any of your partners, members, officers, managers, employees (including temporary employees or leased workers), directors, trustees or authorized representatives;

whether acting alone or in collusion with each other or with any other party who commits the dishonest or criminal act.