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TERRORISM INSURANCE PROPOSALS

COMPARISON OF KEY FEATURES: 6/25/02

(All Proposals Would Limit Federal Assistance to \$100 Billion Maximum)

	H.R. 3210	S. 2600
COVERED PERIOD	<ul style="list-style-type: none"> * January 1, 2003 * Additional two years if reauthorized by the Secretary of Treasury 	<ul style="list-style-type: none"> * One year from date of enactment; * Additional year if reauthorized by the Secretary of the Treasury
TERRORISM DEFINITION	<ul style="list-style-type: none"> * Determined by Secretary in consultation with NAIC. * Covers airlines and vessels. * Covers and act by any group recognized by Treas. or State as an "international terrorist group that has "as its purpose to overthrow or destabilize the government of any country, or to influence the policy of the U.S. or any segment of the economy of [the]U.S., by coercion" that is not considered an act of war. 	<ul style="list-style-type: none"> * Determined by Sec. Treas. in concurrence with Sec. State and AG. * Covers airlines and vessels. * Covers acts committed on behalf of foreign person or "interest" to coerce the civilian population of the U.S. or influence the policy of the U.S.
PROGRAM TRIGGER	A covered event must exceed \$5 million.	Same.
FEDERAL ASSISTANCE	* Government pays out 90% of claims exceeding either the industry (\$1 billion) or company retention (10%) trigger	* Government pays out (1) 80% of losses over per company retention that do not exceed \$10 billion; and (2) 90% of losses over per company retention that exceed \$10 billion
PER-COMPANY RETENTION	<ul style="list-style-type: none"> * Min. \$100 million industry losses; and * 10% of individual company's surplus and 10% of its net written premium. 	<ul style="list-style-type: none"> * Company's market share (total amount of direct written P/C premium during 2 yr. period as percentage of all such premiums) * Treas. may adjust market share to reflect current market participation.
INDUSTRY AGGREGATE RETENTION	* \$1 billion	None
MANDATORY PARTICIPATION/MANDATORY OFFER COVERAGE	* Mandatory participation for all "commercial insurers" as defined in H.R. 3210	<ul style="list-style-type: none"> * Companies meeting definition of "participating insurance company (Section 3) must participate * Shall make terrorism coverage available in all p/c policies * Personal lines optional
REPAYMENT	<ul style="list-style-type: none"> * First \$20 billion repaid via industry-wide assessments (capped @ 3% NWP per year) * Aid exceeding \$20 billion repaid via policy surcharges (cap @ 3% per year) * Discretion to Secretary of Treasury on assessments and surcharges. 	None.

TERRORISM INSURANCE PROPOSALS COMPARISON OF KEY FEATURES: 6/25/02

(All Proposals Would Limit Federal Assistance to \$100 Billion Maximum)

	H.R. 3210	S. 2600
PREEMPTION OF STATE LAW	<ul style="list-style-type: none"> * Yes; * Covered perils * Rate laws * File and use imposed on all states for purposes of program 	<ul style="list-style-type: none"> * Yes; * Uniform definition of terrorism * No pre-approval of rates * Secretary shall have access to books and records of participating companies
STUDIES	<ul style="list-style-type: none"> * Effects of terrorism on life insurance industry (Presidential Commission) * Railroad and trucking insurance * Reinsurance pooling mechanism 	<ul style="list-style-type: none"> * Effects of terrorism on life insurance industry
LITIGATION REFORM	<ul style="list-style-type: none"> * Exclusive federal cause of action * Consolidation of claims into single federal court * Bans punitive and exemplary damages (other than against terrorists or conspirators) * Comparative liability * Collateral source rule * 20% limit on attorney fees 	<ul style="list-style-type: none"> * Exclusive federal cause of action * Punitive damages awarded by a court (i.e., not amounts achieved by a settlement) do not count as insured losses (both for purposes of calculating trigger and federal assistance) * Punitive damages allowed against terrorists
POLICYHOLDER DISCLOSURE	<p>Sense of Congress that the price of terrorism coverage, including the costs of any terrorism related assessments or surcharges under this act, should be separately disclosed</p> <p>If the Secy. of Treasury determines that states have not enacted laws or adopted adequate regulation regarding disclosure, the Secy. Shall, after consultation with NAIC, adopt national guidelines that supercede any state law</p>	<p>Federal assistance not applicable unless the participating insurance company provides clear and conspicuous disclosure to the policyholder re premium charged for terrorism insurance (i.e., as a separate line item in the policy).</p>
BUSINESS INTERRUPTION LOSSES	<p>Insured loss includes "loss of income or extra expense incurred because of loss of or damage to property"</p>	<p>Business interruption losses for temporary relocation expenses and ongoing expenses generally included in insured loss other than for lost profits (except for certain small businesses)</p>
WORKERS COMPENSATION LOSSES	<p>Included as insured loss</p>	<p>Same</p>
SELF-INSURANCE ARRANGEMENTS	<p>Secy. of Treasury may apply the Act to self-insurance arrangements by municipalities and other entities if the application is determined before the occurrence of a triggering act and all provisions of the Act are uniformly applied to the entities</p>	<p>Secy. of Treasury, in consultation with the NAIC, may allow governmental entities operating through self-insurance arrangements that existed before September 11, 2001, but only if the determination is made before a terrorism act in which the entity incurs an insured loss</p>

