

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3210

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## AN ACT

To ensure the continued financial capacity of insurers to  
provide coverage for risks from terrorism.

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

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

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Terrorism Risk Protection Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for  
5 this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Congressional findings.
- Sec. 3. Authority of Secretary of the Treasury.
- Sec. 4. Submission of premium information to Secretary.
- Sec. 5. Initial and subsequent triggering determinations.
- Sec. 6. Federal cost-sharing for commercial insurers.
- Sec. 7. Assessments.
- Sec. 8. Terrorism loss repayment surcharge.
- Sec. 9. Administration of assessments and surcharges.
- Sec. 10. Application to self-insurance arrangements and offshore insurers and reinsurers.
- Sec. 11. Study of reserves for property and casualty insurance for terrorist or other catastrophic events.
- Sec. 12. State preemption.
- Sec. 13. Consistent State guidelines for coverage for acts of terrorism.
- Sec. 14. Consultation with State insurance regulators and NAIC.
- Sec. 15. Litigation management.
- Sec. 16. Study of potential effects of terrorism on life insurance industry.
- Sec. 17. Railroad and trucking insurance study.
- Sec. 18. Study of reinsurance pool system for future acts of terrorism.
- Sec. 19. Definitions.
- Sec. 20. Covered period and extension of program.
- Sec. 21. Regulations.

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7 The Congress finds that—

8 (1) the terrorist attacks on the World Trade  
9 Center and the Pentagon of September 11, 2001, re-  
10 sulted in a large number of deaths and injuries, the  
11 destruction and damage to buildings, and interrup-  
12 tion of business operations;

13 (2) the attacks have inflicted possibly the larg-  
14 est losses ever incurred by insurers and reinsurers in  
15 a single day;

1           (3) while the insurance and reinsurance indus-  
2 tries have committed to pay the losses arising from  
3 the September 11 attacks, the resulting disruption  
4 has created widespread market uncertainties with re-  
5 gard to the risk of losses arising from possible fu-  
6 ture terrorist attacks;

7           (4) such uncertainty threatens the continued  
8 availability of United States commercial property  
9 and casualty insurance for terrorism risk at mean-  
10 ingful coverage levels;

11           (5) the unavailability of affordable commercial  
12 property and casualty insurance for terrorist acts  
13 threatens the growth and stability of the United  
14 States economy, including impeding the ability of fi-  
15 nancial services providers to finance commercial  
16 property acquisitions and new construction;

17           (6) in the past, the private insurance and rein-  
18 surance markets have shown a remarkable resiliency  
19 in adapting to changed circumstances;

20           (7) given time, the private markets will diver-  
21 sify and develop risk spreading mechanisms to in-  
22 crease capacity and guard against possible future  
23 losses incurred by terrorist attacks;

24           (8) it is necessary to create a temporary indus-  
25 try risk sharing program to ensure the continued

1 availability of commercial property and casualty in-  
2 surance and reinsurance for terrorism-related risks;

3 (9) such action is necessary to limit immediate  
4 market disruptions, encourage economic stabiliza-  
5 tion, and facilitate a transition to a viable market  
6 for private terrorism risk insurance;

7 (10) in addition, it is necessary promptly to  
8 conduct a study of whether there is a need for re-  
9 serves for property and casualty insurance for ter-  
10 rorist or other catastrophic events; and

11 (11) terrorism insurance plays an important  
12 role in the efficient functioning of the economy and  
13 the financing of commercial property acquisitions  
14 and new construction and, therefore, the Congress  
15 intends to continue to monitor, review, and evaluate  
16 the private terrorism insurance and reinsurance  
17 marketplace to determine whether additional action  
18 is necessary to maintain the long-term stability of  
19 the real estate and capital markets.

20 **SEC. 3. AUTHORITY OF SECRETARY OF THE TREASURY.**

21 The Secretary of the Treasury shall be responsible  
22 for carrying out a program for financial assistance for  
23 commercial property and casualty insurers, as provided in  
24 this Act.

1 **SEC. 4. SUBMISSION OF PREMIUM INFORMATION TO SEC-**  
2 **RETARY.**

3 To the extent such information is not otherwise avail-  
4 able to the Secretary, the Secretary may require each in-  
5 surer to submit, to the Secretary or to the NAIC, a state-  
6 ment specifying the net premium amount of coverage writ-  
7 ten by such insurer under each line of commercial property  
8 and casualty insurance sold by such insurer during such  
9 periods as the Secretary may provide.

10 **SEC. 5. INITIAL AND SUBSEQUENT TRIGGERING DETER-**  
11 **MINATIONS.**

12 (a) IN GENERAL.—For purposes of this Act, a “trig-  
13 gering determination” is a determination by the Secretary  
14 that an act of terrorism has occurred during the covered  
15 period and that the aggregate insured losses resulting  
16 from such occurrence or from multiple occurrences of acts  
17 of terrorism all occurring during the covered period, meet  
18 the requirements under either of the following paragraphs:

19 (1) INDUSTRY-WIDE TRIGGER.—Such industry-  
20 wide losses exceed \$1,000,000,000.

21 (2) INDIVIDUAL INSURER TRIGGER.—Such in-  
22 dustry-wide losses exceed \$100,000,000 and some  
23 portion of such losses for any single commercial in-  
24 surer exceed—

1 (A) 10 percent of the capital surplus of  
2 such commercial insurer (as such term is de-  
3 fined by the Secretary); and

4 (B) 10 percent of the net premium written  
5 by such commercial insurer that is in force at  
6 the time the insured losses occurred;

7 except that this paragraph shall not apply to any  
8 commercial insurer that was not providing commer-  
9 cial property and casualty insurance coverage prior  
10 to September 11, 2001, unless such insurer incurs  
11 such losses under commercial property and casualty  
12 insurance providing coverage for acts of terrorism  
13 through a pool of reserves for terrorism risks that  
14 is not under the control of any commercial insurer.

15 (b) DETERMINATIONS REGARDING OCCURRENCES.—

16 The Secretary, after consultation with the Attorney Gen-  
17 eral of the United States and the Secretary of State, shall  
18 have the sole authority which may not be delegated or des-  
19 ignated to any other officer, employee, or position, for de-  
20 termining whether—

21 (1) an occurrence was caused by an act of ter-  
22 rorism; and

23 (2) an act of terrorism occurred during the cov-  
24 ered period.

1 **SEC. 6. FEDERAL COST-SHARING FOR COMMERCIAL INSUR-**  
2 **ERS.**

3 (a) IN GENERAL.—Pursuant to a triggering deter-  
4 mination, the Secretary shall provide financial assistance  
5 to commercial insurers in accordance with this section to  
6 cover insured losses resulting from acts of terrorism,  
7 which shall be repaid in accordance with subsection (e).

