

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
OFFERED BY MR. THOMAS**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Terrorism Risk Protection Act”.

4 (b) **TABLE OF CONTENTS.**—The table of contents for
5 this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Congressional findings.
- Sec. 3. Designation of Administrators.
- Sec. 4. Submission of premium information to Administrator.
- Sec. 5. Triggering determination and covered period.
- Sec. 6. Federal cost-sharing for commercial insurers.
- Sec. 7. Assessments.
- Sec. 8. Terrorism loss repayment surcharge.
- Sec. 9. Administration of assessments and surcharges.
- Sec. 10. Study of reserves for property and casualty insurance for terrorist or other catastrophic events.
- Sec. 11. State preemption.
- Sec. 12. Consistent State guidelines for coverage for acts of terrorism.
- Sec. 13. Consultation with State insurance regulators and NAIC.
- Sec. 14. Sovereign immunity protections.
- Sec. 15. Study of potential effects of terrorism on life insurance industry.
- Sec. 16. Definitions.
- Sec. 17. Extension of program.
- Sec. 18. Regulations.

6 SEC. 2. CONGRESSIONAL FINDINGS.

7 The Congress finds that—

8 (1) the terrorist attacks on the World Trade
9 Center and the Pentagon of September 11, 2001, re-
10 sulted in a large number of deaths and injuries, the
11 destruction and damage to buildings, and interrup-
12 tion of business operations;

1 (2) the attacks have inflicted possibly the larg-
2 est losses ever incurred by insurers and reinsurers;

3 (3) while the insurance and reinsurance indus-
4 tries have committed to pay the losses arising from
5 the September 11 attacks, the resulting disruption
6 has created widespread market uncertainties with re-
7 gard to the risk of losses arising from possible fu-
8 ture terrorist attacks;

9 (4) such uncertainty threatens the continued
10 availability of United States commercial property
11 casualty insurance for terrorism risk at meaningful
12 coverage levels;

13 (5) the unavailability of affordable commercial
14 property and casualty insurance for terrorist acts
15 threatens the growth and stability of the United
16 States economy, including impeding the ability of fi-
17 nancial services providers to finance commercial
18 property acquisitions and new construction;

19 (6) in the past, the private insurance markets
20 have shown a remarkable resiliency in adapting to
21 changed circumstances;

22 (7) given time, the private markets will diver-
23 sify and develop risk spreading mechanisms to in-
24 crease capacity and guard against possible future
25 losses incurred by terrorist attacks;

1 (8) it is necessary to create a temporary indus-
2 try risk sharing loan program to ensure the contin-
3 ued availability of commercial property and casualty
4 insurance and reinsurance for terrorism-related
5 risks;

6 (9) such action is necessary to limit immediate
7 market disruptions, encourage economic stabiliza-
8 tion, and facilitate a transition to a viable market
9 for private terrorism risk insurance; and

10 (10) in addition, it is necessary to repeal por-
11 tions of the tax law which prohibit the insurance
12 market from developing the necessary reserves to
13 handle possible future losses due to acts of ter-
14 rorism.

15 **SEC. 3. DESIGNATION OF ADMINISTRATORS.**

16 (a) IN GENERAL.—Not later than December 1, 2001,
17 the President shall designate a Federal officer or officers
18 to act as the Administrator or Administrators responsible
19 for carrying out this Act and the responsibilities under
20 this Act to be carried out by each such officer.

21 (b) SENSE OF CONGRESS.—It is the sense of the
22 Congress that in determining the Administrator respon-
23 sible for making any determinations, for purposes of this
24 Act, as to whether a loss was caused by an act of terrorism
25 and whether such loss was caused by one or multiple such

1 events, pursuant to section 5(b), the President should con-
2 sider the appropriate role of the Assistant to the President
3 for Homeland Security.

4 **SEC. 4. SUBMISSION OF PREMIUM INFORMATION TO AD-**
5 **MINISTRATOR.**

6 To the extent such information is not otherwise avail-
7 able to the Administrators, the appropriate Administrator
8 may require each insurer to submit, to the appropriate Ad-
9 ministrator or to the NAIC, a statement specifying the
10 aggregate premium amount of coverage written by such
11 insurer for properties and persons in the United States
12 under each line of commercial property and casualty insur-
13 ance sold by such insurer during such periods as the ap-
14 propriate Administrator may provide.

