

In the Senate of the United States,

November 16, 2007.

Resolved, That the bill from the House of Representatives (H.R. 2761) entitled “An Act to extend the Terrorism Insurance Program of the Department of the Treasury, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

2 (a) *SHORT TITLE.*—*This Act may be cited as the “Ter-*
3 *rorism Risk Insurance Program Reauthorization Act of*
4 *2007”.*

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

Sec. 1. Short title; table of contents.

Sec. 2. Definition of act of terrorism.

Sec. 3. Reauthorization of the Program.

Sec. 4. Annual liability cap.

Sec. 5. Enhanced reports to Congress.

3 **SEC. 2. DEFINITION OF ACT OF TERRORISM.**

4 Section 102(1)(A)(iv) of the Terrorism Risk Insurance
 5 Act of 2002 (15 U.S.C. 6701 note) is amended by striking
 6 “acting on behalf of any foreign person or foreign interest”.

7 **SEC. 3. REAUTHORIZATION OF THE PROGRAM.**

8 **(a) TERMINATION DATE.**—Section 108(a) of the Ter-
 9 rorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note)
 10 is amended by striking “2007” and inserting “2014”.

11 **(b) ADDITIONAL PROGRAM YEARS.**—Section 102(11)
 12 of the Terrorism Risk Insurance Act of 2002 (15 U.S.C.
 13 6701 note) is amended by adding at the end the following:

14 “(G) **ADDITIONAL PROGRAM YEARS.**—*Ex-*
 15 *cept when used as provided in subparagraphs*
 16 *(B) through (F), the term ‘Program Year’ means,*
 17 *as the context requires, any of Program Year 1,*
 18 *Program Year 2, Program Year 3, Program Year*
 19 *4, Program Year 5, or any of calendar years*
 20 *2008 through 2014.”.*

21 **(c) CONFORMING AMENDMENTS.**—*The Terrorism Risk*
 22 *Insurance Act of 2002 (15 U.S.C. 6701 note) is amended—*

23 **(1) in section 102(7)(F)—**

1 (A) by inserting “and each Program Year
2 thereafter” before “, the value”; and

3 (B) by striking “preceding Program Year
4 5” and inserting “preceding that Program
5 Year”;

6 (2) in section 103(e)(1)(A), by inserting “and
7 each Program Year thereafter” after “Year 5”;

8 (3) in section 103(e)(1)(B)(ii), by inserting be-
9 fore the period at the end “and any Program Year
10 thereafter”;

11 (4) in section 103(e)(2)(A), by striking “of Pro-
12 gram Years 2 through 5” and inserting “Program
13 Year thereafter”;

14 (5) in section 103(e)(3), by striking “of Program
15 Years 2 through 5,” and inserting “other Program
16 Year”; and

17 (6) in section 103(e)(6)(E), by inserting “and
18 any Program Year thereafter” after “Year 5”.

19 **SEC. 4. ANNUAL LIABILITY CAP.**

20 (a) *IN GENERAL.*—Section 103(e)(2) of the Terrorism
21 *Risk Insurance Act of 2002 (15 U.S.C. 6701 note)* is
22 *amended—*

23 (1) in subparagraph (A)—

1 (A) by striking “(until such time as the
2 Congress may act otherwise with respect to such
3 losses)”; and

4 (B) in clause (ii), by striking “that
5 amount” and inserting “the amount of such
6 losses”; and

7 (2) in subparagraph (B), by inserting before the
8 period at the end “, except that, notwithstanding
9 paragraph (1) or any other provision of Federal or
10 State law, no insurer may be required to make any
11 payment for insured losses in excess of its deductible
12 under section 102(7) combined with its share of in-
13 sured losses under paragraph (1)(A) of this sub-
14 section”.

15 (b) NOTICE TO CONGRESS.—Section 103(e)(3) of the
16 Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701
17 note) is amended—

18 (1) by adding at the end the following: “The Sec-
19 retary shall provide an initial notice to Congress not
20 later than 15 days after the date of an act of ter-
21 rorism, stating whether the Secretary estimates that
22 aggregate insured losses will exceed
23 \$100,000,000,000.”; and

1 (2) by striking “and the Congress shall” and all
2 that follows through the end of the paragraph and in-
3 serting a period.