American Bankers Association
American Bankers Insurance Association
American Gas Association
American Hotel and Lodging Association
American Public Power Association
American Resort Development Association Resort Owners
Coalition
American Society of Association Executives
America's Community Bankers
Associated Builders and Contractors
Associated General Contractors of America
Association of American Railroads
Association of Art Museum Directors
The Bond Market Association
Building Owners and Manufacturers International
Boston Properties
CCIM Institute
Chemical Producers and Distributors Association
Commercial Mortgage Securities Association
Edison Electric Institute
Electric Power Supply Association
The Financial Services Roundtable
The Food Marketing Institute
General Aviation Manufacturers Association
Helicopter Association International
Hilton Hotels Corporation
Host Marriott
Institute of Real Estate Management
International Council of Shopping Centers
The Long Island Import Export Association
Marriott International
Mortgage Bankers Association of America
National Apartment Association
National Association of Home Builders
National Association of Industrial and Office Properties
National Association of Manufacturers
National Association of REALTORS®
National Association of Real Estate Investment Trusts
National Association of Waterfront Employers
National Association of Wholesaler-Distributors
National Basketball Association
National Collegiate Athletic Association
National Council of Chain Restaurants
National Football League
National Hockey League
National Multi Housing Council
National Petrochemical & Refiners Association
National Restaurant Association
National Retail Federation
National Roofing Contractors Association
National Rural Electric Cooperative Association
The New England Council
New York City Partnership
Office of the Commissioner of Baseball
Public Utilities Risk Management Association
The Real Estate Board of New York
The Real Estate Roundtable
Six Continents Hotels
Society of American Florists
Starwood Hotels and Resorts
Taxicab, Limousine & Paratransit Association
Travel Business Round Table
UJA-Federation of New York
Union Pacific Corporation
U.S. Chamber of Commerce
Westfield

CIAT **COALITION TO INSURE AGAINST TERRORISM**

insure against terrorism.org

July 11, 2002

The Honorable Christopher J. Dodd
Chairman
Subcommittee on Securities and Investment
Committee on Banking, Housing and Urban Affairs
U.S. Senate
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

As major consumers of insurance and supporters of a federal backstop for terrorism risk, we are writing to offer our thoughts on key components of S.2600 and H.R.3210 which we believe should form the basis of any compromise legislation resulting from your efforts to reconcile the two bills.

The Coalition to Insure Against Terrorism (CIAT), representing a wide range of businesses and organizations throughout the transportation, wholesale distribution, real estate, manufacturing, construction, entertainment and retail sectors, continues to be a strong supporter of enactment of a federal backstop. The events of September 11th have caused widespread dislocation in the insurance marketplace. As a result, business insurance policy holders increasingly find themselves squeezed between a constricting insurance market and creditors who expect appropriate insurance policies to be in place throughout the war on terrorism. Increasing evidence suggests that this problem, if left unaddressed, could hamper our nation's economic recovery. To this end, it is critical that Congress and the Administration put in place a temporary backstop that will restore some normalcy to the marketplace.

Specifically:

Definition of "terrorism" must be sufficiently broad to ensure insurance coverage for future terrorist attacks: CIAT prefers the "terrorism" definition contained in S.2600 as it appears to be broader than the language in H.R.3210. Moreover, CIAT remains concerned about the exclusion of domestic terrorism from coverage in the newly established federal insurance program. We encourage the conferees to revisit this issue and consider its inclusion.