8 (b) AMOUNT.—

9 (1) INDUSTRY-WIDE TRIGGER.—Subject to sub-  
10 sections (c) and (d), with respect to a triggering de-  
11 termination under section 5(a)(1), financial assist-  
12 ance shall be made available under this section to  
13 each commercial insurer in an amount equal to the  
14 difference between—

15 (A) 90 percent of the amount of the in-  
16 sured losses of the insurer as a result of the  
17 triggering event involved; and

18 (B) \$5,000,000.

19 (2) INDIVIDUAL INSURER TRIGGER.—Subject to  
20 subsections (c) and (d), with respect to a triggering  
21 determination under section 5(a)(2), financial assist-  
22 ance shall be made available under this section, to  
23 each commercial insurer incurring insured losses as  
24 a result of the triggering event involved that exceed  
25 the amounts under subparagraphs (A) and (B) of

1 such section, in an amount equal to the difference  
2 between—

3 (A) 90 percent of the amount of the in-  
4 sured losses of the insurer as a result of such  
5 triggering event; and

6 (B) the amount under subparagraph (B) of  
7 section 5(a)(2).

8 (3) ADDITIONAL AMOUNTS.—Subject to sub-  
9 section (c), if the Secretary has provided financial  
10 assistance to a commercial insurer pursuant to para-  
11 graph (2) of this subsection and subsequently makes  
12 a triggering determination pursuant to section  
13 5(a)(1), the Secretary shall provide financial assist-  
14 ance to such insurer in connection with such subse-  
15 quent triggering determination (in addition to the  
16 amount of financial assistance provided to such in-  
17 surer pursuant to paragraph (1) of this subsection)  
18 in the amount under section 5(a)(2)(B).

19 (c) AGGREGATE LIMITATION.—

20 (1) IN GENERAL.—The aggregate amount of fi-  
21 nancial assistance provided pursuant to this section  
22 may not exceed \$100,000,000,000.

23 (2) SENSE OF CONGRESS REGARDING SEVERE  
24 LOSSES.—It is the sense of the Congress that acts  
25 of terrorism resulting in insured losses greater than



1       \$100,000,000,000 would necessitate further action  
2       by the Congress to address such additional losses.

3       (d) LIMITATIONS.—The Secretary may establish such  
4 limitations as may be necessary to ensure that payments  
5 under this section in connection with a triggering deter-  
6 mination are made only to commercial insurers that are  
7 not in default of any obligation under section 7 to pay  
8 assessments or under section 8 to collect surcharges.

9       (e) REPAYMENT.—Financial assistance made avail-  
10 able under this section shall be repaid through assess-  
11 ments under section 7 collected by the Secretary and sur-  
12 charges remitted to the Secretary under section 8. Any  
13 such amounts collected or remitted shall be deposited into  
14 the general fund of the Treasury.

15       (f) EMERGENCY DESIGNATION.—Congress des-  
16 ignates the amount of new budget authority and outlays  
17 in all fiscal years resulting from this section as an emer-  
18 gency requirement pursuant to section 252(e) of the Bal-  
19 anced Budget and Emergency Deficit Control Act of 1985  
20 (2 U.S.C. 901(e)). Such amount shall be available only  
21 to the extent that a request, that includes designation of  
22 such amount as an emergency requirement as defined in  
23 such Act, is transmitted by the President to Congress.

1 **SEC. 7. ASSESSMENTS.**

2 (a) IN GENERAL.—In the case of a triggering deter-  
3 mination, each commercial insurer shall be subject to as-  
4 sessments under this section for the purpose of repaying  
5 a portion of the financial assistance made available under  
6 section 6 in connection with such determination.

7 (b) AGGREGATE ASSESSMENT.—Pursuant to a trig-  
8 gering determination, the Secretary shall determine the  
9 aggregate amount to be assessed under this section among  
10 all commercial insurers, which shall be equal to the lesser  
11 of—

12 (1) \$20,000,000,000; and

13 (2) the amount of financial assistance paid  
14 under section 6 in connection with the triggering de-  
15 termination.

16 The aggregate assessment amount under this subsection  
17 shall be assessed to commercial insurers through an indus-  
18 try obligation assessment under subsection (c) and, if nec-  
19 essary, the remainder shall be assessed through one or  
20 more financing assessments under subsection (d).

21 (c) INDUSTRY OBLIGATION ASSESSMENTS.—

22 (1) IN GENERAL.—Immediately upon the occur-  
23 rence of a triggering determination, the Secretary  
24 shall impose an industry obligation assessment  
25 under this subsection on all commercial insurers,  
26 subject to paragraph (3).

1           (2) AMOUNT.—The aggregate amount of an in-  
2 industry obligation assessment in connection with a  
3 triggering determination shall be equal to—

4           (A) in the case of a triggering determina-  
5 tion occurring during the covered period speci-  
6 fied in section 20(a), the lesser of—

7           (i) the difference between (I)  
8 \$5,000,000,000, and (II) the aggregate  
9 amount of any assessments made by the  
10 Secretary pursuant to this section during  
11 the portion of such covered period pre-  
12 ceding the triggering determination; and

13           (ii) the amount of financial assistance  
14 made available under section 6 in connec-  
15 tion with the triggering determination; or

16           (B) such other aggregate industry obliga-  
17 tion amount as may apply pursuant to sub-  
18 section (g).

19           (3) TIMING OF MULTIPLE ASSESSMENTS.—

20           (A) DELAYED IMPOSITION AND AGGREGA-  
21 TION OF ASSESSMENTS.—In the case of any  
22 triggering determination occurring within 12  
23 months of the occurrence of a previous trig-  
24 gering determination, any industry obligation  
25 assessments under this subsection resulting

1 from such subsequent determination shall be  
2 imposed upon the conclusion of the quarterly  
3 assessment period under subparagraph (B) dur-  
4 ing which such determination occurs.

5 (B) QUARTERLY ASSESSMENT PERIOD.—

6 With respect to a subsequent triggering deter-  
7 mination referred to in subparagraph (A), the  
8 quarterly assessment periods under this sub-  
9 paragraph are—

10 (i) the 3-month period that begins  
11 upon the imposition of the industry obliga-  
12 tion assessment resulting from the trig-  
13 gering determination that—

14 (I) occurred most recently before  
15 such subsequent triggering determina-  
16 tion; and

17 (II) did not occur within 12  
18 months of the occurrence of any pre-  
19 vious triggering determination; and

20 (ii) each successive 3-month period  
21 thereafter that begins during the covered  
22 period.

