

# WASHINGTON COUNTIES RISK POOL

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## Terrorism Insurance Program Extended

**P**resident Bush has signed into law an extension of the federal terrorism insurance backstop with the Terrorism Risk Insurance Program Reauthorization Act of 2007.

According to Richard Terlecki with Washington Counties Risk Pool's broker, the bill basically keeps the program intact under its current terms through the year 2014, with some notable exceptions:

- New language eliminates the distinction between foreign and domestic acts of terrorism.
- The cap on insurers aggregate liability is hardened at \$100 billion, and the "clear and conspicuous disclosure" requirement now includes disclosure of this cap to policy holders.

It provides for two new studies by the Government Accountability Office, one on expanding coverages for nuclear, biological, chemical and radiological risks, and another on the possibility of providing a "reset mechanism" for areas impacted by terrorist acts.

Terlecki notes there are still a number of shortfalls from his perspective:

- The Terrorism Risk Insurance Act is still limited to Violent/Dangerous acts, exceeding \$5 million.
- Government certification of an event is required for a claim to be paid. For an event to be declared under TRIA, it must have agreement of three departments: the Secretary of the Treasury, Secretary of State and the Attorney General.
- Some lines of coverage are specifically excluded, such as Auto Liability and Auto Physical Damage, Crime and Professional Liability (although directors and officers are covered).
- Defense costs/claims management are applied to the policy immediately rather than being deferred until certification.
- The distinction between Foreign and Domestic Acts is still unclear as TRIA just appears to remove the clause "acting on behalf of a foreign person or foreign interest". The act still lacks clear definition of terrorism except to say it is an act of terrorism if the government says it is.
- The \$100 billion cap on insurers' aggregate liability means that, in the unlikely event of this being exhausted, an insured could possibly have no coverage in place even though they have purchased it.
- Pricing is often determined as a percentage of the standard property/liability premium.

Many current policies have a "sunset clause" requiring that the Terrorism Risk Insurance Act is requoted after December 31, 2007, for the remainder of the policy period.

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