4 (c) *REGULATIONS FOR PRO RATA PAYMENTS; REPORT*
5 *TO CONGRESS.*—Section 103(e)(2)(B) of the *Terrorism Risk*
6 *Insurance Act of 2002 (15 U.S.C. 6701 note)* is amended—

7 (1) by striking “For purposes” and inserting the
8 following:

9 “(i) *IN GENERAL.*—For purposes”; and
10 (2) by adding at the end the following:

11 “(ii) *REGULATIONS.*—Not later than
12 240 days after the date of enactment of the
13 *Terrorism Risk Insurance Program Reau-*
14 *thorization Act of 2007, the Secretary shall*
15 *issue final regulations for determining the*
16 *pro rata share of insured losses under the*
17 *Program when insured losses exceed*
18 *\$100,000,000,000, in accordance with clause*
19 *(i).*

20 “(iii) *REPORT TO CONGRESS.*—Not
21 later than 120 days after the date of enact-
22 ment of the *Terrorism Risk Insurance Pro-*
23 *gram Reauthorization Act of 2007, the Sec-*
24 *retary shall provide a report to the Com-*
25 *mittee on Banking, Housing, and Urban*

1 *Affairs of the Senate and the Committee on*
2 *Financial Services of the House of Rep-*
3 *resentatives describing the process to be used*
4 *by the Secretary for determining the alloca-*
5 *tion of pro rata payments for insured losses*
6 *under the Program when such losses exceed*
7 *\$100,000,000,000.”.*

8 (d) *DISCLOSURE.—Section 103(b) of the Terrorism*
9 *Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is*
10 *amended—*

11 (1) *by redesignating paragraphs (3) and (4) as*
12 *paragraphs (4) and (5), respectively; and*

13 (2) *by inserting after paragraph (2) the fol-*
14 *lowing:*

15 “(3) *in the case of any policy that is issued after*
16 *the date of enactment of the Terrorism Risk Insurance*
17 *Program Reauthorization Act of 2007, the insurer*
18 *provides clear and conspicuous disclosure to the pol-*
19 *icyholder of the existence of the \$100,000,000,000 cap*
20 *under subsection (e)(2), at the time of offer, purchase,*
21 *and renewal of the policy;”.*

22 (e) *SURCHARGES.—Section 103(e) of the Terrorism*
23 *Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is*
24 *amended—*

25 (1) *in paragraph (7)—*

1 (A) in subparagraph (C), by inserting “133
2 percent of” before “any mandatory recoupment”;
3 and

4 (B) by adding at the end the following:

5 “(E) TIMING OF MANDATORY
6 RECOUPMENT.—

7 “(i) IN GENERAL.—If the Secretary is
8 required to collect terrorism loss risk-
9 spreading premiums under subparagraph
10 (C)—

11 “(I) for any act of terrorism that
12 occurs on or before December 31, 2010,
13 the Secretary shall collect all required
14 premiums by September 30, 2012;

15 “(II) for any act of terrorism that
16 occurs between January 1 and Decem-
17 ber 31, 2011, the Secretary shall collect
18 35 percent of any required premiums
19 by September 30, 2012, and the re-
20 mainder by September 30, 2017; and

21 “(III) for any act of terrorism
22 that occurs on or after January 1,
23 2012, the Secretary shall collect all re-
24 quired premiums by September 30,
25 2017.

1 “(i) *REGULATIONS REQUIRED.*—Not
2 *later than 180 days after the date of enact-*
3 *ment of this subparagraph, the Secretary*
4 *shall issue regulations describing the proce-*
5 *dures to be used for collecting the required*
6 *premiums in the time periods referred to in*
7 *clause (i).*

8 “(F) *NOTICE OF ESTIMATED LOSSES.*—Not
9 *later than 90 days after the date of an act of ter-*
10 *rorism, the Secretary shall publish an estimate*
11 *of aggregate insured losses, which shall be used*
12 *as the basis for determining whether mandatory*
13 *recoupment will be required under this para-*
14 *graph. Such estimate shall be updated as appro-*
15 *priate, and at least annually.”; and*

16 (2) *in paragraph (8)—*

17 (A) *in subparagraph (C)—*

18 (i) *by striking “(including any addi-*
19 *tional amount included in such premium”*
20 *and inserting “collected”; and*

21 (ii) *by striking “(D))” and inserting*
22 *“(D)”;* and

23 (B) *in subparagraph (D)(i), by inserting*
24 *before the period at the end “, in accordance*

1 with the timing requirements of paragraph
2 (7)(E)”.

