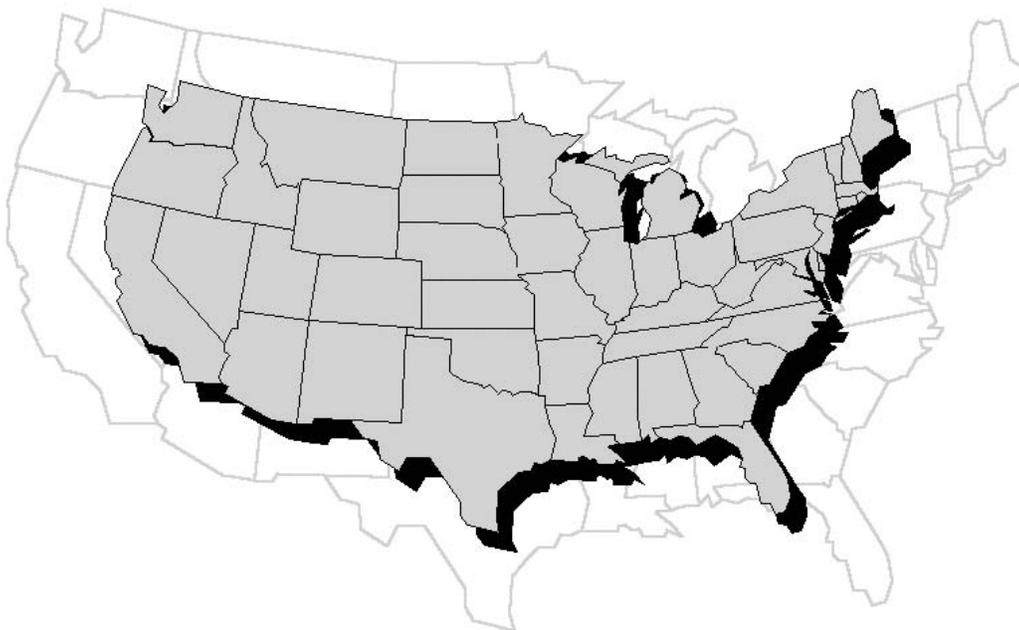




PRODUCERS'  
GUIDE TO  
UNDERSTANDING  
NCCI'S  
RESIDUAL MARKET  
LIMITED  
OTHER STATES  
INSURANCE  
ENDORSEMENT



This guide has been created to help you understand the purpose and background of NCCI's Residual Market Limited Other States Insurance Endorsement as well as its impact on employers insured through the residual market. It also provides timely information on the residual market carrier assignment process and contact information on the residual market mechanism in the various states. You are encouraged to read this material and use it to explain the endorsement provisions to your residual market clients.

## Background, Purpose and Implementation

Part Three—Other States Insurance of the standard workers compensation policy form affords insurers in the voluntary market the method by which they may, at their option, provide coverage for the described exposure. From a residual market perspective, the use of Part Three is inappropriate because it grants incidental interstate travel but also the exposure resulting from the actual commencement of long-term business operations in other states. By virtue of the state-specific nature of workers compensation statutes and insurance laws, insurers in the residual market are not obligated to extend policy coverage beyond that which is needed to satisfy the requirements of the state of domicile of the employer.

The purpose of NCCI's Residual Market Limited Other States Insurance Endorsement is to amend the coverage available to residual market policyholders under Part Three—Other States Insurance of the Workers Compensation and Employers Liability Insurance Policy. This endorsement was created to provide employers, insured in the residual market, with the protection for casual exposures resulting from interstate travel by employees of those states listed in Item 3.A. of the policy Information Page. Unlike Part Three—Other States Insurance of the standard policy, this endorsement does not provide any automatic coverage for actual operations in other states.

This endorsement will be added to all new and renewal policies issued in the residual market in those states where this endorsement has been approved. Although filed in all NCCI residual market-administered jurisdictions with a proposed effective date of February 1, 1997, you should check with the assigned carrier or NCCI's Customer Service Center to determine the status of this endorsement in your state.

## Endorsement Wording and Summary Explanation

### Residual Market Limited Other States Insurance Endorsement

Part Three—Other States Insurance of the policy is replaced by the following”

## Part Three Other States Insurance

### A. How This Insurance Applies

1. We will pay promptly when due the benefits required of you by the workers compensation law of any state not listed in Item 3.A. of the Information Page if all of the following conditions are met:
  - a. The employee claiming benefits was either hired under a contract of employment made in a state listed in Item 3.A. of the Information Page or was, at the time of injury, principally employed in a state listed in Item 3.A. of the Information Page; and
  - b. The employee claiming benefits is not claiming benefits in a state where, at the time of injury, (i) you have other workers compensation insurance coverage, or (ii) you were, by virtue of the nature of your operations in that state, required by that state's law to have obtained separate workers compensation insurance coverage, or (iii) you are an authorized self-insurer or participant in a self-insured group plan; and
  - c. The duration of the work being performed by the employee claiming benefits in the state for which that employee is claiming benefits is temporary.
2. If we are not permitted to pay the benefits directly to persons entitled to them and all of the above conditions are met, we will reimburse you for the benefits required to be paid.
3. The insurance does not apply to fines or penalties arising out of your failure to comply with the requirements of the workers compensation law.

