Terrorism Risk Insurance Act Side-by-Side Comparison: Current Law and Extension Legislation

	Current Law	S. 2244 As Passed by Senate (113th Congress)	H.R. 4871 As Reported (113th Congress)	H.R. 26 As Passed by the House (114th Congress)
Expiration	December 31, 2014	December 31, 2021 (Seven-year extension)	December 31, 2019 (Five-year extension)	December 31, 2020 (Six-year extension)
NBCR Terrorism	No separate treatment of NBCR terrorism	*No change*	Bifurcation of program into two types of "acts of terrorism": NBCR terrorism and non-NBCR terrorism. Existing program structure and amounts to remain in place for NBCR terrorism losses.	*No change*
Insurer Deductible	20% of prior year's DEP in TRIA lines	*No change*	*No change*	*No change*
Insurer Co-Share	15% of losses above insurer deductible	16% of losses above deductible in 2016; 17% in 2017; 18% in 2018; 19% in 2019; 20% in 2020-21	*Non-NBCR Terrorism:* 16% of losses above deductible in 2016; 17% in 2017; 18% in 2018; 20% in 2019	16% of losses above deductible in 2016; 17% in 2017; 18% in 2018; 19% in 2019; 20% in 2020
Program Trigger	$100 million in aggregate insured losses	*No change*	*Non-NBCR Terrorism:* $200 million in 2016; $300 million in 2017; $400 million in 2018; $500 million in 2019 Clarifies that multiple events in a single year can be aggregated for purposes of the trigger, but does not allow events of less than $50 million to be counted for this purpose.	$120 million in 2016; $140 million in 2017; $160 million in 2018; $180 million in 2019; $200 million in 2020 Clarifies that multiple events in a single year can be aggregated for purposes of the trigger, but does not allow events of less than $50 million to be counted for this purpose.

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Annual Program Cap	$100 Billion	*No change*	*No change*	*No change*
Insurance Marketplace Aggregate Retention (Mandatory Recoupment)	$27.5 Billion	Increases $2 billion each year through 2019, leveling off at $37.5 billion for 2019-2021	Benchmarked to aggregate insurer deductibles for the preceding year (*i.e.*, 20% of aggregate DEP in TRIA lines), beginning in 2016	Increases $2 billion each year through 2019, when it will be $37.5 billion; in 2020 it will be the annual average of the aggregate insurer deductibles for the three prior calendar years Treasury must complete a rulemaking within three years to provide the procedure for determining this annual average, and a timeline for public notification of such determination
Recoupment Amount	133% of the difference between aggregate retention level and amount of losses already paid by industry (through deductibles and co-pays)	135.5% of the difference between aggregate retention level and amount of losses already paid by industry (through deductibles and co-pays)	150% of the lesser of either: (a) the amount of Federal compensation, or (b) the aggregate retention amount	140% of the difference between aggregate retention level and amount of losses already paid by industry (through deductibles and co-pays)
Discretionary Recoupment	Discretionary recoupment surcharges may not exceed 3%	*No change*	Discretionary recoupment surcharges may not be <u>less</u> than 3%.	*No change*

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Recoupment Timing	For acts occurring on or after January 1, 2012, recoupment must be completed by September 30, 2017.	For acts occurring on or before December 31, 2017, recoupment must be completed by September 30, 2019. For acts occurring in 2018, 35% of amount must be collected by September 30, 2019, and the remainder by September 30, 2024. For acts on or after January 1, 2019, recoupment must be completed by September 30, 2024.	No timeline for events occurring after 2014.	For acts occurring on or before December 31, 2017, recoupment must be completed by September 30, 2019. For acts occurring in 2018, 35% of amount must be collected by September 30, 2019, and the remainder by September 30, 2024. For acts on or after January 1, 2019, recoupment must be completed by September 30, 2024.
"Make Available" Requirement	Requires "insurers" (as defined in statute) to, in TRIA-eligible lines, make available coverage for terrorism "that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism."	*No change*	Provides for small insurer "opt-out" of the make available requirement. Requires State regulator determination of financial hardship exposure.	*No change* Requires Treasury to do an annual study competitive challenge to small insurers participating in the program

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Pre-Event Reserving	No provision	Requires GAO study on the viability and effects of collecting "upfront premiums" from participating insurers	Requires GAO study on the viability and effects of collecting "upfront premiums" from participating insurers, and on the viability of creating a capital reserve fund	Requires GAO study on the viability and effects of collecting "upfront premiums" from participating insurers, and on the viability of creating a capital reserve fund
Certification	Events must exceed $5 million in aggregate losses to qualify as "act of terrorism" Secretary of the Treasury must certify in concurrence with Secretary of State and Attorney General	Requires Treasury Secretary to study and report to Congress on the certification process and whether to establish a timeline for certification determinations.	Requires determination within 90 days Eliminates $5 million threshold Replaces Secretary of State with Secretary of Homeland Security, and requires only consultation by the Treasury Secretary	Retains $5 million threshold; requires only consultation by the Treasury Secretary with the Secretary of Homeland Security and Attorney General Requires Treasury Secretary to study and report to Congress on certification process and within 9 months of that report, issue final rules on certification process, which must include the establishment of a timeline for certification.
Foreign v. Domestic Terrorism	No distinction	*No change*	*No change*	*No change*
TRIA Notice Requirement	Required to be given at time of offer, purchase, and renewal	*No change*	Removes requirement at time of purchase (still must provide at offer and renewal)	Removes requirement at time of purchase (still must provide at offer and renewal)

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Risk Spreading Mechanisms	*No provision*	Creates advisory committee to encourage development of private market risk spreading mechanisms	Creates advisory committee to encourage development of private market risk spreading mechanisms	Creates advisory committee to encourage development of private market risk spreading mechanisms
Data Collection	*No provision*	*No provision*	Beginning in 2016, requires Treasury to collect data from insurers on TRIA coverages, premiums, take-up rates, etc.	Beginning in 2016, requires Treasury to collect data from insurers on TRIA coverages, premiums, take-up rates, etc.
Broker Licensing	*No provision*	Adds broker licensing legislation "NARAB II" as Title II (with sunset two-years from first license).	Adds broker licensing legislation "NARAB II" as Title II.	Adds broker licensing legislation "NARAB II" as Title II.
CBO Estimate	*Not applicable*	CBO estimates that S. 2244 would reduce deficits by $460 million over ten years, but spending would continue after ten years resulting in no net effect on the deficit.	CBO estimates that H.R. 4871 would increase deficits by $503 million over ten years, but revenues and spending would continue after ten years resulting in net budgetary savings.	CBO estimates the bill[1] would reduce deficits by $456 million over ten years.

[1] This is based on CBO's estimate for the House-passed version of S. 2244 (113th Congress) in December 2014, which is identical to the House-passed H.R. 26. CBO has not produced a new estimate specifically for H.R. 26.

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