

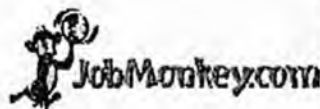
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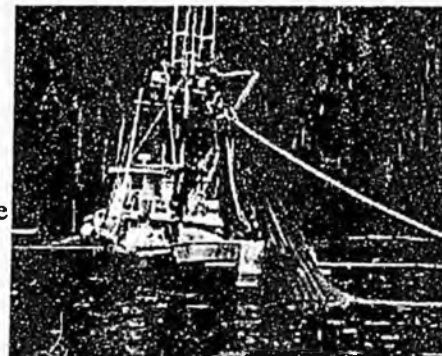
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FOREWORD

In our modern, computerized, industrialized world, there are few places left on the planet that can still be considered frontier lands. Alaska is one of these frontiers. Sure, Alaska, the state once known as Seward's Folly, now has many modern cities such as Juneau, Anchorage, and Fairbanks, but most of the state is still a wilderness. The state's population density is only one person per square mile, compared to 71 people per square mile in the rest of the U.S.



This is just the spot for people with an adventurous spirit! And working in the Alaskan Fishing Industry is a great way to stay in this beautiful state for an extended visit, whether you're a college student on summer break or just someone who'd like to explore his or her horizons.

While the fishing industry has had its ups and downs, there is always a demand for young, energetic people from all over the country to help out on both onshore and offshore processors. Most of these jobs require no previous experience, just a willingness to work hard and an enthusiasm for exploring a rough and rugged lifestyle.

Alaska fish processing companies offer many benefits to their employees, including good wages, free lodging and meals, and often free transportation to and from Alaska if you fulfill all your contractual obligations. Jobs include working on the processing line, operating machinery, being a deckhand, quality control, or even finding a job as a government inspector or aquaculture scientist.

JobMonkey will tell you all you need to know about working in the Alaskan fishing industry. You'll get an overview of the industry, honest and frank portrayals of the working conditions, interviews with people who have actually worked there, a long list of job descriptions, tips on packing and safety, profiles of the various towns and cities, an introduction to the types of fish and crustaceans that are harvested, information about housing, and much more!

The information compiled here was written by people who have actually traveled to Alaska and worked in its fishing industry. We began hardcore research on Alaska fisheries employment in 1985, including annual summer trips to nearly every coastal fishing town and processing plant and meeting with hundreds of workers and employers, so we know what we're talking about! Read these pages, and you'll get the whole scoop. You'll not only be prepared for your foray up North, but you'll also be able to impress employers with your extensive knowledge, which will give you a distinct advantage in any interview you may have.

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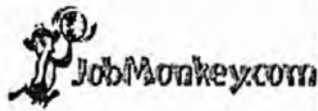
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GENERAL OVERVIEW

In this section we discuss the nitty-gritty of working at a processing plant. The majority of first-time workers find a position within this branch of the commercial fishing industry, either at an onshore processing facility or on board a floating processor. We have included job descriptions, hiring practices, and an overview of each type of processor.

Some fishing vessels do their own processing right on board. Many in the crabbing industry, for example, work on boats that have been converted to combination catcher/processor vessels. These vessels might also buy other boats' catches and process them in addition to their own.

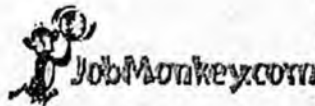
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ACCOMMODATIONS

Many processing plants offer some or all of their employees fully or partially subsidized dormitory or camping facilities. The more remotely located plants almost always provide housing to all of their employees. Partially subsidized housing can cost \$2-\$8 a day for a tent platform at the local city-operated tent city, or up to \$15 per day for a nice dormitory-style room. Fortunately, many plants refund all housing costs to those employees who stay for the duration of the season, rewarding them for their dedication. You will find that costs vary from place to place. You may also find that a few companies even pay employees extra wages to seek housing elsewhere. Free housing can range from a nice dorm room to a place to pitch your tent.

For the most part, plants that have on-site dormitories or bunkhouses give employees a room that is shared with one to five other people. Better facilities have a television, VCR, laundry room, and shared bathrooms with showers. It's quite common to find the cafeteria (if they have one) next door. During our travels through salmon country, we have seen living quarters located right next to the main processing house, directly across the street, and spread out over the company's property. It seems every company has its own plan and every set of living quarters its own best—and worst—attributes. On a recent trip, we saw that one large company had actually brought a barge up from Seattle, parked it next to the plant, and had put temporary portable housing units onto it. In yet another town, one small processing plant had converted an old school bus into sleeping quarters just behind the facility.

For more information about onshore accommodations, see [Heading North and Thriving](#).


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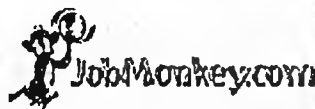
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PLANT STRUCTURE

Processing operations in Alaska come in all shapes and sizes. During our journeys, we've toured almost every plant in Alaska. Some have hundreds of employees that feel more like huge unrelenting factories and others operate with only a dozen employees and have a family feel. Despite the difference in size, operational features at most company plants are the same.

Most plants are located on piers so that boats may dock-up and off-load their product. The plants themselves feature a main processing house in which the fish are processed and then later frozen or canned, and an egg house where salmon eggs are processed and boxed for shipment overseas. Many plants have additional features like on- or off-site living quarters (dormitories or camping areas), a cafeteria, and general offices. Plants are either centrally located in town or far from civilization, but they are always near active and productive fishing grounds.

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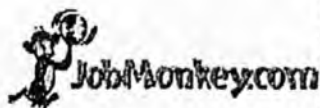
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KNOWING THE MIGRATIONS

Fishermen, processors, and deckhands alike should know when to be in a particular region so they can take advantage of work opportunities. Knowledgeable processors and deckhands often will work in many different regions during a single summer in order to hit the peak times in each and maximize their earnings. On a recent summer research trip to Southeast Alaska we met several college students who had been following salmon migrations from north to south, hitting fishing and processing peaks in several regions. One student had worked in Kenai during early and mid-July and had made his way to Ketchikan by mid-August to finish out the season. This type of story is not uncommon.

Because it's relatively easy to predict yearly salmon runs, it is fairly simple to decide on your employment plans. Salmon usually will arrive in an area no more than one or two weeks ahead of or behind schedule. Once you know when a salmon season begins in a particular region, you should try to get there just ahead of the peak to find processing plants looking for workers.

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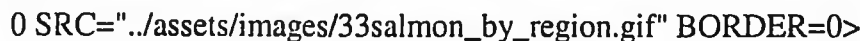
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SUMMER FISHERIES REGIONS

Alaska fishing grounds can be broken down into five distinct regions, each with its own peak season, employment opportunities, and types of fish. Region 1 is Southeast Alaska, where the major fisheries are salmon, halibut, cod, crab, and herring. Region 2, covering Prince William Sound and the Kenai Peninsula, is primarily fished by purse seiners and gillnetters in search of pink and sockeye salmon. Region 3, Kodiak Island, is home to eleven seafood processing plants, many of them operating year-round. Region 4 is the Alaska Peninsula and the Aleutian Islands, which includes Dutch Harbor and is the center of the winter fisheries. Region 5, Bristol Bay, has one of the world's richest salmon runs. Though the season is very short—lasting just over six weeks—it is considered the most lucrative fishery in North America.

The chart below shows the peak months for each of the five fishery regions. This will give you a general idea as you read through this information where the most opportunities are for new workers. In City Profiles we list individual town profiles with employer information so you can narrow down your job search.

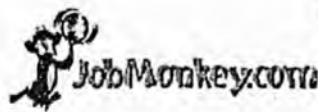


Though traditionally busiest in summer, much of the fishing industry now operates year-round. Some fisheries, like those in Kodiak, the Aleutian Islands, and the Alaska Peninsula, employ many workers during the winter months, and provide other opportunities for year-round employment. Also, floating processors, factory longliners, and crab catcher/processors operate during winter. The fisheries active during the winter or on a year-round basis include crab and most species of groundfish.

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SEASONAL OPPORTUNITIES

Autumn in Alaska means the end of the bustling salmon season and a shift to a variety of other fisheries throughout the state. Numerous employment opportunities exist during this period in all three major sectors of the industry—onshore processing plants, offshore processing vessels, and harvesting vessels.

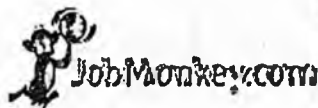
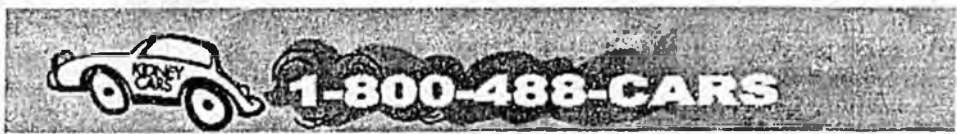
Factory trawlers harvest during most of the fall, winter, and spring months. In fact, the most lucrative time to work on a factory trawler is during the Pollock A season, which extends from late January through February. Factory longliners also harvest the bulk of their fish during these non-summer months. The majority of crab are caught during the late fall and early winter months by both individual crabbing boats and the larger crab catcher/processors. During the fall and spring months hundreds of boats also fish for halibut, sablefish, and a variety of species of groundfish. In addition, the sac roe herring fishery also takes place during spring.

While fewer fishing and processing positions exist during winter, far fewer people are looking for jobs, so your chances of getting hired during the winter are still excellent. However, winter hiring practices are generally different from summer salmon hiring practices. First, almost all winter hiring is done from the corporate offices, usually located in Seattle. Because the onshore facilities are generally located in more remote locations, very little hiring is done at the facilities. It is not recommended that you travel to Alaska seeking employment during the non-summer months without a prearranged job. Secondly, the majority of winter employees are provided free room and board and round-trip transportation from Seattle, a benefit not as often afforded summer workers. A third major difference in winter hiring practices is that the employers are often looking for a longer commitment. For example, in the summer fisheries, some companies offer contracts that are six to eight weeks in length. In the winter fisheries, many companies require three- to six-month contracts. Finally, most processing work is either done offshore or in onshore processing facilities in Region 3 (Kodiak Island) and Region 4 (Alaska Peninsula and Aleutian Islands). Because Region 3 lends itself to a more permanent, year-round processing crew, Region 4 should be your main focus for onshore processing positions during the fall, winter, and spring months. The bustling town of Dutch Harbor in Region 4 is the hub of the non-summer fishing industry. If you desire an offshore processing position during these non-summer months, such as on a factory trawler, floating processor, factory longliner, or crab catcher/processor, please refer to the sections regarding these opportunities.

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SUMMER PROCESSING

During the peak of a productive salmon season, first-time workers put in twelve- to eighteen-hour days, seven days a week. They are paid base wages ranging from \$5.50 to \$6.50 per hour with returnees earning even more. Substantially boosting one's earnings is overtime pay, calculated at one and one-half times the normal rate (\$8.25 to \$9.75). Performance bonuses and extras (30¢ to 50¢ per hour worked for the freezer crew), are also commonplace. Raises are typically given after an employee has worked 300 hours (about a month) and your hours often carry over from year to year.

In the words of a seasonal worker:

"I came up here to make money and expecting to hate it, but I managed to have a blast and went home with enough money to buy a car."

Working conditions? Many specific jobs require the employee to stand in one place for long periods of time, performing repetitious tasks. However, there can be great variance between one type of job and another, and the foreman may frequently assign individual employees to different tasks on a weekly or daily basis. You could be working inside or outside, in the freezer or warehouse.

One worker pointed out that the job really isn't as bad as it sounds:

"Though it was real repetitive work, sliming really wasn't that bad. They played good tunes and fed us real well. The management was much cooler than I expected."

Variety exists, but newcomers or "green" workers should be aware that they will probably begin as slimers or egg house employees. Hard workers may spend only a short time sliming (a few days to a week) before moving on to a better job and added responsibility.

Although working in a fresh frozen plant or cannery can mean long hours and cold, wet work, it's not all bleak! Most companies give employees paid ten-minute breaks every two hours and longer meal periods every four hours. If you are working at a plant that has a cafeteria and company-provided food, take comfort in the fact that you can eat very well at a low cost (or free). Many operations even provide donuts, fresh fruit, and coffee during shorter break periods. So, if you regularly put in fifteen-hour days you are assured of several breaks and meals. Additionally, during your breaks, you'll have the opportunity to meet people, talk to those you have been working with on the slime line, and make friends. As one worker said:

"They expected us to work long, hard hours; however, they treated us fairly. They did everything possible to make the bunkhouse pleasant. The meals and break snacks were delicious."

In order to give you a better idea of the kind of work available, we have put together the

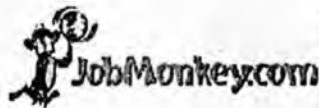


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FRESH FROZEN PLANT JOBS

Slime line positions

Belly slitter: The slitter uses a fillet knife to cut a slit from the throat to the end of the abdomen and then sends the fish to the next station.

Head decapitator machine: Usually two people work this machine, but this depends upon the size of the plant and how many slime lines are going. Basically, fish are fed into this "guillotine," beheaded, and moved down the line.

Gut puller: Workers on the slime line, often positioned after the belly slitter, pull out guts and egg sacs as fish are passed to them. In many plants, a machine does this task.

Spooning: This is the process of cleaning out any leftover guts and removing the organs that run down the spine of the fish.

Washing: This is done manually with a small hose or by machine. The machine is sometimes like a dishwasher, showering fish with ice water as they come down the line. Usually, one or two people are in charge of running fish into the washer.

Fish grading: Graders are at the end of the slime line. These people separate the fish into three or four grades: 1=excellent, 2=good, 3=fair, 4=mushy (not fit for human consumption). After grading, individual fish are sorted into bins.

Weighing: Fish are slid quickly onto a scale and then sorted into bins according to their size.

Sorting: People in this position ensure that fish are placed into proper bins according to type of fish, size, grade, and weight.

Tray stacking: Often fish go directly from the scales at the end of the slime line onto trays that are stacked on rolling racks. Once the racks are loaded, they are wheeled to the walk-in freezer room.

Freezer crew

Glaze line: Workers here break frozen fish from their trays and run them through a brine solution before packing.

Packing room: Frozen fish are packaged according to classification and readied for shipment. Workers move pallets, label boxes, and ensure proper loading of fish.

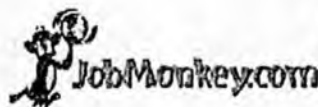
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SALMON PROCESSING JOBS

General summary of positions

Iron chink machine: These are machines (some dating from the 1930s) designed to cut the head, tail, and fins from the fish. Also, the machine crudely guts the fish and separates out egg sacs. Up to two people are responsible for feeding fish into it. This is an amazing machine (not every cannery will have the same type of machine). Unlike fresh frozen facilities which process many species of salmon, canneries typically process only pink (humpy) and sockeye (red) salmon.

Slime table: After the iron chink, fish go directly to the slimers who clean out remaining guts, wash, and grade the fish. From here, the fish are fed into the filler machine which fills cans with fish.

Patch cutter: Oversized and undersized fish are sorted out and sent to the patch cutting table. Here fish are cut into small pieces that will be used to bring cans up to a certain weight.

Filler: This is a machine that basically slices and dices fish to fill the cans. Usually, one or two people work here to feed the fish into it properly and make sure it comes out without any problems.

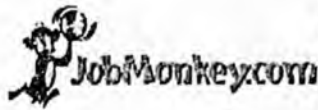
Patching table: Underweight cans go to the patching table where workers take individually cut pieces of fish and place them in the cans. After the cans are filled, they are sent back to the can line and fitted with lids.

Cooking (retorts): After lids are put onto cans, they end up in large metal rolling bins. Many workers see to the proper loading and transfer of these bins into retort cookers. These cookers hold the bins for approximately seventy or ninety minutes (depending on the size of the cans). Working in the retort oven rooms can be hot, but you do stay dry.

End of line: This is a separate crew in charge of removing bins full of cooked cans from the retorts and wheeling them into a cooling area.

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GENERAL PROCESSING JOBS

Outside work

Beach crew (dock crew) This crew greets the incoming boats and helps the boat crew unload their holding tanks. Sometimes a large "fish vacuum" is used to withdraw fish. Tender boats operate a little differently, often packing fish into iced plastic crates where they are later lifted up by a small crane. Beach crews sort fish into rolling bins according to species before taking them to the processing line.

Ice and bait: Some plants supply tender boats (which often work for the plant) and other fishing vessels with ice, bait, and other things like soda pop, groceries, and living necessities. Ice and bait are sometimes supplied free of charge to vessels.

Inside work

Britestacks: After cooling, cans are sent via conveyor belt to a warehouse area where a machine, generally a big magnet, palletizes them. Several employees work in this noisy environment. One operates the machine, making sure cans end up in the holding area right-side up, while another employee assists. Two other people stack and move the filled pallets.

Night clean up: Many plants operate on a twenty-four-hour schedule. They process during the day, and in the evening they thoroughly clean the plant. The crew spends a lot of time hosing down bins and slime lines, cleaning machinery, and doing other tasks to reduce the risk of fish contamination

Forklift driver: This is a rather specialized position. Pallets, boxes, and heavy ice-filled bins need to be moved by a fork lift. Usually, only the most tenured employees can hope to get this job.

Truck loading: This is considered to be a warehouse position. Boxes and crates are loaded into trucks and vans which take them to container ships or the airport for shipment.

Office staff: This can include reception, accounting, payroll, filing, and order processing. Office staff also put in long hours, but these jobs usually are filled by people with "connections" or returning employees.

The egg house

Canneries and fresh frozen plants make additional profits from the sale of salmon roe (eggs), usually to Japanese or other foreign-owned companies. In many Asian countries, salmon roe and caviar are in high demand. On the grounds of almost every plant, you will find what is often referred to as the "egg house," where the careful processing of

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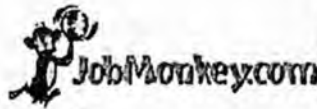
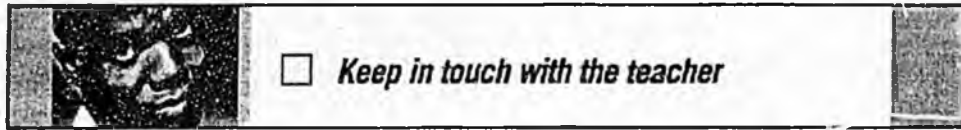
eggs takes place.