#### IMPORTANT NOTICE!

If you hire any employees outside those states listed in Item 3.A. on the Information Page or begin operations in any such state, you should do whatever may be required under that state's law, as this endorsement does not satisfy the requirements of that state's workers' compensation law.

## B. Summary Explanation

- A.1.a. Defines the category of employee covered.
- A.1.b. Excludes coverage if the employer has separate insurance or failed to obtain coverage when, because of the scope of the employer's operations in that state, such coverage was required by state law.
- A.1.c. Limits coverage to temporary operations in states other than those listed under Item 3.A. of the policy.
- A.2. Affords the insurer a method by which benefit payments can be reimbursed to the employer in states where the insurer is not permitted to pay benefits directly to the claimant.
- A.3. Excludes coverage for certain fines and penalties imposed on the employer.

## Endorsement Applicability Guidelines

The following information is provided to assist you in understanding how NCCI's Residual Market Limited Other State Insurance Endorsement may or may not respond to common interstate business situations. These examples do not and are not intended to represent an all-inclusive list of the situations covered or not covered by this endorsement. The circumstances surrounding actual business arrangements and the claims arising therefrom are unique.

Examples of typical business situations:

- A. Employers with employees who may not physically report to the employer's location in a state listed under Item 3.A. of the policy:
  - 1. The endorsement may apply if these employees live in and conduct business from their place of residence or an office in a state listed under Item 3.A. of the policy.
  - 2. The endorsement may apply if those employees work in a state listed under Item 3.A. of the policy but file for benefits in the state where they live.
  - 3. The endorsement would not apply if those employees, in addition to being residents of a state not listed under Item 3.A. of the policy, work in that state.
- B. Employers who have temporary work sites:
  - 1. The endorsement may apply if the employer is a job contractor whose place of business is located in a state listed under Item 3.A. of the policy and whose employees travel across state lines to perform specific jobs provided that the duration of the work is temporary.

2. The endorsement would not apply for any employees hired in a state not listed under Item 3.A. of the policy.

- C. Employers whose business is in the trucking industry:
  - 1. The endorsement may apply if the employee is an individual owner-operator electing coverage in and living in a state listed under Item 3.A. of the policy.
  - 2. The endorsement may apply if the employer's operations in a state listed under Item 3.A. of the policy is a base terminal or base of operations. This eligibility may apply to each individual driver who actually reports to a location in one of these states to load, unload or transfer freight on a regular basis. This location need not be owned by the employer. It can be owned or operated by a key customer.
  - 3. The endorsement would not apply if the employer does not have an actual base terminal or key customer with a location in a state listed under Item 3.A. of the policy.
  - 4. The endorsement may apply for those drivers whose trucks are garaged in a state listed under Item 3.A. of the policy even if the employer has no actual location or key customer with a location in that state.
- D. Employers whose business is employee leasing or temporary help:
  - 1. The endorsement may apply if the employer is a temporary labor contractor located in a state listed under Item 3.A. of the policy supplying staff on a temporary basis to third parties located in other states.
  - 2. The endorsement would not apply, for leased employees, if the employer is an employee leasing company located in a state listed under Item 3.A. of the policy supplying permanent staff to an out-of-state third party.
- E. Employers with multistate operations:
  - 1. The endorsement may apply for a claim for benefits of a state not listed in Item 3.A. of the policy if the employer does not have other insurance or is not an authorized self-insurer in that state, the employee claiming benefits meets the eligibility criteria of A.1.a. of the endorsement, and the work being performed is of a temporary nature.

**REMEMBER:** If your clients have employees who travel or work out of state, this endorsement may not be applicable and they may need separate workers compensation insurance. You might suggest that they advise you prior to the commencement of any out-of-state job or contact.

## The Residual Market Carrier Assignment Process

Each insurer's obligation to participate in the workers compensation residual market of a state is limited. An annual residual market quota is established for each carrier in each state where that carrier writes workers compensation insurance on a voluntary basis. Using a methodology that distributes new applications to carriers on a random and equitable basis, NCCI will assign eligible employers to a carrier capable of servicing all those NCCI WCIP-administered states where the employer requires coverage (i.e., where estimates payrolls are shown on the application).

Since assigned carriers are not obligated to accept requests to add additional states after assignment, producers are encouraged to work with applicants to identify, at the time of application, all states where coverage might be needed either at the time or at a later date. Doing so will facilitate, but not necessarily guarantee, the assignment of a single carrier or issuance of a single policy. Should a later request to add a state be denied by the assignment carrier, the applicant must reapply to the Plan Administrator for coverage in that additional state(s).

NCCI recognizes that it is not always possible for an employer to anticipate the need for coverage in an additional state (i.e., once where exposure is frequent), much less the payroll exposure for that state. In those situations where the employer is unable to verify the payroll exposure in an additional state, NCCI will consider requests for their addition on an "if any" basis. Each such request will be evaluated on an individual basis by NCCI's Assigned Risk Customer Service Division.

For additional information on the operation of the workers compensation residual market in a specific state or to make application to that state's residual market, please contact the appropriate Residual Market Administrator. This list can be found on [ncci.com](http://ncci.com).



National Council on Compensation Insurance  
901 Peninsula Corporate Circle  
Boca Raton, FL 33487-1362  
800-NCCI-123 (800-622-4123)  
[ncci.com](http://ncci.com)

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