

# WebMemo



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## Let the Terrorism Risk Insurance Act (TRIA) Expire

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The Senate's Terrorism Risk Insurance Program Reauthorization Act of 2007 (S. 2285) would extend the Terrorism Risk Insurance Act (TRIA), a program that should be allowed to expire. The bill passed on November 16, but rather than go to conference committee to reconcile differences between the House and Senate approaches, the Senate has been holding firmly onto its version, prompting the House to consider an alternate version that accepts some of the Senate's provisions. Though an improvement over the original House version, the second House bill retains many features that would make TRIA an even worse program than it is today. The best policy decision would still be to end TRIA when it expires at the end of December.

**A Temporary Program.** TRIA provides federal reinsurance to insurance companies for property insurance policies that cover potential damage caused by terrorist attacks.<sup>1</sup> It served an important function soon after the attacks of September 11, 2001, but it is time for the private sector to completely take over terrorism insurance coverage. The program was meant to act as a stopgap to shore up the country's terrorism insurance market while insurance providers worked out how to develop affordable terrorism insurance in the wake of the attacks. At the time, it was logical to stabilize the insurance market through a short-term government reinsurance program. As a result, the Terrorism Risk Insurance Act, a temporary measure, was passed and signed by President Bush on November 26, 2002, and did indeed provide stabilization during a time of great unease.<sup>2</sup>

However, TRIA was not intended to be a permanent program. As the original bill stated, TRIA would "provide temporary financial compensation to insured parties, contributing to the stabilization of the United States economy in a time of national crisis, while the financial services industry develops the systems, mechanisms, products, and programs necessary to create a viable financial services market for private terrorism risk insurance."<sup>3</sup> Returning this coverage to the private sector is an important goal, because there is no reason why taxpayers should continue to have the ultimate financial responsibility for paying insurance losses on private property. The insurance crisis has passed, and the insurance industry now has enough information about terrorist attacks to again provide this coverage. As a result, there is no reason to extend TRIA beyond its scheduled December 31, 2007 expiration date.

**Superior to the House Approach.** On September 19, the House of Representatives passed H.R. 2761, which would extend TRIA for an additional 15 years, until 2022. That bill also included a number of other provisions to expand coverage and reduce the amount of losses necessary to trigger fed-

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eral coverage. Overall, the House bill would end up costing a net \$8.4 billion between 2008 and 2017, according to the Congressional Budget Office (CBO).<sup>4</sup> The CBO stresses that its estimates are based on assumptions about the number of terrorist attacks during that period; the actual cost to taxpayers could be much higher.

The Senate Committee on Banking, Housing and Urban Affairs considered the issue on October 17 and approved legislation that was introduced on November 1. S. 2285 avoids three major problems of the House bill but still extends a program whose need has passed. The three improvements are:

- **Shorter Extension:** The Senate bill would extend TRIA for only seven years, as opposed to fifteen in the House bill. The shorter extension is better, but allowing TRIA to expire would be best.
- **No New Coverage:** Unlike the House version, the Senate bill wisely does not expand TRIA coverage. The House approach is flawed, containing a number of coverage expansions to this temporary program. The House bill expands TRIA to include coverage of group life insurance, including a policy surcharge for terrorism loss risk-spreading premiums. In addition, it requires that life insurance policies cover travel to any “lawful” location. Finally, the House bill expands TRIA from covering only attacks by foreign terrorists to also cover attacks by domestic groups or individuals and further expands coverage to include attacks with nuclear, biological, chemical, or radioactive materials. These politically motivated expansions of coverage show another way that TRIA distorts the insurance market, as additional companies seek to reduce their risk by including their products among those eligible for federal

reinsurance. Another distortion is the political tinkering in the types of coverage that insurance companies must offer in order to qualify for TRIA reinsurance.

- **Maintains the Current Trigger:** The Senate bill keeps the existing \$100 million trigger before TRIA kicks in. The trigger is intended to preserve a small private sector presence in this market and to limit federal reinsurance to losses caused by major terrorist attacks. Currently, a certified attack must cause \$100 million in insured losses before federal coverage begins, at which point the government picks up 85 percent of losses above an individual company’s deductible. In 2007, an individual insurance company’s deductible is equal to 20 percent of the premiums that it has collected.

The House version lowers this trigger to \$50 million, and if a certified attack causes losses of more than \$1 billion, that trigger would be reduced to \$5 million in subsequent years. This change would further distort the insurance market by taking even more risk away from the insurance companies and transferring it to the taxpayers. This is corporate welfare at its worst.

When the Senate bill was approved, House Financials Services Committee Chairman Barney Frank (D–MA) declared he would use a brief 120-day extension rather than accept the Senate version.<sup>5</sup> Treasury Secretary Henry Paulson, meanwhile, has said that the Bush Administration is willing to accept the Senate language, but the White House has said that it will strongly oppose the language in the House bill.<sup>6</sup>

The House now plans to consider a new bill that reduces the extension to the Senate’s seven years while retaining the lower trigger of \$50 million as

1. Reinsurance is a product that allows the insurance company that writes a policy to transfer all or a portion of the risk of loss to another entity, in this case the federal government. Privately written reinsurance policies are available for most insurance risks. Under reinsurance, the originating company is liable for losses up to a certain level, and liability for the rest is passed on to the reinsurer.
2. Terrorism Risk Insurance Act of 2002, Public Law 107-297.
3. Terrorism Risk Insurance Revision and Extension Act of 2007, H.R. 2761, 110th Cong., 1st Sess., § 5.
4. Congressional Budget Office, “H.R. 2761: Terrorism Risk Insurance Revision and Extension Act of 2007,” September 6, 2007, at [www.cbo.gov/ftpdocs/86xx/doc8600/hr2761.pdf](http://www.cbo.gov/ftpdocs/86xx/doc8600/hr2761.pdf).
5. Victoria McGrane, “Frank’s Move Ties Lobbyists In Knots.” *The Politico*, November 1, 2007, at [www.politico.com/news/stories/1007/6665.html](http://www.politico.com/news/stories/1007/6665.html).

well as a lower trigger for communities such as New York City that have already been hit by a significant terrorist attack. Passage of such a bill is intended to encourage the Senate to accept some of the House provisions.

**Let It Expire.** No bill at all is the best approach. Passing the risk of property insurance losses caused by terrorist attacks to taxpayers does nothing to increase security. Rather, programs like TRIA encourage insurance companies to avoid the proper pricing of coverage, with the expectation that federal reinsurance under TRIA will enable them to pass on significant losses to taxpayers. TRIA is thus a pre-approved bailout for insurance companies, the essence of corporate welfare. In addition, some

companies have been tempted to extend this kind of federal reinsurance program to cover even more areas, such as losses due to natural disasters.

Congress should neither extend nor expand TRIA, and the Bush Administration should reject any bill that does so. At the very least, the Administration should not accept anything that extends or expands the program more than the Senate version. TRIA has served its purpose and should now be allowed to expire.

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6. Benton Ives, "Senate Passes Terrorism Insurance Measure," CQ Today Midday Update, November 16, 2007, at <http://public.cq.com/docs/cqm/cqmiddy110-000002629862.html>.