Working in the egg room is less hectic than working on your average slime line. There's often less noise, little in the way of fish guts, and it's a bit drier; note, however, that it is quite monotonous. Here's a quick breakdown of the process: skeines of eggs (the long egg-filled sacs taken from the salmon) that have been removed by slimers are put into baskets and weighed, agitated in a sodium nitrate brine solution (in large stainless steel vats), graded by technicians, sorted into boxes according to quality and size, sometimes salted (for preservation and taste), and, finally, packed artistically into boxes for overseas shipment. The packing process is quite an art, actually. Many egg houses also make caviar, which entails breaking skeines of eggs down into single eggs before packing. Workers are almost always supervised by a technician from each of the foreign companies to which the cannery or fresh frozen plant sells (usually three or four). The technicians, called sujiko technicians, are present to supervise the enforcement of quality controls. Women are often given first shot at these positions because their hands are usually smaller, and thus better able to get at the eggs. The bottom line on egg room work: employees assigned to the egg room should be prepared to stand at a table packing eggs into boxes for many long hours.

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OTHER FISHERIES

During the summer many fresh frozen plants process cod, sablefish, snapper, and other species of fish concurrently with salmon; however, the majority of this processing occurs during other times of the year. Crabbing, halibut, groundfish, herring, and shellfish harvests (see [charts](#)) combine to provide many onshore processing plants with year-round work.

Bottomfish

Bottomfish processing is far more automated than salmon processing, but still requires quite a few workers in the inspection, freezing, and packing phases. Most flatfish are simply put in a block and frozen whole. Another common process is to take the head and tail off, leave in the guts (called kirimi), and then freeze the fish. Flatfish are difficult to fillet by hand, so that stage of the process usually waits until the fish gets to the retailer or restaurant.

Cod

Groundfish Seasons by Region												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
REGION 1												
REGION 2												
REGION 3												
REGION 4												
REGION 5												

Most processing is done either at onshore plants or on board factory trawlers, factory longliners, and floating processors. First the head is removed by an automated cutter and then the product is filleted by a fillet machine (two pieces). The skin is removed by an automated skinner. After skinning the fillets, the flesh is run by bright lights and inspected for defects in a process called candling. Other workers remove remaining bones and dress up the fillets by cutting out bad areas. After that they're frozen by a variety of methods, including IQF (individually quick-frozen) on a quick-freezing belt, or shatter-packed (putting plastic between layers of fillets and then freezing), or blocked, by putting in cardboard boxes about 2 inches thick. Blocked cod usually goes to a fish-stick plant after freezing.

Pollock

Pollock is processed into both surimi and fillets, in about a 50-50 split. Fillets are made in a process identical to that for cod. For surimi, first the fish are filleted, then minced, washed in lots of fresh water, and pressed to remove any liquid. The resulting paste-like substance is put in batter and mixed with moisture-retentive agents and anti-oxidants. Then it is extruded from a mixer and into a freezer pan, and a block of surimi is produced. Some plants remove more flesh from the backbone, and send that through

another surimi line that produces low-grade surimi. This process only requires two people to load on the front end and two to smooth the freezer pan and load. The majority of surimi processing is done in Kodiak, Dutch Harbor, and on floating processors and factory trawlers.

Halibut

After being gutted at sea, this giant fish is processed into two forms. In the primary form, the head is cut off at the dock and the cheeks are cut out and sold separately. The fish is then weighed, washed, and frozen whole. If the halibut is over 120 pounds it's "fletched." A fletch is a special way of dividing the halibut so it yields four fillets for each fish.

Crab

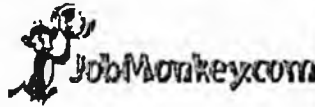
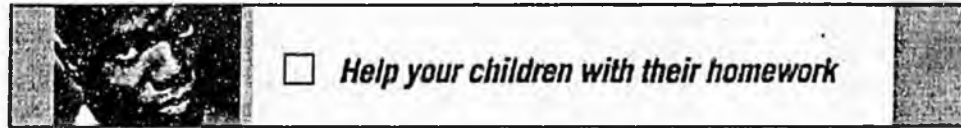
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Crab processing is different, and actually quite a bit simpler than fish processing. Here's an overview of how it works:

- First the **foreman** or his assistant uses a giant crane to load crabs off the crabbers and onto the processing boat. Most crabbing is done during the winter months, and because these off-loading jobs are outside it can be cold and wet.
- The first people to handle the crabs are the **butchers**, who ram the crabs against a stationary blade that separates the shell from the rest of the crab and rips the legs off the body.
- The legs are thrown into a big bin that is taken to the **gillers**, who rip the gills off the legs with a metal brush apparatus.
- The legs are then stacked in big wire cages and lowered into a cooker tank by the **cooker**, who then removes them from the tank.
- The **cooler worker** then slides the cages into the cooler tank, which is a long basin of cold water that holds several baskets of crabs at a time. The crabs sit and cool off for a few minutes before being removed and put into the brine tank, which contains super-cold salt water.
- The legs freeze inside the salt water, and are removed and put in boxes by **boxers**.
- The boxes are then placed inside the freezer by the **freezer crew**, and are ready for off-loading to freighters.
- **Quality-assurance** people work to maintain and insure product freshness and overall quality.

A worker on a crab vessel pointed out that while the work is steady, it's not overwhelming:

"The pace of work is basically set by the assembly line and is kind of limited by the cooking machinery, since only a certain number of crabs can be cooked at one time. The pace isn't real fast, but you are definitely expected to keep up, which everybody manages to do."



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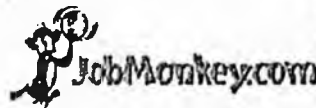
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TRAVEL REIMBURSEMENT

Many Alaska job-seekers are concerned with the cost of travel to and from a company's plant or processing site. Transportation reimbursement policies differ significantly from company to company, region to region, and fishery to fishery—there are no industry-wide standards. This section describes the various transportation options that are most typically made available by employers.

Most companies pay for travel from the point of hire (usually Seattle), especially if the facility for which they are hiring is in a remote location. Other companies require their employees to finance all travel costs to the Alaska facility and then reimburse those costs upon completion of the contract. Still other companies only pay for the costs of an employee's return travel. Persons hired, but unable to finance their trip to Alaska, are sometimes offered advances to purchase a ticket, and the debt is repaid out of the employee's first paycheck. Companies with facilities in the more populous areas (such as Ketchikan, Kenai, and Kodiak) usually only reimburse travel for employees who return year after year.

Most people can count on having their travel costs covered by the company only if they work for the whole season (usually two to three months). If an employee quits before completing his or her contract, the employer will usually pro-rate travel costs and offer partial travel cost reimbursement. Although it is still possible to find companies that pay for full travel expenses no matter where an employee is traveling from, in recent years this has become increasingly rare. Currently, most companies only purchase tickets to and from company headquarters (usually Seattle). If the facility you work at is unionized, however, all or five-sixths of your travel will be paid for.

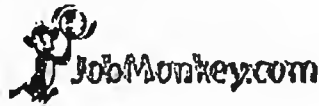
If requested by an applicant, most companies will send out a company fact sheet highlighting their transportation policy and other benefits. Be sure that whatever you are promised appears on your contract in writing, or the promise may not be honored when you arrive in Alaska.

Companies that operate floating processors and factory trawlers may allow employees to travel on the vessel from Seattle to Alaska. These trips are generally very safe and quite enjoyable. If you are hired to work on a floating processor or a factory trawler and do not ride aboard the processor to Alaska, you will probably be flown to Alaska and will meet up with the ship in port.

We recommend getting a working contract with a specific company prior to going up to Alaska, because those who find work after they arrive often are unable to get many of the preferred benefits offered by the company.

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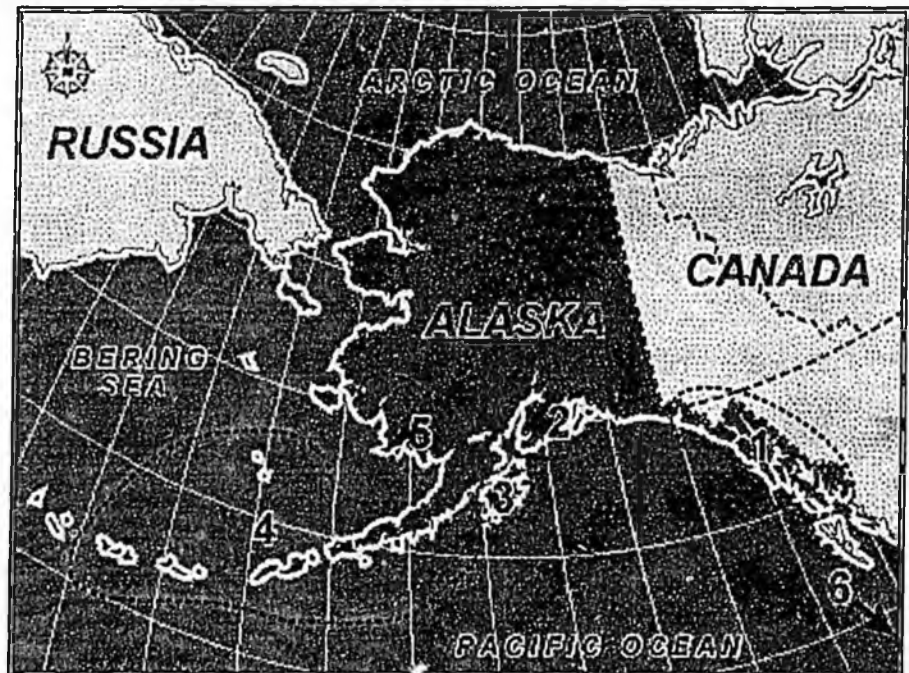
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MAPS

All maps are in PDF format which can be viewed in Acrobat Reader. If you don't have it you can get a free copy by clicking on this banner.



If you need some help understanding what PDFs are, [go here](#) for a quick explanation. Click on one of the regions below to get a map of that region, plus links to individual city profiles. Below, you'll be taken directly to a map of Seattle.

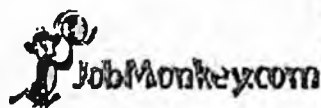


- 1. Southeast Alaska
- 2. Prince William Sound & Kenai Peninsula
- 3. Kodiak Island
- 4. Alaska Peninsula & Aleutian Islands
- 5. Bristol Bay
- 6. Seattle

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ABOUT UNIONS

Some processing plants in Alaska are unionized. Though only about 20 percent of plants have workers who are members of a union, it might help to have a general understanding of the role unions play in the Alaska fishing industry.

History

Local unions first began to be recognized in Alaska around 1937, when workers organized to represent themselves through unions in contract negotiations, thereby replacing the notorious contractors' system. This was the heyday of Alaska cannery unions.

Although not as strong as they once were, several unions are still active in the Alaska seafood processing industry. The two most important are the Inlandboatmen's Union and the Alaska Fisherman's Union. The International Associations of Machinists and Aerospace Workers, the Teamsters' Union, and the Alaska Fish Cannery and Crab Workers Union of the Pacific also represent workers in the industry.

Seafood industry unions today

Cannery Workers Union

Region 37 of the Inlandboatmen's Union (once called Cannery Workers Local 37) is the oldest union founded by and for workers in the Alaska seafood processing industry. The union has contracts representing workers all over Alaska in salmon, crab, herring, cod, black cod, pollock, and halibut processing. Region 37 is actually a subsidiary of the Inlandboatmen's Union, and the IBU is, in turn, a division of the International Longshoremen's and Warehousemen's Union.

Region 37 represents only seafood processors. Among the benefits of membership are: professional representation in labor-management disputes; better wages (\$6.35 per hour minimum) and benefits; paid room, board, showers, and laundry; decent food; paid equipment (rain gear, gloves, boots); full or five-sixths payment of round-trip airfare between Seattle and Alaska; and medical benefits. The union also works to defend workers' civil rights and to ensure that seniority, re-hire rights, and fair termination policies are adhered to. The CWU also was instrumental in securing a settlement out of EXXON to pay fishermen and other seafood industry workers for lost wages and other damages after the Valdez oil spill.

Region 37 has an office in Seattle, and its members work primarily for two companies, Wards Cove Packing and Peter Pan Seafoods. Wards Cove operates plants all over Alaska. Workers in seven plants—two in Kodiak, two in Bristol Bay, and one each in Gustavus, Ketchikan, and Kenai—are unionized. Peter Pan Seafoods also has plants all over the state, and workers in three of them—King Cove, Dillingham, and Port Moller—are unionized.

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Both companies do all their own hiring. Many of their seasonal workers have been coming up from the Lower Forty-eight for years. Because wages and benefits at these facilities are higher than at most non-unionized facilities, jobs with these processors (especially for inexperienced workers) can be more difficult to come by.

For more information contact:

*IBU Region 37
500 John Street
Seattle, WA 98109
(206) 441-5111*

Alaska Fishermen's Union

The Alaska Fishermen's Union (AFU) is the other major union in Alaska representing seafood workers. Unlike the Inlandboatmen's Union which represents only processors, the AFU also represents all manner of shoreside workers, including culinary personnel, construction workers, machinery operators, beach gangs, and dock workers. The only offshore workers represented by the AFU are tender boat workers.

In the fish processing sector, the AFU only represents Alaska residents, so if you're coming from the Lower Forty-eight and work as a processor, you cannot be a member of the AFU and would have to join the IBU instead. The AFU represents workers at all the Wards Cove Packing plants, the Nelbro facility in Naknek, and several plants in Dillingham and King Cove. The AFU offers about the same benefits as the IBU including wages that are often higher than non-union plants, free room and board, and paid equipment.

For more information contact:

*The Alaska Fishermen's Union
2505 First Avenue, Room 3
Seattle, WA 98121
(206) 441-3425*

Pros and cons of unionization

From an employee's standpoint, the benefits of union representation in the seafood processing industry include:

- better wages
- protected rehire rights
- better benefits
- full or majority airfare to job site
- notification of job openings
- protection from unsafe or illegal working conditions
- professional representation in labor or management disputes
- protection from discrimination and arbitrary termination
- camaraderie

There are few short-term drawbacks of unionization from a worker's standpoint. Dues, which amount to anywhere from \$60 to \$200 a season, are the only real negative.

Cannery owners generally consider the costs of a unionized work force greater than the benefits. The seafood processing industry is very competitive. Labor, safety, and employee benefit costs are major expenses, and can jeopardize profits. Especially if only a few plants are unionized, it can be tough for a unionized plant to compete. When this happens, unionized plant managers sometimes respond by reducing labor costs (either through labor negotiations or by breaking the union) or by shutting down. Few corporations willingly settle for lower profits, and no one wants to shut down, so many seafood processing workers' wages and benefits have been cut in recent years.

Although most employers oppose unions, some people argue that unions can actually benefit employers. First, unions frequently ensure that employers will have access to a better-qualified, more reliable work force. Turnover is very high in the seafood processing industry, and having to constantly recruit and hire new workers is expensive. Unionized workers are generally happier with their jobs, and as a result they're less likely to quit mid-season and they tend to come back year after year. For these reasons, some companies consider working with union labor a sound business decision.

The future of unions

Labor unions of all kinds have been in decline for decades, and those discussed herein are no exception. Today only about 10–15 percent of the seafood processing industry's employees are unionized, and there are few signs that this number will increase.

On the other hand, things change very quickly. A rise in the demand for (and price of) Alaska seafood could improve the industry's profit margins, and unions could start organizing again tomorrow. Also, labor groups may move away from traditional union tactics, which focused primarily on wages and benefits, and try innovative new approaches.

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TRIDENT SEAFOODS CORPORATION

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 Export Sales: (206) 783-3818 • Fax: (206) 782-7195

March 25, 2002

Representative Lisa Murkowski, Chairwoman
 House Labor and Commerce Committee
 State Capital
 Juneau, Alaska 99801

Dear Representative Murkowski:

I am writing on behalf of Trident Seafoods Corporation to express our strong support for House Bill 504, which allows a deduction from the minimum wage increase for seafood processors that provide room and board. This bill is important to help maintain Alaska's fishing industry. Put simply the revenues generated from the industry do not support a substantial increase in the minimum wage.

As you are aware, Alaska's seafood industry is facing a severe crisis. The traditional fisheries like salmon and herring, which have supported many of the State's coastal communities, are no longer economically viable under the existing market conditions. An increasing number of operations are simply not able to open given the difficult economic climate. Alaska's fishermen are also suffering because there simply is not the revenue from the fisheries to pay more for their catch. Adding an increase in the minimum wage will only compound the problem faced by the industry.

Just to give a rough example of the impact that the increase in the minimum wage bill might have for a company like Trident, we employ approximately 4,000 hourly workers during the peak production seasons. Our annual payroll in Alaska is well over thirty million dollars. We believe that the proposed increase in the minimum wage would increase the amount Trident pays to hourly labor by more than five million dollars per year.

Because seafood processing is very labor intensive, especially during the peak season, the industry has historically provided room and board for its employees. There is a substantial cost to providing this housing which is frequently not charged against the people who work for our company. House Bill 504 would simply allow for processors to deduct the costs that they incur for room and board from the increase in the minimum wage that is being adopted. This legislation is very important to an industry which is cannot afford additional costs imposed upon its operations.

We greatly appreciate your consideration of these comments.

Sincerely,

Alaska

The American Oceanation

Washington

Alaska • Anchorage • Clark Point • Dillingham • Dutch Harbor • Ketchikan • Naknek • Sand Point • So. Naknek • St. Paul

Anacortes • Bellingham • Seattle

TNTAI 0 01



General Teamsters Local 959 State of Alaska

Affiliated with International Brotherhood of Teamsters

ANCHORAGE, AK 99503, 520 E. 34TH AVE (907) 565-8285 FAX (907) 565-8285 GERALD L. HOOD, Secretary-Treasurer
www.akteamsters.com

FAIRBANKS, ALASKA 99707, P.O. BOX 70809
JUNEAU, ALASKA 99801, 308 WILLOUGHBY
KENAI, ALASKA 99811, P.O. BOX 3160

(907) 452-2958
(907) 586-3226
(907) 283-4698

FAX (907) 452-5051
FAX (907) 686-1227
FAX (907) 283-8030

April 18, 2002

Via Telefax 465-4779

Senator John Torgerson
Senate Labor & Commerce Committee
AK State Legislature
State Capitol (MS 3100)
Juneau, AK 99801

Dear Senator Torgerson:

I represent approximately 7,000 Teamster members around this state, and on their behalf, I go on record opposed to HB 504. Our mission within our local is to organize the unorganized and represent all workers to assure fairness and dignity in the work environment. As Secretary-Treasurer, I have said many times over the years, "What is negotiated today can be legislated away tomorrow with a stroke of a pen."