Congress must enact a backstop of sufficient duration: Markets react most positively to certainty. To provide the necessary certainty, and the flexibility insurers need to price risk, we believe the backstop

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The Honorable Christopher J. Dodd
July 11, 2002
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should be in place for the longest time period possible. Moreover, the Secretary of Treasury should be given significant latitude to extend the program should market conditions warrant.

Coverage must be comprehensive: Before September 11, 2001, acts of terrorism were covered under standard "all-risk" policies: this coverage included biological, and chemical events. Currently, the few terrorism policies available in the marketplace are deficient in that they exclude from coverage losses related to biological, chemical, radiological, and cyber attacks. Since these are precisely the risks that our leaders warn us of repeatedly, it is imperative that policies backstopped by the program insure these types of risks. The bill signed by the President should be absolutely clear on this point.

Individual company caps are an essential component of a workable backstop: Without the per-company caps, small to medium-sized insurers would simply not be able to write terrorism risk. Since it is possible that future terrorist attack could result in an insurer becoming insolvent before the program is triggered, many smaller insurers would opt not to participate in the program. As a result, the market would be left to a few large insurance writers resulting in less competition and continued market disruption.

Business interruption should be fully covered: CIAT prefers the definition of "business interruption (BI)" contained in H.R.3210. In the past, BI coverage routinely included lost profits. Unfortunately, the Senate language in S.2600 excludes coverage for lost profits for all except small businesses. BI insurance is not meant to be a boon for those unfortunate enough to have their businesses interrupted by acts of terrorism. Rather, the purpose for insuring against loss profits is an attempt to make a company whole after they are affected.

Sensible litigation management provisions must be included: The President has made it clear that final legislation must contain reasonable liability protections for victims of terrorism. There is strong support for such protections in both the House and Senate. CIAT supports the inclusion of balanced liability protections necessary to shield innocent victims of terrorism and ensure a presidential signature.

CIAT appreciates the tireless efforts of members of both the House and Senate to move this critical legislation to this point in the legislative process. Yet, we realize that a great deal of work remains to reconcile these two bills. To this end, we urge the immediate appointment of conferees so that important issues, like those discussed above, can be resolved and legislation can be sent to the President before the August work period.

Thank you for your support and urgent attention to these matters.

Sincerely,

The Coalition to Insure Against Terrorism



Get the Facts

▶ NEW!

The Mortgage Bankers Association of America (MBAA), a CIAT member, has found that the the lack of comprehensive and affordable terrorism insurance for commercial properties has killed an estimated \$3.7 billion in deals so far this year, and has delayed or changed the pricing on another \$4.5 billion. **Read more about the survey.**

- July 11, 2002: In letters to Senator Christopher Dodd (D-CT) and Rep. Michael Oxley (R-OH), the 65-member Coalition to Insure Against Terrorism offered its thoughts on key components of S.2600 and H.R. 3210 which it believes "should form the basis of any compromise legislation resulting from your efforts to reconcile the two bills." Read the **Letter to Senator Dodd** and **Letter to Representative Oxley** (PDF Documents)
- See a **Comparison of Key Features of the Terrorism Insurance Proposals -- H.R. 3210 and S.2600** (PDF Document)
- Read our **Read our June 20 Letter to the Senate Leadership Thanking Them for Passage of S.2600** (PDF Document)
- Read our **Read our June 17 Letter to the Senate Urging Cloture and Final Passage of S.2600** (PDF Document)
- Read our **Read our June 13 Letter to the Senate Urging Passage of S.2600** (PDF Document)
- **Economic Perspectives on Terrorism Insurance** - Joint Economic Committee Report (PDF Document)

