



# MISSISSIPPI STATE RATING BUREAU

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## BULLETIN 22-04

Date: 12-5-22

To All Member Companies and Their Authorized  
Mississippi Agents

Cannabis Flood – Form & Rule  
FC-2022-OCCFF & OCCRU

To Whom it May Concern:

SERF# MSSR-133472888

This is notice that MSRB filed and received Mississippi Department of Insurance approval for a form and rule optional Cannabis endorsement. This new endorsement and rule was filed on behalf of all MSRB member companies and is approved effective 11-1-2023 for new and renewal policies.

See the attached explanatory memorandum information for additional detail.

MSRB members have the option of accepting this change filed on their behalf with the 11-1-2023 effective date, individually filing for an alternative effective date, or individually filing to non-adopt or amend this change.

ISONet tm pages will be updated to reflect this filing. Copies of the filing materials are available using the MSSR tracking numbers for the NAIC SERFF System. The filing package can also be requested from MSRB personnel (Brad Little or Tony Parker) phone 601-981-2915 ext. 102.

**MISSISSIPPI STATE RATING BUREAU MANAGEMENT**

# Multistate Optional Endorsement Addressing Cannabis Coverage Introduced

## About This Filing

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This filing introduces an optional multistate endorsement for the coverage of cannabis for use with the Commercial Flood Policy.

### New Form

We are introducing the following form:

- ◆ FC 99 06 11 23 - Cannabis Coverage

## Related Filing

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The following companion filing is being filed with a concurrent effective date:

- ◆ FC-2022-OCCRU

## Background

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In 2019, ISO introduced the following two optional endorsements for use with the Commercial Flood Policy, which exclude coverage related to cannabis to varying degrees (forms filing FC-2019-OMJFR):

- ◆ FC 99 04 03 20 – Cannabis Exclusion
- ◆ FC 99 05 03 20 – Cannabis Exclusion With Hemp Exception

ISO continues to monitor this emerging business risk. With this filing, ISO is introducing an additional underwriting option to offer insurers flexibility in addressing cannabis-related exposures under the Commercial Flood Policy.

## Explanation of Changes

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The following optional endorsement is being introduced for use with the Commercial Flood Policy.

### FC 99 06 – Cannabis Coverage

This optional endorsement provides three optional coverages as follows:

- ◆ Coverage 1 – Your Cannabis Stock

When this optional coverage is selected by entering a Limit Of Insurance in the Schedule, the named insured's stock of cannabis will be included as Covered Property under Your Business Personal Property; however, coverage applies only to the extent that such stock is:

Permitted under an applicable state or local statute, regulation or ordinance in the state where such stock is located; and

The direct physical loss of or damage to such stock is caused by or resulting from Flood as described and limited in the Policy.

There is also an exception from coverage related to goods or products containing or derived from hemp.

The Schedule provides entry for a Per Occurrence Limit Of Insurance. This limit is part of, not in addition to, the Limit Of Insurance applicable to Your Business Personal Property.

A valuation provision sets forth how cannabis stock will be valued. Base valuation provisions of the endorsement include replacement cost for cannabis stock and selling price for cannabis stock sold but not delivered. Market value is a valuation option for cannabis stock described in the Schedule of the endorsement as subject to such valuation option.

An optional deductible may be selected to apply to cannabis stock. If no deductible is selected, the policy's property damage deductible shown in the Declarations will apply.

◆ Coverage 2 – Cannabis Stock Of Others

When this optional coverage is selected by entering a Limit Of Insurance in the Schedule, the cannabis stock of others will be included as Covered Property under Personal Property Of Others; however, coverage applies only to the extent that such stock is:

Permitted under an applicable state or local statute, regulation or ordinance, in the state where such stock is located, and

The direct physical loss of or damage to such stock is caused by or resulting from Flood as described and limited in this Policy.

There is also an exception from coverage related to goods or products containing or derived from hemp.

The Schedule provides entry for a Per Occurrence Limit Of Insurance. This limit is part of, not in addition to, the Limit Of Insurance applicable to Personal Property Of Others.

A valuation provision sets forth how cannabis stock will be valued. Base valuation provisions of the endorsement include replacement cost for cannabis stock and selling price for cannabis stock sold but not delivered.

Market value is a valuation option for cannabis stock described in the Schedule of the endorsement as subject to such valuation option.

However, with respect to replacement cost on the cannabis stock of others, a limitation may apply if an item(s) of cannabis stock of others is subject to a written contract which governs the named insured's liability for loss or damage to that item(s). The valuation of that item(s) will be based on the amount for which the insured is liable under such contract, but not to exceed the lesser of the replacement cost of the property or the applicable Limit of Insurance.

A separate deductible may be selected to apply to cannabis stock. If no deductible is selected, the policy's property damage deductible will apply.

◆ Coverage 3 – Cannabis Time Element

When this optional coverage is selected by entering a Limit Of Insurance in the Schedule, and indicated in the Declarations as being applicable under the policy, coverage provided under Time Element is generally extended to apply to the named insured's operations which are attributable to cannabis activity, but this coverage does not apply if the suspension of those operations is caused solely by direct physical loss of or damage to cannabis stock which does not qualify as Covered Property under Coverage 1 or 2.

There is an exception from coverage with respect to Business Income loss or Extra Expense incurred which is attributable to goods or products containing or derived from hemp.