15 **SEC. 5. TRIGGERING DETERMINATION AND COVERED PE-**
16 **RIOD.**

17 (a) IN GENERAL.—For purposes of this Act, a “trig-
18 gering determination” is a determination by the appro-
19 priate Administrator that the insured losses resulting from
20 the event of an act of terrorism occurring during the cov-
21 ered period (as such term is defined in subsection (b)),
22 or the aggregate insured losses resulting from multiple
23 events of acts of terrorism all occurring during the covered
24 period, meet the requirements under either of the fol-
25 lowing paragraphs:

1 (1) INDUSTRY-WIDE LOSS TEST.—Such indus-
2 try-wide losses exceed \$1,000,000,000.

3 (2) CAPITAL SURPLUS AND INDUSTRY AGGRE-
4 GATE TEST.—Such industry-wide losses exceed
5 \$100,000,000 and some portion of such losses for
6 any single commercial insurer exceed—

7 (A) 10 percent of the capital surplus of
8 such commercial insurer (as such term is de-
9 fined by the appropriate Administrator); and

10 (B) 10 percent of the commercial property
11 and casualty premiums written by such com-
12 mercial insurer;

13 except that this paragraph shall not apply to any
14 commercial insurer that has been making commer-
15 cial property and casualty insurance coverage avail-
16 able for less than 4 years as of the date of the deter-
17 mination under this subsection.

18 (b) COVERED PERIOD.—For purposes of this Act, the
19 “covered period” is the period beginning on the date of
20 the enactment of this Act and ending on January 1, 2003.

21 (c) DETERMINATIONS REGARDING EVENTS.—For
22 purposes of subsection (a), the appropriate Administrator
23 shall have the sole authority for determining whether—

24 (1) an occurrence or event was caused by an act
25 of terrorism;

1 insurers that are not in default of any obligation under
2 section 7 to pay assessments or under section 8 to collect
3 surcharges.

4 (e) REPAYMENT.—Financial assistance made avail-
5 able under this section shall be repaid through assess-
6 ments under section 7 collected by the appropriate Admin-
7 istrator and surcharges remitted to the appropriate Ad-
8 ministrator under section 8. Any such amounts collected
9 or remitted shall be deposited into the general fund of the
10 Treasury.

11 (f) EMERGENCY DESIGNATION.—Congress des-
12 ignates the amount of new budget authority and outlays
13 in all fiscal years resulting from this section as an emer-
14 gency requirement pursuant to section 252(e) of the Bal-
15 anced Budget and Emergency Deficit Control Act of 1985
16 (2 U.S.C. 901(e)). Such amount shall be available only
17 to the extent that a request, that includes designation of
18 such amount as an emergency requirement as defined in
19 such Act, is transmitted by the President to Congress.

20 **SEC. 7. ASSESSMENTS.**

21 (a) IN GENERAL.—In the case of a triggering deter-
22 mination, each commercial insurer shall be subject to as-
23 sessments under this section for the purpose of repaying
24 financial assistance made available under section 6 in con-
25 nection with such determination.

1 (b) AGGREGATE ASSESSMENT.—Pursuant to a trig-
2 gering determination, the appropriate Administrator shall
3 determine the aggregate amount to be assessed among all
4 commercial insurers, which shall be equal to 90 percent
5 of the lesser of—

6 (1) the amount of industry-wide losses resulting
7 from the triggering event involved; and

8 (2) \$20,000,000,000.

9 (c) ALLOCATION OF ASSESSMENT.—

10 (1) IN GENERAL.—The appropriate Adminis-
11 trator shall allocate the aggregate assessment
12 amount determined under subsection (b) among all
13 commercial insurers. The portion of the aggregate
14 assessment amount that is allocated as an assess-
15 ment on each commercial insurer shall be based on
16 the percentage, written by that insurer, of the aggre-
17 gate written premium, for all commercial insurers,
18 for the calendar year preceding the assessment.

