

A COMPARISON OF THE FEDERAL TERRORISM INSURANCE BACKSTOP LEGISLATION

AS OF JANUARY 8, 2015

| | TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007 (EXPIRED) | TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2015 |
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| TERMINATION | December 31, 2014 | December 31, 2020 |
| MAKE-AVAILABLE PROVISION | Must make coverage available for certified acts of terrorism on same terms and conditions as for other covered risks. | No change. |
| COVERED ACTS | Foreign and domestic terrorism in the US and on US interests abroad. Includes an act of war for workers' compensation policies only. | No change. |
| CERTIFICATION LEVEL | \$5 million | No change. |
| CERTIFICATION | Act of terrorism must be certified by the Secretary of Treasury, Attorney General, and the Secretary of State. | The Secretary of Treasury must consult with the Secretary of Homeland Security and Attorney General. |
| PROGRAM TRIGGER | \$100 million in insured loss in a program year. | Phased in increase starting on January 1, 2016: <ul style="list-style-type: none"> • 2015 – \$100 million • 2017 – \$140 million • 2019 – \$180 million • 2016 – \$120 million • 2018 – \$160 million • 2020 – \$200 million |
| COVERED LINES | Commercial property/casualty insurance (including excess insurance, workers' compensation, and directors and officers insurance). | No change. |
| INSURER DEDUCTIBLE (PERCENT OF DIRECT EARNED PREMIUM) | 20% | No change. |
| FEDERAL REINSURANCE QUOTA SHARE | 85% | Phased in decrease starting on January 1, 2016. <ul style="list-style-type: none"> • 2015 – 85% / 15% • 2017 – 83% / 17% • 2019 – 81% / 19% • 2016 – 84% / 16% • 2018 – 82% / 18% • 2020 – 80% / 20% |
| INSURANCE INDUSTRY RETENTION FOR MANDATORY RECOUPMENT | \$27.5 billion | Increases the current mandatory recoupment amount of \$27.5 billion by \$2 billion each calendar year until the mandatory recoupment amount reaches \$37.5 billion. Once the insurance marketplace aggregate retention amount reaches \$37.5 billion, the Treasury Secretary is to issue a final rule to annually revise the amount so that it is equal to the annual average of the sum of insurer deductibles for all insurers participating in the program for the prior three calendar years. |
| RECOUPMENT AMOUNT | 133% | 140% |
| RECOUPMENT TIMING | For acts occurring on or after January 1, 2012, recoupment by September 30, 2017. | For acts occurring on or before December 31, 2017, recoupment by September 30, 2019. For acts occurring in 2018, 35% of amount must be collected by September 30, 2019, and the remainder by September 30, 2024. For acts on or after January 1, 2019, recoupment by September 30, 2024. |
| CAP ON LIABILITY | \$100 billion | No change. |
| TIMING OF CERTIFICATION | Not addressed. | Final rules to be issued by the Secretary of Treasury within nine months of its report to Congress, which will include a certification timeline. |
| NUCLEAR, BIOLOGICAL, CHEMICAL, AND RADIOLOGICAL (NBCR) TERRORISM | No separate treatment of NBCR terrorism. | No change. |
| DATA COLLECTION | Not addressed. | Beginning in 2016, requires Treasury to collect data from insurers on terrorism insurance, including premiums and take-up rates. |
| RISK SPREADING MECHANISMS | Not addressed. | Advisory committee to encourage development of private market risk spreading mechanisms. |
| DISCRETIONARY RECOUPMENT | Surcharges to not exceed 3% | No change. |

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