The Schedule provides entry for a Per Occurrence Limit Of Insurance. This limit is part of, not in addition to, the Limit Of Insurance applicable to Time Element.

The endorsement defines cannabis, in part, to include any good or product that consists of or contains any amount of Tetrahydrocannabinol (THC) or any other cannabinoid, regardless of whether any such THC or cannabinoid is natural or synthetic. In addition, cannabis activity and market value are also defined terms under the endorsement.

## Impact

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### FC 99 06 – Cannabis Coverage

To the extent that a cannabis exposure exists with respect to:

- ◆ Direct physical loss of or damage to cannabis, subject to individual insurer underwriting practices, the attachment of this endorsement provides an increase in coverage for cannabis stock as Covered Property, if such coverage applies.
- ◆ The cannabis-related activity addressed in this endorsement, the attachment of this endorsement provides an increase in coverage with respect to that part of the actual loss of Business Income sustained or necessary Extra Expense incurred, due to a suspension of the insured's operations, which is attributable to such activity, if such coverage applies.
- ◆ Attachment of this endorsement may result in a reduction of coverage by the introduction of paragraph A.1. providing that all cannabis is Property Not Covered; however, such reduction may be limited as follows:
  - The above-referenced provision does not apply to goods or products containing or derived from hemp, except to the extent any such goods or products are prohibited under an applicable state or local statute, regulation or ordinance, in the state where such goods or products are located, and
  - To the extent that Coverage has been provided for direct physical loss of or damage to cannabis by this endorsement.
- ◆ Additionally, attachment of this endorsement may result in a reduction of coverage by the introduction of paragraph B.1. providing that Business Income loss or Extra Expense incurred, due to a suspension of the insured's operations, which are attributable to cannabis activity, is generally not covered; however, such reduction may be limited as follows:
  - The above-referenced provision does not apply to Business Income loss or Extra Expense incurred, which is attributable to goods or products containing or derived from hemp, except to the extent any such goods or products are prohibited under an applicable state or local statute, regulation or ordinance, in the state where such goods or products are located, and
  - To the extent that Coverage has been provided for Business Income loss and Extra Expense incurred by this endorsement.

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# Multistate Rules Revision Addressing Cannabis Coverage Introduced

## About This Filing

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This filing is revising a multistate rule in the Division Twenty - Commercial Flood Section of the Commercial Lines Manual (CLM) to reflect a new optional endorsement submitted for Cannabis Coverage with companion forms filing FC-2022-OCCFF.

### Revised Rules

We are revising the following rule:

- ◆ Rule 5. Property Insurance 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

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The following companion filing is being filed with a concurrent effective date:

- ◆ FC-2022-OCCFF (Forms)

## Background

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In 2019, ISO introduced Rule 5.F. Cannabis (rules filing FC-2019-OMJRU) and two optional endorsements for use with the Commercial Flood Policy that exclude coverage related to cannabis to varying degrees (forms filing FC-2019-OMJFR):

- ◆ FC 99 04 03 20 – Cannabis Exclusion
- ◆ FC 99 05 03 20 – Cannabis Exclusion With Hemp Exception

In related forms filing FC-2022-OCCFF, we are:

- ◆ Introducing a new optional endorsement to explicitly address cannabis coverage for the Commercial Flood Policy.
  - FC 99 06 11 23 – Cannabis Coverage

ISO continues to monitor this emerging business risk. With this filing, ISO is introducing an additional underwriting option to offer insurers flexibility in addressing cannabis-related exposures under the Commercial Flood Policy.

## **Explanation of Changes**

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### **Rule 5.F.1. Exclusion Endorsement Options**

Rule 5.F. Cannabis has been revised to provide both Rule 5.F.1. for Cannabis Exclusion Endorsement Options and Rule 5.F.2. for Cannabis Coverage Endorsement. Additionally, Rule 5.F.1.c. has been added to instruct that if Endorsement **FC 99 04** or Endorsement **FC 99 05** is attached to a policy, Cannabis Coverage Endorsement **FC 99 06** is not eligible for attachment to the policy.

### **Rule 5.F.2. Coverage Endorsement**

This rule is revised to add reference and instruct on the usage of a new optional cannabis endorsement as follows:

- ◆ Paragraph 5.F.2.a. Form adds reference to endorsement **FC 99 06** providing that this optional endorsement provides coverage with respect to cannabis stock and that part of the actual loss of Business Income sustained or necessary Extra Expense incurred, due to a suspension of operations, which is attributable to the design, cultivation, manufacture, processing, packaging, handling, testing, storage, distribution, sale, serving, furnishing, use, possession or disposal of cannabis. Additionally, if Endorsement **FC 99 06** is attached to a policy, Endorsement **FC 99 04** or Endorsement **FC 99 05** is not eligible for attachment to the policy.
- ◆ Paragraph 5.F.2.b. Coverages instructs that Your Cannabis Stock, Cannabis Stock Of Others and Cannabis Time Element Coverage may be activated by entry of a Limit Of Insurance in the Schedule of the endorsement.
- ◆ Paragraph 5.F.2.c. Deductible provides that an option is available for a deductible applicable to cannabis stock.
- ◆ Paragraph 5.F.2.d. Valuation instructs that a valuation option is available for market value to be applied to cannabis stock described in the Schedule of the endorsement.
- ◆ Paragraph 5.F.2.e. Premium Determination instructs there is no additional premium charge for the attachment of Endorsement **FC 99 06**.

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