23 (d) FINANCING ASSESSMENTS.—

24 (1) IN GENERAL.—If the aggregate assessment  
25 amount in connection with a triggering determina-

1       tion exceeds the aggregate amount of the industry  
2       obligation assessment under subsection (c) in con-  
3       nection with the determination, the remaining  
4       amount shall be assessed through one or more, as  
5       may be necessary pursuant to paragraph (3), financ-  
6       ing assessments under this subsection.

7           (2) TIMING.—A financing assessment under  
8       this subsection in connection with a triggering deter-  
9       mination shall be imposed only upon the expiration  
10      of any 12-month period beginning after such deter-  
11      mination during which no assessments under this  
12      section have been imposed.

13          (3) LIMITATION.—The aggregate amount of  
14      any financing assessments imposed under this sub-  
15      section on any single commercial insurer during any  
16      12-month period shall not exceed the amount that is  
17      equal to 3 percent of the net premium for such in-  
18      surer for such period.

19          (e) ALLOCATION OF ASSESSMENT.—The portion of  
20      the aggregate amount of any industry obligation assess-  
21      ment or financing assessment under this section that is  
22      allocated to each commercial insurer shall be based on the  
23      ratio that the net premium written by such commercial  
24      insurer during the year during which the assessment is  
25      imposed bears to the aggregate written premium for such

1 year, subject to section 9 and the limitation under sub-  
2 section (d)(3) of this section.

3 (f) NOTICE AND OBLIGATION TO PAY.—

4 (1) NOTICE.—As soon as practicable after any  
5 triggering determination, the Secretary shall notify  
6 each commercial insurer in writing of an assessment  
7 under this section, which notice shall include the  
8 amount of the assessment allocated to such insurer.

9 (2) EFFECT OF NOTICE.—Upon notice to a  
10 commercial insurer, the commercial insurer shall be  
11 obligated to pay to the Secretary, not later than 60  
12 days after receipt of such notice, the amount of the  
13 assessment on such commercial insurer.

14 (3) FAILURE TO MAKE TIMELY PAYMENT.—If  
15 any commercial insurer fails to pay an assessment  
16 under this section before the deadline established  
17 under paragraph (2) for the assessment, the Sec-  
18 retary may take either or both of the following ac-  
19 tions:

20 (A) CIVIL MONETARY PENALTY.—Assess a  
21 civil monetary penalty pursuant to section 9(d)  
22 upon such insurer.

23 (B) INTEREST.—Require such insurer to  
24 pay interest, at such rate as the Secretary con-  
25 siders appropriate, on the amount of the assess-

1           ment that was not paid before the deadline es-  
2           tablished under paragraph (2).

3           (g) AGGREGATE INDUSTRY OBLIGATION AMOUNT  
4 FOR PROGRAM EXTENSION YEARS.—If the Secretary ex-  
5 ercises the authority under section 20(b) to extend the  
6 covered period, the aggregate industry obligation amount  
7 for purposes of subsection (c)(2)(B) shall, in the case of  
8 a triggering determination occurring during the portion of  
9 the covered period beginning on the date referred to in  
10 section 20(a), be equal to the lesser of—

11           (1)     the     difference     between     (A)  
12           \$10,000,000,000, and (B) the aggregate amount of  
13           any assessments made by the Secretary pursuant to  
14           this section during the 12-month period preceding  
15           the triggering determination; and

16           (2)     the amount of financial assistance made  
17           available under section 6 in connection with the trig-  
18           gering determination.

19           (h) ADMINISTRATIVE FLEXIBILITY.—

20           (1) ADJUSTMENT OF ASSESSMENTS.—The Sec-  
21           retary may provide for or require estimations of  
22           amounts under this section and may provide for sub-  
23           sequent refunds or require additional payments to  
24           correct such estimations, as appropriate.

1           (2) DEFERRAL OF CONTRIBUTIONS.—The Sec-  
2           retary may defer the payment of part or all of an  
3           assessment required under this section to be paid by  
4           a commercial insurer, but only to the extent that the  
5           Secretary determines that such deferral is necessary  
6           to avoid the likely insolvency of the commercial in-  
7           surer.

8           (3) TIMING OF ASSESSMENTS.—The Secretary  
9           shall make adjustments regarding the timing and  
10          imposition of assessments (including the calculation  
11          of net premiums and aggregate written premium) as  
12          appropriate for commercial insurers that provide  
13          commercial property and casualty insurance on a  
14          non-calendar year basis.

15 **SEC. 8. TERRORISM LOSS REPAYMENT SURCHARGE.**

16          (a) DETERMINATION OF IMPOSITION AND COLLEC-  
17          TION.—

18               (1) IN GENERAL.—If, pursuant to a triggering  
19               determination, the Secretary determines that the ag-  
20               gregate amount of financial assistance provided pur-  
21               suant to section 6 exceeds \$20,000,000,000, the  
22               Secretary shall consider and weigh the factors under  
23               paragraph (2) to determine the extent to which a  
24               surcharge under this section should be established.



1           (2) FACTORS.—The factors under this para-  
2 graph are—

3           (A) the ultimate costs to taxpayers if a  
4 surcharge under this section is not established;

5           (B) the economic conditions in the com-  
6 mercial marketplace;

7           (C) the affordability of commercial insur-  
8 ance for small- and medium-sized business; and

9           (D) such other factors as the Secretary  
10 considers appropriate.

11           (3) POLICYHOLDER PREMIUM.—The amount es-  
12 tablished by the Secretary as a surcharge under this  
13 section shall be established and imposed as a policy-  
14 holder premium surcharge on commercial property  
15 and casualty insurance written after such determina-  
16 tion, for the purpose of repaying financial assistance  
17 made available under section 6 in connection with  
18 such triggering determination.

19           (4) COLLECTION.—The Secretary shall provide  
20 for commercial insurers to collect surcharge amounts  
21 established under this section and remit such  
22 amounts collected to the Secretary.

23           (b) AMOUNT AND DURATION.—Subject to subsection  
24 (c), the surcharge under this section shall be established  
25 in such amount, and shall apply to commercial property

1 and casualty insurance written during such period, as the  
2 Secretary determines is necessary to recover the aggregate  
3 amount of financial assistance provided under section 6  
4 in connection with the triggering determination that ex-  
5 ceeds \$20,000,000,000.

6 (c) PERCENTAGE LIMITATION.—The surcharge  
7 under this section applicable to commercial property and  
8 casualty insurance coverage may not exceed, on an annual  
9 basis, the amount equal to 3 percent of the premium  
10 charged for such coverage.