19 (2) PAYMENT REQUIREMENT.—Upon notifica-
20 tion by the appropriate Administrator of an assess-
21 ment under this section, each commercial insurer
22 shall be required to pay to the appropriate Adminis-
23 trator, in the manner provided under section 9 by
24 the appropriate Administrator, the amount equal to

1 the assessment on such commercial insurer (subject
2 to the limitation under paragraph (3)).

3 (3) ANNUAL LIMITATION ON AMOUNT ALLO-
4 CATED TO EACH COMMERCIAL INSURER.—

5 (A) IN GENERAL.—Of any assessments
6 under this section on a commercial insurer, the
7 portion required to be paid by any commercial
8 insurer during a calendar year shall not exceed
9 the amount that is equal to 3 percent of the ag-
10 gregate written premium for such insurer for
11 the preceding calendar year.

12 (B) MULTIPLE PAYMENTS.—If any
13 amounts required to be repaid under this sec-
14 tion for a calendar year are limited by operation
15 of subparagraph (A), the appropriate Adminis-
16 trator shall provide that all such remaining
17 amounts shall be reallocated among all commer-
18 cial insurers (in the manner provided in para-
19 graph (1)) over such immediately succeeding
20 calendar years, and repaid over such years, as
21 may be necessary to provide for full payment of
22 such remaining amounts, except that the limita-
23 tion under subparagraph (A) shall apply to the
24 amounts paid in any such successive calendar
25 years.

1 (C) ADMINISTRATIVE FLEXIBILITY.—

2 (i) TIMING OF ASSESSMENTS.—As-
3 sements under this section in connection
4 with a triggering demonstration shall be
5 made, to the extent that the appropriate
6 Administrator considers practicable and
7 appropriate, at the beginning of the cal-
8 endar year immediately following the trig-
9 gering determination.

10 (ii) ESTIMATES AND CORRECTIONS.—
11 If the appropriate Administrator makes an
12 assessment at a time other than provided
13 under clause (i), the appropriate Adminis-
14 trator may—

15 (I) require commercial insurers
16 to estimate their aggregate written
17 premiums for the year in which the
18 assessment is made; and

19 (II) make a subsequent refund or
20 require additional payments to correct
21 such estimation at the end of the cal-
22 endar year.

23 (4) DEFERRAL OF CONTRIBUTIONS.—The ap-
24 propriate Administrator may defer the payment of
25 part or all of the assessment required under para-

1 graph (2) to be paid by a commercial insurer, but
2 only to the extent that the appropriate Adminis-
3 trator determines that such deferral is necessary to
4 avoid the likely insolvency of the commercial insurer.

5 **SEC. 8. TERRORISM LOSS REPAYMENT SURCHARGE.**

6 (a) IMPOSITION AND COLLECTION.—If, pursuant to
7 a triggering determination, the appropriate Administrator
8 determines that the aggregate amount of industry-wide
9 losses resulting from the triggering event involved exceeds
10 \$20,000,000,000, the appropriate Administrator shall—

11 (1) establish and impose a policyholder pre-
12 mium surcharge, as provided under this section, on
13 commercial property and casualty insurance written
14 after such determination, for the purpose of repay-
15 ing financial assistance made available under section
16 6 in connection with such triggering determination;
17 and

18 (2) provide for commercial insurers to collect
19 such surcharge and remit amounts collected to the
20 appropriate Administrator.

21 (b) AMOUNT AND DURATION.—The surcharge under
22 this section shall be established in such amount, and shall
23 apply to commercial property and casualty insurance writ-
24 ten during such period, as the appropriate Administrator
25 determines is necessary to recover the aggregate amount

1 of financial assistance provided under section 6 to cover
2 insured losses resulting from the triggering event that ex-
3 ceed \$20,000,000,000.

4 (c) OTHER TERMS.—The surcharge under this sec-
5 tion shall—

6 (1) be based on a percentage of the amount of
7 commercial property and casualty insurance cov-
8 erage that a policy provides; and

9 (2) be imposed with respect to all commercial
10 property and casualty insurance coverage written
11 during the period referred to in subsection (b).

