



# TERRORISM REPORT

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## IIABA Applauds Agreement On Terrorism Insurance, Hurdles Still Remain

WASHINGTON—Industry leaders praised Congress and the White House for striking a recent compromise that kept hope for a bill providing federal backing for terrorism insurance alive. Still, many doubted all the necessary steps could be taken to bring the deal to completion—at least not before the House reconvenes Nov. 12.

Both houses of Congress have passed bills, but until last week disagreements over limitations on legal liability kept a conference from reaching compromise.

### A Day In The Life: Thursday, Oct. 17 And Action Terrorism Insurance

WASHINGTON—West Wing is a popular television show for political aficionado's everywhere, but IIABA advocates spend their time in the off screen swarm of the political dealings in Washington. Such was the case Oct. 17 when intense negotiations and dealings were underway that would, by day's end, produce a long awaited consensus on a bill providing a terrorism insurance backstop.

Here are the events of Oct. 17 as reported by IIABA President Robert Rusbult:

#### Morning-

Maria Berthoud was working the Senate conferees on the final tort language—and playing the intermediary role for some of the key conferee staff.

Chairman Mike Oxley told me today that the bill was a “done deal”—key Senators, the House and the president all agreed on a compromise on punitive damages and the final outlines of the bill.

I did a TV interview with CNBC, and had other interviews scheduled with CNN and CNNfn, etc.

#### Noon-

Maria and I started receiving word from the Hill that the deal was unraveling, or at least being put on hold over “process” issues.

The White House asked us to embargo the TV interviews (which were taped), and hold off on our press release. Most trade associations sent out incorrect press releases claiming that a deal had been agreed upon. We held ours until today.

#### Afternoon-

I was receiving word that Majority Whip Tom DeLay was holding up the bill. DeLay's main problem was that he does not want to reconvene the House next Wednesday for a vote on terrorism insurance only.

The choice then was—bring the House back next week to vote on this bill/agreement, or wait until the lame duck session in November to pass the bill.

From today's meetings, Maria and I were both told by House leadership that they decided to wait until after the elections, and then vote on this bill during the lame duck session on Nov. 12. The Senate may act this next week, but with the House out of formal session, there will be no final legislation until the 12th.

The next few weeks will be critical to not let the negative voices bring down the conference report. Maybe some sleep for this weekend! □

Under the agreement reached Oct. 17, state laws would be used to decide whether to impose punitive damages in lawsuits resulting from terrorism. The compromise does not include the ban on punitive damages originally sought by the Administration. The agreement stipulates that cases involving litigation between victims of terrorism and private parties will be consolidated (both at the pre-trial and trial stage) into a single federal court.

IIABA CEO Robert Rusbult and Senior Vice President of Federal Government Affairs Maria Berthoud repeatedly stressed the need for terrorism reinsurance to leaders of both political parties and several House-Senate conferees prior to the agreement among key conferees and the White House.

“We did everything we could to help all Congressional leaders and members recognize that the lack of affordable terrorism insurance has been plaguing the economy as a whole,” Rusbult said. “The business clients of independent insurance agents and brokers felt an anxious need for this legislation.”

Berthoud said the process of attaining signatures on the conference report and exactly when and how the conference report can or will be considered is up in the air.

“Unfortunately, the deal we reached with the White House and the Senate has run into some process type of problems, and the conference report is unlikely to be voted on until after the election in the lame duck session starting on Nov 12,” Berthoud said. “Not too many members are interested in coming back if this conference report is the only legislative item to consider.”

More significantly, Judiciary Chairman and conferee James Sensenbrenner still has problems with the tort compromise that was reached. Berthoud commented that the tort provisions are not what the industry wanted, but it is the only deal that can produce a law on



President Bush calls on Congress to pass terrorism insurance legislation. (White House photo.)

this issue. “The trial bar, together with the Senate Democratic Leadership, will not move any further on the tort portions of the compromise legislation,” Berthoud said.

“Everyone can find something they want to change, but most parties just refused to let the perfect be the enemy of the good,” Rusbult said. “However, no one should misunderstand that the situation surrounding this agreement is still very fluid.”