There are times when legislation is introduced that impacts workers and their rights. Many times those workers are unorganized and are never heard. I believe this to be one of those times. I believe this bill to be one of the most blatant instruments of oppression to come before this legislature in a while.

As many of you are aware, the fishing industry is a multi-billion dollar industry. Many of the workers are from out of state, or even out of country. Simply because they do not live here should not be a reason to treat them with any less dignity and respect than say our slope workers who live in Company accommodations.

It has been said that this bill corrects an inequity in current legislation. Under current regulation, if an employee is working in an area in the state, for example Ketchikan, which would have available housing, an employer could charge for their room and board. In this situation, the employee could choose to go elsewhere. If there are no alternative living quarters, then the employer cannot charge the employee. The employee has a choice if an alternative is available, if not, the employer provides. Is this inequitable?

According to one fish processor's website information, most of the work is "sliming" or cleaning fish. The environment is wet, cold and drafty. Sliming and other processing jobs require standing in one spot doing the same task for 16 or more hours a day, seven days a week in peak season. There are also periods of time when no work is available and the



April 18, 2002
Page Two

employee must occupy their own time. Seafood processing is a very physically demanding job.

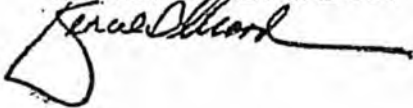
The living quarters for example on a processing plant hold 4 to 12 people per room. Recreation is limited and there is usually no shore time.

We ask that during your deliberation of this bill you ponder the public message you want to send. To reject this bill is to send a message to all workers in this state, including those in the processing plants on and off shore, that all workers deserve to be treated with dignity and respect and compensated fairly, no matter how menial the work they perform. To quote President G.W. Bush, "As we think what is possible, we must also think what is right." To force workers who are making minimum wage under the above conditions to now pay for room and board is unconscionable.

On behalf of all working men and women in this State, I ask you vote "no" on HB 504.

Respectfully,

TEAMSTERS LOCAL 959



Gerald L. Hood
Secretary-Treasurer

HCR

12

SENATE COMMITTEE REPORT

DATE: 1/30/02

FURTHER:

DATE TURNED
IN TO OFFICE: 2/7/02

Labor and Commerce Committee considered

HOUSE CONCURRENT RESOLUTION NO. 12

HCR 12 FOREIGN SHIPS AND U.S. LONGSHOREMEN

Relating to the preservation of employment opportunities for United States longshoremen with respect to unloading and loading of foreign vessels.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

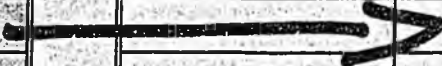
- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
H/LCC	1/24/02		0	1

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#



APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	A'MEND
<i>Alan Quate</i>	✓			
<i>Bettye Davis</i>	✓			
<i>Alfred A. Roman</i>	✓			
CHAIR: <i>Tom Jan</i>	✓			

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HCR 12
 (H) Publish Date: 1/25/02

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Foreign Ships and U.S. Longshoremei BRU _____
 Component _____
 Sponsor Representative Moses Component No. _____
 Requester _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Amy Erickson, Committee Aide Phone 465-4954
 Division HL&C Date/Time 1/24/02 9:46 AM
 Approved by: _____ Date 1/24/02
 Agency _____

INTERNATIONAL
LONGSHORE &
WAREHOUSE UNION
AFL-CIO



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BRIAN McWILLIAMS
President

JAMES SPINOSA
Vice President

LEONARD HOSHIJO
Vice President

JOE IBARRA
Secretary-Treasurer

June 12, 2000

Dear Senator Stevens:

As you may know, the Immigration Act of 1990 (8 U.S.C. Sec. 1288) generally prohibits foreign crewmembers in the United States or its waters from performing longshore work (defined to include any activity relating to the loading and unloading of cargo, operating cargo-related equipment, whether or not on board the vessel, and handling of mooring lines). The statute provides for limited exceptions including (1) well-established prevailing practices of using alien crewmen to perform particular longshore activities in particular ports; and (2) for international reciprocity between the United States and countries that by law, regulation, or in practice do not prohibit crewmen from performing particular longshore activities aboard U.S. vessels in their respective ports.

More recently, an "Alaskan exception" was added to the statute. The exception was needed in Alaska to deal with remote locations where there is no longshore labor and fish products need to be loaded or unloaded from fish processing vessels to carriers. The exception mandates that the carriers must make a bona fide effort to employ a sufficient number of U.S. longshore workers. The exception allows the carriers to use alien crew to transfer fish products if the search for qualified U.S. workers is unsuccessful. Generally speaking, the Alaskan exception has proven to be a huge success. In the Port of Dutch Harbor, longshore hours for American workers have tripled as a result of the statute.

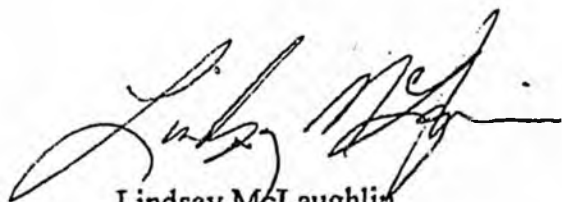
However, there are problems. The most significant problem is that some unscrupulous carriers have re-flagged their vessels to countries that are entitled to the "reciprocity exception" so they can avoid U.S. longshore labor. Secondly, the State Department is not living up to its statutory mandate to update the list of countries "ineligible" for reciprocity. We have tried to work with the State Department's Office of Maritime and Land Transport to add countries to the list that are particular problems such as Latvia but the State Department has gone out of its way to find reasons why these particular countries should receive reciprocity. See attached cable from the U.S. embassy in Latvia.

The "reciprocity exception" should be repealed particularly because the State Department is not devoting the time and resources to implement the statute correctly. Perhaps they have come to the conclusion that it is a complete waste of the State Department's time and resources. The "reciprocity exception" also takes job opportunities from American

workers. Please find attached list of "reciprocity" vessels that have successfully avoided hard-working U.S. labor in the state of Alaska.

We understand that repealing the "reciprocity exception" may require years of work and coordination with our East Coast counterpart, the ILA. In the interim, a number of suggestions to mitigate the damaging effects of "reciprocity" are attached for your review. We would appreciate your continued support for longshore workers.

Sincerely,



Lindsay McLaughlin
Legislative Director



Pete Hendrickson
President
ILWU Local 200, Unit 223
(DUTCH HARBOR)

Ncmwu
Attachment

Alaska State Legislature

Representative Carl E. Moses



Member
House Finance Committee



SESSION
State Capitol Building
Juneau, Alaska 99801-1182
Phone: (907) 465-4451
800-898-4451
Fax: (907) 465-3445

INTERIM
P.O. Box 730
Unalaska, Alaska 99685
Phone: (907) 581-2275
Fax: (907) 581-4949

SPONSOR STATEMENT

HCR 12 - Longshore Labor Reciprocity Agreements

This resolution addresses the need to correct loopholes in international shipping agreements, as managed by the U. S. State Department, whereby the labor used in loading and unloading of foreign cargo vessels is determined. The United States Immigration and Nationality Act of 1990, enforced by the State Department, authorizes the maintenance of reciprocity lists, and their exceptions.

The loopholes now allow the practice of "reflagging" a foreign vessel, one which is not party to a reciprocity agreement, as it enters U. S. waters, in order to use cheaper, less-skilled crew members for cargo handling activities in our ports. This practice displaces legitimate Alaskan longshore labor, and is especially acute at the Port of Dutch Harbor, although ports at Kodiak and Seward are also impacted. The provisions of these agreements and their exceptions do not apply to cruise ships.

The offending vessel of a nation not granted reciprocity simply changes its flag upon approaching U. S. waters, to the flag of a nation which has reciprocity. These reflagging agreements between foreign vessels are the loopholes which need to be addressed by Congress and the U. S. State Department.

HCR 12 describes the commercial environment in which these activities take place, and petitions Congress and the State Department for specific remedies to close the loopholes affecting Alaskan longshoremen. HCR 12 carries a zero fiscal note.

HCR 12 / Rp. Carl E. Moses (staff: tim benintendi / 6591) 1-30-02

ADAK • AKUTAN • AMCHITKA • ATKA • ATTU • BELKOFSKI • CHERNOFSKI • CHIGNIK • CHIGNIK LAGOON • CH.GNIK LAKE • COLD BAY
DUTCH HARBOR • EGEGIK • FALSE PASS • IGIUGIG • ILIAMNA • IVANOF BAY • KING COVE • KING SALMON • KOKHANOK • KOKHANOK BAY • LEVELOCK
NAKNEK • NELSON LAGOON • NEWHALEN • NIKOLSKI • NONDALTON • PEDRO BAY • PERRYVILLE • PILOT POINT • PORT ALSWORTH • PORT HEIDEN
PORT MOLLER • SAND POINT • SHEMYA • SQUAW HARBOR • SOUTH NAKNEK • ST. GEORGE ISLAND • ST. PAUL ISLAND • UGASHIK • UNALASKA • UNGA

**INTERNATIONAL
LONGSHORE &
WAREHOUSE UNION**
AFL-CIO



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JAMES SPINOSA
President

ROBERT M. LATH
Vice President

LEONARD HOSHINO
Vice President

JOE IBARRA
Secretary-Treasurer

October 5, 2000

The Honorable Madeleine Albright
Secretary of State
2201 C Street, N.W.
Washington, D.C. 20520

Re: Section 258(d)(2), Immigration Act of 1990
Longshore Activities Reciprocity Exception

Dear Secretary Albright:

The following comments are submitted on behalf of the International Longshore and Warehouse Union, AFL-CIO (ILWU). The ILWU wishes to assist the Department of State in updating the Department's "reciprocity list" required by the Immigration Act of 1990. As the statute provides, State is mandated to "compile and annually maintain" a list of countries where the performance of longshore activities "by crewmembers aboard United States vessels is prohibited by law, regulation, or in practice in the country." See 8 U.S.C. § 1288(e)(2). The Department last published a reciprocity list by Final Rule on June 13, 1996, Fed. Reg. 29941, et seq. Our comments are based on the Department's views as evidenced by that Final Rule.

1. The Department apparently maintains that countries for which sufficient information is not available to determine status will be left off the reciprocity list. This is the reason that Albania and Lebanon, for example, have been excluded from the 1996 list. The ILWU believes that a country must be included on the list unless it is conclusively established that application of the exception is warranted. This is consistent with the fact, as the Department otherwise recognizes, that reciprocity is intended to be a "limited" exception; all countries should, therefore, be placed on the list unless information obtained by the Department clearly requires a contrary result.

Accordingly, we urge that State revise its methodology, and advise each seaport country that it will be placed on the list unless it (the country) can conclusively demonstrate an entitlement to reciprocity. Countries which do not meet this burden, or who provide inconclusive information, or who simply fail to respond, must be placed on the list. Only then will the reciprocity "exception" be given its full, intended meaning and effect.

2. The Department's questionnaire (No. 1) suggests that State intends to leave off the reciprocity list those countries with restrictive laws, regulations or practices, but where no U.S. ships have called since January 1, 1996. However, as the GAO explained in its 1994 report (p. 5), "the restrictive practice nevertheless still exists that presumably could be enforced when a U.S.

ship does call at some future time." We also agree with the GAO's conclusion that "the express terms of the legislation do not give State the latitude to apply a [time period] criterion to U.S. ship calls as a basis for excluding a country from the list." For these reasons, we urge State to deny reciprocity to all countries with restrictive laws, regulations or practices, whether or not U.S. ships have called since January 1, 1996, and that Question No. 1 on the questionnaire simply be deleted.

3. The Department has excluded from the reciprocity list those countries whose vessels are currently prohibited from calling at U.S. ports, such as Cuba, Iran and North Korea. However, if such exclusions, in one or more cases, are lifted during the life of the Department's revised final list, certain countries will enjoy reciprocity even though such an entitlement is not warranted under the statute. It would seem preferable, therefore, for the Department to make a determination as to such countries, and to include them on the list where appropriate.

4. We agree with the Department's decision to include in its questionnaire (No. 9) a reference to International Labor Organization Convention 137 ("Convention Concerning the Social Repercussions of New Methods of Cargo Handling in Docks"). Convention 137 recognizes that modernization and mechanization on the docks has involved "considerable repercussions on the level of employment in ports and on the conditions of work and life of dockworkers, and that measures should be adopted to prevent or to reduce problems consequent thereon" For this reason, signatory countries have expressly agreed in Article 2, Section 1 as follows: "It shall be national policy to encourage all concerned to provide permanent or regular employment for dockworkers in so far as practicable." In other words, Convention 137 by its terms plainly requires signatory countries, as a national policy, to preserve and promote existing longshore work for local dockworkers, and, therefore, to prohibit or restrict foreign crewmembers from performing longshore activities in those countries. We submit, therefore, that the 22 countries presently signatory to Convention 137 must be included on the Department's reciprocity list.

5. In the 1996 Final Rule, Greece was denied reciprocity only as to the "operation of shore-based equipment to load/unload a vessel." The Department's treatment of Greece is particularly alarming to the ILWU because it implies that a blanket grant of reciprocity includes the right of alien crewmembers to perform longshore work on the docks. It has been the consistent position of the ILWU that reciprocity relates only to work on board vessels by foreign crewmembers. Indeed, the Department seems elsewhere to agree, as it states in explanatory comments to the Final Rule (p. 29942) that the reciprocity exception "allows the performance of activities constituting longshore work by alien crew aboard vessels . . ." (Emphasis added.) We urge the Department to clarify its approach and adopt the ILWU's position on this issue.

6. While Canada was ostensibly denied reciprocity in the 1996 Final Rule, the Department granted a list of exceptions based on asserted provisions in collective bargaining agreements and

certain area practices. We believe that Canada should have been denied all reciprocity because the diplomatic reports reveal the existence of a regulation generally requiring "employment validation" for all work by foreign crewmembers that is not related to the operation of the ship. The reports suggest that the requirement for such "employment validation" is not enforced as to U.S. mariners by virtue of the reciprocity exception provided in the U.S. immigration law. However, the fact that the regulation may not be enforced as long as Canada is not included on the Department's list, however, does not alter the fact that Canada has a restrictive regulation pertaining to longshore work by foreign crewmembers. As the GAO concluded (p.5), "neither the legislation nor the legislative history provides support for" State's view that a country's "nonenforcement" of a restrictive law or regulation entitles that country to reciprocity. As the GAO explained (p.5), the statute "refers only to the existence of any restrictive law, regulation or practice. Enforcement or nonenforcement of such a restriction is immaterial." Hence, Canada's restrictive regulation, alone, should have been sufficient to warrant a blanket denial as to Canada. The statute specifically requires that a country be listed if longshore activities are prohibited by law, regulation or in practice.

Moreover, the ILWU is especially troubled by State's decision to grant Canada reciprocity for the "operation of specialized self-loading/unloading log carriers on the Pacific Coast." Prior to enactment of the Immigration Act of 1990, the U.S. Court of Appeals for the Ninth Circuit had held that the immigration laws did not permit alien workers to perform this longshore activity in the United States. See ILWU v. Meese, 891 F.2d 1374 (1989). However, the Department's current reciprocity list permits that very same activity, in effect overruling the ILWU's hard-won victory in the Meese case. Hence, State's interpretation of the immigration statute that was intended to broaden the gains of Meese has resulted in the loss of work opportunities secured for American longshore workers in that case. This displacement of U.S. longshore workers should not be allowed to continue.

7. We note also that the Department apparently excluded from the prior rulemaking process and did not collect information about "areas with a population of less than 5,000 inhabitants." While we do not know the practical effect of this exclusion, there does not appear to be any support for it in the statute or the legislative history.

8. As the ILWU has previously reported to the Department, the Union is having particular problems in the State of Alaska with vessels flagged under the Latvian registry. Several Latvian-owned and Russian-owned vessels have been reflagging to Latvian registry just prior to arrival in U.S. waters, thereby taking unfair advantage of the reciprocity exception to avoid the requirement that U.S. longshore workers be employed to load and unload processed fish. In addition, Chinese-flagged vessels have been utilizing their foreign crewmembers to unlash containers in Los Angeles Harbor, work that should be reserved for U.S. longshore workers. The ILWU urges the Department to scrutinize carefully the reports from these countries to determine whether their addition to the reciprocity list is warranted.

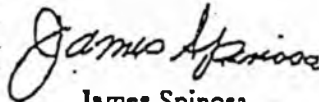
The Honorable Madeline Albright

4

October 5, 2000

On behalf of the thousands of American longshore workers represented by the ILWU, we request that the issues outlined above be given careful consideration by the Department. The ILWU appreciates the opportunity to tender these comments, and will gladly make its representatives available to the Department for further discussion.

Sincerely,



James Spinoza
President

JS/k
cwa39321

TOTAL P.05

ANC, DAILY NEWS

B-6 Tuesday, September 11, 2001

Foreigners handle cargo illegally, and no one tries to stop it

I am a registered International Longshore and Warehousemen's Union longshoreman in the port of Seward and have been employed by North Star terminals for many years. I have witnessed for more than 10 years foreign crewmen handling cargo aboard cruise ships in direct violation of the U.S. Immigration and Naturalization Service Act #258, which forbids the very activities I have observed.

I have nothing but pure indignation toward those who have allowed this practice to continue without trying to put a stop to it. To allow foreign nationals to displace United States workers on our soil is a crime, and in addition to the heavy fines the cruise lines and cruise lines agency are facing, the people responsible should be brought up on charges.

There is absolutely no difference in my opinion, in illegal aliens doing cannery work and foreign nationals doing forbidden longshore work. We have to guard the waterfront. Go to this INS Web site and educate yourselves. <http://www.ins.usdoj.gov/graphics/index.htm>. Click on Laws, Regulations and guides, Immigration and Nationality Act, I.N.A. Act 258 of chapter 6.