11 (d) OTHER TERMS.—The surcharge under this sec-  
12 tion shall—

13 (1) be based on a percentage of the premium  
14 amount charged for commercial property and cas-  
15 ualty insurance coverage that a policy provides; and

16 (2) be imposed with respect to all commercial  
17 property and casualty insurance coverage written  
18 during the period referred to in subsection (b).

19 (e) EXCLUSIONS.—For purposes of this section, com-  
20 mercial property and casualty insurance does not include  
21 any reinsurance provided to primary insurance companies.

22 **SEC. 9. ADMINISTRATION OF ASSESSMENTS AND SUR-**  
23 **CHARGES.**

24 (a) MANNER AND METHOD.—

1           (1) IN GENERAL.—Except to the extent speci-  
2           fied in such sections, the Secretary shall provide for  
3           the manner and method of carrying out assessments  
4           under section 7 and surcharges under section 8, in-  
5           cluding the timing and procedures of making assess-  
6           ments and surcharges, notifying commercial insurers  
7           of assessments and surcharge requirements, col-  
8           lecting payments from and surcharges through com-  
9           mercial insurers, and refunding of any excess  
10          amounts paid or crediting such amounts against fu-  
11          ture assessments.

12          (2) EFFECT OF ASSESSMENTS AND SUR-  
13          CHARGES ON URBAN AND SMALLER COMMERCIAL  
14          AND RURAL AREAS AND DIFFERENT LINES OF IN-  
15          SURANCE.—In determining the method and manner  
16          of imposing assessments under section 7 and sur-  
17          charges under section 8, including the amount of  
18          such assessments and surcharges, the Secretary  
19          shall take into consideration—

20                 (A) the economic impact of any such as-  
21                 sessments and surcharges on commercial cen-  
22                 ters of urban areas, including the effect on  
23                 commercial rents and commercial insurance  
24                 premiums, particularly rents and premiums  
25                 charged to small businesses, and the availability

1 of lease space and commercial insurance within  
2 urban areas;

3 (B) the risk factors related to rural areas  
4 and smaller commercial centers, including the  
5 potential exposure to loss and the likely mag-  
6 nitude of such loss, as well as any resulting  
7 cross-subsidization that might result; and

8 (C) the various exposures to terrorism risk  
9 for different lines of commercial property and  
10 casualty insurance.

11 (b) TIMING OF COVERAGES AND ASSESSMENTS.—  
12 The Secretary may adjust the timing of coverages and as-  
13 sessments provided under this Act to provide for equiva-  
14 lent application of the provisions of this Act to commercial  
15 insurers and policies that are not based on a calendar  
16 year.

17 (c) ADJUSTMENT.—The Secretary may adjust the as-  
18 sessments charged under section 7 or the percentage im-  
19 posed under the surcharge under section 8 at any time,  
20 as the Secretary considers appropriate to protect the na-  
21 tional interest, which may include avoiding unreasonable  
22 economic disruption or excessive market instability and  
23 avoiding undue burdens on small businesses.

24 (d) CIVIL MONETARY PENALTY.—

1           (1) IN GENERAL.—The Secretary may assess a  
2           civil monetary penalty in an amount not exceeding  
3           the amount under paragraph (2) against any com-  
4           mercial insurer that the Secretary determines, on  
5           the record after opportunity for a hearing—

6                   (A) has failed to pay an assessment under  
7                   section 7 in accordance with the requirements  
8                   of, or regulations issued, under this Act;

9                   (B) has failed to charge, collect, or remit  
10                  surcharges under section 8 in accordance with  
11                  the requirements of, or regulations issued  
12                  under, this Act;

13                  (C) has intentionally provided to the Sec-  
14                  retary erroneous information regarding pre-  
15                  mium or loss amounts; or

16                  (D) has otherwise failed to comply with the  
17                  provisions of, or the regulations issued under,  
18                  this Act.

19           (2) AMOUNT.—The amount under this para-  
20           graph is the greater of \$1,000,000 and, in the case  
21           of any failure to pay, charge, collect, or remit  
22           amounts in accordance with this Act or the regula-  
23           tions issued under this Act, such amount in dispute.

1 **SEC. 10. APPLICATION TO SELF-INSURANCE ARRANGE-**  
2 **MENTS AND OFFSHORE INSURERS AND REIN-**  
3 **SURERS.**

4 (a) SELF-INSURANCE ARRANGEMENTS.—The Sec-  
5 retary may, in consultation with the NAIC, apply the pro-  
6 visions of this Act, as appropriate, to self-insurance ar-  
7 rangements by municipalities and other entities, but only  
8 if such application is determined before the occurrence of  
9 a triggering event and all of the provisions of this Act are  
10 applied uniformly to such entities.

11 (b) OFFSHORE INSURERS AND REINSURERS.—The  
12 Secretary shall ensure that the provisions of this Act are  
13 applied as appropriate to any offshore or non-admitted en-  
14 tities that provide commercial property and casualty insur-  
15 ance.

16 **SEC. 11. STUDY OF RESERVES FOR PROPERTY AND CAS-**  
17 **UALTY INSURANCE FOR TERRORIST OR**  
18 **OTHER CATASTROPHIC EVENTS.**

19 (a) IN GENERAL.—The Secretary of the Treasury  
20 shall conduct a study of issues relating to permitting prop-  
21 erty and casualty insurance companies to establish deduct-  
22 ible reserves against losses for future acts of terrorism,  
23 including—

24 (1) whether such tax-favored reserves would  
25 promote (A) insurance coverage of risks of ter-  
26 rorism, and (B) the accumulation of additional re-

1 sources needed to satisfy potential claims resulting  
2 from such risks,

3 (2) the lines of business for which such reserves  
4 would be appropriate, including whether such re-  
5 serves should be applied to personal or commercial  
6 lines of business,

7 (3) how the amount of such reserves would be  
8 determined,

9 (4) how such reserves would be administered,

10 (5) a comparison of the Federal tax treatment  
11 of such reserves with other insurance reserves per-  
12 mitted under Federal tax laws,

13 (6) an analysis of the use of tax-favored re-  
14 serves for catastrophic events, including acts of ter-  
15 rorism, under the tax laws of foreign countries, and

16 (7) whether it would be appropriate to permit  
17 similar reserves for other future catastrophic events,  
18 such as natural disasters, taking into account the  
19 factors under the preceding paragraphs.

20 (b) REPORT.—Not later than 4 months after the date  
21 of the enactment of this Act, the Secretary of the Treasury  
22 shall submit a report to Congress on the results of the  
23 study under subsection (a), together with recommenda-  
24 tions for amending the Internal Revenue Code of 1986  
25 or other appropriate action.