The president has been emphasizing that 300,000 jobs are at stake and more than \$15 billion worth of real estate projects have been stalled or canceled due to the unavailability of terrorism insurance.

***“There’s \$15 billion worth of construction projects which are on hold around America because people can’t get insurance for the project. The enemy hit us, and it made it very difficult for people to be able to insure those projects. And so, therefore, I think it’s a useful role for the Congress to serve as a backstop against a potential terrorist attack.” President Bush***

“This agreement will preserve and restore jobs for dedicated American workers,” Berthoud said. “Many clients of independent agents and brokers have been adversely affected by the lack of terrorism coverage, leaving many IIABA members coping with non-renewals and other unnecessary obstacles.”

The final legislation requires insurance companies to pay the first \$10 billion in damages during the first year of the three-year enactment process. The amount increases to \$12.5 billion in the second year and \$15 billion in the third year. The federal government would pay the remaining damages.

IIABA says it is cautiously optimistic that we will have final votes in both Chambers in the lame duck, and that a bill will be signed into law before the new year.

### **Survey Shows Obtaining Terrorism Insurance Is Difficult And Coverage Is Inadequate**

NEW YORK—The Risk and Insurance Management Society, Inc. (RIMS) issued a survey to its member companies in order to evaluate the terrorism insurance crisis. Of the 454 responses received, the results showed that coverage is very limited and hard to obtain, further demonstrating the need for a temporary federal terrorism insurance backstop.

The survey showed that 71 percent of respondents found obtaining adequate terrorism insurance coverage very difficult or impossible. Additionally, 84 percent do not feel confident that their companies would be sufficiently covered in the event of another attack. And of the 80 percent surveyed who have renewed their company’s coverage, over half do not have terrorism coverage included in their policy. Of all the companies surveyed, 65 percent currently have no terrorism insurance coverage at all.

“Congress is on the verge of completing a terrorism insurance bill, and it is imperative that the legislators understand that this remains a critical issue for American businesses and for our economy,” said Christopher Mandel, RIMS president. “These worthy efforts are about to come to fruition and will set the stage for quicker, more complete economic recovery for the United States.”

RIMS represents 84 percent of Fortune 500 companies and 950 small business employers totaling over 4,000 commercial policyholders, many of whom cannot obtain adequate or affordable terrorism insurance coverage as a result of insurers’ inability to predict or price future terrorist acts. Continued focus by RIMS members and others on this issue will improve the chances of a viable solution emerging from Congress.

#### **Survey On Terrorism Insurance Availability**

NEW YORK—The Risk and Insurance Management Society, Inc. (RIMS) surveyed 3327 member companies nationwide and received 454 responses as of Sept. 9. Here is some of what they found out:

**Q.** In your experience (or what you anticipate your experience will be), is obtaining adequate terrorism insurance coverage:

- ✦ **Very Easy** - (2%)
- ✦ **Somewhat Easy** - (5%)
- ✦ **Somewhat Difficult** - (19%)
- ✦ **Very Difficult** - (50%)
- ✦ **Impossible** - (21%)
- ✦ **Not Sure** - (2%)

**Q.** How have your company’s revenues and/or expenses been impacted by the lack of available and affordable terrorism insurance coverage?

- ✦ **Very Adversely Impacted** - (10%)
- ✦ **Somewhat Adversely Impacted** - (35%)
- ✦ **No Adverse Impact** - (42%)
- ✦ **Not Sure** - (13%)

**Q.** Do you feel confident that your company has adequate insurance coverage in the event of a future catastrophic terrorist attack?

- ✦ **Yes** - (15%)
- ✦ **No** - (84%)

**Q.** Is your company currently going without terrorism insurance coverage?

- ✦ **Yes** - (65%)
- ✦ **No** - (35%)

## Insurers Disappointed Personal Lines Not Included In Terrorism Compromise

WASHINGTON—Insurance organizations expressed disappointment personal lines were not included in a compromise report issued last week bringing together House and Senate bills providing a federal backing for terrorism coverage.

A letter sent by the Alliance of American Insurers, the National Association of Independent Insurers (NAII) and the National Association of Mutual Insurance Companies (NAMIC) told members of Congress that while the attacks of Sept. 11, 2001 primarily impacted commercial lines, this is no guarantee that any future attack could not severely impact personal lines companies and policyholders.