12 **SEC. 9. ADMINISTRATION OF ASSESSMENTS AND SUR-**
13 **CHARGES.**

14 (a) MANNER AND METHOD.—The appropriate Ad-
15 ministrator shall provide for the manner and method of
16 carrying out assessments under section 7 and surcharges
17 under section 8, including the timing and procedures of
18 making assessments and surcharges, notifying commercial
19 insurers of assessments or surcharge requirements, col-
20 lecting payments from and surcharges through commercial
21 insurers, and refunding of any excess amounts paid or
22 crediting such amounts against future assessments.

23 (b) TIMING OF COVERAGES AND ASSESSMENTS.—
24 The appropriate Administrator may adjust the timing of
25 coverages and assessments provided under this Act to pro-

1 vide for equivalent application of the provisions of this Act
2 to commercial insurers and policies that are not based on
3 a calendar year.

4 (c) APPLICATION TO SELF-INSURANCE ARRANGE-
5 MENTS.—The appropriate Administrator may, in con-
6 sultation with the NAIC, apply the provisions of this Act,
7 as appropriate, to self-insurance arrangements by munici-
8 palities and other entities, but only if such application is
9 determined before the occurrence of a triggering event and
10 all of the provisions of this Act are applied uniformly to
11 such entities.

12 (d) ADJUSTMENT.—The appropriate Administrator
13 may adjust the assessments charged under section 7 or
14 the percentage imposed under the surcharge under section
15 8 at any time, as the appropriate Administrator considers
16 appropriate to protect the national interest, which may in-
17 clude avoiding unreasonable economic disruption or exces-
18 sive market instability.

19 **SEC. 10. STUDY OF RESERVES FOR PROPERTY AND CAS-**
20 **UALTY INSURANCE FOR TERRORIST OR**
21 **OTHER CATASTROPHIC EVENTS.**

22 (a) IN GENERAL.—The Secretary of the Treasury
23 shall conduct a study of issues relating to permitting prop-
24 erty and casualty insurance companies to establish deduct-

1 ible reserves against losses for future acts of terrorism,
2 including—

3 (1) whether such tax-favored reserves would
4 promote (A) insurance coverage of risks of terrorism
5 and (B) the accumulation of additional resources
6 needed to satisfy potential claims resulting from
7 such risks,

8 (2) the lines of business for which such reserves
9 would be appropriate, including whether such re-
10 serves should be applied to personal or commercial
11 lines of business,

12 (3) how the amount of such reserves would be
13 determined,

14 (4) how such reserves would be administered,

15 (5) a comparison of the Federal tax treatment
16 of such reserves with other insurance reserves per-
17 mitted under Federal tax laws,

18 (6) an analysis of the use of tax-favored re-
19 serves for catastrophic events, including acts of ter-
20 rorism, under the tax laws of foreign countries, and

21 (7) whether it would be appropriate to permit
22 similar reserves for other future catastrophic events,
23 such as natural disasters, taking into account the
24 factors under the preceding paragraphs.

1 (b) REPORT.—Not later than 4 months after the date
2 of the enactment of this Act, the Secretary of the Treasury
3 shall submit a report to Congress on the results of the
4 study under subsection (a), together with recommenda-
5 tions for amending the Internal Revenue Code of 1986
6 or other appropriate action.

7 **SEC. 11. STATE PREEMPTION.**

8 (a) COVERED PERILS.—A commercial insurer shall
9 be considered to have complied with any State law that
10 requires or regulates the provision of insurance coverage
11 for acts of terrorism if the insurer provides coverage in
12 accordance with the definitions regarding acts of terrorism
13 under the regulations issued by the Administrators.

14 (b) RATE LAWS.—If any provision of any State law
15 prevents an insurer from increasing its premium rates in
16 an amount necessary to recover any assessments pursuant
17 to section 7, such provision is preempted only to the extent
18 necessary to provide for such insurer to recover such
19 losses.

20 (c) FILE AND USE.—With respect only to commercial
21 property and casualty insurance covering acts of ter-
22 rorism, any provision of State law that requires, as a con-
23 dition precedent to the effectiveness of rates or policies
24 for such insurance that is made available by an insurer
25 licensed to transact such business in the State, any action

1 (including prior approval by the State insurance regulator
2 for such State) other than filing of such rates and policies
3 and related information with such State insurance regu-
4 lator is preempted to the extent such law requires such
5 additional actions for such insurance coverage. This sub-
6 section shall not be considered to preempt a provision of
7 State law solely because the law provides that rates and
8 policies for such insurance coverage are, upon such filing,
9 subject to subsequent review and action, which may in-
10 clude actions to disapprove or discontinue use of such
11 rates or policies, by the State insurance regulator.

