



Congress Recesses Without Extension of the Terrorism Risk Insurance Act ("TRIA")

Unfortunately, the Senate recessed last week without extending the Terrorism Risk Insurance Act as amended by the Terrorism Risk Insurance Protection Act of 2007 ("TRIA"). As a result, TRIA, a federal law, will expire at the end of the calendar year.

Due to the Senate's inactions, as of December 31, insurers will no longer be required to offer or "make available" terrorism coverage to their commercial insureds and insurance companies will not be able to rely on the TRIA reinsurance backstop to help them satisfy any terrorism-related claims as defined by TRIA.

Policyholders will be impacted to the extent that they had terrorism-coverage (as defined by the policy or TRIA) in place that is conditioned upon the extension of TRIA or if an insurance carrier will no longer offer coverage upon renewal. Policyholders will still have terrorism risk insurance coverage to the extent that they have in place:

1. Workers compensation coverage because no state permits terrorism risk exclusions
2. "Fire-following" coverage in states that bar any exclusions from losses resulting from fires caused by another exposure; and/or
3. Other general or terrorism-specific coverages from which losses caused by acts of terrorism were not excluded, either under the core terms of the policy or by an endorsement that dictates that the terrorism component of the coverage is not conditioned upon the availability of the TRIA backstop.

Due to the fact that this expiration was unexpected, the insurance marketplace is still evaluating its response. To date, we have seen responses vary from carrier to carrier. Therefore, it is important to examine your policy or speak to your team member at Conner Strong & Buckelew especially if you have a contractual obligation to maintain terrorism coverage through a loan or lease covenant, for example.

We are hopeful that the Senate will take immediate action upon their return in January and bring back stability in the marketplace. Therefore, we will continue to watch action in D.C. and responses among the carriers and report any updates as they become available.



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