

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS  
TASK FORCE ON TERRORISM  
HILTON HEAD ISLAND, SOUTH CAROLINA  
MARCH 3, 2005  
DRAFT MINUTES

The National Conference of Insurance Legislators (NCOIL) Task Force on Terrorism met at the Hilton Oceanfront Resort in Hilton Head, South Carolina, on Thursday, March 3, 2005, at 10:30 a.m..

Assem. Ivan Lafayette of New York, chair of the Committee, presided.

Other members of the Committee present were:

Terry Parke, IL  
Assem. Nancy Calhoun, NY  
Sen. William J. Larkin, Jr., NY

Other legislators present were:

Rep. Anthony Melio, PA  
Rep. Virginia Milkey, VT  
Rep. Kathleen Keenan, VT  
Rep. Mark Young, VT  
Rep. George Keiser, ND  
Rep. Shirley Bowler, LA  
Rep. Pat Patterson, FL

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director  
Paul Donohue, NCOIL Director of State-Federal Affairs  
Candace Thorson, NCOIL Director of Legislative Affairs and Education,  
Property Casualty Insurance

**TERRORISM RISK INSURANCE ACT (TRIA) OF 2002 REAUTHORIZATION**

Assem. Ivan Lafayette reported that TRIA, while not as good a bill as some had hoped, was still very important to the country and would expire on December 31, 2005. He said this was the time to call federal legislators about extending the act. He indicated it was also a good idea to contact people in the business community and ask them to contact their federal representatives as well. He explained the rebuilding from 9/11 was still going on and that such rebuilding had been very expensive, making the continuation of the act very important.

Mr. Neil Alldredge of the National Association of Mutual Insurance Companies

(NAMIC) said that after TRIA expired there would be no backstop for risk exposure. He explained that the politics of the issue are such that it was now “even money” as to whether Congress would reauthorize the program. He noted that a hearing would be scheduled in the near future, which was a good sign of forward movement. He pointed out that at present, the US Senate had expressed a certain degree, and the US House had expressed a lesser degree, of interest in reauthorizing TRIA. He noted that President Bush was on the fence concerning this issue. He indicated that industry was making a strong effort to get Congress to reauthorize the program. He urged all present to help bring pressure to reauthorize the program.

Mr. Alldredge then pointed out that if the program was not reauthorized there were two things states could do to bring pressure on the government to pass similar legislation. He said states could pass legislation to amend standard fire policies to exclude fire caused by terrorist acts. He pointed out that many policies were old and did not contemplate such acts of terror. He indicated that states could also take action by passing legislation allowing policies to only cover damages from acts of terror if the federal government reauthorized TRIA .

Assem. Calhoun asked how many premium dollars had been paid by the public sector into terrorism coverage at this point. Mr. Alldredge replied that he did not know that figure. Assem Calhoun then asked if a pool of money, from premium dollars, could be created that would continue to exist in the absence of a terrorist event. Mr. Alldredge noted that industry had suggested such a plan prior to TRIA enactment but had been turned down by Congress. He went on to note that no such plan was now before Congress.

Wes Bissett of the Independent Insurance Agents and Brokers of America (IIABA) said that Congress must act. He said he believed that there would be another terrorist attack and that the private market could not absorb such a loss. He reported that the reauthorization bill passed through the House Financial Services Committee last year and that a bill had been introduced, with a number of co-sponsors, in the Senate. He pointed out that next month hundred of agents would be going to Washington for a legislative conference and would be talking to their members of Congress on this issue.

Assem. Calhoun questioned whether passage of the bill would affect large building projects planned in New York City and elsewhere. Mr. Bissett responded that not only would such planned projects be affected but that projects now starting or about to get underway would also be affected.

Ms. Thorson reported that Nancy Davenport of the American Council of Life Insurers (ACLI), who had planned to speak before the session, could not attend the meeting but had sent a letter noting that ACLI was very supportive of TRIA. She said Ms. Davenport also wrote that ACLI takes exception with the Congressional Budget Office (CBO) report released last month that claimed that TRIA was not necessary because it would impede private market development. She said Ms. Davenport in the letter explained that the Congressional report was incorrect in concluding that if there

was no TRIA, premiums would be higher and therefore employers would undertake risk management strategies to reduce premiums.

Stef Zielezienski of the American Insurance Association (AIA) discussed how TRIA works, noting that it was a pre-funded program in which premiums were charged. He pointed out that one impact of such a program was that insurers could not get the rate that the risk bore. He said another impact was that above a certain financial level, risk pooling mechanisms cannot work and therefore the risk cannot be apportioned. He concluded that in such a risk situation, federal participation was a necessity. He pointed out that what federal legislators would rather see in place of TRIA is a long-term mechanism to handle terrorist losses. He indicated that industry is open to such a proposal but time is an issue. He explained that a federal “backstop” needed to be in place regardless of whether it was an extension of TRIA or a new long-term program. He predicted that without TRIA, real estate transactions would be stalled and insurers would be unwilling to write terrorism risk policies for landmark buildings. He also predicted that commercial mortgage-backed securities would stall, similar to what happened to the market after 9/11 but before the passage of TRIA. He said that if TRIA was not passed, states should create a true free market for insurance. He said he believed that the more one limits the choices for insurers, the more insurers face the stark decision of whether to write a policy or not.

Sen. Larkin said that the industry should be looking at alternatives and wondered what industry was doing about it. Mr. Zielezienski replied that industry was looking at the possibility of a FEMA-type approach because insurers could not absorb the impact of such damage. He offered the example of a nuclear bomb going off at Grand Central Station. He said that losses due to such an event could exceed \$650 billion. Mr. Zielezienski explained that this amount of money far exceeds the total surplus of the entire property-casualty insurance industry. He concluded that no investment vehicles in the capital markets could or would step in and take the place of private reinsurance. Mr. Zielezienski predicted that private reinsurance would not be coming back in more than a limited way should Congress not reauthorize TRIA.

Sen. Larkin inquired about the regionalization of legislatures resulting in some states being more interested in the reauthorization of TRIA than others. Mr. Zielezienski said that was indeed a problem and all states should view this as national policy, not a regional problem.

Assem. Ivan Lafayette recommended, and it was the sense of the Committee, that NCOIL send another letter reaffirming support for TRIA, similar to the one sent out previously by NCOIL.

## ADJOURNMENT

There being no further business, the meeting adjourned at 10:30 a.m..