

Calendar No. 438

113TH CONGRESS
2D SESSION

S. 2244

To extend the termination date of the Terrorism Insurance Program established under the Terrorism Risk Insurance Act of 2002, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2014

Mr. SCHUMER (for himself, Mr. KIRK, Mr. REED, Mr. HELLER, Mr. MURPHY, Mr. JOHANNES, Mr. WARNER, Mr. BLUNT, Mr. MENENDEZ, Mr. CRAPO, Mr. JOHNSON of South Dakota, Mrs. GILLIBRAND, Mr. ISAKSON, Mr. TESTER, Mr. MERKLEY, Mr. BLUMENTHAL, Mr. BOOKER, Ms. MIKULSKI, Mr. DONNELLY, Mr. CHAMBLISS, Mr. MARKEY, Ms. KLOBUCHAR, Mr. CARDIN, Mr. DURBIN, and Mr. FRANKEN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

JUNE 23, 2014

Reported by Mr. JOHNSON of South Dakota, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To extend the termination date of the Terrorism Insurance Program established under the Terrorism Risk Insurance Act of 2002, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Terrorism Risk Insur-
3 ance Program Reauthorization Act of 2014”.

4 **SEC. 2. EXTENSION OF TERRORISM INSURANCE PROGRAM.**

5 Section 108(a) of the Terrorism Risk Insurance Act
6 of 2002 (15 U.S.C. 6701 note) is amended by striking
7 “December 31, 2014” and inserting “December 31,
8 2021”.

9 **SEC. 3. FEDERAL SHARE.**

10 Section 103(e)(1)(A) of the Terrorism Risk Insur-
11 ance Act of 2002 (15 U.S.C. 6701 note) is amended by
12 inserting “and beginning ~~in the calendar year that follows~~
13 ~~the date of enactment of the Terrorism Risk Insurance~~
14 ~~Program Reauthorization Act of 2014 on January 1, 2016,~~
15 shall decrease by ~~1 percent~~ *1 percentage point* per calendar
16 year until equal to 80 percent” after “85 percent”.

17 **SEC. 4. RECOUPMENT OF FEDERAL SHARE OF COMPENSA-**
18 **TION UNDER THE PROGRAM.**

19 Section 103(e) of the Terrorism Risk Insurance Act
20 of 2002 (15 U.S.C. 6701 note) is amended—

21 (1) in paragraph (6), in the matter preceding
22 subparagraph (A), by striking “shall be” and all
23 that follows through subparagraph (E) and inserting
24 “~~shall be \$27,500,000,000 and beginning in the cal-~~
25 ~~endar year that follows the date of enactment of the~~
26 ~~Terrorism Risk Insurance Program Reauthorization~~

1 Act of 2014 shall increase by \$2,000,000,000 per
 2 calendar year until equal to \$37,500,000,000.”; and
 3 “shall be the lesser of—

4 “(A) \$27,500,000,000, as such amount is
 5 adjusted pursuant to this paragraph; and

6 “(B) the aggregate amount, for all insurers,
 7 of insured losses during such calendar year,
 8 provided that beginning in the calendar year that fol-
 9 lows the date of enactment of the Terrorism Risk In-
 10 surance Program Reauthorization Act of 2014, the
 11 amount set forth under subparagraph (A) shall in-
 12 crease by \$2,000,000,000 per calendar year until
 13 equal to \$37,500,000,000.”;

14 (2) in paragraph (7)—

15 (A) in subparagraph (A)—

16 (i) in the matter preceding clause (i),
 17 by striking “for each of the periods re-
 18 ferred to in subparagraphs (A) through
 19 (E) of paragraph 6 (6)”;

20 (ii) in clause (i), by striking “for such
 21 period”;

22 ~~(B) in subparagraph (B)—~~

23 ~~(i) by striking “for any period re-~~
 24 ~~ferred to in any of subparagraphs (A)~~
 25 ~~through (E) of paragraph (6)”;~~ and

1 (ii) by striking “for such period”;

2 (B) by striking subparagraph (B) and in-
3 serting the following:

4 “(B) [Reserved.]”;

5 (C) in subparagraph (C), by striking “oc-
6 ccurring during any of the periods referred to in
7 any of subparagraphs (A) through (E) of para-
8 graph (6)”;

9 (C) in subparagraph (C)—

10 (i) by striking “occurring during any
11 of the periods referred to in any of subpara-
12 graphs (A) through (E) of paragraph (6),
13 terrorism loss risk-spreading premiums in
14 an amount equal to 133 percent” and in-
15 serting “, terrorism loss risk-spreading pre-
16 miums in an amount equal to 135.5 per-
17 cent”;

18 (ii) by inserting “as calculated under
19 subparagraph (A)” after “mandatory
20 recoupment amount”;

21 (D) in subparagraph (E)(i)—

22 (i) in subclause (I)—

23 (I) by striking “2010” and in-
24 serting “2017”;

1 (II) by striking “2012” and in-
2 serting “2019”;

3 (ii) in subclause (II)—

4 (I) by striking “2011” and in-
5 serting “2018”;

6 (II) by striking “2012” and in-
7 serting “2019”; and

8 (III) by striking “2017” and in-
9 serting “2024”; and

10 (iii) in subclause (III)—

11 (I) by striking “2012” and in-
12 serting “2019”; and

13 (II) by striking “2017” and in-
14 serting “2024”.