3 **SEC. 5. ENHANCED REPORTS TO CONGRESS.**

4 (a) *STUDY AND REPORT ON INSURANCE FOR NU-*
5 *CLEAR, BIOLOGICAL, CHEMICAL, AND RADIOLOGICAL TER-*
6 *RORIST EVENTS.*—Section 108 of the Terrorism Risk Insur-
7 *ance Act of 2002 (15 U.S.C. 6701 note) is amended by add-*
8 *ing at the end the following:*

9 “(f) *INSURANCE FOR NUCLEAR, BIOLOGICAL, CHEM-*
10 *ICAL, AND RADIOLOGICAL TERRORIST EVENTS.*—

11 “(1) *STUDY.*—The Comptroller General of the
12 *United States shall examine—*

13 “(A) *the availability and affordability of*
14 *insurance coverage for losses caused by terrorist*
15 *attacks involving nuclear, biological, chemical, or*
16 *radiological materials;*

17 “(B) *the outlook for such coverage in the fu-*
18 *ture; and*

19 “(C) *the capacity of private insurers and*
20 *State workers compensation funds to manage*
21 *risk associated with nuclear, biological, chemical,*
22 *and radiological terrorist events.*

23 “(2) *REPORT.*—Not later than 1 year after the
24 *date of enactment of the Terrorism Risk Insurance*
25 *Program Reauthorization Act of 2007, the Comp-*

1 *troller General shall submit to the Committee on*
2 *Banking, Housing, and Urban Affairs of the Senate*
3 *and the Committee on Financial Services of the*
4 *House of Representatives a report containing a de-*
5 *tailed statement of the findings under paragraph (1),*
6 *and recommendations for any legislative, regulatory,*
7 *administrative, or other actions at the Federal, State,*
8 *or local levels that the Comptroller General considers*
9 *appropriate to expand the availability and afford-*
10 *ability of insurance for nuclear, biological, chemical,*
11 *or radiological terrorist events.”.*

12 **(b) STUDY AND REPORT ON AVAILABILITY AND AF-**
13 **FORDABILITY OF TERRORISM INSURANCE IN SPECIFIC**
14 **MARKETS.—Section 108 of the Terrorism Risk Insurance**
15 **Act of 2002 (15 U.S.C. 6701 note) is amended by adding**
16 *at the end the following:*

17 “(g) **AVAILABILITY AND AFFORDABILITY OF TER-**
18 **RORISM INSURANCE IN SPECIFIC MARKETS.—**

19 “(1) **STUDY.—***The Comptroller General of the*
20 *United States shall conduct a study to determine*
21 *whether there are specific markets in the United*
22 *States where there are unique capacity constraints on*
23 *the amount of terrorism risk insurance available.*

24 “(2) **ELEMENTS OF STUDY.—***The study required*
25 *by paragraph (1) shall contain—*

1 “(A) *an analysis of both insurance and re-*
2 *insurance capacity in specific markets, including*
3 *pricing and coverage limits in existing policies;*

4 “(B) *an assessment of the factors contrib-*
5 *uting to any capacity constraints that are iden-*
6 *tified; and*

7 “(C) *recommendations for addressing those*
8 *capacity constraints.*

9 “(3) *REPORT.—Not later than 180 days after the*
10 *date of enactment of the Terrorism Risk Insurance*
11 *Program Reauthorization Act of 2007, the Comp-*
12 *troller General shall submit a report on the study re-*
13 *quired by paragraph (1) to the Committee on Bank-*
14 *ing, Housing, and Urban Affairs of the Senate and*
15 *the Committee on Financial Services of the House of*
16 *Representatives.”.*

17 “(c) *ONGOING REPORTS.—Section 108(e) of the Ter-*
18 *rorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note)*
19 *is amended—*

20 “(1) *in paragraph (1)—*

21 “(A) *by inserting “ongoing” before “anal-*
22 *ysis”;* *and*

23 “(B) *by striking “, including” and all that*
24 *follows through the end of the paragraph, and*
25 *inserting a period; and*

- 1 (2) *in paragraph (2)*—
- 2 (A) *by inserting “and thereafter in 2010*
- 3 *and 2013,” after “2006,”; and*
- 4 (B) *by striking “subsection (a)” and insert-*
- 5 *ing “paragraph (1)”.*

Attest:

Secretary.

110TH CONGRESS
1ST SESSION

H. R. 2761

AMENDMENT