



NORTH CAROLINA RATE BUREAU
5401 Six Forks Road • Raleigh NC • 27609
(919) 783-9790 • www.ncrb.org

August 15, 2003

CIRCULAR LETTER TO ALL MEMBER COMPANIES
VIA E-MAIL

Re: Homeowners Blanket Property Program
North Carolina Special Provisions

The Commissioner of Insurance has recently approved a revised HB 32 32 04 03 Special Provisions - North Carolina designed for use on a mandatory basis in North Carolina with the Homeowners Blanket Property Program. In addition, please find attached an Explanatory Memorandum explaining the changes.

This change becomes effective in accordance with the following Rule of Application.

This change becomes effective with respect to all new and renewal policies effective on or after December 1, 2003.

Please see to it that this circular is brought to the attention of all interested personnel in your Company.

Very truly yours,

F. Timothy Lucas

Personal Lines Manager

FTL:dp

P-03-19

EXPLANATORY MEMORANDUM

HB 32 32 04 03 Special Provisions – North Carolina

There have been several changes in the North Carolina Homeowners Blanket Policy Program. These changes will be implemented through amendments to the Special Provisions – North Carolina Endorsement HB 32 32 (Ed. 04 03).

The following outlines the amendments included in Endorsement HB 32 32 04 03.

Clarification of the Policy regarding Mold

The HB 32 32 has been revised to provide and more specifically describe the intended mold and fungus coverage for the benefit of policyholders and to help companies better manage coverage for mold and fungus subject to certain limits. This change is designed to track the changes in the Homeowners Policy Program that went into effect August 15, 2002.

Appraisal Provision

The Appraisal Provision was intended to provide an expeditious and inexpensive means of resolving simple disagreements on the value of an insured loss. However, attorneys and appraisers have begun trying to expand the use of this provision as a means to arbitrate insurance coverage disputes including the cause of loss. Therefore, we are proposing changes to the provision to emphasize its original intent to simply resolve disagreements as to the value of an insured loss.

Choice of Law

A new Condition is being added to indicate that this policy is being issued in accordance with the laws in North Carolina and that all claims and disputes related to this policy shall be governed by the laws in North Carolina.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SPECIAL PROVISIONS – NORTH CAROLINA

DEFINITIONS

Item **2.** is deleted and replaced by the following:

- 2.** "Business" includes any full or part-time activity of any kind engaged in for economic gain, including the use of any part of any premises for such purposes.

The following definition is added:

9. "Fungi"

- a.** "Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi.
- b.** Under Section II, this does not include any fungi that are, are on, or are contained in any good or product intended for consumption.

SECTION I – PROPERTY COVERAGES

Coverage C – Personal Property

Special Limits Of Liability

Items **10.** and **11.** are deleted and replaced by the following:

- 10.** \$1000 for loss to electronic apparatus, while in or upon a motor vehicle or other motorized land conveyance, if the electronic apparatus is equipped to be operated by power from the electrical system of the vehicle or conveyance while retaining its capability of being operated by other sources of power. Electronic apparatus includes:

- a.** Accessories or antennas; or
- b.** Tapes, wires, records, discs or other media;
for use with any electronic apparatus described in this Item **10.**

- 11.** \$1000 for loss to electronic apparatus, while not in or upon a motor vehicle or other motorized land conveyance, if the electronic apparatus:

- a.** Is equipped to be operated by power from the electrical system of the vehicle or conveyance while retaining its capability of being operated by other sources of power;
- b.** Is away from the "residence premises"; and

- c.** Is used at any time or in any manner for any "business" purpose.

Electronic apparatus includes:

- a.** Accessories and antennas; or
- b.** Tapes, wires, records, discs or other media;
for use with any electronic apparatus described in this Item **11.**

Property Not Covered

Item **3.b.** is deleted and replaced by the following:

- 3.** Motor vehicles or all other motorized land conveyances. This includes:

- b.** Electronic apparatus that is designed to be operated solely by use of the power from the electrical system of motor vehicles or all other motorized land conveyances. Electronic apparatus includes:

- (1)** Accessories or antennas; or
- (2)** Tapes, wires, records, discs or other media;
for use with any electronic apparatus described in this Item **3.b.**

The exclusion of property described in **3.a.** and **3.b.** above applies only while the property is in or upon the vehicle or conveyance.

