

109TH CONGRESS  
1ST SESSION

# H. R. 4619

To amend the Terrorism Risk Insurance Act of 2002 to establish a Commission on Terrorism Risk Insurance, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 17, 2005

Mr. FOSSELLA (for himself, Mr. SWEENEY, Mr. MCHUGH, Mrs. MALONEY, Mr. REYNOLDS, and Mr. KING of New York) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Terrorism Risk Insurance Act of 2002 to establish a Commission on Terrorism Risk Insurance, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Commission on Ter-  
5 rorism Risk Insurance Act of 2005”.

1 **SEC. 2. ESTABLISHMENT OF COMMISSION ON TERRORISM**  
2 **RISK INSURANCE.**

3 Title I of the Terrorism Risk Insurance Act of 2002  
4 (15 U.S.C. 6701 note) is amended by adding at the end  
5 the following new section:

6 **“SEC. 109. COMMISSION ON TERRORISM RISK INSURANCE.**

7 “(a) IN GENERAL.—There is hereby established the  
8 Commission on Terrorism Risk Insurance (in this section  
9 referred to as the ‘Commission’).

10 “(b) MEMBERSHIP.—

11 “(1) The Commission shall consist of 11 mem-  
12 bers, as follows:

13 “(A) The Secretary of the Treasury or the  
14 Secretary’s designee.

15 “(B) One State insurance commissioner  
16 designated by the members of the NAIC.

17 “(C) Nine members appointed by the  
18 President, who shall be—

19 “(i) a representative of State legisla-  
20 tively created workers’ compensation  
21 funds;

22 “(ii) a representative of property and  
23 casualty insurers with direct written pre-  
24 mium of \$1,000,000,000 or less;

1           “(iii) a representative of property and  
2           casualty insurers with direct written pre-  
3           mium of more than \$1,000,000,000;

4           “(iv) a representative of multiline in-  
5           surers;

6           “(v) a representative of independent  
7           insurance agents;

8           “(vi) a representative of insurance  
9           brokers;

10          “(vii) a policyholder representative;

11          “(viii) a representative of the sur-  
12          vivors of the victims of the attacks of Sep-  
13          tember 11, 2001; and

14          “(ix) a representative of the reinsur-  
15          ance industry.

16          “(2) SECRETARY.—The Program Director of  
17          the Terrorism Risk Insurance Act shall serve as Sec-  
18          retary of the Commission. The Secretary of the  
19          Commission shall determine the manner in which  
20          the Commission shall operate, including funding and  
21          staffing.

22          “(c) DUTIES.—

23                 “(1) IN GENERAL.—The Commission shall iden-  
24                 tify and make recommendations regarding—

1           “(A) possible actions to encourage, facili-  
2           tate, and sustain provision by the private insur-  
3           ance industry in the United States of affordable  
4           coverage for losses due to an act or acts of ter-  
5           rorism;

6           “(B) possible actions or mechanisms to  
7           sustain or supplement the ability of the insur-  
8           ance industry in the United States to cover  
9           losses resulting from acts of terrorism in the  
10          event that—

11                   “(i) such losses jeopardize the capital  
12                   and surplus of the insurance industry in  
13                   the United States as a whole; or

14                   “(ii) other consequences from such  
15                   acts occur, as determined by the Commis-  
16                   sion, that may significantly affect the abil-  
17                   ity of the insurance industry in the United  
18                   States to independently cover such losses;  
19                   and

20           “(C) significantly reducing the expected  
21           Federal role over time in any continuing Fed-  
22           eral terrorism risk insurance program.

23           “(2) EVALUATIONS.—In identifying and mak-  
24           ing the recommendations required under paragraph  
25           (1), the Commission shall specifically evaluate the

1 utility and viability of risk-sharing mechanisms  
2 under which insurers voluntarily reinsure terrorism  
3 losses between and among themselves that are not  
4 subject to reimbursement under section 103, a Fed-  
5 erally created or mandated reinsurance facility, em-  
6 powering such a facility to issue pre-event financing  
7 bonds, post-event financing bonds, assessments, sin-  
8 gle or multiple pooling arrangements, and other risk  
9 sharing arrangements to accomplish, in whole or in  
10 part, the specified objectives.