— Denny Owens

I.L.W.U. Book # 4647

Moose Pass

HJR

38

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HJR 38
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Terrorism Risk Protection Act BRU _____
 Component _____
 Sponsor Representative Hayes Component No. _____
 Requester _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Amy Erickson, Committee Aide Phone 465-4954
 Division HL&C Date/Time 3/20/02 12:00 AM
 Approved by: Representative Murkowski Date 3/21/2002
 Agency _____

House Committees

Labor & Commerce
Military & Veterans Affairs
State Affairs
Regulation Review

Alaska State Legislature Representative Joe Hayes

119 N. Cushman, Ste. 205
Fairbanks, AK 99701
(907) 456-7423 / Fax: 451-9293

While in Juneau
State Capitol
Juneau, AK 99801-1182
(907) 465-3466 / Fax: 465-2937



Sponsor Statement

HJR 38

Like many industries, in the wake of the terrible tragedies of September 11th, the insurance industry has been in a state of turmoil. The main source of this growing problem is the fact that insurance companies have been forced to pay out billions of dollars.

The United States, and insurance companies specifically, have never had to face such a tremendous loss. The current estimates state that the losses due to September 11th are over \$35 billion dollars. Hurricane Andrew by comparison, only caused \$15.5 billion in losses. This incredible loss has made insurers wary of providing affordable property and casualty insurance. This fear of future attacks and future losses of this magnitude has made it very difficult to obtain insurance.

Supporting the passage of Terrorism Risk Protection legislation will ensure that the United States will feel more secure; knowing that, should tragedy strike again, insurance will be there to cover it. Buildings will be able to be re-built, jobs will continue to be developed, and families will be more financially secure. Without this safety net, the economy could face the full force of such devastating and tragic events as occurred on September 11th. This \$35 billion in losses could have a much more severe impact on our economic progress as a state and as a nation if we did not have insurance to help with the re-building and of our nation. I hope you can join with me to support this resolution.

District 30

representative_joe_hayes@legis.state.ak.us

Subject: Forwarded Article from INN

Date: Sat, 6 Apr 2002 12:29:16 -0500

From: bob_lohr@dced.state.ak.us

To: <Representative_Joe_Hayes@legis.state.ak.us>

This article from InsuranceNewsNet.com was forwarded to you by: bob_lohr@dced.state.ak.us

Re: HJR 38 Response to Request for Additional Additional information about the President's meeting Monday on terrorism insurance. It is scheduled for 4:00.m.

President Bush to Address Business and Labor Leaders Regarding Terrorism Insurance

http://www.insurancenewsnet.com/article.asp?a=top_news&newsid=Cpk0VubWbrenamda1

PR Newswire - April 05, 2002 17:06

President Bush will address representatives of business and labor at the White House on Monday April 8, 2002, at 4 p.m. regarding economic problems resulting for the shortage of terrorism insurance.

Participating in the event with the President will be a coalition of leaders from the transportation, manufacturing, real estate, construction, hotel, entertainment and retail sectors who have lost terrorism coverage or experienced huge increases in premiums since the terrorist attacks of September 11, 2001. Also included, will be union workers from the building construction trades whose jobs will be lost by the slowdown in construction caused by the terrorism insurance crisis.

Those attending the event on Monday include:

- * J.W. Marriott, Jr., Marriott International
- * Nelson C. Riding, Catellus Development Corporation
- * David Creamer, GMAC Commercial Mortgage Corporation
- * James P. Hoffa, International Brotherhood of Teamsters
- * Edward Sullivan, Construction Trades Department, AFL-CIO

To arrange an interview with members of the Coalition to Insure Against Terrorism or to obtain a list of examples showing how problems with terrorism insurance are hurting the economy, please contact one of the persons whose names are listed below. For more information about the Coalition to Insure Against Terrorism you can contact the website at <http://www.insureagainstterrorism.org> .

CONTACT: Jay Hyde of the National Association of Real Estate Investment Trusts, office: +1-202-739-9425, cell: +1-703-405-5160; Darren McKinney of the National Association of Manufacturers, office: +1-202-637-3093, home: +1-202-543-7953; Ed Linde, President and CEO of Boston Properties, +1-617-236-3327; or Joan Gartlan of Goddard Claussen Porter Novelli, office: +1-202-419-3249, cell: +1-202-309-2022, for the Coalition to Insure Against Terrorism.

SOURCE Coalition to Insure Against Terrorism

/PRNewswire -- April 5/

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Alaska Department of Community and Economic Development

Division of Insurance

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November 16, 2001

The Honorable Ted Stevens
United States Senate
522 Hart Building
Washington, D.C. 20510

Dear Senator Stevens:

On behalf of the Alaska Division of Insurance, I am writing to convey the urgent need for federal action to ensure the nation's insurance buying public has coverage against the risk of future terrorist acts. This matter, vital to Alaska, is before you as a member of the Committee on Commerce, Science and Transportation and may come to the floor for a vote.

I am greatly concerned that, barring quick federal action, recent developments could seriously disrupt our national insurance market for both insurers and consumers. As you are probably aware, reinsurance contract renewals are now being renegotiated for an effective date of January 1, 2002. Many of these reinsurance contracts will exclude coverage for terrorist actions, leaving the primary insurers unwilling to include coverage for terrorism in policies sold to Alaskan consumers. This has been well documented and publicized, and the insurance industry anticipates that federal intervention will in fact facilitate this renewal process and provide incentive for reinsurers to cover terrorism.

What has not been widely reported is that insurers are now issuing notices of non-renewal and filing across-the-board property/casualty exclusions for terrorist risk with our division as the state insurance regulator. In at least one instance, a workers' compensation carrier has notified the Division that they will issue non-renewal notices to their Alaskan insureds because by law the insurer could not exclude terrorism from the contract. The Alaska Division of Insurance is also currently reviewing terrorism exclusions being proposed for use in Alaska from four insurers and one rating organization. These policy exclusions hold real consequences for the insurance buying public in communities untouched by terrorist attacks and related losses. This is occurring nationally, as well as in Alaska, and state insurance regulators are considering ways to ensure consumers remain protected without requiring insurers to assume unmanageable risks. But we need the federal government to act soon to give certainty to this situation.

"Promoting a healthy economy and strong communities"

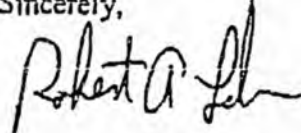
The Honorable Ted Stevens

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November 16, 2001

The Division has worked very closely with the Treasury Department and Congress on elements of this federal terrorism/insurance plan, and are grateful for the speed with which you and the Congress are addressing this issue. However, failure to act timely could cause greater market disruption, thus making the need for quick action imperative. Pending a final legislative resolution, we urge you to work with the Congressional leadership to assure our nation's insurers that legislation will be finalized before the Congress adjourns.

Sincerely,



Robert A. Lohr
Director

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Anchorage Daily News

State air carriers feel insurance pinch

COSTS: Rates have risen at least 20 percent in the past year.

The Associated Press

(Published: February 27, 2002)

Anchorage -- Alaska air carriers are being squeezed by rising insurance premiums and a dwindling number of companies willing to write policies.

Now only a handful of companies offer policies in Alaska.

Air carriers and insurance officials blame high accident rates and repair costs, a slumping stock market and the cost of doing business after the Sept. 11 terrorist attacks.

The bottom line is that increased costs will likely be passed on to passengers.

Rates for Alaska air carriers have increased from 20 percent to more than triple in the past year, depending on the number of company claims, said Mike Salazar, a Ketchikan-based agent with Acordia Northwest, an insurance brokerage firm in Seattle.

"Most air carriers with a clean record had a 20 percent increase," said Salazar, adding that those who had claims are seeing rates go up as high as 200 percent or more.

Mike Vanard, vice president of Seattle-based U.S. Aviation Underwriters Inc., said insurance that his company offers has risen 18 to 30 percent in the last year.

"Insurance is cyclical, it has big, sweeping curves. Right now we're at the opposite (high) end of that curve," Vanard said.

Orin Seybert, president of Peninsula Airways Inc., has been in the commercial airline business since 1956. The longtime Alaska aviator agreed the rates are cyclical.

"I look at insurance like a pendulum, it goes in cycles, every four to six years it goes up," Seybert said. "It's been edging up there and it is absolutely the highest I've seen it."

Seybert said insurance accounts for about 10 percent of his company's overall costs.

Vanard's company is one of about five or six companies willing to offer insurance in Alaska. A few years ago that number was at least a dozen, according to air carriers and insurance officials.

Nationwide, there also has been a decrease in the number of companies willing to insure air carriers.

Aviation insurance companies, who write both general aviation and commercial policies, have paid out as much as \$1.25 for every dollar taken in, but the company would still make money in investments during a healthy economy, said Thomas Turner, an aviation author and former insurance broker based in Cleveland, Tenn.

NAIC

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

December 14, 2001

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HEADQUARTERS**

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Senator Thomas A. Daschle
United State Senate
Washington, DC 20510

Senator Trent Lott
United States Senate
Washington, DC 20510

Dear Senators Daschle and Lott:

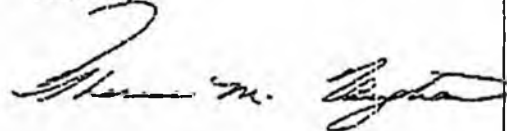
We are writing on behalf of the chief regulators of the nation's insurance industry to urge final action on terrorism insurance legislation before the Congress adjourns this year.

The terrorist attacks on our country have created enormous uncertainty in our nation's commercial property and casualty (P&C) insurance markets. We continue to believe the federal government can and should play a critical, limited role in helping this marketplace adjust to these new market realities. We are aware of the efforts the Senate and the House of Representatives are putting forward to advance this legislation. However, further delay will have a negative impact on insurers and insurance consumers who in this instance are predominantly the nation's business community.

Absent federal assistance, many businesses will be without coverage for future losses related to acts of terrorism. In the event insurance is still available, the costs may be unaffordable for many. Anticipating this possibility, many insurers have asked state regulators to grant terrorism exclusions against future losses. Some carriers are indicating that beginning January 1st they will not renew workers' compensation coverage, a business necessity if an employer is to retain employees. These steps will leave consumers without protection. State insurance regulators must act on these requests in the coming days, and we will be hard-pressed to deny many of these specific requests in the absence of a federal "backstop." Otherwise, we would be exposing the industry to potentially unmanageable financial risks that would have consequences industry-wide and among all insurance consumers.

For these reasons, we urge action on terrorism insurance legislation this year.

Sincerely,



Terri Vaughan
Insurance Commissioner, State of Iowa
President, NAIC

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BI Daily News

Federal report cites need for terrorism cover

by [Mark A. Hofmann](#)
Posted on Feb. 26, 2002 2:49 PM CST

WASHINGTON—Policyholders would bear an increasing portion of the costs of any future terrorist attacks, according to a federal report.

Businesses already face difficulties in obtaining "a meaningful level of terrorism coverage at an economically viable price," and, "The potential for more severe economic impacts is increasing as the level of uninsured risk climbs."

The House Financial Services Committee released "Terrorism Insurance: Rising Uninsured Exposure to Attacks Heightens Potential Economic Vulnerabilities" Tuesday. The report, which was prepared by the General Accounting Office at the request of Committee Chairman Mike Oxley, R-Ohio, will be formally presented at a Wednesday hearing about the impact of federal inaction on terrorism insurance. The House passed a terrorism insurance bill drafted by Rep. Oxley last November, but the Senate has not acted on its own legislation yet.

According to the report, "the economic burden of another terrorist attack would fall increasingly on policyholders as the insurance industry sheds or limits its risks to such exposures, raising the potential for more devastating economic consequences should such an event occur."

The report also holds that if Congress decides not to create some sort of federal backstop to help cover insured losses from a future terrorist attack, its inaction "could have debilitating financial consequences for businesses, together with their employees, lenders, suppliers and customers."

The new, business-backed Coalition to Insure Against Terrorism issued a statement hailing the report as appearing "to indicate that the problem is growing day by day, resulting in more of the nation's businesses, facilities and infrastructure left uninsured or underinsured for the next terror attack."

David Mair, president of the Risk & Insurance Management Society Inc., is among the witnesses scheduled to appear Wednesday.

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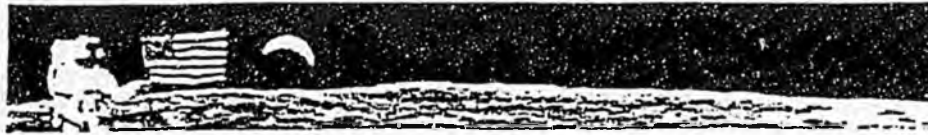
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Impact of attacks felt across all lines

By Christopher E. Mandel
October 15, 2001

Q: In the wake of the World Trade Center attack, there have been lots of opinions about risk-related concerns. Which ones are reliable, and what priorities should risk managers have at this time?

A: Like many, I've spent a lot of time these past few weeks trying to digest the large volume of commentary and opinion available from various sources. It's a daunting task, especially in a time of crisis, which invariably produces lots of new work. While I hold no crystal ball, here are my thoughts on a few of the more significant concerns risk managers should be thinking about.

First and foremost, let's acknowledge the personal tragedies of those directly affected by the attack, both among those we know and the many we don't. The emotional toll on the survivors will be great. As we get back to our routines, we need to recognize that returning to business as usual will not come easily or quickly. Our friends at Marsh and Aon, in particular, have a massive job ahead of them, attempting to rebuild parts of their practices severely affected by the crisis. They will need our patience and assistance in doing so. I am certain that the risk management community will rally around these essential business partners in supporting their recovery. And I am sure that many of you have already experienced what I have: the extraordinary efforts of many of those directly affected partners in working to make the impact of this event imperceptible to buyers attempting to complete renewals and conduct ongoing business. Some of these efforts have been nothing short of remarkable.

Next, we should acknowledge that there is a more subtle impact on our companies, their employees and our staff. For the most part, it is not all that apparent, but it is present. It will reduce morale and the ability to focus on day-to-day work. It will affect productivity. And it needs a thoughtful, sensitive response. That may include revisiting goals and objectives, being more flexible in regard to time off, taking some pressure off where possible and just letting people vent without taking it personally. It may not be business as usual for some time to come.

Now to the direct business impact. There are lots of opinions about the cost of this disaster. Most major stock analysts have published initial and updated opinions on the expected losses and disruption to the insurance industry. The loss estimates in these reports vary widely, but they seem to follow a similar pattern—lower early estimates and subsequent upward revisions. Estimates ranged from between \$15 billion and \$30 billion in the first few days to between \$30 billion and \$70 billion—and, in one case, as high as \$100 billion—during the ensuing weeks.

Having read most of these reports, I find the Morgan Stanley assessment, which is updated regularly, to be the most persuasive. On Sept. 27, Morgan Stanley said it expected insured losses to be \$35 billion to \$41 billion. One thing seems certain—early loss estimates will grow as more information is obtained, allowing better analysis. Even at \$41 billion, total losses would not threaten industry solvency, with total property/casualty capital estimated at \$300 billion, \$200 billion of which is on the commercial side. Standard & Poor's Corp. said that the "insurance system" would not be at risk unless total losses exceed \$50 billion—which they very well may. Market segments, of course, are threatened, and reinsurers are most at risk of selective insolvencies.

Where the losses fall

A consensus seems to have emerged about which lines will be hardest hit by this event. Direct property losses will likely be in the range of \$8 billion to \$12 billion, including claims for the World Trade Center itself (\$3.5 billion in real property values alone) and surrounding properties, including an untold number of personal autos. Liability, indirect property or business losses and contingent business interruption losses (\$4 to \$7 billion) will add to the total.

Contingent business interruption, which covers losses incurred because supplying companies upon which a policyholder depends cannot provide needed goods or services, is perhaps one of the most worrisome exposures to insurers, due to the wide variety of potential claim sources around the world. Liability claims against airports, airlines, construction companies and others are another difficult area to estimate, with figures ranging from as low as \$2 billion to as high as \$20 billion. Aviation hull and liability losses are estimated at \$3 billion to \$7.5 billion. Workers compensation loss estimates currently range from \$3 billion to \$6 billion, while life and travel-accident claims are estimated at between \$4 billion and \$6 billion. All other miscellaneous losses are estimated at \$1 billion to \$3 billion.

All told, these estimates range from a total of \$25 billion to \$61.5 billion, so there is clearly a great deal of guesswork involved, particularly on the high end. Regardless, the consensus is clear—this will be the largest insured loss event in history. By comparison, the largely uninsured 1995 earthquake in Kobe, Japan, produced economic losses estimated at around \$120 billion.

The line that faces the most trouble is aviation. In the aftermath of this heretofore-unpredictable risk, the probabilities and severities have now been cast in an entirely new light. That is not to say we have any better idea of likelihood or probable maximum loss, but it seems clear now that neither airlines nor their insurers are in any position to finance the risk, even within the bounds of reasonable probability. You should now look for underwriters to consider the outer bounds of the probability distribution for pricing exposures with catastrophic potential. One-in-1-million-year events may take on a new distribution curve.

It was not unreasonable to expect that some form of government mechanism would emerge, as Congress created recently, to buffer aviation risk as it relates to war and terrorism risks. The near-immediate withdrawal of war risk coverage in aviation forms following the attacks is ample evidence that what underwriters feared most when they drafted the standard terms for this coverage is not only possible but also more likely than ever before.

The property and workers compensation markets also face problems. The property markets are already contracting severely, making near-term renewals a nightmare for many. Rethink your retention philosophy and get management to agree to higher, yet financially supportable, levels of risk assumption. Don't forget the emphasis you'll need to put on controls. Like any pure self-insurance program, higher retentions presume good loss controls. These controls, of course, take many forms, from pure safety-related prevention programs and processes to contractual transfers of risk to business partners able to absorb more of their share. At the extreme, it may mean getting out of certain occupancies, such as high-rise buildings, or certain high-risk zones, such as earthquake-prone properties in California.

What, you say, does California quake coverage have to do with this tragedy? Nothing and everything. Many of the same reinsurers are behind risks previously regarded as uncorrelated that, in the wake of Sept. 11, may no longer be uncorrelated. Let's face it, after the WTC attack, we can't this year afford a major natural catastrophe of the magnitude of Hurricane Andrew or the 1994 Northridge earthquake, due to the impact on reinsurance treaties now so much at risk.

As for our priorities at this time of crisis, they are many. At the top of the list is revisiting renewal and placement strategies for the lines hardest hit by this tragedy. Aviation reinstatements are already available with premium impacts of 10% to 15% on hull and 15% to 25% on liability. This will typically get you only to your expiration date, though. Near- to middle-term eventualities are those for which you'll need to develop new strategies. One consideration should be the elimination or reduction of the use of private jets in your operation. They may be a convenience you won't be able to afford for a while.

