

Comparison of Terrorism Risk Insurance Act of 2002 (TRIA) and Subsequent Extension Legislation

	TRIA (2002)	Terrorism Risk Insurance Revision and Extension Act of 2005 (TRIREA)	Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA) ¹
Duration	Three years (expired December 31, 2005)	Two-year extension through December 31, 2007	Seven-year extension through December 31, 2014
Covered Lines	<p>Most commercial property and casualty lines, including workers' comp and surety but excluded crop, private mortgage, medical malpractice, financial guarantee, reinsurance and flood provided under NFIP</p> <p>No health or life, including group life insurance</p>	Same lines covered by the program established in 2002 except deletes the following: commercial auto, professional liability (other than D&O), surety, burglary & theft, and farm-owners multi-peril	Same lines covered by the current program (no change from 2005 amendments)
Act of Terrorism Definition	Limited to violent acts certified by Treasury Secretary, in concurrence with Secretary of State and Attorney General, to have been committed by or on behalf of a foreign person or interest to coerce or influence US policy	No change	Includes domestic terrorism within the scope by removing the distinction between foreign and domestic acts of terrorism
Insurers Covered by Backstop and "Make Available" Mandate	All licensed insurers; IID-listed surplus lines insurers and insurers approved under Federal insurance programs for marine, aviation, and transport; state residual market insurance entities or workers' compensation funds	No change	No change

¹The Senate passed TRIPRA (H.R. 2761) on November 16, 2007 and the House passed TRIPRA on December 18, 2007. However, the bill has not yet been signed by the President and has not yet been enacted.

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	Secretary authorized to prescribe additional criteria and to apply TRIA (pre-event) to other (non-licensed) captives and self-insurance arrangements		
Program Trigger	No provision	2006: \$50 million 2007: \$100 million	\$100 million (no change from current program)
"Make Available" Requirement	Requires insurers to make available in all covered lines coverage for certified acts that "does not differ materially" from terms, amounts and other limitations (other than price) that apply to other perils in policy	No change	No change
Insurer Deductible (% of Prior Year's Direct Earned Premiums)	15% in final year	2006: 17.5% 2007: 20.0%	20% (no change from current program)
Federal Share of Insured Losses Exceeding Deductible	90%	2006: 90% 2007: 85%	85% (no change from current program)
Annual Program Cap (Combined Federal and Industry Shared Insured Losses)	\$100 billion	\$100 billion (no change)	Maintains \$100 billion cap and adds following elements: <ul style="list-style-type: none"> • Hardens the cap on insurers' aggregate liability at \$100 billion by eliminating the phrase "until such time as Congress may act otherwise with respect to such losses"; • Requires that Treasury

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			<p>Secretary notify Congress no later than 15 days after the date of an act of terrorism about whether aggregate insured losses are expected to exceed \$100 billion</p> <ul style="list-style-type: none"> • Removes provision allowing Congress to decide how to fund losses above \$100 billion cap • Requires Treasury Secretary to report to Congress within 120 days after enactment on the process for determining the allocation of pro rata payments for insured losses when the \$100 billion cap is exceeded • Provides that the "clear and conspicuous" disclosure requirement under section 103 (e) expressly includes disclosure of the \$100 billion aggregate cap to policyholders
Post-Event Recoupment of Federal Share via Policyholder Surcharges	Mandatory recoupment of difference between \$15 billion and aggregate insurer retention (deductibles/co-shares); surcharge limited to 3% of premium in covered lines per year (possible rural area adjustment)	Mandatory recoupment of difference between -- \$25 billion (2006) or \$27.5 billion (2007) -- and aggregate insurer retention; same 3% limitation.	Maintains mandatory recoupment layer at \$27.5 billion for federal payments of property/casualty insured losses with the following changes/additions:

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	Discretionary recoupment of balance of federal payments	Discretionary recoupment of balance of federal payments.	<ul style="list-style-type: none"> • Eliminates the Secretary's discretion to delay mandatory recoupment • Requires that all amounts subject to mandatory recoupment for any act of terrorism occurring on or before December 31, 2010 and 35 percent of amounts subject to mandatory recoupment for any act of terrorism occurring in 2011 would have to be recouped by September 30, 2012 • Requires that the balance of amounts for acts of terrorism occurring in 2011 and all amounts subject to mandatory recoupment for any act of terrorism occurring on or after January 1, 2012 would have to be recouped by September 30, 2017 • Requires that 133% of the amount of such Federal outlays be recovered through policyholder surcharges

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Studies	Treasury was required to report to Congress on the effectiveness of the program and private market capacity, but was not required to make specific recommendations.	The President's Working Group on Financial Markets required to report to Congress by Sept. 30, 2006 concerning the long-term availability and affordability of terrorism insurance, inc. availability and affordability of (1) group life and (2) NBCR coverage.	Requires following studies: <ul style="list-style-type: none"> • A GAO study and recommendations within one year on expansion of the program to include NBCR terrorism, including an examination of the availability and affordability of NBCR coverage, the outlook for future coverage, and insurer's and State workers' comp fund's capacity to manage NBCR risk • A GAO study and report within 180 days on whether there are "specific markets" in the US with "unique" constraints on terrorism insurance capacity, including recommendations for addressing such constraints • Periodic studies by the President's Working Group to on the long-term availability and affordability of terrorism insurance

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Litigation Management	Federal cause of action created for property damage, personal injury and death arising out of or resulting from a certified act of terrorism and state causes of action preempted	TRIREA continued current litigation management provisions and codified existing Treasury regulations requiring advance approval of certain settlements which insurers intend to submit for reimbursement under the program	No change