15 **SEC. 5. TECHNICAL AMENDMENTS.**

16 The Terrorism Risk Insurance Act of 2002 (15
17 U.S.C. 6701 note) is amended—

18 (1) in section 102—

19 (A) in paragraph (3)—

20 (i) by redesignating subparagraphs
21 (A), (B), and (C) as clauses (i), (ii), and
22 (iii), respectively;

23 (ii) in the matter preceding clause (i)
24 (as so redesignated), by striking “An entity
25 has” and inserting the following:

1 “(A) *IN GENERAL.*—An entity has”; and
 2 (iii) by adding at the end the following
 3 new subparagraph:

4 “(B) *RULE OF CONSTRUCTION.*—An entity,
 5 including any affiliate thereof, does not have
 6 ‘control’ over another entity, if, as of the date of
 7 enactment of the *Terrorism Risk Insurance Pro-*
 8 *gram Reauthorization Act of 2014*, the entity is
 9 acting as an attorney-in-fact, as defined by the
 10 Secretary, for the other entity and such other en-
 11 tity is a reciprocal insurer, provided that the en-
 12 tity is not, for reasons other than the attorney-
 13 in-fact relationship, defined as having ‘control’
 14 under subparagraph (A).”;

15 (AB) in paragraph (7)—

16 (i) by striking subparagraphs (A)
 17 through (F) and inserting the following:

18 “(A) the value of an insurer’s direct
 19 earned premiums during the immediately pre-
 20 ceding calendar year, multiplied by 20 percent;
 21 and”;

22 (ii) by redesignating subparagraph
 23 (G) as subparagraph (B); and

24 (iii) in subparagraph (B), as so redesi-
 25 gnated by clause (ii)—

1 (I) by striking “notwithstanding
 2 subparagraphs (A) through (F), for
 3 the Transition Period or any Program
 4 Year” and inserting “notwithstanding
 5 subparagraph (A), for any calendar
 6 year”; and

7 (II) by striking “Period or Pro-
 8 gram Year” and inserting “calendar
 9 year”;

10 (~~BC~~) by striking paragraph (11); and

11 (~~CD~~) by redesignating paragraphs (12)
 12 through (16) as paragraphs (11) through (15),
 13 respectively; and

14 (2) in section 103—

15 (A) in subsection (c), by striking “Pro-
 16 gram Year” and inserting “calendar year”;

17 (B) in subsection (e)—

18 (i) in paragraph (1)—

19 (I) in subparagraph (A), as pre-
 20 viously amended by section 3—

21 (aa) by striking “the Transi-
 22 tion Period and each Program
 23 Year through Program Year 4
 24 shall be equal to 90 percent, and
 25 during Program Year 5 and each

1 Program Year thereafter” and
2 inserting “each calendar year”;

3 (bb) by striking the comma
4 after “80 percent”; and

5 (cc) by striking “such Tran-
6 sition Period or such Program
7 Year” and inserting “such cal-
8 endar year”; and

9 (II) in subparagraph (B), by
10 striking “exceed” and all that follows
11 through clause (ii) and inserting “ex-
12 ceed \$100,000,000 with respect to
13 such insured losses occurring in the
14 calendar year.”;

15 (ii) in paragraph (2)(A), by striking
16 “the period beginning on the first day of
17 the Transition Period and ending on the
18 last day of Program Year 1, or during any
19 Program Year thereafter” and inserting “a
20 calendar year”; and

21 (iii) in paragraph (3), by striking “the
22 period beginning on the first day of the
23 Transition Period and ending on the last
24 day of Program Year 1, or during any

1 other Program Year” and inserting “any
2 calendar year”; and

3 (C) in subsection (g)(2)—

4 (i) by striking “the Transition Period
5 or a Program Year” each place that term
6 appears and inserting “the calendar year”;

7 (ii) by striking “such period” and in-
8 serting “the calendar year”; and

9 (iii) by striking “that period” and in-
10 serting “the calendar year”.