1 **SEC. 12. STATE PREEMPTION.**

2 (a) COVERED PERILS.—A commercial insurer shall  
3 be considered to have complied with any State law that  
4 requires or regulates the provision of insurance coverage  
5 for acts of terrorism if the insurer provides coverage in  
6 accordance with the definitions regarding acts of terrorism  
7 under this Act or under any regulations issued by the Sec-  
8 retary.

9 (b) RATE LAWS.—If any provision of any State law  
10 prevents an insurer from increasing its premium rates in  
11 an amount necessary to recover any assessments pursuant  
12 to section 7, such provision is preempted only to the extent  
13 necessary to provide for such insurer to recover such  
14 losses.

15 (c) FILE AND USE.—

16 (1) IN GENERAL.—With respect only to com-  
17 mercial property and casualty insurance covering  
18 acts of terrorism, any provision of State law that re-  
19 quires, as a condition precedent to the effectiveness  
20 of rates or policies for such insurance that is made  
21 available by an insurer licensed to transact such  
22 business in the State, any action (including prior ap-  
23 proval by the State insurance regulator for such  
24 State) other than filing of such rates and policies  
25 and related information with such State insurance  
26 regulator is preempted to the extent such law re-



1       quires such additional actions for such insurance  
2       coverage.

3               (2) SUBSEQUENT REVIEW AUTHORITY.—Para-  
4       graph (1) shall not be considered to preempt a pro-  
5       vision of State law solely because the law provides  
6       that rates and policies for such insurance coverage  
7       are, upon such filing, subject to subsequent review  
8       and action, which may include actions to disapprove  
9       or discontinue use of such rates or policies, by the  
10      State insurance regulator.

11              (3) TREATMENT OF PRIOR REVIEW PROVI-  
12      SIONS.—Any authority for prior review and action  
13      by a State regulator preempted under paragraph (1)  
14      shall be deemed to be authority to conduct a subse-  
15      quent review and action on such filings.

16 **SEC. 13. CONSISTENT STATE GUIDELINES FOR COVERAGE**  
17 **FOR ACTS OF TERRORISM.**

18              (a) SENSE OF CONGRESS REGARDING COVERED  
19      PERILS.—It is the sense of the Congress that—

20              (1) the NAIC, in consultation with the Sec-  
21      retary, should develop appropriate definitions for  
22      acts of terrorism that are consistent with this Act  
23      and appropriate standards for making determina-  
24      tions regarding occurrences of acts of terrorism;

1           (2) each State should adopt the definitions and  
2 standards developed by the NAIC for purposes of  
3 regulating insurance coverage made available in that  
4 State;

5           (3) in consulting with the NAIC, the Secretary  
6 should advocate and promote the development of  
7 definitions and standards that are appropriate for  
8 purposes of this Act; and

9           (4) after consultation with the NAIC, the Sec-  
10 retary should adopt further definitions for acts of  
11 terrorism and standards for determinations that are  
12 appropriate for this Act.

13 (b) INSURANCE RESERVE GUIDELINES.—

14           (1) SENSE OF CONGRESS REGARDING ADOPTION  
15 BY STATES.—It is the sense of the Congress that—

16           (A) the NAIC should develop appropriate  
17 guidelines for commercial insurers and pools re-  
18 garding maintenance of reserves against the  
19 risks of acts of terrorism; and

20           (B) each State should adopt such guide-  
21 lines for purposes of regulating commercial in-  
22 surers doing business in that State.

23           (2) CONSIDERATION OF ADOPTION OF NA-  
24 TIONAL GUIDELINES.—Upon the expiration of the 6-  
25 month period beginning on the date of the enact-

1       ment of this Act, the Secretary shall make a deter-  
2       mination of whether the guidelines referred to in  
3       paragraph (1) have, by such time, been developed  
4       and adopted by nearly all States in a uniform man-  
5       ner. If the Secretary determines that such guidelines  
6       have not been so developed and adopted, the Sec-  
7       retary shall consider adopting, and may adopt, such  
8       guidelines on a national basis in a manner that su-  
9       persedes any State law regarding maintenance of re-  
10      serves against such risks.

11       (c) GUIDELINES REGARDING DISCLOSURE OF PRIC-  
12      ING AND TERMS OF COVERAGE.—

13           (1) SENSE OF CONGRESS.—It is the sense of  
14      the Congress that the States should require, by laws  
15      or regulations governing the provision of commercial  
16      property and casualty insurance that includes cov-  
17      erage for acts of terrorism, that the price of any  
18      such terrorism coverage, including the costs of any  
19      terrorism related assessments or surcharges under  
20      this Act, be separately disclosed.

21           (2) ADOPTION OF NATIONAL GUIDELINES.—If  
22      the Secretary determines that the States have not  
23      enacted laws or adopted regulations adequately pro-  
24      viding for the disclosures described in paragraph (1)  
25      within a reasonable period of time after the date of

1 the enactment of this Act, the Secretary shall, after  
2 consultation with the NAIC, adopt guidelines on a  
3 national basis requiring such disclosure in a manner  
4 that supersedes any State law regarding such disclo-  
5 sure.

6 **SEC. 14. CONSULTATION WITH STATE INSURANCE REGU-**  
7 **LATORS AND NAIC.**

8 (a) IN GENERAL.—The Secretary shall consult with  
9 the State insurance regulators and the NAIC in carrying  
10 out this Act.

11 (b) FINANCIAL ASSISTANCE, ASSESSMENTS, AND  
12 SURCHARGES.—The Secretary may take such actions, in-  
13 cluding entering into such agreements and providing such  
14 technical and organizational assistance to insurers and  
15 State insurance regulators, as may be necessary to provide  
16 for the distribution of financial assistance under section  
17 6 and the collection of assessments under section 7 and  
18 surcharges under section 8.

19 (c) INVESTIGATING AND AUDITING CLAIMS.—The  
20 Secretary may, in consultation with the State insurance  
21 regulators and the NAIC, investigate and audit claims of  
22 insured losses by commercial insurers and otherwise re-  
23 quire verification of amounts of premiums or losses, as  
24 appropriate.

1 **SEC. 15. LITIGATION MANAGEMENT.**

2 (a) FEDERAL CAUSE OF ACTION FOR CLAIMS RE-  
3 LATING TO TERRORIST ACTS.—

4 (1) IN GENERAL.—Subject to paragraph (2), if  
5 the Secretary makes a determination pursuant to  
6 section 5(b) that one or more acts of terrorism oc-  
7 curred, there shall exist a Federal cause of action,  
8 which, except as provided in subsection (b), shall be  
9 the exclusive remedy for claims arising out of, relat-  
10 ing to, or resulting from such acts of terrorism.