12 **SEC. 12. CONSISTENT STATE GUIDELINES FOR COVERAGE**
13 **FOR ACTS OF TERRORISM.**

14 (a) SENSE OF CONGRESS REGARDING COVERED
15 PERILS.—It is the sense of the Congress that—

16 (1) the NAIC, in consultation with the appro-
17 priate Administrator, should develop appropriate
18 definitions for acts of terrorism and appropriate
19 standards for making determinations regarding
20 events or occurrences of acts of terrorism;

21 (2) each State should adopt the definitions and
22 standards developed by the NAIC for purposes of
23 regulating insurance coverage made available in that
24 State;

1 (3) in consulting with the NAIC, the appro-
2 priate Administrator should advocate and promote
3 the development of definitions and standards that
4 are appropriate for purposes of this Act; and

5 (4) after consultation with the NAIC, the ap-
6 propriate Administrator should adopt definitions for
7 acts of terrorism and standards for determinations
8 that are appropriate for this Act.

9 (b) INSURANCE RESERVE GUIDELINES.—

10 (1) SENSE OF CONGRESS REGARDING ADOPTION
11 BY STATES.—It is the sense of the Congress that—

12 (A) the NAIC should develop appropriate
13 guidelines for commercial insurers and pools re-
14 garding maintenance of reserves against the
15 risks of acts of terrorism; and

16 (B) each State should adopt such guide-
17 lines for purposes of regulating commercial in-
18 surers doing business in that State.

19 (2) CONSIDERATION OF ADOPTION OF NA-
20 TIONAL GUIDELINES.—Upon the expiration of the 6-
21 month period beginning on the date of the enact-
22 ment of this Act, the appropriate Administrator
23 shall make a determination of whether the guidelines
24 referred to in paragraph (1) have, by such time,
25 been developed and adopted by nearly all States in

1 a uniform manner. If the appropriate Administrator
2 determines that such guidelines have not been so de-
3 veloped and adopted, the appropriate Administrator
4 shall consider adopting, and may adopt, such guide-
5 lines on a national basis in a manner that would
6 supercede any State law regarding maintenance of
7 reserves against such risks.

8 (c) GUIDELINES REGARDING DISCLOSURE OF PRIC-
9 ING AND TERMS OF COVERAGE.—

10 (1) SENSE OF CONGRESS.—It is the sense of
11 the Congress that the States should require, by laws
12 or regulations governing the provision of commercial
13 property and casualty insurance that includes cov-
14 erage for acts of terrorism, that the price of any
15 such terrorism coverage, including the costs of any
16 terrorism related assessments or surcharges under
17 this Act, be separately disclosed.

18 (2) ADOPTION OF NATIONAL GUIDELINES.—If
19 the appropriate Administrator determines that the
20 States have not enacted laws or adopted regulations
21 adequately providing for the disclosures described in
22 paragraph (1) within a reasonable period of time
23 after the date of the enactment of this Act, the ap-
24 propriate Administrator shall, after consultation
25 with the NAIC, adopt guidelines on a national basis

1 requiring such disclosure in a manner that
2 supercedes any State law regarding such disclosure.

3 **SEC. 13. CONSULTATION WITH STATE INSURANCE REGU-**
4 **LATORS AND NAIC.**

5 The Administrators shall consult with the State in-
6 surance regulators and the NAIC in carrying out this Act.
7 The Administrators may take such actions, including en-
8 tering into such agreements and providing such technical
9 and organizational assistance to insurers and State insur-
10 ance regulators, as may be necessary to provide for the
11 distribution of financial assistance under section 6 and the
12 collection of assessments under section 7 and surcharges
13 under section 8.