For similar reasons, you can't afford to assume your strategies on any line of risk won't need to be revisited. For example, directors and officers liability and other professional liability risks are not immune from the impact of this event. Many of the insurers up to their necks in property and liability losses from the WTC provide this type of coverage. You can expect lots of pressure to raise prices in seemingly unaffected lines, not to mention difficulty in securing capacity. Effective and early planning for these renewals will be critical to handling them with some success.

A clear opportunity that emerges out of this disaster is the ability to spread the risk management philosophy across the enterprise. Nearly everyone is considering risk-related concerns at this time, and that represents a unique chance for risk managers to broaden their reach into their companies and to get more people thinking about risk in a disciplined way. Your goal should be to get consistency applied to risk decision-making.

Don't overlook your crisis response and disaster recovery plans. Even if your company escaped any significant direct impact from the WTC attack, your insurers and management will be interested in these subjects now

more than ever before. Make sure your plans are up to date and address even the remotest of possibilities. Are you prepared for a long-term disruption to operations in one of your locations? Do you have backup facilities, or have you been putting this off because of the pressing needs of day-to-day business? Lots of important people will be asking these and other questions that will make the practice of our profession more challenging than ever. Forward-thinking risk managers will be prepared to answer and respond.

Ask A Risk Manager, Ask A Benefits Manager, Ask A Benefit Actuary and Ask A Casualty Actuary answer written questions from readers on risk and benefits management issues and actuarial problems.

This month's column on risk management issues was written by Christopher E. Mandel, assistant vp-enterprise risk management at USAA Group in San Antonio and first vp of the Risk & Insurance Management Society Inc.

Dennis J. Nirtaut, managing director of compensation and benefits for Arthur Andersen L.L.P. in Chicago, answers questions on employee benefit plans. William J. Miner, an actuary with Watson Wyatt Worldwide in Chicago, answers actuarial questions on benefits issues. And Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore., answers actuarial questions in the casualty field.

Address your questions to ASK, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601. Please give us your name, title and employer; however, Business Insurance will consider unsigned letters.

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NCOILETTER

MARCH
2002

THE NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
139 Lancaster Street, Albany, New York 12210-1903 www.ncoil.org

TERRORISM PREPAREDNESS A PRIORITY

Assessing insurer impacts following September 11 and pressing the need for a federal terrorism reinsurance backstop highlighted NCOIL discussions at the Spring Meeting in Charleston, South Carolina, on February 28 through March 3.

The first official meeting of NCOIL's Task Force on Terrorism, chaired by NCOIL Past President Rep. Terry Parke (IL), focused on NCOIL communications with Congress regarding the potential economic fallout that failure to enact a reinsurance backstop might induce. Task force meetings in Washington, D.C., on February 6 with Sen. Charles Schumer (D-NY), Rep. Gary

Ackerman (D-NY), and staff of Rep. Michael Oxley (R-OH) emphasized the need to provide Congress with documentation of insurance coverage concerns, Rep. Parke said, including excessive premium increases, coverage losses, and renewal difficulties.

In response, Parke noted, NCOIL circulated a February 15 letter to all NCOIL legislators requesting them to survey small businesses and other constituent groups for evidence of post September 11 coverage problems. Results would be sent to Congress, he said.

In his remarks to the task force, New York State Superintendent of Insurance Greg Serio said he had tes-

tified before the House Committee on Financial Services Subcommittee on Oversight and Investigations, urging Congress to pass legislation that would limit insurers' exposure to future terrorism-related losses. The General Accounting Office (GAO), Serio noted, had just released *Terrorism Insurance: Rising Uninsured Exposure to Attacks Heightens Potential Economic Vulnerabilities*, a report that concluded, in part, that some sectors of the economy already had been affected by the absence of a backstop. Economic recovery and growth could slow, the report predicted, as more insurance contracts came up for renewal in

(Continued on page 2)

NCOIL SEEKS ANSWER ON AFTERMARKETS

An NCOIL Property-Casualty Insurance Committee hearing on a proposed *Certified Aftermarket Crash Parts Model Act* revealed that the national debate on certified aftermarket crash parts has focused on NCOIL.

Testifying at the February 28 hearing in Charleston, Jack Gillis, executive director of the Certified Automotive Parts Association (CAPA), said the Committee was "the focal point in the country today to reform an industry that has, for too long, been mired in accusations, poor quality, and a monopoly."

Narrowly adopted by the P-C Committee at the November Annual

Meeting, the proposed *Certified Aftermarket Crash Parts Model Act* was returned to the Committee later that day when the Executive Committee voted in favor of more discussion. The model provides that all certified aftermarket crash parts used to repair a motor vehicle are suitable replacement parts; requires a body shop or insurance estimate to indicate the use of certified aftermarket crash parts and to identify the parts' manufacturers, if possible; and also applies to leased or financed cars.

Advocates of the model repeatedly argued that it would protect consumers from

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NCOIL SESSION EXAMINES CREDIT SCORING

The controversy surrounding insurer scoring of consumer credit histories is long from being settled, experts acknowledged at NCOIL's March 2 panel discussion entitled *Credit Scoring: An Unfair Practice?*, held during the Spring Meeting. Though the federal Fair Credit Reporting Act (FCRA) made scoring possible some 30 years ago, panelists debated whether fairness to policyholders was impaired when insurers used a credit-based score to influence rates, renewals, and rejection notices.

According to Birny Birnbaum, executive director of the Center for Economic Justice (CEJ), credit scores are particularly discriminatory because they penalize consumers not only for poor credit experience but for an absence of certain

positive credit factors. A consumer who has paid in cash in order to be fiscally prudent, he said, may see his insurance premiums rise because he has little proven experience paying off debt. Citing the experience, among others, of a cash-paying retired millionaire who found himself with a poor score, Minnesota Commissioner of Commerce James Bernstein said, "More and more people are beginning to ask questions, and I hope it [becomes] a tidal wave."

Insurers are not attempting to be unreasonable, said Lynn Knauf, policy analyst with the Alliance of American Insurers (AAI), and are willing to compromise with regard to consumers who have minimal credit experience. She noted that almost unanimously insurance companies have agreed that "If someone does not have a credit hit we will agree not to use credit information for that particular risk, or not consider it as a negative factor."

One point of contention centered on consumer ability to influence scoring. Cloyce Anders, president-elect of the Independent Insurance Agents of America (IIAA), suggested that individuals could "play

the game" and purposely close out unneeded lines of credit, for instance, to improve scores. One element of the composite score is the number of credit lines applied for in the past 12 months, which is said to indicate a person's potential debt load and, supposedly, level of responsibility.

According to Eddy I.o, client and regulatory affair manager with Fair, Isaac and Company, consumers who manipulate the system to receive a better score jeopardize its effectiveness at predicting risk. What is needed, he said, is better consumer understanding of the scores' derivation. "We need to educate, we need to explain," he admitted.

Also on March 2, NCOIL held a luncheon discussion entitled *Insurance and the Terrorism Threat* (see story page 1) and a session entitled *The Crisis in Health Care: What Can Legislators Do?* The panel focused on solutions to problems in the health care system. Speakers were Larry Levitt of the Henry J. Kaiser Family Foundation; Sandy Marks of the American Medical Association; Kate Sullivan of the U.S. Chamber of Commerce; and Kenneth Linde of Destiny Health.

NCOILetter

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TERRORISM PREPAREDNESS

(cont. from page 1)

2002.

The task force meeting further included insurance industry reports regarding reinsurance and workers' compensation, as well as a pictorial presentation of Ground Zero, prepared by the Life Insurance Companies of New York (LICONY).

In addition to the task force meeting, NCOIL held a panel discussion on Saturday, March 2 entitled *Insurance and the Terrorism Threat*, in which speakers discussed state

disaster management and recovery, the Congressional response, impacts on specific lines of insurance, and industry forecasts. Panelists at the luncheon session included Anita Knight of the Institute of Business and Home Safety (IBHS); Peter Lefkin of Fireman's Fund Insurance Company; Bruce Ferguson of the American Council of Life Insurers (ACLI); and Dr. Allan Korn of the Blue Cross Blue Shield Association (BCBSA).

LEGISLATORS CONTINUE MODERNIZATION EFFORTS, AMEND MODEL

Following pressure to significantly amend an NCOIL *Property/Casualty Insurance Modernization Act*, NCOIL continued its commitment to financial modernization and adopted during the Charleston Spring Meeting just two of many amendments proposed by the Independent Insurance Agents of America (IIAA). The Executive Committee action on March 1 capped months of debate between agent and insurance industry representatives, who charged that the proposed changes would impair market competition.

The adopted amendments, described by the industry recently as "minor," include adding a drafting note to the model's definition of "market." The note would consider geographic areas smaller than a statewide market and would take into account a state's particular market environment. A second amendment would remove a provision requiring a commissioner to explain actions needed to restore market competition.

According to the IIAA, all the changes it proposed were intended to protect consumer interests and would have the effect, the organization said, of furthering the success of NCOIL's model in the states. In an attempt to facilitate compromise between agent and industry interests, the Property-Casualty Insurance Committee established a task force at the November Annual Meeting to review the proposed amendments and make recommendations to the full Committee in Charleston. Chaired by Rep. Craig Eiland (TX), Committee chair, the task force met twice via conference call in January and included Tim Tucker of the

IIAA and Robert Zeman of the National Association of Independent Insurers (NAII). The task force supported at least some form of most of the IIAA proposals, including the two amendments adopted in Executive Committee.

The Executive Committee determined not, however, to adopt other task force-recommended amendments adopted by the P-C Committee on March 1 (*see box at right*). Upon a motion made by Sen. Neil Breslin (NY), who said these more substantive amendments "caused nothing but strife," the Executive Committee tabled them until the Boston Summer Meeting.

Though industry sources eventually assented to the amendments the Executive Committee adopted, the industry uniformly denounced the P-C Committee's willingness to considerably revise the existing model. Addressing the P-C Committee, some half-dozen industry representatives said they could not support the NCOIL act if all amendments went through.

Sen. David Bates (RI) sponsored a separate amendment, not specifically endorsed by the task force, but withdrew it in the P-C Committee prior to consideration. The amendment would have authorized a commissioner to exempt an insurance line in a competitive market following public notice and hearing and would have authorized the commissioner to revoke that exemption at any time.

The *Property/Casualty Insurance Modernization Act*, originally adopted during the 2001 NCOIL Summer Meeting, establishes a use-and-file rate regulatory system for personal lines of insurance, a no-

file system for commercial lines, and an exemption from rate and regulatory requirements for policies sold to sophisticated insurance providers. It is available for review at www.ncoil.org.

The following task force-recommended amendments, adopted on March 1 by the Property-Casualty Insurance Committee in Charleston, were tabled by the Executive Committee until the Boston Summer Meeting:

- *Commercial insurers would be required to submit informational filings, and a drafting note would be added allowing a state to disregard such a provision if it made state law more restrictive;*
- *Section 8(D), the provision in the Act that addresses public access of filed information, would be deleted;*
- *Policyholders would be allowed to cancel without penalty policies with disapproved rates; and*
- *Two provisions in the Act (one that would authorize a commissioner to exempt an insurer from conflicting actions under other laws, and another that would declare exclusive governance of the Act) would be deleted.*

The following proposed amendment, also recommended by the task force, failed the P-C Committee:

- *An insured, producer, or organization of insurance producers could apply to the commissioner for a hearing to assess a rate or rate filing.*

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AFTERMARKET CRASH PARTS

(cont. from page 1)

overpaying for crash parts, among other things, and said the act was designed to advance the interests of policyholders, not of CAPA. Clarence Ditlow, executive director of the Center for Auto Safety, testified that the model would result in "quality parts at competitive prices."

The seven witnesses representing car companies and affiliated organizations, however, charged that the model act was not, in fact, consumer-friendly, particularly regarding a consumer's right to know specifically whether an aftermarket or original equipment manufacturer (OEM) part had been used. "At the core of the discussion," said Gene Fondren, president of the Texas Automobile Dealers Association, "is, if certification will perform the wonderful results that have been suggested by its proponents, then why does the model act restrict... consumer choice and right-to-know?"

Fondren further questioned why the model prohibited car companies from operating a certifying entity—justifiably, he said—but did not prohibit insurance companies from doing

the same. Insurers have a powerful interest in the issue, he said.

According to Sheila Loftus, executive director of the Washington Metropolitan Auto Body Association, insurance companies effectively obstruct market competition by "pushing" aftermarkets on their policyholders to the clear disadvantage of OEM parts. Legislation that would legitimize aftermarket crash parts, certified or not, she said, should not be enacted because such legislation would prevent the market from "sorting itself out."

Those opposing the model asserted that OEM parts are of superior quality to reverse-engineered aftermarkets and referenced car-company research indicating that auto body shops not only prefer OEMs but frequently return aftermarket parts due to poor fit. However, according to Eileen Sottile, director of government relations for Keystone Automotive Industries and representative of the Automotive Body Parts Association (ABPA), the car companies "are no benchmark for quality." She disputed figures from General Motors Corporation citing a 22 percent return rate on aftermarket

crash parts. If this were true, Sottile said, it likely would have driven the volume-dependent Keystone out of business years ago.

In addition, Mark Skinner, vice president of state programs with the American Insurance Association (AIA), testified on behalf of a proposed AIA amendment that would deem non-certified aftermarket crash parts to be suitable replacement parts if an insurer provided a guarantee or other assurance of quality that was acceptable to the appropriate regulatory agency. While those against the model claimed the amendment simply would make a bad model worse, CAPA's Jack Gillis told the Committee that the proposal "completely reverses what you are trying to do."

Following the hearing, the Property-Casualty Insurance Committee voted to defer consideration of the proposed model until the Boston Summer Meeting to allow legislators an opportunity to further review the issue. A vote on the model is planned at that time.

A transcript of the hearing is available for \$75. Please call Candace Frick at (518) 449-3210.

FACT FINDINGS: GENETIC DISCRIMINATION

The Life Insurance Committee is considering a proposed Genetic Discrimination Model Act, which, among other things, would prohibit insurers from using genetic information to affect life or disability insurance for policies under \$100,000. Following are some thoughts on the issue.

"Should the privacy of personal genetic information be protected? Absolutely! However, the fact that

employers and insurers are equally at risk of being targets of misused genetic testing information should be a key consideration in developing the regulations surrounding this information." — *Mark Ameigh of Disability Insurance Specialists, in the National Underwriter, February 2002*

"Although many states have begun to address the issue of genetic dis-

crimination in state laws, they vary greatly and often do not go far enough... Even if the patchwork of protections in the states were more complete, we believe a uniform federal law is necessary to provide a strong federal floor of protections." — *Debra Ness, Nat.'l Partnership for Women & Families, February 2002 testimony before Senate Comm. on Health, Education, Labor, and Pensions*

FY2002 FIRST SUPPLEMENTAL

	A	B	C	D	E	F	G	H	I
1	Sec. No.	Department	BRU or Component	Supplemental Need	General Funds	Federal Funds	Other Funds	Fund Source	Total Funds
2	FIRST SUPPLEMENTAL								
3	1	Court System	Judicial Conduct	Legal fees in excess of FY2001 supplemental. Actual amount is \$6829.77.	6.8				6.8
4	2	Comm & Ec Dev	Alaska Science & Technology Foundation	Idaho National Engineering and Environmental Laboratory Grant Contract for Alaska Business Research. Funds are available March 1, 2002.			25.0	Statutory Designated Prog Rcpts	25.0
5	3	Corrections	Palmer Correctional Center	New well including pump and well house as primary water well has failed and is nonrepairable.	172.0				172.0
6	4	Health & Soc Svcs	Medicaid Services	Medicaid Services - Projected to run out April 16. \$4.57m GF is for FY2001 bills paid in FY2002; 1.8m GF is from underfunding last year below low case scenario; 6.34m GF is for caseload at mid-case range and cost increases, particularly for seniors and disabled.	4,570.0	114,760.5	23,903.3	Statutory Designated Prog Rcpts	143,233.8
7	5(a)	Transportation	Marine Highway Stabilization Fund	Marine Highway Stabilization Fund FY02 deficit due to Columbia fire and fuel cost increases. If not funded, Spring/Summer service would need to be drastically cut, reducing revenues during highest revenue season. Ships would be put into lay-up status for extended periods.	2,038.5				2,038.5
8	5(b)	Transportation	Marine Highway System	General Funds deposit into the Marine Highway System Fund to pay for liability insurance increase (see 13(g))	331.1	✓	1711.3		331.1
9	6(a)	Military & Vets	Disaster Planning & Control	Costs to maintain 24-hour State Emergency Coordination Center (SECC), the agency that coordinates all federal, state and local jurisdictional responses associated with any disaster or event.	125.0				125.0
10	6(b)	Military & Vets	Disaster Planning & Control	Costs to maintain a temporary check point at the Yukon River Bridge	145.0				145.0
11	7	Natural Resources	CIP	Scope change for SLA97, CH50, Sec 15(k), P9, L13 - from prepare and administer the Kalgin Island II, Caribou Hills, S. Ninilchik-Dome View, South Ninilchik Black timber sales in Kenai Peninsula to Kenai Peninsula to reduce risks from wildfire.					0.0
12	8	Governor	Elections	Costs for printing and mailing a Primary Election Voter Education Guide in time to explain the new law (shifted from FY2003 budget which was amended)	25.0				25.0
13	9	Comm & Ec Dev	Power Cost Equalization & Rural Electrification Fund	Technical correction to add the inadvertently omitted FY02 appropriation from the Power Cost Equalization Endowment fund to the Power Cost Equalization and Rural Electrification Fund (7% of market value)			7,062.2	PCE EF	7,062.2
14	10	Public Safety	Commissioner's Office	For one-time costs associated with response to the September 11, 2001 events, prisoner transport, haz mat equipment, anti-terrorism training, on-call status, etc.	135.0				135.0
15	11	Legislature	Redistricting Board	Additional funds for personal services and board meeting	50.0				50.0
16	12	Community & Economic Development	Qualified Trade Assoc. Contract	Additional tourism marketing efforts to mitigate the economic effects to Alaska from the September 11, 2001, terrorists attacks. Includes Legislative intent that AITA provide a 30% match.	2,000.0				2,000.0