11 (2) EFFECT OF DETERMINATION.—A deter-  
12 mination referred to in paragraph (1)—

13 (A) shall not be subject to judicial review;

14 (B) shall take effect upon its publication in  
15 the Federal Register; and

16 (C) shall be subject to such changes as the  
17 Secretary may provide in one or more later de-  
18 terminations made in accordance with the pro-  
19 visions of this paragraph.

20 (3) SUBSTANTIVE LAW.—The substantive law  
21 for decision in any such action shall be derived from  
22 the law, including choice of law principles, of the  
23 State in which such acts of terrorism occurred, un-  
24 less such law is inconsistent with or preempted by  
25 Federal law.

1           (4) JURISDICTION.—For each determination  
2 under paragraph (1), the Judicial Panel on Multidis-  
3 trict Litigation shall designate one or more district  
4 courts of the United States which shall have original  
5 and exclusive jurisdiction over all actions for any  
6 claim (including any claim for loss of property, per-  
7 sonal injury, or death) brought pursuant to this sub-  
8 section. The Judicial Panel on Multidistrict Litiga-  
9 tion shall select and assign the district court or  
10 courts based on the convenience of the parties and  
11 the just and efficient conduct of the proceedings.  
12 For purposes of personal jurisdiction, the district  
13 court or courts designated by the Judicial Panel on  
14 Multidistrict Litigation shall be deemed to sit in all  
15 judicial districts in the United States.

16           (5) LIMITS ON DAMAGES.—In an action  
17 brought under this subsection for damages:

18                   (A) No punitive damages intended to pun-  
19 ish or deter, exemplary damages, or other dam-  
20 ages not intended to compensate a plaintiff for  
21 actual losses may be awarded, nor shall any  
22 party be liable for interest prior to the judg-  
23 ment.

24                   (B)(i) Each defendant in such an action  
25 shall be liable only for the amount of non-

1 economic damages allocated to the defendant in  
2 direct proportion to the percentage of responsi-  
3 bility of the defendant for the harm to the  
4 plaintiff, and no plaintiff may recover non-  
5 economic damages unless the plaintiff suffered  
6 physical harm.

7 (ii) For purposes of clause (i), the term  
8 “noneconomic damages” means damages for  
9 losses for physical and emotional pain, suf-  
10 fering, inconvenience, physical impairment,  
11 mental anguish, disfigurement, loss of enjoy-  
12 ment of life, loss of society and companionship,  
13 loss of consortium, hedonic damages, injury to  
14 reputation, and any other nonpecuniary losses.

15 (6) COLLATERAL SOURCES.—Any recovery by a  
16 plaintiff in an action under this subsection shall be  
17 reduced by the amount of collateral source com-  
18 pensation, if any, that the plaintiff has received or  
19 is entitled to receive as a result of the acts of ter-  
20 rorism with respect to which the determination  
21 under paragraph (1) was made.

22 (7) ATTORNEY FEES.—Reasonable attorneys  
23 fees for work performed shall be subject to the dis-  
24 cretion of the court, but in no event shall any attor-  
25 ney charge, demand, receive, or collect for services

1 rendered, fees or compensation in an amount in ex-  
2 cess of 20 percent of the damages ordered by the  
3 court to be paid pursuant to this section, or in ex-  
4 cess of 20 percent of any court-approved settlement  
5 made of any claim cognizable under this section.  
6 Any attorney who charges, demands, receives, or col-  
7 lects for services rendered in connection with such  
8 claim any amount in excess of that allowed under  
9 this section, if recovery be had, shall be fined not  
10 more than \$2,000 or imprisoned not more than 1  
11 year, or both.

12 (b) EXCLUSION.—Nothing in this section shall in any  
13 way limit the liability of any person who—

14 (1) attempts to commit, knowingly participates  
15 in, aids and abets, or commits any act of terrorism  
16 with respect to which a determination under sub-  
17 section (a)(1) was made, or any criminal act related  
18 to or resulting from such act of terrorism; or

19 (2) participates in a conspiracy to commit any  
20 such act of terrorism or any such criminal act.

21 (c) RIGHT OF SUBROGATION.—The United States  
22 shall have the right of subrogation with respect to any  
23 claim paid by the United States under this Act.

24 (d) RELATIONSHIP TO OTHER LAW.—Nothing in this  
25 section shall be construed to affect—



1           (1) any party's contractual right to arbitrate a  
2           dispute; or

3           (2) any provision of the Air Transportation  
4           Safety and System Stabilization Act (Public Law  
5           107-42; 49 U.S.C. 40101 note).

6           (e) SATISFACTION OF JUDGMENTS FROM FROZEN  
7           ASSETS OF TERRORISTS, TERRORIST ORGANIZATIONS,  
8           AND STATE SPONSORS OF TERRORISM.—

9           (1) IN GENERAL.—Except as provided in para-  
10          graph (2), in every case in which a person obtains  
11          a judgment against a terrorist party on a claim for  
12          compensatory damages for an act of terrorism, or a  
13          claim for money damages brought pursuant to sec-  
14          tion 1605(a)(7) of title 28, United States Code, the  
15          frozen assets of that terrorist party, or any agency  
16          or instrumentality of that terrorist party, shall be  
17          available for satisfaction of the judgment, to the ex-  
18          tent of any compensatory damages awarded in the  
19          judgment for which the terrorist party is liable.

20          (2) PRESIDENTIAL WAIVER.—

21                 (A) Subject to subparagraph (B), upon de-  
22                 termining on an asset-by-asset basis that a  
23                 waiver is necessary in the national security in-  
24                 terest, the President may waive the require-  
25                 ments of this subsection in connection with

1 (and prior to the enforcement of) any judicial  
2 order directing attachment in aid of execution  
3 or execution against any property subject to the  
4 Vienna Convention on Diplomatic Relations or  
5 the Vienna Convention on Consular Relations.

6 (B) A waiver under this paragraph shall  
7 not apply to—

8 (i) property subject to the Vienna  
9 Convention on Diplomatic Relations or the  
10 Vienna Convention on Consular Relations  
11 that has been used for any nondiplomatic  
12 purpose (including use as rental property),  
13 the proceeds of such use; or

14 (ii) any asset subject to the Vienna  
15 Convention on Diplomatic Relations or the  
16 Vienna Convention on Consular Relations  
17 that is sold or otherwise transferred for  
18 value to a third party, the proceeds of such  
19 sale or transfer.