- **Issue-at-a-Glance**
A brief look at the problem and what solution CIAT is seeking
- **Frequently Asked Questions about Terrorism Insurance**
Learn more about CIAT, terrorism insurance and the need for federal legislation
- **Examples Illustrating the Need for Terrorism Insurance**
From the Golden Gate Bridge to Florida homeowners, these examples clearly illustrate the need for terrorism insurance
- See Our Ads: **Vote for S.2600, Whose Problem Is It (Retail), Whose Problem Is It (Nurse), We Need To Do Something, Whose Problem Is It** and **Homeland INSecurity** (PDF Documents)
- **Read our April 18 Letter to the Senate Leadership Urging Senate Passage of a Terrorism Insurance Bill**
- **Read our February 26 Letter to Senate Leadership**
On February 26, CIAT sent a letter to Majority Leader Daschle and Minority Leader Lott urging the Senate to address vitally needed terrorism insurance legislation
- **Read the testimony to the House Financial Services Committee**
CIAT's statement on how much Americans are at risk until Congress passes terrorism insurance protection
- **Read the GAO's Testimony on Terrorism Insurance**
Rising uninsured exposure to attacks heightens potential economic vulnerabilities (PDF Document)
- **Read the text of Senate Bill 2600**
(PDF Document)

Coalition to Insure Against Terrorism

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What Others Are Saying

- **President Calls on Senate to Act on Terrorism Insurance Legislation -- Read the White House Press Release**

Why The U.S. Senate Should Pass Terrorism Insurance Legislation:

"...about two-thirds of chief financial officers in the U.S. believe their companies' domestic assets are more of a target than their assets overseas, according to a recent survey commissioned by insurance giant Lloyd's of London and conducted by Harris Interactive...Of even more significance: 64 percent of CFOs have little or no confidence in the insurance industry's ability to provide a comprehensive package to protect against any future terrorist attacks."

— "Reversal of Fortune: Terror Risk Comes Home," CFO.com, April 16, 2002

"Lloyd's was one of the first markets to respond to U.S. customers' demand for specific terrorism coverage following September 11th," said [Chairman] Mr. [Sax] Riley. 'However, the limited capacity that Lloyd's and other commercial insurers have available to write this business will not be sufficient in the near-term to satisfy the growing coverage gap in the United States economy.'"

— Lloyd's of London press release, April 18, 2002

"...virtually all terrorism insurance policies have some form of deficiency that leaves lenders and investors with less protection than they had prior to 9/11."

— Moody's Investor's Service, "CMBS 1Q 2002: Rocky Road to Recovery Ahead," April 18, 2002

"...the stability of the market, at least in the short term, lies in the hands of the U.S. Congress. The [Extreme Events] committee agrees that the challenges faced by the U.S. private insurance industry are daunting, and we have only seen the tip of the iceberg of the impact of Sept. 11..."

— American Academy of Actuaries, "Terrorism Insurance Coverage in the Aftermath of Sept. 11," April 18, 2002

"A recent survey by The Bond Market Association found that large lenders have placed on hold or cancelled more than \$7 billion -- or 10 percent of the 2001 large loan volume - in commercial mortgage loans, citing the difficulty and expense for property owners trying to find terrorism insurance coverage."

— "Lack of Terrorism Insurance Hurts the CMBS Market," The Bond Market Association - Research, April 18, 2002

"While AIG and a number of other insurers have created a limited market for terrorism insurance in the wake of September 11, there is still an urgent need for the Federal Government to create a reinsurance backstop facility to provide the capacity to cover all businesses that could suffer terror losses. There is simply not enough capacity in the private market to address what is still an infinite risk."

— Statement of American International Group, Inc. Chairman M.R. Greenberg, April 19, 2002

"A panel of experts at the recent Risk and Insurance Management Society's annual conference told risk managers that the probability of another massive terrorist attack occurring the U.S. in the near future is 100%, according to a report by A.M. Best."

— Morgan Stanley, "Insurance - Property & Casualty," April 19, 2002

"We know that terrorists have considered attacks in the U.S. against high-profile

government or private facilities, famous landmarks and U.S. infrastructure nodes such as airports, bridges, harbors and dams."

— CIA Director George J. Tenet

"This is not an insurance industry problem or a policy holder problem — it's a national economic problem that demands a national solution. Affordable, available terrorism insurance is necessary for the economy to function efficiently."

— House Financial Services Committee Chairman Michael Oxley (R-OH)

"[Insurance for terrorist attacks is a] crucial aspect for a fairly large segment of the economy."

— Federal Reserve Chairman Alan Greenspan

"Lenders demand terrorism coverage as an absolute condition for making large-scale commitments. As a result, investment in real estate is faltering, which cannot help the country's efforts to emerge from a recession."