FY2002 FIRST SUPPLEMENTAL

	A	B	C	D	E	F	G	H	I
1	Sec. No.	Department	BRU or Component	Supplemental Need	General Funds	Federal Funds	Other Funds	Fund Source	Total Funds
17	13(a)(1)	Transportation	Northern Region Highways & Aviation	Chandalar (James Dalton Hwy) Maintenance Station Replacement- Temporary rental and other costs of vacating the maintenance station due to imminent structural failure.	127.8				127.8
18	13(a)(2)	Transportation	Central Region Highways & Aviation	East Fork (Parks Hwy- S of Cantwell) Maintenance Station Replacement- Temporary rental and other costs of vacating the maintenance station due to imminent structural failure.	21.9				21.9
19	13(a)(3)	Transportation	Central Region Highways & Aviation	Willow (Parks Hwy) Maintenance Station Replacement- Temporary rental and other costs of vacating the maintenance station due to imminent structural failure.	45.5				45.5
20	13(a)(4)	Transportation	Northern Region Highways & Aviation	Nome Maintenance Station Imminent Structural Failure - Temporary rental and other costs of vacating the maintenance station to due imminent failure.	72.0				72.0
21	13(b)	Transportation	Central Region CIP	Funding for the Anchorage Bowl Long- Range Transportation Plan Update for 2025		240.0			240.0
22	13(c)	Transportation	Southeast Region CIP	Title change from West Douglas Highway Extension to Gastineau Channel Second Crossing to match federal project name change					0.0
23	13(d)(1)	Transportation	Central Region Highways and Aviation:	Security and Emergency Access Routes in Anchorage: Revise traffic patterns for enhanced security and emergency routing at the Port of Anchorage Access and access/egress from Elmendorf AFB and Ft. Richardson onto the Glenn Highway.	106.7				106.7
24	13(d)(2)	Transportation	Central Region Highways and Aviation	Liability premium increases as result of Sept. 11, 2001 terrorist attack	40.0	✓			40.0
25	13(d)(3)	Transportation	Northern Region Highways & Aviation	Liability premium increases as result of Sept. 11, 2001 terrorist attack	40.4	✓			40.4
26	13(d)(4)	Transportation	Southeast Region Highways & Aviation	Liability premium increases as result of Sept. 11, 2001 terrorist attack	4.4	✓			4.4
27	13(e)(1)	Transportation	Central Region Highways and Aviation	Contract municipal law enforcement officers for rural airports to meet FAA's mandatory 15 minute response time		30.4			30.4
28	13(e)(2)	Transportation	Northern Region Highways and Aviation	Contract municipal law enforcement officers for rural airports to meet FAA's mandatory 15 minute response time		68.2			68.2
29	13(e)(3)	Transportation	Southeast Region Highways and Aviation	Contract municipal law enforcement officers for rural airports to meet FAA's mandatory 15 minute response time		168.0			168.0
30	13(e)(4)	Transportation	Anchorage Airport	Increase presence and visibility of law enforcement officers at Anc airport		297.0			297.0
31	13(e)(5)	Transportation	Fairbanks Airport	Increase presence and visibility of law enforcement officers at Fbx airport		125.0			125.0
32	13(e)(6)	Transportation	Anchorage International Airport	Security Access Fingerprinting Equipment and Training: Review access control and employee training at Anc airport		75.0			75.0

FY2002 FIRST SUPPLEMENTAL

	A	B	C	D	E	F	G	H	I
1	Sec. No.	Department	BRU or Component	Supplemental Need	General Funds	Federal Funds	Other Funds	Fund Source	Total Funds
33	13(e)(7)	Transportation	Fairbanks International Airport	Security Access Fingerprinting Equipment and Training: Review access control and employee training at Fbx airport		35.0			35.0
34	13(e)(8)	Transportation		Rural Airport Security Access Fingerprinting Equipment and Training: Review access control and employee training at rural airports. Provide automated badging system.		122.1			122.1
35	13(f)(1)	Transportation	Fairbanks Airport	Establish temporary gates and check points at Fairbanks airport			55.0	Internat'l Airport Revenue Fund	55.0
36	13(f)(2)	Transportation	Anchorage Airport	Liability premium increases as result of Sept. 11, 2001 terrorist attack	✓		318.3	Internat'l Airport Revenue Fund	318.3
37	13(f)(3)	Transportation	Fairbanks Airport	Liability premium Increases as result of Sept. 11, 2001 terrorist attack	✓		77.1	Internat'l Airport Revenue Fund	77.1
38	13(f)(4)	Transportation	Anchorage Airport	Contract Security and Facilities: Contract for security patrols of airport perimeter, parking garages, terminal, and checkpoints. Also provide security door maintenance at Anc airport.			383.0	Internat'l Airport Revenue Fund	383.0
39	13(f)(5)	Transportation	Anchorage Airport	Safety: K-9 Bomb dog program			10.0	Internat'l Airport Revenue Fund	10.0
40	13(f)(6)	Transportation	Fairbanks Airport	Safety: Federal requirement for airport operators and aircraft operators to conduct fingerprint-based criminal history record checks on individuals with unescorted access authority to the Security Identification Display Area of an airport.			5.0	Internat'l Airport Revenue Fund	5.0
41	13(f)(7)	Transportation	Anchorage Airport	Safety: Federal requirement for airport operators and aircraft operators to conduct fingerprint-based criminal history record checks on individuals with unescorted access authority to the Security Identification Display Area of an airport.			37.0	Internat'l Airport Revenue Fund	37.0
42	13(g)	Transportation	Marine Highway System	Liability premium increases as result of Sept. 11, 2001 terrorist attack (See 5(b))	✓		331.1	Marine Highway Funds	331.1
43	13(h)(1)	Transportation	Anchorage Airport	Blast Assessment and Explosives Deflection Devices: Conduct engineering blast assessment at Anc airport, strengthen perimeter windows (glass) and construct deflection devices in lieu of 300' parking setback		27.2	1.8	Internat'l Airport Revenue Fund	29.0
44	13(h)(2)	Transportation	Anchorage Airport	Blast Assessment Explosives Deflection Devices: Modify existing and new terminal structural configuration and baggage conveyor systems to accommodate new FAA explosive detection devices		103.4	6.9	Internat'l Airport Revenue Fund	110.3

FY2002 FIRST SUPPLEMENTAL

	A	B	C	D	E	F	G	H	I
1	Sec. No.	Department	BRU or Component	Supplemental Need	General Funds	Federal Funds	Other Funds	Fund Source	Total Funds
45	13(h)(3)	Transportation	Fairbanks International Airport	Security Access Control: Install lock/key system for passenger terminal, new security badging system, and construct guard shelters		23.4	1.6	Internat'l Airport Revenue Fund	25.0
46	13(h)(4)	Transportation	Anchorage International Airport	Reconfiguration of North Terminal to meet INS and Customs requirements		39.8	2.7	Internat'l Airport Revenue Fund	42.5
47	14(a)	University	Systemwide Small Planning, Design and Construction	Funding authority needed in excess of the FY02 small project non-gf receipt authority for Lena Point fisheries and ocean sciences facility for simultaneous excavation with NOAA to prevent disruption and damage to the facility at a later date.			800.0	UA Rcpts	800.0
48	14(b)	University	CIP	Scope Change for Sec 3, Ch 61, SLA 2001 to include UAA Heating, Ventilation, and Air Conditioning Piping Replacement Phases 1-4					0.0
49	15			Lapse Provisions					
50	16			Retroactivity					
51	17			Effective Date					
52				FIRST BILL TOTAL	10,057.1	116,115.0	33,020.0	0.0	159,192.1
53									

Bill Summary & Status for the 107th Congress

NEW SEARCH | HOME | HELP | ABOUT STATUS

H.R.3210

Sponsor: Rep Oxley, Michael G.(introduced 11/1/2001)

Related Bills: [H.RES.297](#)

Latest Major Action: 12/3/2001 Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 252.

Title: To ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

STATUS: *(color indicates Senate actions)*See also: [Related House Committee Documents](#)**11/1/2001:**

Referred to the Committee on Financial Services, and in addition to the Committees on Ways and Means, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

11/1/2001:

Referred to House Financial Services

11/7/2001:

Committee Consideration and Mark-up Session Held.

11/7/2001:

Ordered to be Reported (Amended) by Voice Vote.

11/1/2001:

Referred to House Ways and Means

11/16/2001:

Committee Consideration and Mark-up Session Held.

11/16/2001:

Ordered to be Reported in the Nature of a Substitute (Amended) by Voice Vote.

11/1/2001:

Referred to House Budget

11/19/2001 6:03pm:Reported (Amended) by the Committee on Financial Services. H. Rept. [107-300](#), Part I.**11/19/2001 6:04pm:**

House Committee on The Budget Granted an extension for further consideration ending not later than Nov. 26, 2001.

11/19/2001:

Referred sequentially to the House Committee on the Judiciary for a period ending not later than Nov. 26, 2001 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X.

11/19/2001 6:08pm:Reported (Amended) by the Committee on Ways and Means. H. Rept. [107-300](#), Part II.**11/26/2001 4:13pm:**

Committee on The Budget discharged.

11/26/2001 4:14pm:

Committee on Judiciary discharged.

11/26/2001 4:15pm:

Placed on the Union Calendar, Calendar No. 181.

11/28/2001 9:59pm:

Rules Committee Resolution H. Res. 297 Reported to House. Rule provides for consideration of H.R. 3210 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. In lieu of the amendments recommended by the Committee on Financial Services and the Committee on Ways and Means, an amendment in the nature of a substitute consisting of the text of H.R. 3357 shall be considered as adopted. Measure will be considered read. A specified amendment is in order. The amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution, if offered by Mr. LaFalce or his designee, shall be considered as read and debatable for one hour.

11/29/2001 12:54pm:

Rule H. Res. 297 passed House.

11/29/2001 12:54pm:

Considered under the provisions of rule H. Res. 297. (consideration: CR H8572-8630; text of measure as reported in House: CR H8589-8592)

11/29/2001 3:40pm:

The previous question was ordered pursuant to the rule.

11/29/2001 3:43pm:

Mr. LaFalce moved to recommit with instructions to Financial Services.

11/29/2001 3:43pm:

Floor summary: DEBATE - The House proceeded with 10 minutes of debate, equally divided and controlled, on the LaFalce motion to recommit with instructions. The instructions contained in the motion seek to strike section 15 of the base bill, which is related to litigation management and, also to insert new provisions which prevent commercial insurers from utilizing "pass-through" methods which would result in certain costs being passed on to customers.

11/29/2001 3:56pm:

The previous question on the motion to recommit with instructions was ordered without objection.

11/29/2001 4:16pm:

On motion to recommit with instructions Failed by recorded vote: 173 - 243 (Roll no. 463).

11/29/2001 4:35pm:

On passage Passed by recorded vote: 227 - 193 (Roll no. 464).

11/29/2001 4:36pm:

Motion to reconsider laid on the table Agreed to without objection.

11/30/2001:

Received in the Senate. Read the first time. Placed on Senate Legislative Calendar under Read the First Time.

12/3/2001:

Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 252.

Bill Summary & Status for the 107th Congress

NEW SEARCH | HOME | HELP

H.R.3210

Sponsor: Rep Oxley, Michael G.(introduced 11/1/2001)

Related Bills: [H.RES.297](#)

Latest Major Action: 12/3/2001 Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 252.

Title: To ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

Jump to: [Titles](#), [Status](#), [Committees](#), [Related Bill Details](#), [Amendments](#), [Cosponsors](#), [Summary](#)

TITLE(S): (*italics indicate a title for a portion of a bill*)

- **POPULAR TITLE(S):**
Insurers Risks From Terrorism 'bill (identified by CRS)
 - **SHORT TITLE(S) AS INTRODUCED:**
Terrorism Risk Protection Act
 - **SHORT TITLE(S) AS REPORTED TO HOUSE:**
Terrorism Risk Protection Act
 - **SHORT TITLE(S) AS PASSED HOUSE:**
Terrorism Risk Protection Act
 - **OFFICIAL TITLE AS INTRODUCED:**
To ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.
-

STATUS: (*color indicates Senate actions*)See also: [Related House Committee Documents](#)**11/1/2001:**

Referred to the Committee on Financial Services, and in addition to the Committees on Ways and Means, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

11/1/2001:

Referred to House Financial Services

11/7/2001:

Committee Consideration and Mark-up Session Held.

11/7/2001:

Ordered to be Reported (Amended) by Voice Vote.

11/1/2001:

Referred to House Ways and Means

11/16/2001:

Committee Consideration and Mark-up Session Held.

11/16/2001:

Ordered to be Reported in the Nature of a Substitute (Amended) by Voice Vote.

11/1/2001:

Referred to House Budget

11/19/2001 6:03pm:

Reported (Amended) by the Committee on Financial Services. H. Rept. 107-300, Part I.

11/19/2001 6:04pm:

House Committee on The Budget Granted an extension for further consideration ending not later than Nov. 26, 2001.

11/19/2001:

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11/19/2001 6:08pm:

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11/26/2001 4:13pm:

Committee on The Budget discharged.

11/26/2001 4:14pm:

Committee on Judiciary discharged.

11/26/2001 4:15pm:

Placed on the Union Calendar, Calendar No. 181.

11/28/2001 9:59pm:

Rules Committee Resolution H. Res. 297 Reported to House. Rule provides for consideration of H.R. 3210 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. In lieu of the amendments recommended by the Committee on Financial Services and the Committee on Ways and Means, an amendment in the nature of a substitute consisting of the text of H.R. 3357 shall be considered as adopted. Measure will be considered read. A specified amendment is in order. The amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution, if offered by Mr. LaFalce or his designee, shall be considered as read and debatable for one hour.

11/29/2001 12:54pm:

Rule H. Res. 297 passed House.

11/29/2001 12:54pm:

Considered under the provisions of rule H. Res. 297. (consideration: CR H8572-8630; text of measure as reported in House: CR H8589-8592)

11/29/2001 12:55pm:

H.AMDT.411 Amendment in the nature of a substitute reported by the House Committee on Rules. (consideration: H8593-8598; text: CR H8593-8598)

An amendment consisting of the text of H.R. 3357 and made in order as a complete new text.

11/29/2001 12:56pm:

H.AMDT.411 On agreeing to the Rules amendment (A001) Agreed to without objection.

11/29/2001 2:05pm:

H.AMDT.412 Amendment (A002) in the nature of a substitute offered by Mr. LaFalce. (consideration: CR H8613-8617; text: CR H8613-8617)

Amendment in the nature of a substitute sought to include an insurance industry deductible of \$5 billion, require terrorism coverage as part of commercial property and casualty insurance, and specify no limits on tort actions or recoveries.

11/29/2001 3:40pm:

H.AMDT.412 On agreeing to the LaFalce amendment (A002) Failed by the Yeas and Nays: 197 - 222 (Roll no. 462).

11/29/2001 3:40pm:

The previous question was ordered pursuant to the rule.

11/29/2001 3:43pm:

Mr. LaFalce moved to recommit with instructions to Financial Services.

11/29/2001 3:43pm:

Floor summary: DEBATE - The House proceeded with 10 minutes of debate, equally divided and controlled, on the LaFalce motion to recommit with instructions. The instructions contained in the motion seek to strike section 15 of the base bill, which is related to litigation management and, also to insert new provisions which prevent commercial insurers from utilizing "pass-through" methods which would result in certain costs being passed on to customers.

11/29/2001 3:56pm:

The previous question on the motion to recommit with instructions was ordered without objection.

11/29/2001 4:16pm:

On motion to recommit with instructions Failed by recorded vote: 173 - 243 (Roll no. 463).

11/29/2001 4:35pm:

On passage Passed by recorded vote: 227 - 193 (Roll no. 464).

11/29/2001 4:36pm:

Motion to reconsider laid on the table Agreed to without objection.

11/30/2001:

Received in the Senate. Read the first time. Placed on Senate Legislative Calendar under Read the First Time.

12/3/2001:

Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 252.

COMMITTEE(S):

Committee/Subcommittee:	Activity:
<u>House Financial Services</u>	Referral, Reporting
<u>House Ways and Means</u>	Referral, Reporting
<u>House Budget</u>	Referral, Discharged
<u>House Judiciary</u>	Referral, Discharged

RELATED BILL DETAILS: (additional related bills may be identified in Status)

Bill:	Relationship:
<u>H.RES.297</u>	Rule related to H.R.3210 in House

AMENDMENT(S):

1. H.AMDT.411 to H.R.3210 An amendment consisting of the text of H.R. 3357 and made in order as a complete new text.

Sponsor: House Rules- **Latest Major Action:** 11/29/2001 House amendment agreed to

Committees: House Rules

2. H.AMDT.412 to H.R.3210 Amendment in the nature of a substitute sought to include an insurance industry deductible of \$5 billion, require terrorism coverage as part of commercial property and casualty

insurance, and specify no limits on tort actions or recoveries.

Sponsor: Rep LaFalce, John J.- **Latest Major Action:** 11/29/2001 House amendment not agreed to

3. S.AMDT.2672 to H.R.3210 Purpose will be available when the amendment is proposed for consideration. See Congressional Record for text.

Sponsor: Sen Hollings, Ernest F.- **Latest Major Action:** 12/18/2001 Senate amendment submitted

4. S.AMDT.2687 to H.R.3210 Purpose will be available when the amendment is proposed for consideration. See Congressional Record for text.