20 (3) DEFINITIONS.—In this subsection:

21 (A) The term “terrorist party” means a  
22 terrorist, a terrorist organization, or a foreign  
23 state designated as a state sponsor of terrorism  
24 under section 6(j) of the Export Administration  
25 Act of 1979 (50 U.S.C. App. 2405(j)) or sec-

1           tion 620A of the Foreign Assistance Act of  
2           1961 (22 U.S.C. 2371).

3           (B) The term “frozen assets” means assets  
4           seized or frozen by the United States in accord-  
5           ance with law.

6           (C) The term “property subject to the Vi-  
7           enna Convention on Diplomatic Relations or the  
8           Vienna Convention on Consular Relations” and  
9           the term “asset subject to the Vienna Conven-  
10          tion on Diplomatic Relations or the Vienna  
11          Convention on Consular Relations” mean any  
12          property or asset, respectively, the attachment  
13          in aid of execution or execution of which would  
14          result in a violation of an obligation of the  
15          United States under the Vienna Convention on  
16          Diplomatic Relations or the Vienna Convention  
17          on Consular Relations, as the case may be.

18 **SEC. 16. STUDY OF POTENTIAL EFFECTS OF TERRORISM**

19                           **ON LIFE INSURANCE INDUSTRY.**

20           (a) ESTABLISHMENT.—Not later than 30 days after  
21           the date of enactment of this Act, the President shall es-  
22           tablish a commission (in this section referred to as the  
23           “Commission”) to study and report on the potential ef-  
24           fects of an act or acts of terrorism on the life insurance

1 industry in the United States and the markets served by  
2 such industry.

3 (b) MEMBERSHIP AND OPERATIONS.—

4 (1) APPOINTMENT.—The Commission shall con-  
5 sist of 7 members, as follows:

6 (A) The Secretary of the Treasury or the  
7 designee of the Secretary.

8 (B) The Chairman of the Board of Gov-  
9 ernors of the Federal Reserve System or the  
10 designee of the Chairman.

11 (C) The Assistant to the President for  
12 Homeland Security.

13 (D) 4 members appointed by the Presi-  
14 dent, who shall be—

15 (i) a representative of direct under-  
16 writers of life insurance within the United  
17 States;

18 (ii) a representative of reinsurers of  
19 life insurance within the United States;

20 (iii) an officer of the NAIC; and

21 (iv) a representative of insurance  
22 agents for life underwriters.

23 (2) OPERATIONS.—The chairperson of the  
24 Commission shall determine the manner in which  
25 the Commission shall operate, including funding,

1 staffing, and coordination with other governmental  
2 entities.

3 (c) STUDY.—The Commission shall conduct a study  
4 of the life insurance industry in the United States, which  
5 shall identify and make recommendations regarding—

6 (1) possible actions to encourage, facilitate, and  
7 sustain the provision, by the life insurance industry  
8 in the United States, of coverage for losses due to  
9 death or disability resulting from an act or acts of  
10 terrorism, including in the face of threats of such  
11 acts; and

12 (2) possible actions or mechanisms to sustain or  
13 supplement the ability of the life insurance industry  
14 in the United States to cover losses due to death or  
15 disability resulting from an act or acts of terrorism  
16 in the event that—

17 (A) such acts significantly affect mortality  
18 experience of the population of the United  
19 States over any period of time;

20 (B) such losses jeopardize the capital and  
21 surplus of the life insurance industry in the  
22 United States as a whole; or

23 (C) other consequences from such acts  
24 occur, as determined by the Commission, that  
25 may significantly affect the ability of the life in-

1 insurance industry in the United States to inde-  
2 pendently cover such losses.

3 (d) RECOMMENDATIONS.—The Commission may  
4 make a recommendation pursuant to subsection (c) only  
5 upon the concurrence of a majority of the members of the  
6 Commission.

7 (e) REPORT.—Not later than 120 days after the date  
8 of enactment of this Act, the Commission shall submit to  
9 the House of Representatives and the Senate a report de-  
10 scribing the results of the study and any recommendations  
11 developed under subsection (c).

12 (f) TERMINATION.—The Commission shall terminate  
13 60 days after submission of the report pursuant to sub-  
14 section (e).

15 **SEC. 17. RAILROAD AND TRUCKING INSURANCE STUDY.**

16 The Secretary of the Treasury shall conduct a study  
17 to determine how the Federal Government can address a  
18 possible crisis in the availability and affordability of rail-  
19 road and trucking insurance by making such insurance for  
20 acts of terrorism available on commercially reasonable  
21 terms. Not later than 120 days after the date of the enact-  
22 ment of this Act the Secretary shall submit to the Con-  
23 gress a report regarding the results and conclusions of the  
24 study.

1 **SEC. 18. STUDY OF REINSURANCE POOL SYSTEM FOR FU-**  
2 **TURE ACTS OF TERRORISM.**

3 (a) STUDY.—The Secretary, the Board of Governors  
4 of the Federal Reserve System, and the Comptroller Gen-  
5 eral of the United States shall jointly conduct a study on  
6 the advisability and effectiveness of establishing a reinsur-  
7 ance pool system relating to future acts of terrorism to  
8 replace the program provided for under this Act.

9 (b) CONSULTATION.—In conducting the study under  
10 subsection (a), the Secretary, the Board of Governors of  
11 the Federal Reserve System, and the Comptroller General  
12 shall consult with (1) academic experts, (2) the United  
13 Nations Secretariat for Trade and Development, (3) rep-  
14 resentatives from the property and casualty insurance in-  
15 dustry, (4) representatives from the reinsurance industry,  
16 (5) the NAIC, and (6) such consumer organizations as  
17 the Secretary considers appropriate.

18 (c) REPORT.—Not later than 6 months after the date  
19 of the enactment of this Act, the Secretary, the Board of  
20 Governors of the Federal Reserve System, and the Comp-  
21 troller General shall jointly submit a report to the Con-  
22 gress on the results of the study under subsection (a).

23 **SEC. 19. DEFINITIONS.**

24 For purposes of this Act, the following definitions  
25 shall apply:

26 (1) ACT OF TERRORISM.—

1           (A) IN GENERAL.—The term “act of ter-  
2           rorism” means any act that the Secretary de-  
3           termines meets the requirements under sub-  
4           paragraph (B), as such requirements are fur-  
5           ther defined and specified by the Secretary in  
6           consultation with the NAIC.