11 “(3) REDEVELOPMENT ASSESSMENT.—The  
12 Commission shall also evaluate whether or not cov-  
13 erage under the Program under this Act is necessary  
14 to permit redevelopment at the sites of any previous  
15 acts of terrorism. If the Commission determines that  
16 the market will not provide for renewal of, or gen-  
17 eration of new, insurance contracts necessary to per-  
18 mit such redevelopment, the Commission shall rec-  
19 ommend coverage under the Program under this  
20 Act, or a variation of such Program, that will facili-  
21 tate the completion of such a redevelopment project.

22 “(4) REPORT.—

23 “(A) IN GENERAL.—Not later than the  
24 date determined under subparagraph (B), the

1 Commission shall submit a report to the Sec-  
2 retary and the Congress that—

3 “(i) evaluates and makes rec-  
4 ommendations regarding whether there is a  
5 need for a Federal terrorism risk insurance  
6 program and, if so, makes a specific, de-  
7 tailed recommendation for the replacement  
8 of the Program, including specific, detailed  
9 recommendations for the creation of a ter-  
10 rorism reinsurance facility or facilities or  
11 single or multiple pooling arrangements, or  
12 both; and

13 “(ii) includes the evaluation, deter-  
14 mination, and any recommendation re-  
15 quired under paragraph (3).

16 “(B) TIMING.—The date determined under  
17 this subparagraph is—

18 “(i) except as provided in clause (ii),  
19 the date that occurs 6 months after the  
20 date of the enactment of this Act; or

21 “(ii) the date of such termination of  
22 the Program (as so extended), if, before  
23 the the date under clause (i), the date of  
24 the termination of the Program under this

1 Act is extended to a date that occurs after  
2 such date under clause (i) .”.

3 **SEC. 3. EXTENSION OF PROGRAM TO PROVIDE FOR REDE-**  
4 **VELOPMENT OF PREVIOUS TERRORISM**  
5 **SITES.**

6 Section 108(a) of the Terrorism Risk Insurance Act  
7 of 2002 (15 U.S.C. 6701 note) is amended—

8 (1) by striking “(a) TERMINATION OF PRO-  
9 GRAM.—The Program” and inserting the following:  
10 “(a) TERMINATION OF PROGRAM.—

11 “(1) IN GENERAL.—Except as provided in para-  
12 graph (2), the Program”; and

13 (2) by adding at the end the following new  
14 paragraphs:

15 “(2) EXTENSION OF PROGRAM TO PROVIDE FOR  
16 REDEVELOPMENT OF PREVIOUS TERRORISM  
17 SITES.—If the Commission determines in the report  
18 submitted to the Secretary pursuant to section  
19 109(c)(4) that the market will not provide for re-  
20 newal of, or generation of new, insurance contracts  
21 necessary to permit redevelopment at the site of a  
22 previous act of terrorism, the Program shall remain  
23 in effect as provided under paragraph (3) and the  
24 Secretary shall immediately take such action as may  
25 be necessary to extend the Program in accordance

1 with paragraph (3) and the recommendations of the  
2 Commission set forth in such report.

3 “(3) SCOPE OF EXTENDED PROGRAM.—If the  
4 Program is extended pursuant to paragraph (2), the  
5 Program—

6 “(A) shall provide coverage, during such  
7 extension, only with respect to insured losses  
8 under property and casualty insurance coverage  
9 (including builder’s risk policies) as the Sec-  
10 retary determines is appropriate and in accord-  
11 ance with the recommendations in the report of  
12 the Commission under section 109(c)(4), to per-  
13 mit redevelopment at the site of a previous act  
14 or terrorism; and

15 “(B) shall remain in effect as provided  
16 under subparagraph (A) only with respect to  
17 any contracts for such property and casualty in-  
18 surance in connection with such redevelopment  
19 that are issued on or before December 31,  
20 2008.”.

21 **SEC. 4. COVERAGE OF DOMESTIC TERRORISM.**

22 Section 102(1)(A)(iv) of the Terrorism Risk Insur-  
23 ance Act of 2002 (15 U.S.C. 6701 note) is amended by

- 1 striking “acting on behalf of any foreign person or foreign
- 2 interest,”.

