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The National Council of Insurance Legislators Statement for the Record

U.S. House Financial Services Committee Subcommittee on Housing, Community Development, and Insurance and Subcommittee on National Security, International Development, and Monetary Policy Hearing on

Protecting America: The Reauthorization of the Terrorism Risk Insurance Program October 16, 2019

Chairmen Clay and Cleaver, Ranking Members Gooden and Stivers, and members of the subcommittees, the National Council of Insurance Legislators (NCOIL) appreciates the opportunity to submit this written statement for the hearing on “Protecting America: The Reauthorization of the Terrorism Risk Insurance Program.”

NCOIL is a national legislative organization with the nation’s 50 states as members, represented principally by legislators serving on their states’ insurance and financial institutions committees. NCOIL writes Model Laws in healthcare, insurance and financial services, in accord with the State jurisdiction over insurance as established by the McCarran-Ferguson Act over seventy-four years ago, and to serve as an educational forum for public policy makers and interested parties. Founded in 1969, NCOIL works to assert the prerogative of legislators in making State policy when it comes to healthcare, insurance and financial services and educate State legislators on current and longstanding insurance and financial services issues.

NCOIL applauds the subcommittees for taking the time to discuss the very important issue of Terrorism Risk Insurance Program (TRIP) reauthorization well in advance of the program’s expiration date – December 31, 2020. NCOIL supports a timely and long-term reauthorization of TRIP as NCOIL believes that TRIP is vital to this country’s economic and consumer interests and the inability to extend the program could have significant adverse consequences.

TRIP essentially functions as a federal government backstop for terrorism losses and was passed in direct response to the September 11, 2001 terrorist attacks (9/11) because following said attacks, insurers and reinsurers – unsurprisingly – began to exclude terrorism coverage from their new and renewing policies due to a fear that terrorist attacks would become more frequent, and the difficulty in accurately pricing the risk.



WEBSITE: www.ncoil.org



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TRIP represents a unique circumstance in which federal involvement in insurance is necessary, and as noted by a 2018 Department of Treasury Report titled, "Report on the Effectiveness of the Terrorism Risk Insurance Program," TRIP has generally been effective and has functioned as designed - essentially forcing insurers back into the terrorism insurance market in exchange for the assurance of a public-private risk sharing mechanism in the event of a terrorist attack.

If TRIP were to lapse or be terminated, the space in which a viable private market for terrorism insurance has grown would be threatened. In considering what is likely to happen if TRIP were to terminate on December 31, 2020, the immediate aftermath of 9/11 in commercial property-casualty insurance markets for terrorism coverage as described above is instructive. As insurers and reinsurers began to exclude terrorism coverage from their new and renewing policies due to a fear that terrorist attacks would become more frequent, and the difficulty in accurately pricing the risk, terrorism risk insurance essentially became either unavailable or prohibitively expensive, resulting in many businesses not purchasing the insurance or only partly-insuring. Consequently, many construction projects were postponed or cancelled, resulting in thousands of construction jobs and billions of real estate transactions being lost.

Interestingly, it is the workers' compensation insurance market that would be particularly harmed if TRIP were to expire. Since workers' compensation writers cannot decline to provide coverage for acts of terrorism, the absence of TRIP as a risk-sharing mechanism would most likely result in workers' compensation insurers raising the cost of these policies and declining to write coverage for businesses in major metropolitan areas and/or located near American symbols.

NCOIL is pleased to see that the draft legislation introduced by Chairwoman Waters would reauthorize TRIP for ten years and is hopeful to see that legislation ultimately head to the President's desk for signature in a timely manner.

Attached is a recent NCOIL resolution that further outlines the need to extend TRIP. Thank you again for allowing us the opportunity to provide this statement for the record and please know that we are of course available to discuss this further.

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National Council of Insurance Legislators (NCOIL)

Resolution in Support of the Reauthorization of the Terrorism Risk Insurance Program

**Sponsored by Sen. Dan "Blade" Morrish (LA)*

**Adopted by the NCOIL Officers on September 17, 2019. To be discussed and considered for ratification by the NCOIL Executive Committee on December 13, 2019.*

WHEREAS, the United States continues to be engaged in an ongoing war against terrorism and the threats of future attacks inside the country remains; and

WHEREAS, future attacks could include the use of unconventional (nuclear, biological, chemical or radiological) weapons that could result in a large number of casualties or could involve attacks such as cyber-terrorism that would impact businesses and critical infrastructure across the nation; and

WHEREAS, the Terrorism Risk Insurance Program (TRIP), created through the enactment of the Terrorism Risk Insurance Act (TRIA) of 2002 and extended and modified through the Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) in 2005, 2007, and 2015 has allowed for a viable and stable terrorism risk insurance market; and

WHEREAS, absent extension by Congress, TRIA will expire on December 31, 2020; and

WHEREAS, failure by Congress to extend TRIA would likely result in the inability of insurers to offer widespread coverage for future catastrophes resulting from terrorism or would likely create capacity concerns where terrorism coverage must be provided; and

WHEREAS, without adequate terrorism insurance coverage, banks may be unwilling or less likely to extend loans for commercial transactions, such as mortgages, construction projects and other capital-intensive initiatives; and

WHEREAS, the lack of private terrorism insurance to cover losses from future terrorist attacks may require the federal government to cover such losses; and

WHEREAS, without the shared public-private responsibility program established by TRIA, a limited availability of insurance against terrorism would have a severe adverse effect on our country's economy as financiers might be reluctant to lend, businesses might be reluctant to invest, and commercial consumers might be unable to afford insurance; and

WHEREAS, TRIA is an essential component of effective national economic recovery following a catastrophic terrorist attack in the United States; and

WHEREAS, NCOIL supported the enactment of TRIA and subsequent extensions in 2005, 2007 and 2015; and

NOW, THEREFORE, BE IT RESOLVED, that NCOIL supports a long-term extension of TRIA; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that NCOIL urges Congress and the Administration to take action as soon as possible to extend TRIA.

NOW, THEREFORE, BE IT FINALLY RESOLVED, that a copy of this Resolution shall be sent to the Chair of the U.S. Senate Committee on Banking, Housing, and Urban Affairs; the Chair of the U.S. Senate Committee on Banking, Housing, and Urban Affairs' Subcommittee on Securities, Insurance, and Investment; the Chair of the U.S. House Financial Services Committee; the Chair of the U.S. House Financial Services' Subcommittee on Housing, Community Development and Insurance; the Chair of all state committees that have jurisdiction over insurance matters; each State's Insurance Commissioner; and the Director of the Federal Insurance Office.