14 **SEC. 14. SOVEREIGN IMMUNITY PROTECTIONS.**

15 (a) **FEDERAL CAUSE OF ACTION FOR DAMAGES**
16 **FROM TERRORIST ACTS RESULTING IN TRIGGERING DE-**
17 **TERMINATION.—**

18 (1) **IN GENERAL.—**If a triggering determination
19 occurs requiring an assessment under section 7 or a
20 surcharge under section 8, there shall exist a Fed-
21 eral cause of action, which shall be the exclusive
22 remedy, for damages claimed pursuant to, or in con-
23 nection with, any acts of terrorism that caused the
24 insured losses resulting in such triggering deter-
25 mination.

1 (2) SUBSTANTIVE LAW.—The substantive law
2 for decision in any such action shall be derived from
3 the law, including choice of law principles, of the
4 State in which such act of terrorism occurred, unless
5 such law is inconsistent with or preempted by Fed-
6 eral law.

7 (3) JURISDICTION.—Pursuant to each trig-
8 gering determination, the Judicial Panel on Multi-
9 district Litigation shall designate one or more dis-
10 trict courts of the United States which shall have
11 original and exclusive jurisdiction over all actions
12 brought pursuant to this subsection that arise out of
13 the triggering event involved.

14 (4) OFFSET FOR RELIEF PAYMENTS.—Any re-
15 covery by a plaintiff in an action under this sub-
16 section shall be offset by the amount, if any, re-
17 ceived by the plaintiff from the United States pursu-
18 ant to any emergency or disaster relief program, or
19 from any other collateral source, for compensation of
20 losses related to the act of terrorism involved.

21 (b) DAMAGES IN ACTIONS REGARDING INSURANCE
22 CLAIMS.—In an action brought under this section for
23 damages claimed by an insured pursuant to, or in connec-
24 tion with, any commercial property and casualty insurance

1 providing coverage for acts of terrorism that resulted in
2 a triggering determination:

3 (1) PROHIBITION OF PUNITIVE DAMAGES.—No
4 punitive damages intended to punish or deter may
5 be awarded.

6 (2) NONECONOMIC DAMAGES.—

7 (A) IN GENERAL.—Each defendant in such
8 an action shall be liable only for the amount of
9 noneconomic damages allocated to the defend-
10 ant in direct proportion to the percentage of re-
11 sponsibility of the defendant for the harm to
12 the claimant.

13 (B) DEFINITION.—For purposes of sub-
14 paragraph (A), the term “noneconomic dam-
15 ages” means damages for losses for physical
16 and emotional pain, suffering, inconvenience,
17 physical impairment, mental anguish, disfigure-
18 ment, loss of enjoyment of life, loss of society
19 and companionship, loss of consortium, hedonic
20 damages, injury to reputation, and any other
21 nonpecuniary losses of any kind or nature.

22 (c) RIGHT OF SUBROGATION.—The United States
23 shall have the right of subrogation with respect to any
24 claim paid by the United States under this Act.

1 (d) PROTECTIVE ORDERS.—The United States or
2 any appropriate Administrator carrying out responsibil-
3 ities under this Act may seek protective orders or assert
4 privileges ordinarily available to the United States to pro-
5 tect against the disclosure of classified information, in-
6 cluding the invocation of the military and State secrets
7 privilege

8 **SEC. 15. STUDY OF POTENTIAL EFFECTS OF TERRORISM**
9 **ON LIFE INSURANCE INDUSTRY.**

10 (a) ESTABLISHMENT.—Not later than 30 days after
11 the date of enactment of this Act, the President shall es-
12 tablish a commission (in this section referred to as the
13 “Commission”) to study and report on the potential ef-
14 fects of an act or acts of terrorism on the life insurance
15 industry in the United States and the markets served by
16 such industry.

17 (b) MEMBERSHIP AND OPERATIONS.—

18 (1) APPOINTMENT.—The Commission shall con-
19 sist of 5 members, as follows:

20 (A) The appropriate Administrator, as des-
21 ignated by the President.

22 (C) 4 members appointed by the President,
23 who shall be—

1 (i) a representative of direct under-
2 writers of life insurance within the United
3 States;

4 (ii) a representative of reinsurers of
5 life insurance within the United States;

6 (iii) an officer of the NAIC; and

7 (iv) a representative of insurance
8 agents for life underwriters.