We do cover vehicles or conveyances not subject to motor vehicle registration which are:

- a.** Used to service an "insured's" residence; or
- b.** Designed for assisting the handicapped;

Coverage D – Loss Of Use

For form HO 00 03, item **1.** is deleted and replaced by the following:

- 1.** If a loss covered under this Section makes that part of the "residence premises" where you reside not fit to live in, we cover the Additional Living Expense, meaning any necessary increase in living expenses incurred by you so that your household can maintain its normal standard of living.

Payment will be for the shortest time required to repair or replace the damage or, if you permanently relocate, the shortest time required for your household to settle elsewhere.

For Forms **HO 00 04** and **HO 00 06**, Item **1.** is deleted and replaced by the following:

- 1.** If a loss by a Peril Insured Against under this policy to covered property or the building containing the property makes the "residence premises" not fit to live in, we cover the Additional Living Expense, meaning any necessary increase in living expenses incurred by you so that your household can maintain its normal standard of living.

Payment will be for the shortest time required to repair or replace the damage or, if you permanently relocate, the shortest time required for your household to settle elsewhere.

ADDITIONAL COVERAGES

9. Glass or Safety Glazing Material is deleted and replaced by the following:

9. Glass Or Safety Glazing Material

a. We cover:

- (1)** For form **HO 00 03**, the breakage of glass or safety glazing material which is part of a covered building, storm door or storm window, and for:
 - (a)** Form **HO 00 04**, the breakage of glass or safety glazing material which is part of a building, storm door or storm window, and covered as Building Additions And Alterations; and
 - (b)** Form **HO 00 06**, the breakage of glass or safety glazing material which is part of a building, storm door or storm window, and covered under Coverage **A**; and
- (2)** For form **HO 00 03**, the breakage, caused directly by Earth Movement, of glass or safety glazing material which is part of a covered building, storm door or storm window, and for:
 - (a)** Form **HO 00 04**, the breakage, caused directly by Earth Movement, of glass or safety glazing material which is part of a building, storm door or storm window, and covered as Building Additions And Alterations; and
 - (b)** Form **HO 00 06**, the breakage, caused directly by Earth Movement, of glass or safety glazing material which is part of a building, storm door or storm window, and covered under Coverage **A**; and
- (3)** The direct physical loss to covered property caused solely by the pieces, fragments or splinters of broken glass or safety glazing material which is part of a building, storm door or storm window.

b. This coverage does not include loss:

- (1)** To covered property which results because the glass or safety glazing material has been broken, except as provided in **a.(3)** above; or
- (2)** On the "residence premises" if the dwelling has been vacant for more than 30 consecutive days immediately before the loss, except when the breakage results directly from Earth Movement as provided for in **a.(2)** above. A dwelling being constructed is not considered vacant.

Loss to glass covered under this Additional Coverage **9.** will be settled on the basis of replacement with safety glazing materials when required by ordinance or law.

This coverage does not increase the limit of liability that applies to the damaged property.

The following **Additional Coverage** is added to all forms except **HO 00 04.**

12. "Fungi", Wet Or Dry Rot, Or Bacteria

We will pay up to a total of \$5000 for:

- a.** Direct physical loss to property covered under Section **I Coverage A – Dwelling, Coverage B – Other Structures and Coverage C – Personal Property** caused by, resulting from, or consisting of "fungi", wet or dry rot, or bacteria if the direct result of a Peril Insured Against; and
- b.** Necessary increase in costs which you incur to maintain your normal standard of living when the "residence premises" is uninhabitable due to a loss caused by, resulting from, or consisting of "fungi", wet or dry rot, or bacteria which is the direct result of a Peril Insured Against.