— Deborah Beck, Real Estate Board of New York

"...the potential for more severe economic impacts is increasing as the level of uninsured risk climbs."

— Richard J. Hillman, U.S. General Accounting Office (GAO) Director of Financial Markets and Community Investments

"...the Senate leadership's failure to act on terrorism insurance legislation is imposing a fear tax on America."

— Congresswoman Sue Kelly (R-NY)

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News Room

For Immediate Release - July 29, 2002

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Darren McKinney, NAM, at (202) 637-3093

CIAT Urges Terror Insurance Conferees To Complete Work by September 11th

Washington, D.C. — The 65-member Coalition to Insure Against Terrorism (CIAT) issued the following statement by spokesperson Martin DePoy following the appointment of House and Senate conferees for consideration of terrorism insurance legislation:

"The Coalition to Insure Against Terrorism (CIAT) welcomes the appointment of House and Senate conferees and is hopeful they can complete their work on the legislation prior to the first anniversary of the September 11th attack on America.

The process to create a short-term federal backstop for comprehensive, affordable terrorism coverage began last November with House passage of such a measure. It took another leap forward with Senate adoption of similar legislation last month. And now that both chambers have appointed conferees, the work of the Congress to reconcile differences between the two measures can begin in earnest.

As they set about their work, we urge all conferees to consider CIAT's longstanding objectives. Specifically, it is our hope that any compromise legislation will include a definition of terrorism that is sufficiently broad to ensure coverage for future terrorist attacks; that the backstop is of sufficient duration; that comprehensive coverage include losses related to biological, chemical, radiological

and cyber attacks; and that individual insurance company caps will be an essential component of any program.

In the eight months since Congress first voted on a terror insurance proposal the absence of comprehensive, affordable coverage has put an increasing number of Americans at needless risk. We ask House and Senate conferees to find common ground on those issues which divide them so that no existing or envisioned properties where Americans work, shop, visit or live will be without this essential economic protection."

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The Coalition to Insure Against Terrorism represents a wide range of businesses and organizations throughout the transportation, real estate, manufacturing, construction, entertainment and retail sectors. These groups have banded together to speak for business insurance policyholders as part of a continuing effort to win passage of a terrorism insurance plan on Capitol Hill. Visit our web site at insureagainstterrorism.org.

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News Room

For Immediate Release - June 18, 2002

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Policyholders Hail Senate Approval of Terrorism Insurance Legislation

Washington, D.C. — The Coalition to Insure Against Terrorism (CIAT) today praised the U.S. Senate for its approval of legislation creating a short-term federal backstop for terrorism insurance coverage.

The Senate adopted the Terrorism Risk Insurance Act of 2002 (S.2600) on a vote of 84-14.

"CIAT appreciates the leadership of Senators Daschle and Lott, and is grateful for the active support of so many of their colleagues, in passing the measure," said Martin DePoy, vice president of government relations at the National Association of Real Estate Investment Trusts and a CIAT spokesperson. "For months now, our many members have emphasized that the absence of affordable, comprehensive terror coverage is a jobs issue, as well as an important element of the nation's homeland security."

The 60-member Coalition represents a broad group of policyholders from the transportation, real estate, manufacturing, construction, entertainment and retail sectors that have lost coverage or experienced huge increases in premiums for deficient coverage since the September 11 terrorist attacks.

"There has been little doubt about the overall merits of a federal backstop," DePoy explained. "The President of the United States and his Cabinet, the

Chairman of the Federal Reserve Board, the Joint Economic Committee and business leaders from virtually every sector of the economy agree that a backstop is a necessary ingredient in the recipe for economic recovery. In its absence, the country grows increasingly uninsured and underinsured and Americans find themselves at greater risk of catastrophic loss."

The House of Representatives passed legislation last year that would create a short-term program to cover losses caused by terrorism. The Senate's approval of S.2600 paves the way for Conference consideration of the two measures. "CIAT strongly encourages conferees to work out their differences in a timely manner for the sake of our economic security," DePoy added.

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The Coalition to Insure Against Terrorism represents a wide range of businesses and organizations throughout the transportation, real estate, manufacturing, construction, entertainment and retail sectors. These groups have banded together to speak for business insurance policyholders as part of a continuing effort to win passage of a terrorism insurance plan on Capitol Hill. Visit our web site at insureagainstterrorism.org.

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