9 (2) OPERATIONS.—The chairperson of the
10 Commission shall determine the manner in which
11 the Commission shall operate, including funding,
12 staffing, and coordination with other governmental
13 entities.

14 (c) STUDY.—The Commission shall conduct a study
15 of the life insurance industry in the United States, which
16 shall identify and make recommendations regarding—

17 (1) possible actions to encourage, facilitate, and
18 sustain provision by the life insurance industry in
19 the United States of coverage for losses due to death
20 or disability resulting from an act or acts of ter-
21 rorism, including in the face of threats of such acts;
22 and

23 (2) possible actions or mechanisms to sustain or
24 supplement the ability of the life insurance industry
25 in the United States to cover losses due to death or

1 disability resulting from an act or acts of terrorism
2 in the event that—

3 (A) such acts significantly affect mortality
4 experience of the population of the United
5 States over any period of time;

6 (B) such losses jeopardize the capital and
7 surplus of the life insurance industry in the
8 United States as a whole; or

9 (C) other consequences from such acts
10 occur, as determined by the Commission, that
11 may significantly affect the ability of the life in-
12 surance industry in the United States to inde-
13 pendently cover such losses.

14 (d) RECOMMENDATIONS.—The Commission may
15 make a recommendation pursuant to subsection (c) only
16 upon the concurrence of a majority of the members of the
17 Commission.

18 (e) REPORT.—Not later than 120 days after the date
19 of enactment of this Act, the Commission shall submit to
20 the House of Representatives and the Senate a report de-
21 scribing the results of the study and any recommendations
22 developed under subsection (c).

23 (f) TERMINATION.—The Commission shall terminate
24 60 days after submission of the report as provided for in
25 subsection (e).

1 **SEC. 16. DEFINITIONS.**

2 For purposes of this Act, the following definitions
3 shall apply:

4 (1) ACT OF TERRORISM.—

5 (A) IN GENERAL.—The term “act of ter-
6 rorism” means any act that the appropriate Ad-
7 ministrator determines meets the requirements
8 under subparagraph (B), as such requirements
9 are further defined and specified by the appro-
10 priate Administrator in consultation with the
11 NAIC.

12 (B) REQUIREMENTS.—An act meets the
13 requirements of this subparagraph if the act—

14 (i) is unlawful;

15 (ii) causes harm to a person, property,
16 or entity, in the United States;

17 (iii) is committed by a group of per-
18 sons or associations who—

19 (I) are not a government of a
20 foreign country or the de facto gov-
21 ernment of a foreign country; and

22 (II) are recognized by the De-
23 partment of State or the appropriate
24 Administrator as a terrorist group or
25 have conspired with such a group or
26 the group’s agents or surrogates; and

1 (iv) has as its purpose to overthrow or
2 destabilize the government of any country
3 or to influence the policy or affect the con-
4 duct of the government of the United
5 States by coercion.

6 (2) APPROPRIATE ADMINISTRATORS.—The term
7 “appropriate Administrator” means, with respect to
8 any function or responsibility of the Federal Govern-
9 ment under this Act, the Federal officer designated
10 by the President pursuant to section 3 as respon-
11 sible for carrying out such function or responsibility.

12 (3) AFFILIATE.—The term “affiliate” means,
13 with respect to an insurer, any company that con-
14 trols, is controlled by, or is under common control
15 with the insurer.

16 (4) AGGREGATE WRITTEN PREMIUM.—The
17 term “aggregate written premium” means, with re-
18 spect to a year, the aggregate premium amount of
19 all commercial property and casualty insurance cov-
20 erage written during such year for persons or prop-
21 erties in the United States under all lines of com-
22 mercial property and casualty insurance.

23 (5) COMMERCIAL INSURANCE.—The term
24 “commercial insurance” means property and cas-
25 ualty insurance that is not insurance for home-

1 owners, tenants, private passenger nonfleet auto-
2 mobiles, mobile homes, or other insurance for per-
3 sonal, family, or household needs.

4 (6) COMMERCIAL INSURER.—The term “com-
5 mercial insurer” means any corporation, association,
6 society, order, firm, company, mutual, partnership,
7 individual, aggregation of individuals, or any other
8 legal entity that is engaged in the business of pro-
9 viding commercial property and casualty insurance
10 for persons or properties in the United States. Such
11 term includes any affiliates of a commercial insurer.

