



NATIONAL
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**HEARING BEFORE THE
SENATE BANKING, HOUSING AND
URBAN AFFAIRS COMMITTEE**

**ENTITLED
“THE REAUTHORIZATION OF THE TERRORISM RISK
INSURANCE PROGRAM”**

**STATEMENT FOR THE RECORD OF
THE NATIONAL ASSOCIATION OF REALTORS®**

JUNE 18, 2019

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The National Association of REALTORS® (NAR) thanks Chairman Crapo, Ranking Member Brown, and members of the Committee for holding this important hearing today on the reauthorization of the Terrorism Risk Insurance Program (TRIP).

NAR's 1.3 million members and its commercial affiliates the CCIM Institute and the Institute of Real Estate Management (IREM), urge you to finalize long-term TRIP reauthorization in a timely manner in order to avoid disruption to the current system, which has successfully kept terrorism insurance available and affordable since 2002.

NAR is a strong supporter of TRIP, as it is critical to the continued availability and affordability of terrorism risk insurance for commercial real estate in the U.S. Terrorism insurance is requirement for many commercial properties to get financing, including multifamily housing, retail, office buildings, and sports complexes. Immediately following the terrorist attacks of September 11, 2001, many insurers withdrew from the market, making terrorism insurance coverage virtually non-existent for commercial property owners, and when policies were offered, costs were prohibitively high. Only when Congress enacted the Terrorism Risk Insurance Act (TRIA) in 2002 did coverage for terrorist attacks resume. TRIA established a public-private risk-sharing partnership that allows the federal government and private insurance companies to share losses in the event of a major terrorist attack. The program mandates that insurers make terrorism coverage available along with property and casualty lines, and in return the U.S. government provides a federal "backstop" for losses above a triggering amount from a certified terrorist attack.

TRIA has been reauthorized by Congress three times, in 2005, 2007, and most recently in 2015. The 2015 extension – The Terrorism Risk Insurance Program Reauthorization Act of 2015 – reauthorized the program for six years, through 2020. The legislation also made changes to increase the stake of private insurers in the terrorism insurance market and reduce the federal government's exposure to losses. These changes were made through several tweaks to the program: raising the amount of losses required to activate the program (the "trigger amount") from \$100 million to \$200 million over the course of six years; decreasing the government's share of the losses from 85% to 80%; and increasing the mandatory recoupment amount from \$27.5 billion to \$37.5 billion.

NAR's membership includes thousands of commercial practitioners operating in markets across the country. They are involved in every sector of the industry: commercial development; sales of industrial, office, and retail buildings; hospitality and resort sales; commercial property management; and the leasing of commercial properties of all kinds.¹ Their work is vital to the communities in which they live and work, and to the U.S. economy as a whole. To these members and their clients, terrorism risk insurance is often a necessary part of securing financing to close deals, build new developments, and open businesses in turn creating jobs and attracting additional investment in these communities. Seventeen years after its creation, TRIP continues to be crucial to keeping that coverage available and affordable for American businesses of all types and sizes.

Absent TRIP, it is likely the country will see a repeat of what occurred in 2001, with many insurers no longer offering terrorism risk insurance coverage, or offering it only at significantly higher prices.

¹ National Association of REALTORS® 2018 Commercial Member Profile: <https://www.nar.realtor/research-and-statistics/research-reports/commercial-member-profile>

In fact, in the lead up to the 2015 reauthorization of TRIP, uncertainty about the program's future resulted in some insurers including "springing exclusions" in their policies.² A springing exclusion is a provision that automatically voids a policy if a specific event happens – in this cause, Congressional failure to reauthorize TRIP. Had that occurred, many borrowers whose policies were voided would have found themselves in technical default of their financing agreements. In that case, commercial mortgage-backed securities (CMBS) borrowers face the threat of default and bond downgrades. In the retail and multifamily sectors, a jump in terrorism risk insurance premiums can reduce the value of commercial properties. The cumulative effect would be devastating to the commercial real estate industry, the U.S. economy and to our nation's overall security.

With TRIP in place, however, and with no doubt that Congress will reauthorize the program before it expires, the availability and affordability of terrorism risk insurance in the U.S. is secure. The public-private partnership between TRIP and private insurers ensures our nation's business sector maintains adequate insurance coverage to effectively manage economic risks. The "make available" requirement of TRIP is particularly effective: between 2003, the first full year of the program, and 2006, take up rates for terrorism risk insurance increased from 27% to 60%.³ According to the Marsh 2018 Terrorism Risk Insurance Report, 62% of U.S. companies purchased terrorism risk insurance in 2017.⁴

One characteristic that distinguishes NAR's commercial practitioner members from many others in the field is the fact that their deals tend to be smaller, with 2017 median sales reported at \$602,500, and median leasing deals valued at \$215,400.⁵ This puts the majority of NAR commercial members' clients in the "small business" category, a group that may also may face the most difficulty affording terrorism risk insurance in the absence of TRIP. These small businesses, the backbone of the U.S. economy, would be most vulnerable to a decrease in availability and an increase in the cost of coverage, outcomes that TRIP and its "make available" requirement protects against. Again, thank you for holding this hearing. We look forward to continuing to work with the Committee as it continues its work to reauthorize this crucial program ahead of its expiration in 2020.

² Coalition to Insure Against Terrorism Comments to the U.S. Department of the Treasury Re: 2016 Report on the Terrorism Risk Insurance Program: <https://www.insureagainstterrorism.org/wp-content/uploads/CIAT-Submission-to-FIO-4-15-16.pdf>. April 15, 2016.

³ "Report on the Overall Effectiveness of the Terrorism Risk Insurance Program," Federal Insurance Office, U.S. Department of the Treasury. https://www.treasury.gov/initiatives/fio/reports-and-notices/Documents/2016_TRIP_Effectiveness_%20Report_FINAL.pdf. June 2016.

⁴ Marsh 2018 Terrorism Risk Insurance Report: https://www.marsh.com/content/dam/marsh/Documents/PDF/US-en/Marsh_2018%20Terrorism%20Risk%20Insurance%20Report.pdf. April 2018.

⁵ National Association of REALTORS® 2018 Commercial Member Profile: <https://www.nar.realtor/research-and-statistics/research-reports/commercial-member-profile>