TERRORISM RISK INSURANCE REVISION AND EXTENSION ACT OF 2007
(as of August 1, 2007)

Detailed Outline of H.R. 2761

- Extend TRIA for 15 years
- Incorporate domestic terrorism acts, and apply TRIA's original rate and form interim implementation standards in the first year of TRIREA in response to the addition of domestic terrorism to the underlying program
- Require concurrence by the Secretary of Homeland Security, in addition to the Secretary of State and the Attorney General, for the Secretary of Treasury to certify an event as an act of terrorism
- Set trigger at $50 million
- Insert a nuclear, biological, chemical, or radiological (NBCR) component that:
    - Requires insurers to make available NBCR coverage on same terms and conditions, but postpones implementation of NBCR mandatory offer requirement until the renewal or purchase of a TRIA-covered policy after January 1, 2009
    - Creates a 2-year transition period for NBCR forms and a 3-year transition period for NBCR rates to exempt them from prior approval and waiting period requirements to further facilitate incorporation of NBCR into TRIA
    - Allows Treasury, in consultation with State regulators, to exempt insurers with less than $50 million in TRIA premiums from complying with the requirement to make NBCR coverage available if such insurers demonstrate that they would become insolvent in the event of an NBCR terrorist attack
    - Has Treasury determining whether to treat a covered terrorism act as conventional or NBCR at time of certification
    - Establishes a 3.5 percent insurer deductible for NBCR events that increases by 0.5 percentage point each year, and applies current 15 percent co-payment above the deductible up to the program cap, with a step-down mechanism that significantly decreases the co-payment for larger events
    - Clarifies that pollution exclusions will not apply to covered NBCR terrorism events
- Provide additional legal certainty to insurers by:
    - Clarifying annual cap language to ensure that the program cap takes into consideration workers' comp and other State mandatory coverage laws
    - Establishing new statutory disclosure requirement regarding the cap for insurance contracts covering TRIA losses
    - Providing notice to industry at $80 billion; this would allow a clear transition period for industry to make preparation as the cap is neared to cease insurer payments and to unwind and halt the claims process once the cap is pierced
    - Clarifying that the limits of an insurer's financial exposures are confined to its applicable deductible and co-payments, and to provide that claims concerning these limits would be consolidated in a federal court
    - Reimbursing insurers for: (1) payments exceeding the cap that are made before the Treasury notice that the cap has been pierced; and (2) payments exceeding the cap ordered by a court, provided that insurers make a good-faith defense effort. Treasury will have the right to intervene in such court proceedings.

  - Modifying TRIA's purposes to include language that the law "provides finite liability limits for terrorism insurance losses for insurers and the government"
- Improve implementation around the $100 billion cap by:
  - Requiring Treasury to notify Congress and the industry
    - Within 10 days after the event if it is likely to cause the piercing of the cap
    - When losses reach $80 billion
    - Again when losses reach $100 billion
  - Mandating that Treasury finalize regulations regarding *pro rata* allocations within 120 days of enactment and providing Treasury with emergency rulemaking powers
- Add group life to TRIA's covered lines by:
  - Defining group life to include term, accidental death, universal, and variable universal, but excluding COLI/BOLI coverage, group life reinsurance and retrocessional reinsurance
  - Creating a separate $5 billion recoupment pool
  - Capping the level of Federal exposure at $1 million per certificate holder under any group life insurance policy
  - Applying "amount at risk" as the metric for determining insurer deductibles and recoupment amounts, instead of prior year premiums
    - "Amount at risk" with respect to group life is defined as face amount less statutory policy reserves
    - "Amount at risk" is used instead of premium for group life because group life premium takes into account different risks that would not be appropriate for or correlated with terrorism risk, including age and occupation
- Require Treasury to submit a report to and testify before Congress on market conditions every 2 years
- Create a 21-member blue-ribbon commission to propose long-term solutions to covering terrorism risk and report to Congress 5 years (interim) and 8 years (final) after enactment of TRIREA
- Conform definition of "control" to language in Bank Holding Company Act
- Add multi-peril farmowners' insurance to lines of insurance covered by TRIA
- Update findings and purposes to reflect group life and NBCR changes
- Prohibit life insurance companies from denying or reducing coverage based on future foreign travel except under specified conditions
- Add a reset mechanism for significant terrorist attacks (over $1 billion) to lower the deductibles and triggers to rebuild market capacity and then gradually increase private sector obligations over time
- Create a voluntary terrorism buy-down fund at Treasury
- To modestly build capacity, provide that the $100 billion program cap is net of insurance industry obligation
  - The cap on the federal share will be $100 billion, and the insurance industry obligation (deductible plus copayment) will be in addition to that $100 billion
  - This change not intended to increase the co-payment obligation of insurers