

September 8, 2011

The Honorable Richard Shelby
United States Senate
Committee on Banking, Housing and Urban Affairs
Dirksen Senate Office Building – Room 534
Washington, DC 20510

Dear Senator Shelby:

It has come to our attention that Senator Wicker may propose an amendment to the Flood Insurance Reform and Modernization Act of 2011 that would sunset the Terrorism Risk Insurance Program one year early. On behalf of America's real estate industry and the businesses that drive the U.S. economy, we wanted to bring our concerns to your attention and encourage you to oppose it.

As we mark the tenth anniversary of the September 11, 2001 terrorist attacks on New York, Washington, DC and Pennsylvania, our nation continues to be faced with the threat of terrorism. The Terrorism Risk Insurance Act (TRIA) is an economic first responder in a terrorist attack. It protects our businesses and our jobs and shields the taxpayer from a significant cost should an attack occur. Terrorism is not aimed at a specific business or property owner; it is aimed at our nation and our way of life. Maintaining a workable federal terrorism insurance backstop is vital for the nation's economy. Without adequate terrorism insurance coverage, our economy, our jobs, and our well-being become more vulnerable to the designs of the terrorists who hope to destroy our economic strength. TRIA has served a vital role in correcting a failure in commercial insurance markets. In addition to property and casualty coverage, the program has a vital impact on workers' compensation policies, business interruption and directors and officers (D&O) coverage.

The current federal terrorism risk insurance program has been a tremendous success. Despite the fact that the program appears as budgetary line item, as a practical matter, the program costs virtually nothing if an event does not occur. If an event does occur, TRIA has a specific cost-sharing approach for the first \$100 billion of annual losses by businesses due to terrorist attacks, explicitly leaving it to Congress to make additional choices were an attack to cost even more. Importantly, there is a recoupment provision that would assess policyholders to repay taxpayers for any funds advanced. Moreover, it serves as an important tool to minimize the severe economic disruption that almost certainly will occur from a future terrorist attack.

Terrorism is a unique risk with potentially catastrophic implications for our economy and our way of life. When, where and how it might happen is anyone's guess. In fact, the risk of terrorism today is little different than the risk of war, and no one suggests private markets can provide insurance for war risk. Private markets alone will not provide the level of terrorism insurance our economy demands.

For businesses, ports, hospitals, museums, casinos, commercial and multifamily property owners, public utilities, stadium owners, financial institutions, municipalities, manufacturers, universities, and others across the nation, maintaining adequate levels of insurance is essential to managing risk and protecting assets – from all perils, including terrorism.¹ These business consumers cannot properly manage the risks of today’s world if terrorism insurance coverage is not available.

Building owners across the nation have spent hundreds of millions of dollars on enhanced security and risk management since 9/11, and our industry has formed the Real Estate Information Sharing Analysis Center (www.reisac.org) which works with the Department of Homeland Security on risk mitigation and sharing threat information. Mitigating against the risk of terrorism today is a focus for all building owners and, whether a federal terrorism insurance program does or does not exist, it will continue to be an important aspect of managing any facility where people gather to work, shop, play or simply enjoy recreation opportunities.

The bottom line – terrorism risk is a national problem that requires a federal solution. To help “provide for the common defense,” our nation must have a long-term economic strategy in place - an effective, long-term, market-based terrorism insurance program - that provides adequate market capacity for the U.S. economy and the safety and certainty markets require. Private markets alone cannot be expected to provide adequate capacity and there has been no expert congressional testimony to the contrary.

Fourteen other nations recognize that markets alone cannot underwrite this risk, and each has a permanent terrorism insurance law. Shortening TRIA before 2014 would only serve to impede hopes for job growth and economic recovery. There is no homeland security without economic security. Terrorism risk coverage is vital to the nation’s economic security.

We appreciate the opportunity to comment on this important issue and would be happy to meet with you at your convenience.

Sincerely,

American Hotel Lodging Association
American Land Title Association
American Resort Development Association
Building Owners and Managers Association International
CCIM Institute
Commercial Real Estate Finance Council
Institute of Real Estate Management
Mortgage Bankers Association
National Association of Real Estate Investment Trusts
National Apartment Association
National Association of Home Builders
National Multi-Housing Council
NAIOP, the Commercial Real Estate Development Association
Society of Industrial and Office Realtors
The Real Estate Roundtable

¹ The Coalition to Insure Against Terrorism (CIAT-- <http://www.insureagainstterrorism.org/who.html>), a broad-based coalition of business insurance policyholders representing a significant segment of the nation's GDP, and the principal consumers of this vital insurance coverage, strongly supported the Terrorism Risk Insurance Act (TRIA) and subsequent extensions.