NAMIC Federal Affairs Vice President Monte Ward said that since personal lines insurers are not included in this legislation, with any future terrorist attacks, their solvency will be placed at risk. “Enacting an effective terrorism reinsurance program that includes personal lines would put the minds of U.S. insurers, policyholders and consumers at ease in the event of another terrorist attack,” Ward said.

NAII Vice President of Government Relations Julie Gackenbach also said a federal program should include commercial lines and allow for voluntary participation by personal insurers.



**New York Honors Ground Zero Victims**

Relatives, friends and colleagues of people who died one year ago during the World Trade Center attacks assemble around the “Circle of Honor” at ground zero, Wed. Sept. 11, 2002 in New York. One by one, the 2,801 names on the city’s list of the dead were read during the ceremony. (New York —WirePix)

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***“This is a jobs program. This is a way to get our people back to work the right way, to encourage private sector jobs. There’s over 300,000 jobs, good hard-hat jobs that have been delayed because we can’t get a terrorism insurance package out of the United States Congress.” President Bush***

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The letter sent to members of Congress explained that in general, state insurance regulators do not permit broad exclusions for acts of terrorism for personal lines.

“Without the personal lines company option to participate in the federal program it leaves many personal lines insurers with potential losses that the federal program was designed to alleviate,” insurers explained in the letter. “As a result, personal lines would be left in the same position as they are today, faced with a reinsurance crisis.” IIBA was also supportive of including personal lines in the measures.

### U.S. Private Sector Does Not Believe It Is A Target For Terrorism

WASHINGTON—Despite repeated admonitions from the White House, nine out of 10 executives in some of America’s most prominent companies do not believe their company is a potential target for terrorists, according to a new survey of corporate leaders by the Council on Competitiveness, a non-partisan, non-profit forum of chief executive officers, university presidents and labor leaders. As a result, almost half of those surveyed have not made significant changes to security policies or actions since the terrorist attacks on the World Trade Center and the Pentagon. Those that have spent money on security focused mainly on guards, gates and guns rather than on how an attack on our infrastructures and supplier networks could cause cascading failures that might affect their particular companies.

The survey of 230 corporate executives of companies with gross revenues of over \$50 million is believed to be the first to assess the productivity factors in the private sector’s response to security spending since Sept. 11. America’s private sector controls 90 percent of the critical infrastructure that makes the U.S. economy run, however the survey showed that more than half of the respondents are not spending any more on security today than they did a year ago. Sixty-seven percent failed to see how enhanced security could make them more economically competitive in the marketplace, an issue being studied by the Council on Competitiveness.

Deborah Wince-Smith, president of the Council on Competitiveness, said the survey underscores the need to examine the prospects for economic growth in a new environment of heightened security costs for American companies.

“If security remains focused on guards, gates and guns, there is no doubt that it will drain resources, productivity and industry competitiveness,” Wince-Smith stated. “Old-style security solutions result only in sunk costs, rather than investments in pro-

### One Year Later...

NEW YORK—One year after the terrorist attacks in New York, Washington, DC, and Pennsylvania, the Insurance Information Institute estimates that the total insurance loss from Sept. 11 will ultimately be about \$40.2 billion.

The III estimate of \$40.2 billion in insured losses includes:

- ◆ \$11 billion (27 percent) in claims for business interruption;
- ◆ \$10 billion (25 percent) in liability claims;
- ◆ \$6 billion (15 percent) in property claims for damage to property, including vehicles, other than World Trade Center buildings one and two;
- ◆ \$3.5 billion (9 percent) in property claims for WTC buildings one and two;
- ◆ \$3.5 billion (9 percent) for aviation liability;
- ◆ \$2.7 billion (7 percent) in life insurance claims;
- ◆ \$2 billion (5 percent) for workers’ comp claims;
- ◆ \$1 billion (2 percent) in claims for event cancellation; and
- ◆ \$500 million (1 percent) in hull claims for the loss of the four commercial aircraft. □

ductivity. These results point to why we need new ways of thinking to address these critical issues so that security becomes a productivity enhancer. The private sector must take the lead on integrating security into core business practices.