11 **SEC. 6. IMPROVING THE CERTIFICATION PROCESS.**

12 (a) *DEFINITIONS.*—*As used in this section—*

13 (1) *the term “act of terrorism” has the same*
14 *meaning as in section 102(1) of the Terrorism Risk*
15 *Insurance Act of 2002 (15 U.S.C. 6701 note);*

16 (2) *the term “certification process” means the*
17 *process by which the Secretary determines whether to*
18 *certify an act as an act of terrorism under section*
19 *102(1) of the Terrorism Risk Insurance Act of 2002*
20 *(15 U.S.C. 6701 note); and*

21 (3) *the term “Secretary” means the Secretary of*
22 *the Treasury.*

23 (b) *STUDY.*—*Not later than 9 months after the date*
24 *of enactment of this Act, the Secretary shall conduct and*
25 *complete a study on the certification process.*

1 (c) *REQUIRED CONTENT.*—*The study required under*
2 *subsection (a) shall include an examination and analysis*
3 *of—*

4 (1) *the establishment of a reasonable timeline by*
5 *which the Secretary must make an accurate deter-*
6 *mination on whether to certify an act as an act of*
7 *terrorism;*

8 (2) *the impact that the length of any timeline*
9 *proposed to be established under paragraph (1) may*
10 *have on the insurance industry, policyholders, con-*
11 *sumers, and taxpayers as a whole;*

12 (3) *the factors the Secretary would evaluate and*
13 *monitor during the certification process, including the*
14 *ability of the Secretary to obtain the required infor-*
15 *mation regarding the amount of projected and in-*
16 *curring losses resulting from an act which the Sec-*
17 *retary would need in determining whether to certify*
18 *the act as an act of terrorism;*

19 (4) *the appropriateness, efficiency, and effective-*
20 *ness of the consultation process required under section*
21 *102(1)(A) of the Terrorism Risk Insurance Act of*
22 *2002 (15 U.S.C. 6701 note) and any recommenda-*
23 *tions on changes to the consultation process; and*

1 (5) *the ability of the Secretary to provide guid-*
2 *ance and updates to the public regarding any act that*
3 *may reasonably be certified as an act of terrorism.*

4 (d) *REPORT.—Upon completion of the study required*
5 *under subsection (a), the Secretary shall submit a report*
6 *on the results of such study to the Committee on Banking,*
7 *Housing, and Urban Affairs of the Senate and the Com-*
8 *mittee on Financial Services of the House of Representa-*
9 *tives.*

10 (e) *RULEMAKING.—Section 102(1) of the Terrorism*
11 *Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amend-*
12 *ed—*

13 (1) *by redesignating subparagraph (D) as sub-*
14 *paragraph (E); and*

15 (2) *by inserting after subparagraph (C) the fol-*
16 *lowing:*

17 “(D) *TIMING OF CERTIFICATION.—Not later*
18 *than 9 months after the report required under*
19 *section 6 of the Terrorism Risk Insurance Pro-*
20 *gram Reauthorization Act of 2014 is submitted*
21 *to the appropriate committees of Congress, the*
22 *Secretary shall issue final rules governing the*
23 *certification process, including any timeline ap-*
24 *plicable to any certification by the Secretary on*

1 *whether an act is an act of terrorism under this*
2 *paragraph.”.*

3 **SEC. 7. GAO STUDY ON UPFRONT PREMIUMS.**

4 *(a) STUDY.—Not later than 2 years after the date of*
5 *enactment of this Act, the Comptroller General of the United*
6 *States shall complete a study on the viability and effects*
7 *of the Federal Government assessing and collecting upfront*
8 *premiums on insurers that participate in the Terrorism In-*
9 *surance Program established under the Terrorism Risk In-*
10 *surance Act of 2002 (15 U.S.C. 6701 note) (hereafter in this*
11 *section referred to as the “Program”).*

12 *(b) REQUIRED CONTENT.—The study required under*
13 *subsection (a) shall examine, but shall not be limited to,*
14 *the following issues:*

15 *(1) How the Federal Government could deter-*
16 *mine the price of such upfront premiums on insurers*
17 *that participate in the Program.*

18 *(2) How the Federal Government could collect*
19 *and manage such upfront premiums.*

20 *(3) How the Federal Government could ensure*
21 *that such upfront premiums are not spent for pur-*
22 *poses other than claims through the Program.*

23 *(4) How the assessment and collection of such*
24 *upfront premiums could affect take-up rates for ter-*
25 *rorism risk coverage in different regions and indus-*

1 *tries and how it could impact small businesses and*
2 *consumers in both metropolitan and non-metropolitan*
3 *areas.*

4 (5) *The effect of collecting such upfront pre-*
5 *miums on insurers both large and small.*

6 (6) *The effect of collecting such upfront pre-*
7 *miums on the private market for terrorism risk rein-*
8 *surance.*

9 (7) *The size of any Federal Government subsidy*
10 *insurers may receive through their participation in*
11 *the Program, taking into account the Program's cur-*
12 *rent post-event recoupment structure.*

13 (c) *REPORT.*—*Upon completion of the study required*
14 *under subsection (a), the Comptroller General shall submit*
15 *a report on the results of such study to the Committee on*
16 *Banking, Housing, and Urban Affairs of the Senate and*
17 *the Committee on Financial Services of the House of Rep-*
18 *resentatives.*

19 (d) *PUBLIC AVAILABILITY.*—*The study and report re-*
20 *quired under this section shall be made available to the pub-*
21 *lic in electronic form and shall be published on the website*
22 *of the Government Accountability Office.*

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