

**TRIA Legislation – Comparison of the Terrorism Risk Insurance Act of 2002  
with Terrorism Risk Insurance Extension Act of 2005**

<b>TRIA Provision</b>	<b>Terrorism Risk Insurance Act of 2002</b>	<b>Senate Version (S. 467) As Signed into Law by the President on December 22, 2005</b>
<b>Authorization period</b>	3 years for TRIA. Make available provision was 2 years and extended to 3 years by Treasury Secretary. (TRIA Expires 12/31/05).	2 years (Expires 12/31/07)
<b>Program Trigger Level (Aggregate insured losses in which the federal government initiates payments)</b>	Program Years 1-3 (2003-2005) - \$5 million	Program Year 4 (2006) - \$50 million; Program Year 5 (2007) - \$100 million; For Program Year 4, the Program Trigger provision is in effect on April 1, 2006.
<b>Act of Terrorism “Certification” Level (The Secretary of Treasury in consultation with the Secretary of State and Attorney General have the responsibility to “certify” act(s) of terrorism)</b>	Program Years 1-3 (2003-2005) - \$5 million Program Trigger language was added in S.467 to distinguish a “certified” terrorist act from when the federal government would initiate payment - the Trigger. In TRIA, the definition of a “certified” event (over \$5 million) also served as the level in which federal payments would start. This is not the case for S. 467.	Program Years 4-5 (2006-2007) - \$5 million. An act of terrorism can be “certified” that does not meet the Program Trigger (\$50 million in 2006 and \$100 million in 2007) which retains in place the make “available provision” for certified terrorist acts over \$5 million. Because of the “make available” provision, private insurance would cover terrorist events from, \$5 million to \$50 million in 2006 and from \$5 million to \$100 million in 2007. Coverage for terrorist events under \$5 million is at the discretion of each state insurance commissioner and is not covered by federal legislation. In 2003, 43 of 50 states insurance commissioners and the District of Columbia did not allow terrorism exclusions below \$5 million.
<b>Cap on Annual Liability</b>	Up to \$100 billion, thereafter Congress authorizes additional expenditures.	Up to \$100 billion, thereafter Congress authorizes additional expenditures.
<b>Covered Incident Sources</b>	Foreign source terrorism.	Foreign source terrorism.
<b>Lines Covered</b>	TRIA covers the following lines: fire, allied lines, farmowners multiple peril, commercial multiple peril, ocean marine, inland marine, workers compensation, other liability, products liability, commercial auto no-fault, commercial auto liability, commercial auto damage, aircraft, surety, burglary and theft, boiler and machinery (Treasury TRIA Assessment p.18, June 30, 2005).	Previously covered lines less the following: <ol style="list-style-type: none"> <li>1. Commercial automotive</li> <li>2. Burglary and theft</li> <li>3. Surety</li> <li>4. Professional liability</li> <li>5. Farm owners multiple peril</li> </ol>
<b>Insurer Deductible (Deductible percent multiplied by the value of the insurers direct earned premiums from the prior year)</b>	2005 – 15%	Varies by year: Program Year 4 (2006) – 17.5% all covered lines Program Year 5 (2007) – 20% all covered lines

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<b>Insurance Marketplace Aggregate Retention</b> (The maximum losses the insurance industry must sustain before federal co-payments are available.)	2005 – the lesser of \$15 billion and the aggregate amount, for all insurers, of insured losses during such period.	Varies by year: Program Year 4 (2006) - \$25.0 billion Program Year 5 (2007) - \$27.5 billion For both 2006 and 2007, the lesser of the amounts specified above and the aggregate amount, for all insurers, of insured losses during such period.
<b>Insurance Company Co-share</b> (Insurance Co-share is paid on losses exceeding insurers retentions or deductible)	Government pays 90 percent over deductible or trigger, insurer pays remaining 10 percent.	Varies by year: Program Year 4 (2006) – 10% Insurer/90% federal government Program Year 5 (2007 – 15% Insurer/85% federal government.
<b>Make Available</b> (Requires that insurance companies make available terrorism insurance on all lines covered by TRIA)	Mandatory years 1-2, extended by Treasury Security for year 3 (2005)	All lines included. Senate Bill does not include nuclear, biological, chemical, radiation (NBCR) coverage.
<b>Study Commission</b>	As mandated by TRIA, Treasury issued the “Report to Congress, Assessment: The Terrorism Insurance Risk Act of 2002” on June 30, 2005	President’s Working Group on Financial Markets shall perform an analysis regarding the long-term availability and affordability of insurance for terrorism risk that includes NBCR risks and life coverage. The report is due no later than September 30, 2006. The Working Group will work in consultation with the National Association of Insurance Commissioners, representatives of the insurance industry, and representatives of policy holders.
<b>Litigation Management</b>	The Secretary makes the determination pursuant to subsection 102 that an act of terrorism has occurred, there shall be an existing federal cause of action for property damage, personal injury, or death arising out or resulting from such act of terrorism, which shall be the exclusive cause of action and remedy for claims for property damage, personal injury, or death arising out of or relating to such act of terrorism.	Procedures and requirements established by the Secretary under section 50.82 of part 50 title 31 of the Code of Federal Regulations shall apply to any cause of action.

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