7           (B) REQUIREMENTS.—An act meets the  
8           requirements of this subparagraph if the act—

9                   (i) is unlawful;

10                   (ii) causes harm to a person, property,  
11                   or entity, in the United States, or in the  
12                   case of a domestic United States air car-  
13                   rier or a United States flag vessel (or a  
14                   vessel based principally in the United  
15                   States on which United States income tax  
16                   is paid and whose insurance coverage is  
17                   subject to regulation in the United States),  
18                   in or outside the United States;

19                   (iii) is committed by a person or  
20                   group of persons or associations who are  
21                   recognized, either before or after such act,  
22                   by the Department of State or the Sec-  
23                   retary as an international terrorist group  
24                   or have conspired with such a group or the  
25                   group’s agents or surrogates;



1 (iv) has as its purpose to overthrow or  
2 destabilize the government of any country,  
3 or to influence the policy or affect the con-  
4 duct of the government of the United  
5 States or any segment of the economy of  
6 United States, by coercion; and

7 (v) is not considered an act of war,  
8 except that this clause shall not apply with  
9 respect to any coverage for workers com-  
10 pensation.

11 (2) AFFILIATE.—The term “affiliate” means,  
12 with respect to an insurer, any company that con-  
13 trols, is controlled by, or is under common control  
14 with the insurer.

15 (3) AGGREGATE WRITTEN PREMIUM.—The  
16 term “aggregate written premium” means, with re-  
17 spect to a year, the aggregate premium amount of  
18 all commercial property and casualty insurance cov-  
19 erage written during such year under all lines of  
20 commercial property and casualty insurance.

21 (4) COMMERCIAL INSURER.—The term “com-  
22 mercial insurer” means any corporation, association,  
23 society, order, firm, company, mutual, partnership,  
24 individual, aggregation of individuals, or any other  
25 legal entity that provides commercial property and

1       casualty insurance. Such term includes any affiliates  
2       of a commercial insurer.

3               (5) COMMERCIAL PROPERTY AND CASUALTY IN-  
4       SURANCE.—

5               (A) IN GENERAL.—The term “commercial  
6       property and casualty insurance” means insur-  
7       ance or reinsurance, or retrocessional reinsur-  
8       ance, for persons or properties in the United  
9       States against—

10                   (i) loss of or damage to property;

11                   (ii) loss of income or extra expense in-  
12       curred because of loss of or damage to  
13       property;

14                   (iii) third party liability claims caused  
15       by negligence or imposed by statute or con-  
16       tract, including workers compensation; or

17                   (iv) loss resulting from debt or default  
18       of another.

19               (B) EXCLUSIONS.—Such term does not  
20       include—

21                   (i) insurance for homeowners, tenants,  
22       private passenger nonfleet automobiles,  
23       mobile homes, or other insurance for per-  
24       sonal, family, or household needs;

1 (ii) insurance for professional liability,  
2 including medical malpractice, errors and  
3 omissions, or directors' and officers' liabil-  
4 ity; or

5 (iii) health or life insurance.

6 (6) CONTROL.—A company has control over an-  
7 other company if—

8 (A) the company directly or indirectly or  
9 acting through one or more other persons owns,  
10 controls, or has power to vote 25 percent or  
11 more of any class of voting securities of the  
12 other company;

13 (B) the company controls in any manner  
14 the election of a majority of the directors or  
15 trustees of the other company; or

16 (C) the Secretary determines, after notice  
17 and opportunity for hearing, that the company  
18 directly or indirectly exercises a controlling in-  
19 fluence over the management or policies of the  
20 other company.

21 (7) COVERED PERIOD.—The term “covered pe-  
22 riod” has the meaning given such term in section  
23 20.

24 (8) INDUSTRY-WIDE LOSSES.—The term “in-  
25 dustry-wide losses” means the aggregate insured

1 losses sustained by all insurers from coverage writ-  
2 ten under all lines of commercial property and cas-  
3 ualty insurance.

4 (9) INSURED LOSS.—The term “insured loss”  
5 means any loss, net of reinsurance and  
6 retrocessional reinsurance, covered by commercial  
7 property and casualty insurance.

8 (10) NAIC.—The term “NAIC” means the Na-  
9 tional Association of Insurance Commissioners.

10 (11) NET PREMIUM.—The term “net premium”  
11 means, with respect a commercial insurer and a  
12 year, the aggregate premium amount collected by  
13 such commercial insurer for all commercial property  
14 and casualty insurance coverage written during such  
15 year under all lines of commercial property and cas-  
16 ualty insurance by such commercial insurer, less any  
17 premium paid by such commercial insurer to other  
18 commercial insurers to insure or reinsure those  
19 risks.

20 (12) SECRETARY.—The term “Secretary”  
21 means the Secretary of the Treasury.

22 (13) STATE.—The term “State” means the  
23 States of the United States, the District of Colum-  
24 bia, the Commonwealth of Puerto Rico, the Com-  
25 monwealth of the Northern Mariana Islands, Guam,

1 the Virgin Islands, American Samoa, and any other  
2 territory or possession of the United States.

3 (14) STATE INSURANCE REGULATOR.—The  
4 term “State insurance regulator” means, with re-  
5 spect to a State, the principal insurance regulatory  
6 authority of the State.

7 (15) TRIGGERING DETERMINATION.—The term  
8 “triggering determination” has the meaning given  
9 such term in section 5(a).

10 (16) TRIGGERING EVENT.—The term “trig-  
11 gering event” means, with respect to a triggering de-  
12 termination, the occurrence of an act of terrorism,  
13 or the occurrence of such acts, that caused the in-  
14 sured losses resulting in such triggering determina-  
15 tion.

16 (17) UNITED STATES.—The term “United  
17 States” means, collectively, the States (as such term  
18 is defined in this section).

19 **SEC. 20. COVERED PERIOD AND EXTENSION OF PROGRAM.**

20 (a) COVERED PERIOD.—Except to the extent pro-  
21 vided otherwise under subsection (b), for purposes of this  
22 Act, the term “covered period” means the period begin-  
23 ning on the date of the enactment of this Act and ending  
24 on January 1, 2003.

1 (b) EXTENSION OF PROGRAM.—If the Secretary de-  
2 termines that extending the covered period is necessary  
3 to ensure the adequate availability in the United States  
4 of commercial property and casualty insurance coverage  
5 for acts of terrorism, the Secretary may, subject to sub-  
6 section (c), extend the covered period by not more than  
7 two years.

8 (c) REPORT.—The Secretary may exercise the au-  
9 thority under subsection (b) to extend the covered period  
10 only if the Secretary submits a report to the Congress pro-  
11 viding notice of and setting forth the reasons for such ex-  
12 tension.

13 **SEC. 21. REGULATIONS.**

14 The Secretary shall issue any regulations necessary  
15 to carry out this Act.

Passed the House of Representatives November 29,  
2001.

Attest:

*Clerk.*

107TH CONGRESS  
1ST SESSION

**H. R. 3210**

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**AN ACT**

To ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.