HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 1101 Terrorism Risk Insurance Program
SPONSOR(S): Beshears
TIED BILLS: **IDEN./SIM. BILLS:** CS/SM 1538

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	16 Y, 0 N	Kelly	Rojas
2) Regulatory Affairs Committee	17 Y, 0 N	Salzverg	Hamon

SUMMARY ANALYSIS

Congress enacted the Terrorism Risk Insurance Act (TRIA) in 2002. TRIA created a temporary, federally backed Terrorism Risk Insurance Program, which is administered by the United States Treasury Department. The program serves as a reinsurer for insurers who are required to offer terrorism insurance for property and casualty lines. The Terrorism Risk Insurance Program Reauthorization Act was signed into law in 2007. The reauthorization, among other things, expanded the definition of a "certified act of terrorism" to include domestic terrorism, fixed the insurer deductible at 20% of an insured's direct earned premium, fixed the program trigger at $100 million, and extended the program through December 31, 2014.

House Memorial 1101 urges Congress to extend the Terrorism Risk Insurance Act of 2002. The memorial urges Congress to keep the reforms adopted in 2007 when Congress last reauthorized the Act.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

In response to the terrorist attacks of September 11, 2001, reinsurers became reluctant to underwrite insurance for the risk of terrorist attacks. Insurance companies responded to this unwillingness by reducing limits on types of terrorism coverage, as well as narrowing or excluding conditions in insurance contracts.[1] As a result, commercial lenders were reluctant to make loans on new projects because collateral for a loan could be diminished in the event of a terrorist attack.[2]

In response to the insurance industry's reluctance, Congress enacted the Terrorism Risk Insurance Act of 2002 (TRIA) as a way to provide stability to the economy.[3] TRIA created a temporary, federally backed Terrorism Risk Insurance Program administered by the U.S. Treasury Department, which provided reinsurance to insurers that are required to offer terrorism insurance for property and casualty lines.[4] Additionally, the federal government provided a "backstop" to terrorism insurance losses by insuring that the federal government would pay for 90 percent of terrorism losses (subject to a mandated deductible), while insurance companies would pay for the remaining 10 percent. This backstop provided the incentive for insurance companies to provide affordable premiums and terrorism coverage for more properties.[5] Only certified acts of terrorism are eligible for coverage through TRIA. In order for an event to be a certified act of terrorism, the Secretary of the Treasury, the Secretary of State, and the Attorney General of the United States determine that:[6]

- It is considered an act of terrorism.
- It is violent or dangerous to human life, property, or infrastructure in excess of $5 million.
- It results in damage within the United States.
- It is committed by an individual or group, as a part of an effort to coerce the U.S. civilian population or to influence the policy or affect the conduct of the U.S. government by coercion.

When the act of terrorism does not meet the criteria above and is not a certified act of terrorism, it is a noncertified act. An insurer has the ability to exclude coverage for noncertified acts or offer noncertified terrorism insurance for purchase by the policyholder.[7] Congress intended TRIA to be a temporary measure, with a sunset date only three years later. However, Congress extended the Act in 2005 and again in 2007. In addition to extending the implementation of TRIA, the 2005[8] and 2007[9] amendments increased the event size triggering the program from $50 million per attack to a floor of $100 million per attack, increased private co-pays and deductibles, eliminated certain lines of insurance coverage from the federal program (e.g., professional liability and commercial auto), and placed a $100 billion cap on the program.[10]

Currently, without further Congressional action, the Act is set to expire once again on December 31, 2014.

Effect of Proposed Changes

[1] 33 N.Y.Prac., New York Construction Law Manual § 10:27 (2d ed.).
[2] *Id.*
[3] Pub. L. No. 107-297, 116 Stat. 2322 (2002) (set out as a note under 15 U.S.C.A. § 6701).
[4] *Id.*
[5] *Id.*
[6] *Certifying Events Under the Terrorism Risk Insurance Act*, 2013 Marsh USA Terrorism Risk Insurance Report, April 19, 2013.
[7] *Id.*
[8] Pub. L. 109-144, 119 Stat. 2660 (2005) (known at the Terrorism Risk Insurance Extension Act of 2005).
[9] Pub. L. 110-160, 121 Stat. 1839 (2007) ((known as the Terrorism Risk Insurance program Reauthorization Act of 2007).
[10] 33 N.Y.Prac., New York Construction Law Manual § 10:27 (2d ed.); 15 U.S.C.A. § 6701.

HM 1101 urges Congress to extend the Terrorism Risk Insurance Act of 2002.

Proponents for this bill state the extension of the Act will allow insurers to continue offer widespread coverage for future catastrophes resulting from terrorism. It will also provide a safety net for banks, which without TRIA, may be unwilling to extend loans for commercial transactions like mortgages, construction projects, and other capital-intensive initiatives. Also, businesses may be reluctant to invest in commercial projects if businesses are unable to afford insurance. These issues could have potential adverse effects on the United States economy.[11]

B. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   None.

2. Other:

   None.

[11] As found in the Whereas clauses within HM 1101.

B. RULE-MAKING AUTHORITY:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.