Sponsor: Sen Hollings, Ernest F.- **Latest Major Action:** 12/19/2001 Senate amendment submitted

COSPONSORS(35), ALPHABETICAL [followed by Cosponsors withdrawn]: (Sort: by date)

Rep Bachus, Spencer - 11/1/2001	Rep Baker, Richard H. - 11/1/2001
Rep Barr, Bob - 11/1/2001	Rep Bentsen, Ken - 11/1/2001
Rep Bereuter, Doug - 11/13/2001	Rep Biggert, Judy - 11/1/2001
Rep Cantor, Eric - 11/1/2001	Rep Ferguson, Mike - 11/1/2001
Rep Foley, Mark - 11/1/2001	Rep Fossella, Vito - 11/1/2001
Rep Gillmor, Paul E. - 11/1/2001	Rep Green, Mark - 11/1/2001
Rep Grucci, Felix J., Jr. - 11/1/2001	Rep Hart, Melissa A. - 11/9/2001
Rep Issa, Darrell E. - 11/1/2001	Rep Jones, Walter B., Jr. - 11/1/2001
Rep Kelly, Sue W. - 11/1/2001	Rep LaTourette, Steve C. - 11/13/2001
Rep Leach, James A. - 11/9/2001	Rep Lucas, Frank D. - 11/1/2001
Rep Maloney, James H. - 11/1/2001	Rep Miller, Gary G. - 11/1/2001
Rep Ney, Robert W. - 11/1/2001	Rep Ose, Doug - 11/1/2001
Rep Pomeroy, Earl - 11/1/2001	Rep Pryce, Deborah - 11/13/2001
Rep Riley, Bob - 11/1/2001	Rep Rogers, Mike - 11/1/2001
Rep Roukema, Marge - 11/1/2001	Rep Royce, Edward R. - 11/1/2001
Rep Ryun, Jim - 11/1/2001	Rep Shadegg, John B. - 11/1/2001
Rep Shays, Christopher - 11/1/2001	Rep Tiberi, Patrick J. - 11/1/2001
Rep Weldon, Dave - 11/1/2001	

SUMMARY AS OF:

11/29/2001--Passed House, amended. (There are 3 other summaries)

Terrorism Risk Protection Act - Confers responsibility upon the Secretary of the Treasury (Secretary) to implement a financial assistance program for commercial property and casualty insurers.

(Sec. 4) Authorizes the Secretary to require each insurer to submit to the Secretary or to the National Association of Insurance Commissioners (NAIC), a statement specifying the net premium amount of coverage it has written for properties and persons in the United States under each line of commercial property and casualty insurance sold during certain periods.

(Sec. 5) Defines triggering determination as a determination by the Secretary that an act of terrorism has occurred during the period between enactment of this Act and January 1, 2003, (covered period), and that

the aggregate insured losses resulting from such occurrence or from multiple occurrences of such acts all occurring during the covered period meet specified requirements.

Sets the industry-wide trigger at losses exceeding \$1 billion, and the individual insurer trigger, in such circumstances, when any single commercial insurer losses exceed ten percent of its capital surplus and ten percent of the net written commercial property and casualty premiums it has written. Denies application of such triggers to any commercial insurer that was not providing such insurance coverage before September 11, 2001, unless the insurer incurs such losses under commercial property and casualty insurance providing coverage for acts of terrorism through a pool of reserves for terrorism risks that is not under the control of any commercial insurer.

(Sec. 6) Prescribes procedural guidelines under which the Secretary shall provide financial assistance to commercial insurers to cover insured losses resulting from an act of terrorism. Sets the amount of such assistance at the difference between: (1) 90 percent of each commercial insurer's insured losses; and (2) \$5 million. Provides for additional amounts of assistance for subsequent triggering determinations. Sets \$100 billion as the maximum aggregate amount of such financial assistance.

Expresses the sense of Congress that acts of terrorism resulting in insured losses greater than \$100 billion would necessitate further action by the Congress to address such additional losses.

Designates the amount of new budget authority and outlays in all fiscal years resulting from this Act as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings Act).

(Sec. 7) Subjects each commercial insurer, in the event of a triggering determination, to assessments for the purpose of repaying a portion of the Federal financial assistance received.

Requires the Secretary, pursuant to a triggering determination, to determine the aggregate amount to be assessed among all commercial insurers, which shall be equal to \$20 billion, or the amount of financial assistance paid in connection with the triggering determination, whichever is less.

Requires that such aggregate assessment amount be assessed to commercial insurers through an industry obligation assessment determined according to a specified formula. Provides for: (1) delayed imposition and aggregation of multiple assessments in the event of multiple triggering determinations; and (2) financing assessments if the aggregate assessment amount in connection with a triggering determination exceeds the aggregate amount of the industry obligation assessment.

(Sec. 8) Sets forth a terrorism loss repayment surcharge plan which imposes a policyholder premium surcharge (of up to three percent of the insurer's net written premium) on commercial property and casualty insurance if the aggregate amount of financial assistance to a commercial insurer exceeds \$20 billion.

(Sec. 9) Directs the Secretary to provide for implementation and administration of assessments and surcharges, taking into consideration: (1) their economic impact on rents and commercial insurance premiums in commercial centers of urban areas; (2) the risk factors related to rural areas and smaller commercial centers; and (3) the various exposures to terrorism for different lines of commercial property and casualty insurance.

Subjects a commercial insurer to a civil monetary penalty for noncompliance with assessment and surcharge obligations.

(Sec. 10) Authorizes the Secretary to apply such assessments and surcharge plans applicable to

self-insurance arrangements by municipalities but only if application is determined before the occurrence of a triggering event and all provisions of this Act are applied uniformly to such entities.

Requires the Secretary to ensure that this Act is applied as appropriate to any offshore or non-admitted entities that provide commercial property and casualty insurance.

(Sec. 11) Directs the Secretary to study and report to Congress on specified issues relating to permitting property and casualty insurance companies to establish deductible reserves against future acts of terrorism.

(Sec. 12) States that any provision of State law that prevents an insurer from increasing premium rates in an amount necessary to recover assessments imposed by this Act is preempted to the extent necessary to permit the insurer to recover such losses.

(Sec. 13) Expresses the sense of Congress that: (1) NAIC should develop appropriate definitions for acts of terrorism and appropriate standards for making determinations regarding occurrences of such acts; (2) each State should adopt such definitions and standards for purposes of regulating insurance coverage in that State; (3) the Secretary should advocate to NAIC and promote the development of appropriate definitions and standards; and (4) after consultation with NAIC, the Secretary should adopt definitions for acts of terrorism and standards for determinations that are appropriate for this Act.

Expresses the sense of Congress that: (1) NAIC should develop appropriate guidelines for commercial insurers and pools regarding maintenance of reserves against the risks of acts of terrorism; and (2) each State should adopt such guidelines for purposes of regulating commercial insurers doing business in that State.

Expresses the sense of Congress that the States should require, by laws or regulations governing the provision of commercial property and casualty insurance that includes coverage for acts of terrorism, that the price of any such terrorism coverage, including the costs of any terrorism related assessments or surcharges under this Act, be separately disclosed.

(Sec. 15) Declares that, if the Secretary makes a triggering determination that one or more acts of terrorism occurred, there shall exist a Federal cause of action, which shall be the exclusive remedy, for damages claimed for insured losses arising out of, relating to, or resulting from acts of terrorism.

Exempts from judicial review the Secretary's determination that an act of terror has occurred, and makes such determination effective upon publication in the Federal Register. Prohibits the award of punitive damages, or of non-economic damages in excess of the defendant's direct proportion of responsibility for the plaintiff's physical harm. Sets the maximum attorneys' fees at 20 percent of court-awarded damages or claims settlement. Establishes criminal penalties for violation of such statutory fee limitation.

Provides for: (1) satisfaction of judgments from frozen assets of terrorists, terrorist organizations, and state sponsors of terrorism; and (2) a Presidential waiver of such satisfaction of judgment for certain property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, if the President determines on an asset-by-asset basis that a waiver is necessary in the national security interest.

(Sec. 16) Instructs the President to establish a commission to study and report to Congress on the potential effects of an act of terrorism on the life insurance industry in the United States and the markets it serves.

(Sec. 17) Instructs the Secretary to study and report to Congress on: (1) how the Federal Government can address a possible crisis in the availability and affordability of railroad and trucking insurance by making

such insurance for acts of terrorism available on commercially reasonable terms; and (2) the advisability and effectiveness of establishing a reinsurance pool system relating to future acts of terrorism to replace the program provided for under this Act.

(Sec. 20) Authorizes the Secretary, subject to notice to Congress, to extend the covered period by up to two years if that is necessary to ensure the adequate availability in the United States of commercial property and casualty insurance coverage for acts of terrorism.

Bill Summary & Status for the 107th Congress

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H.R.3210

Sponsor: Rep Oxley, Michael G.(introduced 11/1/2001)

Related Bills: [H.RES.297](#)

Latest Major Action: 12/3/2001 Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 252.

Title: To ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

SUMMARY AS OF:11/29/2001--Passed House, amended. (There are 3 [other summaries](#))

Terrorism Risk Protection Act - Confers responsibility upon the Secretary of the Treasury (Secretary) to implement a financial assistance program for commercial property and casualty insurers.

(Sec. 4) Authorizes the Secretary to require each insurer to submit to the Secretary or to the National Association of Insurance Commissioners (NAIC), a statement specifying the net premium amount of coverage it has written for properties and persons in the United States under each line of commercial property and casualty insurance sold during certain periods.

(Sec. 5) Defines triggering determination as a determination by the Secretary that an act of terrorism has occurred during the period between enactment of this Act and January 1, 2003, (covered period), and that the aggregate insured losses resulting from such occurrence or from multiple occurrences of such acts all occurring during the covered period meet specified requirements.

Sets the industry-wide trigger at losses exceeding \$1 billion, and the individual insurer trigger, in such circumstances, when any single commercial insurer losses exceed ten percent of its capital surplus and ten percent of the net written commercial property and casualty premiums it has written. Denies application of such triggers to any commercial insurer that was not providing such insurance coverage before September 11, 2001, unless the insurer incurs such losses under commercial property and casualty insurance providing coverage for acts of terrorism through a pool of reserves for terrorism risks that is not under the control of any commercial insurer.

(Sec. 6) Prescribes procedural guidelines under which the Secretary shall provide financial assistance to commercial insurers to cover insured losses resulting from an act of terrorism. Sets the amount of such assistance at the difference between: (1) 90 percent of each commercial insurer's insured losses; and (2) \$5 million. Provides for additional amounts of assistance for subsequent triggering determinations. Sets \$100 billion as the maximum aggregate amount of such financial assistance.

Expresses the sense of Congress that acts of terrorism resulting in insured losses greater than \$100 billion would necessitate further action by the Congress to address such additional losses.

Designates the amount of new budget authority and outlays in all fiscal years resulting from this Act as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings Act).

(Sec. 7) Subjects each commercial insurer, in the event of a triggering determination, to assessments for the purpose of repaying a portion of the Federal financial assistance received.

Requires the Secretary, pursuant to a triggering determination, to determine the aggregate amount to be assessed among all commercial insurers, which shall be equal to \$20 billion, or the amount of financial assistance paid in connection with the triggering determination, whichever is less.

Requires that such aggregate assessment amount be assessed to commercial insurers through an industry obligation assessment determined according to a specified formula. Provides for: (1) delayed imposition and aggregation of multiple assessments in the event of multiple triggering determinations; and (2) financing assessments if the aggregate assessment amount in connection with a triggering determination exceeds the aggregate amount of the industry obligation assessment.

(Sec. 8) Sets forth a terrorism loss repayment surcharge plan which imposes a policyholder premium surcharge (of up to three percent of the insurer's net written premium) on commercial property and casualty insurance if the aggregate amount of financial assistance to a commercial insurer exceeds \$20 billion.

(Sec. 9) Directs the Secretary to provide for implementation and administration of assessments and surcharges, taking into consideration: (1) their economic impact on rents and commercial insurance premiums in commercial centers of urban areas; (2) the risk factors related to rural areas and smaller commercial centers; and (3) the various exposures to terrorism for different lines of commercial property and casualty insurance.

Subjects a commercial insurer to a civil monetary penalty for noncompliance with assessment and surcharge obligations.

(Sec. 10) Authorizes the Secretary to apply such assessments and surcharge plans applicable to self-insurance arrangements by municipalities but only if application is determined before the occurrence of a triggering event and all provisions of this Act are applied uniformly to such entities.

Requires the Secretary to ensure that this Act is applied as appropriate to any offshore or non-admitted entities that provide commercial property and casualty insurance.

(Sec. 11) Directs the Secretary to study and report to Congress on specified issues relating to permitting property and casualty insurance companies to establish deductible reserves against future acts of terrorism.

(Sec. 12) States that any provision of State law that prevents an insurer from increasing premium rates in an amount necessary to recover assessments imposed by this Act is preempted to the extent necessary to permit the insurer to recover such losses.

(Sec. 13) Expresses the sense of Congress that: (1) NAIC should develop appropriate definitions for acts of terrorism and appropriate standards for making determinations regarding occurrences of such acts; (2) each State should adopt such definitions and standards for purposes of regulating insurance coverage in that State; (3) the Secretary should advocate to NAIC and promote the development of appropriate definitions and standards; and (4) after consultation with NAIC, the Secretary should adopt definitions for acts of terrorism and standards for determinations that are appropriate for this Act.

Expresses the sense of Congress that: (1) NAIC should develop appropriate guidelines for commercial insurers and pools regarding maintenance of reserves against the risks of acts of terrorism; and (2) each State should adopt such guidelines for purposes of regulating commercial insurers doing business in that State.

Expresses the sense of Congress that the States should require, by laws or regulations governing the

provision of commercial property and casualty insurance that includes coverage for acts of terrorism, that the price of any such terrorism coverage, including the costs of any terrorism related assessments or surcharges under this Act, be separately disclosed.

(Sec. 15) Declares that, if the Secretary makes a triggering determination that one or more acts of terrorism occurred, there shall exist a Federal cause of action, which shall be the exclusive remedy, for damages claimed for insured losses arising out of, relating to, or resulting from acts of terrorism.

Exempts from judicial review the Secretary's determination that an act of terror has occurred, and makes such determination effective upon publication in the Federal Register. Prohibits the award of punitive damages, or of non-economic damages in excess of the defendant's direct proportion of responsibility for the plaintiff's physical harm. Sets the maximum attorneys' fees at 20 percent of court-awarded damages or claims settlement. Establishes criminal penalties for violation of such statutory fee limitation.

Provides for: (1) satisfaction of judgments from frozen assets of terrorists, terrorist organizations, and state sponsors of terrorism; and (2) a Presidential waiver of such satisfaction of judgment for certain property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, if the President determines on an asset-by-asset basis that a waiver is necessary in the national security interest.

(Sec. 16) Instructs the President to establish a commission to study and report to Congress on the potential effects of an act of terrorism on the life insurance industry in the United States and the markets it serves.

(Sec. 17) Instructs the Secretary to study and report to Congress on: (1) how the Federal Government can address a possible crisis in the availability and affordability of railroad and trucking insurance by making such insurance for acts of terrorism available on commercially reasonable terms; and (2) the advisability and effectiveness of establishing a reinsurance pool system relating to future acts of terrorism to replace the program provided for under this Act.

(Sec. 20) Authorizes the Secretary, subject to notice to Congress, to extend the covered period by up to two years if that is necessary to ensure the adequate availability in the United States of commercial property and casualty insurance coverage for acts of terrorism.

HR 3210 PCS

Calendar No. 252

107th CONGRESS

1st Session

H. R. 3210

IN THE SENATE OF THE UNITED STATES

November 30, 2001

Received and read the first time

December 3, 2001

Read the second time and placed on the calendar

AN ACT

To ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the 'Terrorism Risk Protection Act'.

(b) TABLE OF CONTENTS- The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Congressional findings.

Sec. 3. Authority of Secretary of the Treasury.

Sec. 4. Submission of premium information to Secretary.

Sec. 5. Initial and subsequent triggering determinations.

Sec. 6. Federal cost-sharing for commercial insurers.

Sec. 7. Assessments.

Sec. 8. Terrorism loss repayment surcharge.

Sec. 9. Administration of assessments and surcharges.

Sec. 10. Application to self-insurance arrangements and offshore insurers and reinsurers.

Sec. 11. Study of reserves for property and casualty insurance for terrorist or other catastrophic events.

Sec. 12. State preemption.

Sec. 13. Consistent State guidelines for coverage for acts of terrorism.

Sec. 14. Consultation with State insurance regulators and NAIC.

Sec. 15. Litigation management.

Sec. 16. Study of potential effects of terrorism on life insurance industry.

Sec. 17. Railroad and trucking insurance study.

Sec. 18. Study of reinsurance pool system for future acts of terrorism.

Sec. 19. Definitions.

Sec. 20. Covered period and extension of program.

Sec. 21. Regulations.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that--

- (1) the terrorist attacks on the World Trade Center and the Pentagon of September 11, 2001, resulted in a large number of deaths and injuries, the destruction and damage to buildings, and interruption of business operations;
- (2) the attacks have inflicted possibly the largest losses ever incurred by insurers and reinsurers in a single day;
- (3) while the insurance and reinsurance industries have committed to pay the losses arising from the September 11 attacks, the resulting disruption has created widespread market uncertainties with regard to the risk of losses arising from possible future terrorist attacks;
- (4) such uncertainty threatens the continued availability of United States commercial property and casualty insurance for terrorism risk at meaningful coverage levels;
- (5) the unavailability of affordable commercial property and casualty insurance for terrorist acts threatens the growth and stability of the United States economy, including impeding the ability of financial services providers to finance commercial property acquisitions and new construction;
- (6) in the past, the private insurance and reinsurance markets have shown a remarkable

resiliency in adapting to changed circumstances;

(7) given time, the private markets will diversify and develop risk spreading mechanisms to increase capacity and guard against possible future losses incurred by terrorist attacks;

(8) it is necessary to create a temporary industry risk sharing program to ensure the continued availability of commercial property and casualty insurance and reinsurance for terrorism-related risks;

(9) such action is necessary to limit immediate market disruptions, encourage economic stabilization, and facilitate a transition to a viable market for private terrorism risk insurance;

(10) in addition, it is necessary promptly to conduct a study of whether there is a need for reserves for property and casualty insurance for terrorist or other catastrophic events; and

(11) terrorism insurance plays an important role in the efficient functioning of the economy and the financing of commercial property acquisitions and new construction and, therefore, the Congress intends to continue to monitor, review, and evaluate the private terrorism insurance and reinsurance marketplace to determine whether additional action is necessary to maintain the long-term stability of the real estate and capital markets.

SEC. 3. AUTHORITY OF SECRETARY OF THE TREASURY.

The Secretary of the Treasury shall be responsible for carrying out a program for financial assistance for commercial property and casualty insurers, as provided in this Act.

SEC. 4. SUBMISSION OF PREMIUM INFORMATION TO SECRETARY.

To the extent such information is not otherwise available to the Secretary, the Secretary may require each insurer to submit, to the Secretary or to the NAIC, a statement specifying the net premium amount of coverage written by such insurer under each line of commercial property and casualty insurance sold by such insurer during such periods as the Secretary may provide.

SEC. 5. INITIAL AND SUBSEQUENT TRIGGERING DETERMINATIONS.