The coverage provided above is the only coverage under Section **I Coverage A – Dwelling, Coverage B – Other Structures, Coverage C – Personal Property and Coverage D – Loss Of Use** for damage or loss caused by, resulting from, or consisting of "fungi", wet or dry rot, or bacteria caused directly or indirectly regardless of any other cause or event contributing concurrently or in any sequence.

It is the most we will pay for the cost:

- a.** To remove "fungi", wet or dry rot, or bacteria from covered property;
- b.** To tear out and replace any part of the building or other covered property as needed to gain access to the "fungi", wet or dry rot, or bacteria; and

- c. Of any testing of air or property to confirm the absence, presence or level of "fungi", wet or dry rot, or bacteria whether performed prior to, during or after removal, repair, restoration or replacement. The cost of such testing will be provided only to the extent that there is a reason to believe that there is the presence of "fungi", wet or dry rot, or bacteria.

The coverage provided above applies only when such loss or costs are the result of a Peril Insured Against that occurs during the policy period and only if all reasonable means were used to save and protect the property from further damage at or after the time of the occurrence of that Peril Insured Against.

If there is covered loss or damage to covered property, not caused, in whole or in part, by "fungi", wet or dry rot, or bacteria, loss payment will not be limited by the terms of this Additional Coverage, except to the extent that "fungi", wet or dry rot, or bacteria causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Additional Coverage.

This is additional insurance and is the most we will pay for the total of all loss or costs payable under the Additional Coverage regardless of the number of locations insured or the number of claims made. No deductible applies to this coverage.

(This is Additional Coverage **10**. in Form **HO 00 06**).

SECTION I – PERILS INSURED AGAINST

In the Form **HO 00 03**, Item **2.e.(3)** is deleted and replaced by the following:

- (3) Smog, rust, or other corrosion;

In the Form **HO 00 03**, Item **2.e. (9)** is added.

- (9) Constant or repeated discharge, seepage or leakage of water or the presence or condensation of humidity, moisture or vapor, over a period of weeks, months or years.

SECTION I – EXCLUSIONS

1. Ordinance or Law is deleted and replaced by the following:

- 1. Ordinance Or Law, meaning any ordinance or law:
 - a. Requiring or regulating the construction, demolition, remodeling, renovation or repair of property, including removal of any resulting debris. This Exclusion **1**. in all forms other than Form **HO 00 03** and **1.a.** in Form **HO 00 03** does not apply to the amount of coverage that may be provided for under Additional Coverages, Glass Or Safety Glazing Material or Ordinance Or Law;

b. The requirements of which result in a loss in value to property; or

c. Requiring any "insured" or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, pollutants.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

This exclusion applies whether or not the property has been physically damaged.

(This is Exclusion **1.a.** in Form **HO 00 03**).

2. Earth Movement is deleted and replaced by the following:

2. Earth Movement, meaning earthquake, including land shock waves or tremors before, during or after a volcanic eruption; landslide; mine subsidence; mudflow; earth sinking, rising or shifting; unless direct loss by:

- a. Fire; or
- b. Explosion;

ensues and then we will pay only for the ensuing loss.

This exclusion does not apply to loss by theft.

(This is Exclusion **1.b.** in Form **HO 00 03**).

4. Power Failure is deleted and replaced by the following:

4. Power Failure, meaning the failure of power or other utility service if the failure takes place off the "residence premises". But if the failure of power or other utility service results in a loss, from a Peril Insured Against on the "residence premises", we will pay for the loss or damage caused by that Peril Insured Against.

(This is Exclusion **1.d.** in Form **HO 00 03**).

8. Intentional Loss is deleted and replaced by the following:

8. Intentional Loss

We do not provide coverage for an "insured" who commits or directs an act with the intent to cause a loss.

(This is Item **1.h.** in Form **HO 00 03**).

In all forms the following exclusion is added:

9. "Fungi", Wet Or Dry Rot, Or Bacteria, meaning the presence, growth, proliferation, spread or any activity of "fungi", wet or dry rot, or bacteria other than as provided in **Additional Coverage**, "Fungi", Wet Or Dry Rot, Or Bacteria.

(This is Exclusion **1.i.** in Form **HO 00 03**).

