

Received(Date): 18 MAR 2002 11:39:56
From: Kirk Blalock (CN=Kirk Blalock/OU=WHO/O=EOP [WHO])
To: Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@EOP [WHO]), D. Marcus Sumerlin (CN=D. Marcus Sumerlin/OU=OPD/O=EOP@EOP [OPD]), Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO]), Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO]), Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP@EOP [WHO])
Subject: : FW: Senator Schumer's Draft Terrorism Insurance Legislation

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock (CN=Kirk Blalock/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-MAR-2002 11:39:56.00
SUBJECT:: FW: Senator Schumer's Draft Terrorism Insurance Legislation
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:D. Marcus Sumerlin (CN=D. Marcus Sumerlin/OU=OPD/O=EOP@EOP [OPD])
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the plot thickens.....

-----Original Message-----
From: dbeck@rebny.com [mailto:dbeck@rebny.com]
Sent: Friday, March 15, 2002 3:54 PM

P6/b(6)

Subject: Senator Schumer's Draft Terrorism Insurance Legislation

Attached FYI and to get co sponsors. Comments welcome. D
New York's Senator

CHARLES E. SCHUMER

313 Hart Senate Office Building ? Washington, DC 20510
Phone: (202)224-7433 ? Fax: (202)228-1218

March 15, 2002

Dear Community Leader:

As you may know, the lack of a government backstop for terrorism

insurance is causing insurance rates to skyrocket and, even worse, preventing new projects from going forward. Last year, we came close to a legislative solution, but it foundered on the shoals of tort reform.

I have worked with Treasury Secretary O'Neill on a new approach that should avoid these perils. The approach is a simple one. The federal government will pick up uninsured losses if there is another terrorist attack. I believe it can receive bipartisan support in both houses of Congress.

I am sending you a copy of this proposal. If you support it, please let your senators and congressmen know. If you have any questions, please contact Kate Scheeler in my Washington office at 202-224-6542. And, as always, please let me know if I can be of help to you in any way.

Sincerely,

Charles Schumer
U.S. Senate
SCHUMER PROPOSAL

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Terrorism Risk Insurance Act of 2002."

SEC. 2. TERRORISM RISK INSURANCE PROGRAM AUTHORIZED.--

The Secretary of the Treasury is authorized to establish a terrorism risk insurance program to compensate U.S. persons for up to \$100,000,000,000 in aggregate economic losses of the type that are typically covered under property and casualty insurance policies, including business interruption coverage, resulting from any act of terrorism that occurs on or after the date of enactment of this Act through June 30, 2005. The Secretary shall compensate persons pursuant to this Act only if both the person and the appropriate State insurance commissioner certify that the person has not been able to obtain reasonably priced insurance coverage in the private sector for economic losses resulting from acts of terrorism. The Secretary has discretionary authority to assess premiums on those certified. Any determination of the Secretary as to whether or not to pay compensation, or as to the appropriate amount of any compensation, under this Act shall be final and shall not be subject to judicial review.

SEC. 3. ACT OF TERRORISM DEFINED.--

(a) CERTIFICATION.--The term Act of terrorism@ means any act that is certified by the Secretary -- (1) to be a violent act or an act that is dangerous to human life, property, or infrastructure; (2) to have resulted in damage within the United States, or to an air carrier (as defined in section 40102 of title 49, United States Code) regardless of where the loss occurs; and (3) to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

(b) LIMITATION.--No act or event shall be certified by the Secretary as an

act of terrorism if (1) the act or event is committed in the course of a war declared by the Congress; or (2) losses resulting from the act or event, in the aggregate, do not exceed \$5,000,000.
(c) DETERMINATIONS FINAL.-- Any certification of, or determination not to certify, an act or event as an act of terrorism under this paragraph shall be final and shall not be subject to judicial review.

SEC. 4. PAYMENT AUTHORITY.-- This Act constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to pay up to \$100,000,000,000 in compensation for economic losses determined by the Secretary to be covered under this Act.

SEC. 5. GENERAL AUTHORITIES.--The Secretary shall have the powers and authorities necessary to implement this Act, including authority to prescribe regulations and procedures. Such regulations and procedures may include, but not be limited to, guidelines for certification and for assessment of premiums. The United States shall have the right of subrogation with respect to any payment made by the United States under this Act.

Explanation of Proposed Terrorism Risk Insurance Act of 2002

The proposed bill authorizes the Secretary of the Treasury to establish a temporary (3 year) terrorism risk insurance program to protect taxpayers and reduce economic instability caused by the current lack of affordable commercial property and casualty insurance coverage for terrorism risk in the wake of the September 11 attacks on the World Trade Center and the Pentagon.

The proposed bill recognizes the federal government's interest in stabilizing the economy during this period of uncertainty about possible future terrorist attacks. It offers a simpler, yet effective, alternative to other terrorism insurance bills.

Specifically, the proposed terrorism risk insurance program would --

- ~ provide compensation to U.S. persons, up to an aggregate cap of \$100 billion, for economic losses, of the type typically covered under property and casualty insurance for future acts of terrorism, subject to certification by that person or persons and by the appropriate state insurance commissioner, that the person or persons have been unable to obtain reasonably priced insurance coverage for losses resulting from acts of terrorism
- ~ limit federal government exposure by narrowly defining the term "act of terrorism," requiring federal certification by the Secretary of the Treasury that an act of terrorism has occurred, limiting the duration of the program and providing a federal right of subrogation with respect to any payment made under the Act

- ~ provide congressional payment authority for the program, and
- ~ authorize the Secretary of the Treasury to implement the Act and the program, including authority to prescribe regulations and procedures

Under the proposed bill, the terrorism risk insurance program would provide direct compensation for victims of future terrorist attacks who have been unable to secure private sector insurance coverage. The Secretary of the Treasury would have discretionary authority to charge a premium for such coverage. By providing direct, full compensation for economic losses, the proposed bill: 1) recognizes the responsibility of the federal government to assure insurance protection against potential future attacks 2) avoids issues raised last year regarding the level and amount of private insurers' retention and 3) reflects what appeared to be the consensus reached last year that taxpayer dollars should not be used to compensate for non-economic losses, such as punitive damage

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