(a) **IN GENERAL-** For purposes of this Act, a 'triggering determination' is a determination by the Secretary that an act of terrorism has occurred during the covered period and that the aggregate insured losses resulting from such occurrence or from multiple occurrences of acts of terrorism all occurring during the covered period, meet the requirements under either of the following paragraphs:

(1) **INDUSTRY-WIDE TRIGGER-** Such industry-wide losses exceed \$1,000,000,000.

(2) **INDIVIDUAL INSURER TRIGGER-** Such industry-wide losses exceed \$100,000,000 and some portion of such losses for any single commercial insurer exceed--

(A) 10 percent of the capital surplus of such commercial insurer (as such term is defined by the Secretary); and

(B) 10 percent of the net premium written by such commercial insurer that is in force at the time the insured losses occurred;

except that this paragraph shall not apply to any commercial insurer that was not providing commercial property and casualty insurance coverage prior to September 11, 2001, unless such insurer incurs such losses under commercial property and casualty insurance providing coverage for acts of terrorism through a pool of reserves for terrorism risks that is not under the control of any commercial insurer.

(b) DETERMINATIONS REGARDING OCCURRENCES- The Secretary, after consultation with the Attorney General of the United States and the Secretary of State, shall have the sole authority which may not be delegated or designated to any other officer, employee, or position, for determining whether--

- (1) an occurrence was caused by an act of terrorism; and
- (2) an act of terrorism occurred during the covered period.

SEC. 6. FEDERAL COST-SHARING FOR COMMERCIAL INSURERS.

(a) IN GENERAL- Pursuant to a triggering determination, the Secretary shall provide financial assistance to commercial insurers in accordance with this section to cover insured losses resulting from acts of terrorism, which shall be repaid in accordance with subsection (e).

(b) AMOUNT-

(1) INDUSTRY-WIDE TRIGGER- Subject to subsections (c) and (d), with respect to a triggering determination under section 5(a)(1), financial assistance shall be made available under this section to each commercial insurer in an amount equal to the difference between--

(A) 90 percent of the amount of the insured losses of the insurer as a result of the triggering event involved; and

(B) \$5,000,000.

(2) INDIVIDUAL INSURER TRIGGER- Subject to subsections (c) and (d), with respect to a triggering determination under section 5(a)(2), financial assistance shall be made available under this section, to each commercial insurer incurring insured losses as a result of the triggering event involved that exceed the amounts under subparagraphs (A) and (B) of such section, in an amount equal to the difference between--

(A) 90 percent of the amount of the insured losses of the insurer as a result of such triggering event; and

(B) the amount under subparagraph (B) of section 5(a)(2).

(3) ADDITIONAL AMOUNTS- Subject to subsection (c), if the Secretary has provided financial assistance to a commercial insurer pursuant to paragraph (2) of this subsection and subsequently makes a triggering determination pursuant to section 5(a)(1), the Secretary shall provide financial assistance to such insurer in connection with such subsequent triggering determination (in addition to the amount of financial assistance provided to such insurer pursuant to paragraph (1) of this subsection) in the amount under section 5(a)(2)(B).

(c) AGGREGATE LIMITATION-

(1) **IN GENERAL-** The aggregate amount of financial assistance provided pursuant to this section may not exceed \$100,000,000,000.

(2) **SENSE OF CONGRESS REGARDING SEVERE LOSSES-** It is the sense of the Congress that acts of terrorism resulting in insured losses greater than \$100,000,000,000 would necessitate further action by the Congress to address such additional losses.

(d) **LIMITATIONS-** The Secretary may establish such limitations as may be necessary to ensure that payments under this section in connection with a triggering determination are made only to commercial insurers that are not in default of any obligation under section 7 to pay assessments or under section 8 to collect surcharges.

(e) **REPAYMENT-** Financial assistance made available under this section shall be repaid through assessments under section 7 collected by the Secretary and surcharges remitted to the Secretary under section 8. Any such amounts collected or remitted shall be deposited into the general fund of the Treasury.

(f) **EMERGENCY DESIGNATION-** Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this section as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

SEC. 7. ASSESSMENTS.

(a) **IN GENERAL-** In the case of a triggering determination, each commercial insurer shall be subject to assessments under this section for the purpose of repaying a portion of the financial assistance made available under section 6 in connection with such determination.

(b) **AGGREGATE ASSESSMENT-** Pursuant to a triggering determination, the Secretary shall determine the aggregate amount to be assessed under this section among all commercial insurers, which shall be equal to the lesser of--

(1) \$20,000,000,000; and

(2) the amount of financial assistance paid under section 6 in connection with the triggering determination.

The aggregate assessment amount under this subsection shall be assessed to commercial insurers through an industry obligation assessment under subsection (c) and, if necessary, the remainder shall be assessed through one or more financing assessments under subsection (d).

(c) **INDUSTRY OBLIGATION ASSESSMENTS-**

(1) **IN GENERAL-** Immediately upon the occurrence of a triggering determination, the Secretary shall impose an industry obligation assessment under this subsection on all commercial insurers, subject to paragraph (3).

(2) **AMOUNT-** The aggregate amount of an industry obligation assessment in connection with a triggering determination shall be equal to--

(A) in the case of a triggering determination occurring during the covered period specified in section 20(a), the lesser of--

(i) the difference between (I) \$5,000,000,000, and (II) the aggregate amount of any assessments made by the Secretary pursuant to this section during the portion of such covered period preceding the triggering determination; and

(ii) the amount of financial assistance made available under section 6 in connection with the triggering determination; or

(B) such other aggregate industry obligation amount as may apply pursuant to subsection (g).

(3) TIMING OF MULTIPLE ASSESSMENTS-

(A) DELAYED IMPOSITION AND AGGREGATION OF ASSESSMENTS- In the case of any triggering determination occurring within 12 months of the occurrence of a previous triggering determination, any industry obligation assessments under this subsection resulting from such subsequent determination shall be imposed upon the conclusion of the quarterly assessment period under subparagraph (B) during which such determination occurs.

(B) QUARTERLY ASSESSMENT PERIOD- With respect to a subsequent triggering determination referred to in subparagraph (A), the quarterly assessment periods under this subparagraph are--

(i) the 3-month period that begins upon the imposition of the industry obligation assessment resulting from the triggering determination that--

(I) occurred most recently before such subsequent triggering determination; and

(II) did not occur within 12 months of the occurrence of any previous triggering determination; and

(ii) each successive 3-month period thereafter that begins during the covered period.

(d) FINANCING ASSESSMENTS-

(1) IN GENERAL- If the aggregate assessment amount in connection with a triggering determination exceeds the aggregate amount of the industry obligation assessment under subsection (c) in connection with the determination, the remaining amount shall be assessed through one or more, as may be necessary pursuant to paragraph (3), financing assessments under this subsection.

(2) TIMING- A financing assessment under this subsection in connection with a triggering determination shall be imposed only upon the expiration of any 12-month period beginning after such determination during which no assessments under this section have been imposed.

(3) **LIMITATION**- The aggregate amount of any financing assessments imposed under this subsection on any single commercial insurer during any 12-month period shall not exceed the amount that is equal to 3 percent of the net premium for such insurer for such period.

(e) **ALLOCATION OF ASSESSMENT**- The portion of the aggregate amount of any industry obligation assessment or financing assessment under this section that is allocated to each commercial insurer shall be based on the ratio that the net premium written by such commercial insurer during the year during which the assessment is imposed bears to the aggregate written premium for such year, subject to section 9 and the limitation under subsection (d)(3) of this section.

(f) **NOTICE AND OBLIGATION TO PAY**-

(1) **NOTICE**- As soon as practicable after any triggering determination, the Secretary shall notify each commercial insurer in writing of an assessment under this section, which notice shall include the amount of the assessment allocated to such insurer.

(2) **EFFECT OF NOTICE**- Upon notice to a commercial insurer, the commercial insurer shall be obligated to pay to the Secretary, not later than 60 days after receipt of such notice, the amount of the assessment on such commercial insurer.

(3) **FAILURE TO MAKE TIMELY PAYMENT**- If any commercial insurer fails to pay an assessment under this section before the deadline established under paragraph (2) for the assessment, the Secretary may take either or both of the following actions:

(A) **CIVIL MONETARY PENALTY**- Assess a civil monetary penalty pursuant to section 9(d) upon such insurer.

(B) **INTEREST**- Require such insurer to pay interest, at such rate as the Secretary considers appropriate, on the amount of the assessment that was not paid before the deadline established under paragraph (2).

(g) **AGGREGATE INDUSTRY OBLIGATION AMOUNT FOR PROGRAM EXTENSION YEARS**- If the Secretary exercises the authority under section 20(b) to extend the covered period, the aggregate industry obligation amount for purposes of subsection (c)(2)(B) shall, in the case of a triggering determination occurring during the portion of the covered period beginning on the date referred to in section 20(a), be equal to the lesser of--

(1) the difference between (A) \$10,000,000,000, and (B) the aggregate amount of any assessments made by the Secretary pursuant to this section during the 12-month period preceding the triggering determination; and

(2) the amount of financial assistance made available under section 6 in connection with the triggering determination.

(h) **ADMINISTRATIVE FLEXIBILITY**-

(1) **ADJUSTMENT OF ASSESSMENTS**- The Secretary may provide for or require estimations of amounts under this section and may provide for subsequent refunds or require additional payments to correct such estimations, as appropriate.

(2) **DEFERRAL OF CONTRIBUTIONS**- The Secretary may defer the payment of part or all of

an assessment required under this section to be paid by a commercial insurer, but only to the extent that the Secretary determines that such deferral is necessary to avoid the likely insolvency of the commercial insurer.

(3) **TIMING OF ASSESSMENTS-** The Secretary shall make adjustments regarding the timing and imposition of assessments (including the calculation of net premiums and aggregate written premium) as appropriate for commercial insurers that provide commercial property and casualty insurance on a non-calendar year basis.

SEC. 8. TERRORISM LOSS REPAYMENT SURCHARGE.

(a) DETERMINATION OF IMPOSITION AND COLLECTION-

(1) **IN GENERAL-** If, pursuant to a triggering determination, the Secretary determines that the aggregate amount of financial assistance provided pursuant to section 6 exceeds \$20,000,000,000, the Secretary shall consider and weigh the factors under paragraph (2) to determine the extent to which a surcharge under this section should be established.

(2) **FACTORS-** The factors under this paragraph are--

(A) the ultimate costs to taxpayers if a surcharge under this section is not established;

(B) the economic conditions in the commercial marketplace;

(C) the affordability of commercial insurance for small- and medium-sized business;
and

(D) such other factors as the Secretary considers appropriate.

(3) **POLICYHOLDER PREMIUM-** The amount established by the Secretary as a surcharge under this section shall be established and imposed as a policyholder premium surcharge on commercial property and casualty insurance written after such determination, for the purpose of repaying financial assistance made available under section 6 in connection with such triggering determination.

(4) **COLLECTION-** The Secretary shall provide for commercial insurers to collect surcharge amounts established under this section and remit such amounts collected to the Secretary.

(b) **AMOUNT AND DURATION-** Subject to subsection (c), the surcharge under this section shall be established in such amount, and shall apply to commercial property and casualty insurance written during such period, as the Secretary determines is necessary to recover the aggregate amount of financial assistance provided under section 6 in connection with the triggering determination that exceeds \$20,000,000,000.

(c) **PERCENTAGE LIMITATION-** The surcharge under this section applicable to commercial property and casualty insurance coverage may not exceed, on an annual basis, the amount equal to 3 percent of the premium charged for such coverage.

(d) **OTHER TERMS-** The surcharge under this section shall--

(1) be based on a percentage of the premium amount charged for commercial property and

casualty insurance coverage that a policy provides; and

(2) be imposed with respect to all commercial property and casualty insurance coverage written during the period referred to in subsection (b).

(e) EXCLUSIONS- For purposes of this section, commercial property and casualty insurance does not include any reinsurance provided to primary insurance companies.

SEC. 9. ADMINISTRATION OF ASSESSMENTS AND SURCHARGES.

(a) MANNER AND METHOD-

(1) IN GENERAL- Except to the extent specified in such sections, the Secretary shall provide for the manner and method of carrying out assessments under section 7 and surcharges under section 8, including the timing and procedures of making assessments and surcharges, notifying commercial insurers of assessments and surcharge requirements, collecting payments from and surcharges through commercial insurers, and refunding of any excess amounts paid or crediting such amounts against future assessments.

(2) EFFECT OF ASSESSMENTS AND SURCHARGES ON URBAN AND SMALLER COMMERCIAL AND RURAL AREAS AND DIFFERENT LINES OF INSURANCE- In determining the method and manner of imposing assessments under section 7 and surcharges under section 8, including the amount of such assessments and surcharges, the Secretary shall take into consideration--

(A) the economic impact of any such assessments and surcharges on commercial centers of urban areas, including the effect on commercial rents and commercial insurance premiums, particularly rents and premiums charged to small businesses, and the availability of lease space and commercial insurance within urban areas;

(B) the risk factors related to rural areas and smaller commercial centers, including the potential exposure to loss and the likely magnitude of such loss, as well as any resulting cross-subsidization that might result; and

(C) the various exposures to terrorism risk for different lines of commercial property and casualty insurance.

(b) TIMING OF COVERAGES AND ASSESSMENTS- The Secretary may adjust the timing of coverages and assessments provided under this Act to provide for equivalent application of the provisions of this Act to commercial insurers and policies that are not based on a calendar year.

(c) ADJUSTMENT- The Secretary may adjust the assessments charged under section 7 or the percentage imposed under the surcharge under section 8 at any time, as the Secretary considers appropriate to protect the national interest, which may include avoiding unreasonable economic disruption or excessive market instability and avoiding undue burdens on small businesses.

(d) CIVIL MONETARY PENALTY-

(1) IN GENERAL- The Secretary may assess a civil monetary penalty in an amount not exceeding the amount under paragraph (2) against any commercial insurer that the Secretary determines, on the record after opportunity for a hearing--

CORRECTION

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casualty insurance coverage that a policy provides; and

(2) be imposed with respect to all commercial property and casualty insurance coverage written during the period referred to in subsection (b).

(e) **EXCLUSIONS-** For purposes of this section, commercial property and casualty insurance does not include any reinsurance provided to primary insurance companies.

SEC. 9. ADMINISTRATION OF ASSESSMENTS AND SURCHARGES.

(a) MANNER AND METHOD-

(1) **IN GENERAL-** Except to the extent specified in such sections, the Secretary shall provide for the manner and method of carrying out assessments under section 7 and surcharges under section 8, including the timing and procedures of making assessments and surcharges, notifying commercial insurers of assessments and surcharge requirements, collecting payments from and surcharges through commercial insurers, and refunding of any excess amounts paid or crediting such amounts against future assessments.

(2) **EFFECT OF ASSESSMENTS AND SURCHARGES ON URBAN AND SMALLER COMMERCIAL AND RURAL AREAS AND DIFFERENT LINES OF INSURANCE-** In determining the method and manner of imposing assessments under section 7 and surcharges under section 8, including the amount of such assessments and surcharges, the Secretary shall take into consideration--

(A) the economic impact of any such assessments and surcharges on commercial centers of urban areas, including the effect on commercial rents and commercial insurance premiums, particularly rents and premiums charged to small businesses, and the availability of lease space and commercial insurance within urban areas;

(B) the risk factors related to rural areas and smaller commercial centers, including the potential exposure to loss and the likely magnitude of such loss, as well as any resulting cross-subsidization that might result; and

(C) the various exposures to terrorism risk for different lines of commercial property and casualty insurance.

(b) **TIMING OF COVERAGES AND ASSESSMENTS-** The Secretary may adjust the timing of coverages and assessments provided under this Act to provide for equivalent application of the provisions of this Act to commercial insurers and policies that are not based on a calendar year.

(c) **ADJUSTMENT-** The Secretary may adjust the assessments charged under section 7 or the percentage imposed under the surcharge under section 8 at any time, as the Secretary considers appropriate to protect the national interest, which may include avoiding unreasonable economic disruption or excessive market instability and avoiding undue burdens on small businesses.

(d) CIVIL MONETARY PENALTY-

(1) **IN GENERAL-** The Secretary may assess a civil monetary penalty in an amount not exceeding the amount under paragraph (2) against any commercial insurer that the Secretary determines, on the record after opportunity for a hearing--

(A) has failed to pay an assessment under section 7 in accordance with the requirements of, or regulations issued, under this Act;

(B) has failed to charge, collect, or remit surcharges under section 8 in accordance with the requirements of, or regulations issued under, this Act;

(C) has intentionally provided to the Secretary erroneous information regarding premium or loss amounts; or

(D) has otherwise failed to comply with the provisions of, or the regulations issued under, this Act.

(2) AMOUNT- The amount under this paragraph is the greater of \$1,000,000 and, in the case of any failure to pay, charge, collect, or remit amounts in accordance with this Act or the regulations issued under this Act, such amount in dispute.

SEC. 10. APPLICATION TO SELF-INSURANCE ARRANGEMENTS AND OFFSHORE INSURERS AND REINSURERS.

(a) SELF-INSURANCE ARRANGEMENTS- The Secretary may, in consultation with the NAIC, apply the provisions of this Act, as appropriate, to self-insurance arrangements by municipalities and other entities, but only if such application is determined before the occurrence of a triggering event and all of the provisions of this Act are applied uniformly to such entities.

(b) OFFSHORE INSURERS AND REINSURERS- The Secretary shall ensure that the provisions of this Act are applied as appropriate to any offshore or non-admitted entities that provide commercial property and casualty insurance.

SEC. 11. STUDY OF RESERVES FOR PROPERTY AND CASUALTY INSURANCE FOR TERRORIST OR OTHER CATASTROPHIC EVENTS.

(a) IN GENERAL- The Secretary of the Treasury shall conduct a study of issues relating to permitting property and casualty insurance companies to establish deductible reserves against losses for future acts of terrorism, including--

(1) whether such tax-favored reserves would promote (A) insurance coverage of risks of terrorism, and (B) the accumulation of additional resources needed to satisfy potential claims resulting from such risks,

(2) the lines of business for which such reserves would be appropriate, including whether such reserves should be applied to personal or commercial lines of business,

(3) how the amount of such reserves would be determined,

(4) how such reserves would be administered,

(5) a comparison of the Federal tax treatment of such reserves with other insurance reserves permitted under Federal tax laws,

(6) an analysis of the use of tax-favored reserves for catastrophic events, including acts of