

PUBLIC LAW 109-144—DEC. 22, 2005

**TERRORISM RISK INSURANCE EXTENSION
ACT OF 2005**

Public Law 109-144
109th Congress

An Act

Dec. 22, 2005
[S. 467]

Terrorism Risk
Insurance
Extension Act of
2005.
15 USC 6701
note.

To extend the applicability of the Terrorism Risk Insurance Act of 2002.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Terrorism Risk Insurance Extension Act of 2005”.

SEC. 2. EXTENSION OF TERRORISM RISK INSURANCE PROGRAM.

(a) PROGRAM EXTENSION.—Section 108(a) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2336) is amended by striking “2005” and inserting “2007”.

(b) MANDATORY AVAILABILITY.—Section 103(c) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2327) is amended—

(1) by striking paragraph (2);

(2) by striking “**AVAILABILITY**—” and all that follows through “each entity” and inserting “**AVAILABILITY**.—During each Program Year, each entity”; and

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and moving the margins 2 ems to the left.

SEC. 3. AMENDMENTS TO DEFINED TERMS.

(a) PROGRAM YEARS.—Section 102(11) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2326) is amended by adding at the end the following:

“(E) PROGRAM YEAR 4.—The term ‘Program Year 4’ means the period beginning on January 1, 2006 and ending on December 31, 2006.

“(F) PROGRAM YEAR 5.—The term ‘Program Year 5’ means the period beginning on January 1, 2007 and ending on December 31, 2007.”.

(b) EXCLUSIONS FROM COVERED LINES.—

(1) IN GENERAL.—Section 102(12)(B) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2326) is amended—

(A) in clause (vi), by striking “or” at the end;

(B) in clause (vii), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(viii) commercial automobile insurance;

“(ix) burglary and theft insurance;

“(x) surety insurance;

“(xi) professional liability insurance; or
“(xii) farm owners multiple peril insurance.”.

(2) CONFORMING AMENDMENT.—Section 102(12)(A) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2326) is amended by striking “surety insurance” and inserting “directors and officers liability insurance”.

(c) INSURER DEDUCTIBLES.—Section 102(7) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2325) is amended—

(1) in subparagraph (D), by striking “and” at the end;

(2) by redesignating subparagraph (E) as subparagraph (G);

(3) by inserting after subparagraph (D), the following:

“(E) for Program Year 4, the value of an insurer’s direct earned premiums over the calendar year immediately preceding Program Year 4, multiplied by 17.5 percent;

“(F) for Program Year 5, the value of an insurer’s direct earned premiums over the calendar year immediately preceding Program Year 5, multiplied by 20 percent; and

(4) in subparagraph (G), as so redesignated, by striking “through (D)” and all that follows through “Year 3” and inserting the following: “through (F), for the Transition Period or any Program Year”.

SEC. 4. INSURED LOSS SHARED COMPENSATION.

Section 103(e) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2328) is amended—

(1) in paragraph (1)—

(A) by inserting “through Program Year 4” before “shall be equal”; and

(B) by inserting “, and during Program Year 5 shall be equal to 85 percent,” after “90 percent”; and

(2) in each of paragraphs (2) and (3), by striking “Program Year 2 or Program Year 3” each place that term appears and inserting “any of Program Years 2 through 5”.

SEC. 5. AGGREGATE RETENTION AMOUNTS AND RECOUPMENT OF FEDERAL SHARE.

(a) AGGREGATE RETENTION AMOUNTS.—Section 103(e)(6) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2329) is amended—

(1) in subparagraph (B), by striking “and” at the end;

(2) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(D) for Program Year 4, the lesser of—

“(i) \$25,000,000,000; and

“(ii) the aggregate amount, for all insurers, of insured losses during such Program Year; and

“(E) for Program Year 5, the lesser of—

“(i) \$27,500,000,000; and

“(ii) the aggregate amount, for all insurers, of insured losses during such Program Year.”.

(b) RECOUPMENT OF FEDERAL SHARE.—Section 103(e)(7) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2329) is amended—

15 USC 6701 note.

Effective date.

- (1) in subparagraph (A), by striking “, (B), and (C)” and inserting “through (E)”; and
- (2) in each of subparagraphs (B) and (C), by striking “subparagraph (A), (B), or (C)” each place that term appears and inserting “any of subparagraphs (A) through (E)”.

SEC. 6. PROGRAM TRIGGER.

Section 103(e)(1) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. note, 116 Stat. 2328) is amended—

- (1) by redesignating subparagraph (B) as subparagraph (C); and
- (2) by inserting after subparagraph (A) the following:

“(B) PROGRAM TRIGGER.—In the case of a certified act of terrorism occurring after March 31, 2006, no compensation shall be paid by the Secretary under subsection (a), unless the aggregate industry insured losses resulting from such certified act of terrorism exceed—

 - “(i) \$50,000,000, with respect to such insured losses occurring in Program Year 4; or
 - “(ii) \$100,000,000, with respect to such insured losses occurring in Program Year 5.”.

SEC. 7. LITIGATION MANAGEMENT.

Section 107(a) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2335) is amended by adding at the end the following:

Applicability.

- “(6) AUTHORITY OF THE SECRETARY.—Procedures and requirements established by the Secretary under section 50.82 of part 50 of title 31 of the Code of Federal Regulations (as in effect on the date of issuance of that section in final form) shall apply to any cause of action described in paragraph (1) of this subsection.”.

SEC. 8. ANALYSIS AND REPORT ON TERRORISM RISK COVERAGE CONDITIONS AND SOLUTIONS.

Section 108 of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2336) is amended by adding at the end the following:

“(e) ANALYSIS OF MARKET CONDITIONS FOR TERRORISM RISK INSURANCE.—

- “(1) IN GENERAL.—The President’s Working Group on Financial Markets, in consultation with the National Association of Insurance Commissioners, representatives of the insurance industry, representatives of the securities industry, and representatives of policy holders, shall perform an analysis regarding the long-term availability and affordability of insurance for terrorism risk, including—
 - “(A) group life coverage; and
 - “(B) coverage for chemical, nuclear, biological, and radiological events.

- “(2) REPORT.—Not later than September 30, 2006, the President’s Working Group on Financial Markets shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services

of the House of Representatives on its findings pursuant to the analysis conducted under subsection (a).".

Approved December 22, 2005.

LEGISLATIVE HISTORY—S. 467 (H.R. 4314):

HOUSE REPORTS: No. 109-327 accompanying H.R. 4314 (Comm. on Financial Services).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Nov. 17, considered and passed Senate.

Dec. 7, considered and passed House, amended.

Dec. 16, Senate concurred in House amendment with an amendment.

Dec. 17, House concurred in Senate amendment.