SECTION I – CONDITIONS

3. Loss Settlement

In Form **HO 00 06**, Subparagraph **b.(2)** is deleted and replaced by the following:

- (2) If the damage is not repaired or replaced within a reasonable time, at actual cash value but not more than the amount required to repair or replace.

6. Appraisal is deleted and replaced by the following:

6. Appraisal

If you and we fail to agree on the value or amount of any item or loss, either may demand an appraisal of such item or loss. In this event, each party will choose a competent and disinterested appraiser within 20 days after receiving a written request from the other. The two appraisers will choose a competent and impartial umpire. If they cannot agree upon an umpire within 15 days, you or we may request that a choice be made by a judge of a court of record in the state where the "residence premises" is located. The appraisers will separately set the 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, 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 own appraiser: and
- b. Bear the other expenses of the appraisal and umpire equally.

In no event will an appraisal be used for the purpose of interpreting any policy provision, determining causation or determining whether any item or loss is covered under this policy. If there is an appraisal, we still retain the right to deny the claim.

8. Suit Against Us is deleted and replaced by the following:

8. Suit Against Us

No action can be brought unless the policy provisions have been complied with and the action is started within three years after the date of loss.

10. Loss Payment is deleted and replaced by the following:

10. Loss Payment

We will adjust all losses with you. We will pay you unless some other person is named in the policy or is legally entitled to receive payment. We will pay within 60 days after the amount is finally determined.

This amount may be determined by:

- a. Reaching an agreement with you;

- b. Entry of a final judgment; or
- c. The filing of an appraisal award with us.

SECTION II – EXCLUSIONS

1. Coverage E – Personal Liability And Coverage F – Medical Payments To Others

Paragraph **a.** is deleted and replaced in all forms by the following:

- a. Which is intended by or which may reasonably be expected to result from the intentional acts or omissions or criminal acts or omissions of one or more "insured" persons. This exclusion applies even if:
 - (1) The "insured" persons lack the mental capacity to govern their own conduct;
 - (2) The "bodily injury" or "property damage" is of a different kind, quality or degree than intended or reasonably expected; or
 - (3) The "bodily injury" or "property damage" is sustained by a different person or entity than intended or reasonably expected.

This exclusion applies regardless of whether or not one or more "insured" persons are actually charged with, or convicted of, a crime.

Paragraph **b.** is deleted and replaced by the following:

- b. Arising out of or in connection with a "business" engaged in by an "insured." This exclusion applies but is not limited to an act or omission, regardless of its nature or circumstance, involving a service or duty rendered, promised, owed, or implied to be provided because of the nature of the "business." However, this exclusion does not apply to an insured minor involved in part-time, self-employed "business" pursuits normally undertaken by minors, unless the minor is employed by a "business". A minor means a person who has not attained his or her 19th birthday (or age 23 if a full time student).

The following exclusion is added in all forms:

- m. Arising directly or indirectly, in whole or in part, out of the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of or presence of any "fungi", wet or dry rot, or bacteria.

SECTIONS I AND II – CONDITIONS

2. Concealment or Fraud is deleted and replaced by the following:

2. Concealment Or Fraud

- a. Under Section I – Property Coverages, with respect to all "insureds" covered under this policy, we provide no coverage for loss under Section I – Property Coverages if, whether before or after a loss, one or more "insureds" have:
 - (1) Intentionally concealed or misrepresented any material fact or circumstance;
 - (2) Engaged in fraudulent conduct; or
 - (3) Made false statements;
relating to this insurance.
- b. Under Section II – Liability Coverages, we do not provide coverage to one or more "insureds" who, whether before or after a loss, have:
 - (1) Intentionally concealed or misrepresented any material fact or circumstance;
 - (2) Engaged in fraudulent conduct; or
 - (3) Made false statements;
relating to this insurance.

The following Condition is added:

10. Choice Of Law

This policy is issued in accordance with the laws of North Carolina and covers property or risks principally located in North Carolina. Any and all claims or disputes in any way related to this policy shall be governed by the laws of North Carolina.

All other provisions of this policy apply.