12 (7) COMMERCIAL PROPERTY AND CASUALTY IN-
13 SURANCE.—The term “commercial property and cas-
14 ualty insurance” means property and casualty insur-
15 ance that is commercial insurance.

16 (8) CONTROL.—A company has control over an-
17 other company if—

18 (A) the company directly or indirectly or
19 acting through one or more other persons owns,
20 controls, or has power to vote 25 percent or
21 more of any class of voting securities of the
22 other company;

23 (B) the company controls in any manner
24 the election of a majority of the directors or
25 trustees of the other company; or

1 (C) the appropriate Administrator deter-
2 mines, after notice and opportunity for hearing,
3 that the company directly or indirectly exercises
4 a controlling influence over the management or
5 policies of the other company.

6 (9) COVERED PERIOD.—The term “covered pe-
7 riod” has the meaning given such term in section
8 5(b).

9 (10) INDUSTRY-WIDE LOSSES.—The term “in-
10 dustry-wide losses” means the aggregate insured
11 losses sustained by all insurers, from coverage writ-
12 ten for persons or properties in the United States,
13 under all lines of commercial property and casualty
14 insurance.

15 (11) INSURED LOSS.—The term “insured loss”
16 means any loss in the United States covered by com-
17 mercial property and casualty insurance.

18 (12) INSURER.—The term “insurer” means any
19 corporation, association, society, order, firm, com-
20 pany, mutual, partnership, individual, aggregation of
21 individuals, or any other legal entity that is engaged
22 in the business of providing property and casualty
23 insurance for persons or properties in the United
24 States. Such term includes any affiliates of an in-
25 surer.

1 (13) NAIC.—The term “NAIC” means the Na-
2 tional Association of Insurance Commissioners.

3 (14) PROPERTY AND CASUALTY INSURANCE.—
4 The term “property and casualty insurance” means
5 insurance against—

6 (A) loss of or damage to property;

7 (B) loss of income or extra expense in-
8 curred because of loss of or damage to prop-
9 erty; and

10 (C) third party liability claims caused by
11 negligence or imposed by statute or contract.

12 Such term does not include health or life insurance.

13 (15) STATE.—The term “State” means the
14 States of the United States, the District of Colum-
15 bia, the Commonwealth of Puerto Rico, the Com-
16 monwealth of the Northern Mariana Islands, Guam,
17 the Virgin Islands, American Samoa, and any other
18 territory or possession of the United States.

19 (16) STATE INSURANCE REGULATOR.—The
20 term “State insurance regulator” means, with re-
21 spect to a State, the principal insurance regulatory
22 authority of the State.

23 (17) TRIGGERING DETERMINATION.—The term
24 “triggering determination” has the meaning given
25 such term in section 5(a).

1 (18) TRIGGERING EVENT.—The term “trig-
2 gering event” means, with respect to a triggering de-
3 termination, the event of an act of terrorism, or the
4 events of such acts, that caused the insured losses
5 resulting in such triggering determination.

6 (19) UNITED STATES.—The term “United
7 States” means, collectively, the States (as such term
8 is defined in this section).

9 **SEC. 17. EXTENSION OF PROGRAM.**

10 (a) AUTHORITY.—If the appropriate Administrator
11 determines that action under this section is necessary to
12 ensure the adequate availability in the United States of
13 commercial property and casualty insurance coverage for
14 acts of terrorism, the appropriate Administrator may pro-
15 vide that the provisions of this Act shall continue to apply
16 with respect to a period or periods, as established by the
17 Administrator, that begin after the expiration of the cov-
18 ered period specified in section 5(b) and end before Janu-
19 ary 1, 2005.

20 (b) COVERED PERIOD.—If the appropriate Adminis-
21 trator exercises the authority under subsection (a), not-
22 withstanding section 5(b) and section 16(9), the period or
23 periods established by the appropriate Administrator shall
24 be considered to be the covered period for purposes of this
25 Act.

1 **SEC. 18. REGULATIONS.**

2 The appropriate Administrators shall issue any regu-
3 lations necessary to carry out this Act.