“The private sector faces a huge security challenge—to protect employees and customers, plants and facilities at home as well as abroad from attack,” Wince-Smith added. “These results point to why the private sector and government must work together to make a convincing case that America’s major industries can enhance security in ways that also enable them to remain economically competitive to protect our nation’s standard of living.”

Other major findings of the survey include:

- ✦ Most companies have conducted vulnerability assessments over the last 12 months, but the assessments have focused on physical security of buildings and employees. Assessments have not focused on security measures that serve the dual role of also improving operations—such as robots that take inventory as well as guard buildings, or inventory tracking systems that can protect shipments while also ensuring accuracy.
- ✦ Almost one-half of companies have not used best practices from other companies to solve security-related issues.
- ✦ Sixty-one percent of the respondents stated that the federal government has done nothing to help them work on higher security standards and 72 percent indicated the same for state governments.
- ✦ Sixty-three percent of the companies surveyed indicated they have a chief of security responsible for coordinating all security policies and measures within the company. Of those companies surveyed, most security officers hold the title vice president and 33 percent of the security officers report directly to the chief executive officer of their company. According to Wince-Smith, those with higher titles and access to the CEO and board of directors have more ability to positively affect change within companies.

## Helping Businesses Survive Catastrophe

LOS ANGELES—Catastrophes not only leave an impact on thousands of homeowners and renters, but on a community’s businesses as well. Many businesses can be either destroyed or forced to close due to severe damages, costing business huge financial losses. In addition, some businesses may not have the right kind of insurance or enough insurance to cover their losses, which may make it difficult for them to recover quickly.

In anticipation of the next major disaster, the Insurance Information Network of California (IINC) suggests that business follow a four-point catastrophe recovery strategy outlined in the brochure, “How to Survive a Catastrophe: A Guide for Businesses.”

The brochure emphasizes that businesses can recover quickly from a major disaster if they plan for it in advance. This means developing a plan that details what employees should do once a disaster strikes and also having the right amount of insurance to



**Holiday Light In New York**

The setting sun casts vibrant light on two New York landmarks, the Empire State Building, right, and the Chrysler Building, left, Mon., Nov. 27, 2000. (Robin Weiner/WirePix)

## Terrorism And Insurance Seminar Scheduled In CA And WA

HUNTINGTON BEACH—Insurance Skills Center (ISC) will be teaching its latest seminar “Terrorism and Insurance” in two California locations.

Approved by the Departments of Insurance in CA, NV, OR and WA for 4 CE credits, ISC will teach Terrorism and Insurance on Dec. 10 – San Francisco and Dec. 12 – Diamond Bar. Class time is 8:30 a.m. to 12:10 p.m.

The events of Sept. 11, 2001 did what previous acts of terror in America had not—brought awareness to the global insurance marketplace that random terrorist acts can and will continue to occur in the United States and just how devastating those acts can be. Where, when and how often the acts will occur is the unknown fear of underwriters around the world.

This class will begin by briefly exploring the issues relating to terrorism (war risk) and hostile acts from a historical perspective. The class will look at the coverage and exclusions as they have emerged in the various markets of insurance: marine, aviation, transit, property, liability, life, health and accident insurance. The current issues since Sept. 11 relative to the new exclusions being used in the domestic marketplace and reinsurance will be reviewed as to their impact.

The class will discuss issues such as adding terrorism to CAT plans and recent federal and state legislation. With the current market for terrorism insurance for commercial properties is in a state of flux, the instructor will introduce various perspectives from some of the leading re-insurers regarding their thoughts and solutions for terrorism insurance. The class concludes with an overview of current underwriting philosophies and risk management procedures and how those areas of loss control and risk transfer are changing.

There will be an afternoon companion class on “Construction Defect Issues” and the impact that SB 800 will have on the contractors market. Class time is 1:00 – 4:40 p.m.

These classes will sell-out and ISC strongly recommends early registration. To register, visit <http://www.insuranceskillscen-ter.com> to download the brochure or register online.

To schedule this class for your agency or company, call Marjorie Segale at 800-375-8704. □