

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3241



Introduced by Rep. CHRISTOPHER S. CO, and Rep. RODEL M. BATOCABE

EXPLANATORY NOTE

This bill seeks to mandate the creation of a government reinsurance facility to provide reinsurance coverage to insurance companies following a declared terrorism event. It is a short-term measure designed to help the insurance market recover from terrorist acts of rebel groups in our country, and develop solutions to insuring terrorism. It seeks to establish a national insurance program to administer a system of shared public/private compensation for insured losses resulting from acts of terrorism in order to protect local investors and create transitional period for private insurance markets to stabilize.

Business insurers generally neither charged for nor specifically excluded terrorism coverage. The scope of the recent terrorist attacks and the resulting multi billion estimated financial costs changed perceptions dramatically. Much of the financial costs from the terrorist attacks fell on reinsurers (that further spread the risk assumed by primary insurers). Unable to accurately model or price terrorism exposures, reinsurers largely withdrew from the market for terrorism coverage. Without reinsurance, primary insurers were then compelled to exclude terrorism. This created an unfair situation where foreign investors are covered by insurance provided by multilateral agencies based abroad for risks including terrorism while local investors continue to be not covered by any insurance against terrorist activities.

Many businesses were not able to purchase insurance protection against future terrorist attacks. This situation was a serious threat to industries where lenders and investors required terrorism protection for their investments. Real estate, transportation, construction, energy, and utility sectors of the economy were vulnerable, creating broader threats to the national economy.

Congress should therefore respond by enacting this bill to provide a government reinsurance backstop in case of large-scale terrorist attacks, requiring that business insurers offer terrorism coverage for the types of insurance included in the act.

Under this bill, the national government would help insurers cover losses in the event of a terrorist attack under certain conditions, and would also impose assessments on the insurance industry to recover all or a portion of the insurance payments.

In view of the above circumstances, the swift passage of the bill is earnestly sought.


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**AN ACT TO ENSURE THE CONTINUED FINANCIAL CAPACITY OF INSURERS TO
PROVIDE COVERAGE FOR RISKS FROM TERRORISM, PROVIDING FUNDS THEREFOR,
AND FOR OTHER PURPOSE**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. Title. - This Act shall be known as the "Terrorism Risk Insurance Act of 2013".

Section 2. Declaration of Policy. It is the declared policy of the State to establish a temporary program that provides for a transparent system of shared public and private compensation for insured losses resulting from acts of terrorism, in order to (1) protect consumers by addressing market disruptions and ensure the continued widespread availability and affordability of property and casualty insurance for terrorism risk; and (2) allow for a transitional period for the private markets to stabilize, resume pricing of such insurance, and build capacity to absorb any future losses, while preserving insurance regulation and consumer protections.

Section 3. Definitions. In this title, the following definitions shall apply:

(A) ACT OF TERRORISM- The term 'act of terrorism' means any act that is certified by the President, after an endorsement of the Secretary of Interior and Local Government and the Chief, Philippine National Police

(1) to be an act of terrorism;

(2) to be a violent act or an act that is dangerous to human life, property, or infrastructure;

(3) to have resulted in damage within the Philippines, or outside of the Philippines in the case of an air carrier or vessel described in (E)(2), or the premises of a Philippine mission; and

(4) to have been committed by an individual or individuals acting on behalf of any foreign/local person or foreign/local interest, as part of an effort to coerce the civilian population of the Philippines, or to influence the policy or affect the conduct of the Philippine Government by coercion.

Provided that, in the certification by the above agencies, the following conditions shall apply:

(1) No act shall be certified by the President as an act of terrorism if:

- (a) the act is committed as part of the course of a war declared by the Congress, except that this clause shall not apply with respect to any coverage for workers' compensation; or
 - (b) property and casualty insurance losses resulting from the act, in the aggregate, do not exceed P1,000,000.
- (2) Any certification of, or determination not to certify, an act as an act of terrorism under this paragraph shall be final, and shall not be subject to judicial review
- (3) The President may not delegate or designate to any other officer, employee, or person, any determination under this paragraph of whether, during the effective period of the Program, an act of terrorism has occurred.
- (B) AFFILIATE- The term 'affiliate' means, with respect to an insurer, any entity that controls, is controlled by, or is under common control with the insurer.
- (C) CONTROL- An entity has 'control' over another entity, if--
 - (1) the entity directly or indirectly or acting through 1 or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other entity;
 - (2) the entity controls in any manner the election of a majority of the directors or trustees of the other entity; or
 - (3) the President determines, after notice and opportunity for hearing, that the entity directly or indirectly exercises a controlling influence over the management or policies of the other entity.
- (D) DIRECT EARNED PREMIUM- The term 'direct earned premium' means a direct earned premium for property and casualty insurance issued by any insurer for insurance against losses occurring at the locations described in subparagraphs (1) and (2) of paragraph (E).
- (E) INSURED LOSS- The term 'insured loss' means any loss resulting from an act of terrorism (including an act of war, in the case of workers' compensation) that is covered by primary or excess property and casualty insurance issued by an insurer if such loss—
 - (1) occurs within the Philippines; or
 - (2) occurs to an air carrier, to a Philippine flag vessel (or a vessel based principally in the Philippines, on which Philippine income tax is paid and whose insurance coverage is subject to regulation in the Philippines), regardless of where the loss occurs, or at the premises of any Philippine mission.
- (F) INSURER- The term 'insurer' means any entity, including any affiliate thereof that is:
 - (1) licensed or admitted to engage in the business of providing primary or excess insurance;
 - (2) not licensed or admitted as described in clause (F) (1), if it is an eligible surplus line carrier approved for the purpose of offering property and casualty insurance by a government agency in connection with maritime, energy, or aviation activity;
 - (3) a residual market insurance entity or workers' compensation fund; or
 - (4) any other entity described in section 4(f), to the extent provided in the rules of the Insurance Commission issued under section 4(f);
 - (5) that receives direct earned premiums for any type of commercial property and casualty insurance coverage, other than in the case of entities described in sections 4(d) and 4(f); and

(6) that meets any other criteria that the Insurance Commission may reasonably prescribe.

(G) INSURER DEDUCTIBLE- The term 'insurer deductible' means—

- (1) for the Transition Period, the value of an insurer's direct earned premiums over the calendar year immediately preceding the date of enactment of this Act, multiplied by 1 percent;
- (2) for Program Year 1, the value of an insurer's direct earned premiums over the calendar year immediately preceding Program Year 1, multiplied by 7 percent;
- (3) for Program Year 2, the value of an insurer's direct earned premiums over the calendar year immediately preceding Program Year 2, multiplied by 10 percent;
- (4) for Program Year 3, the value of an insurer's direct earned premiums over the calendar year immediately preceding Program Year 3, multiplied by 15 percent; and
- (5) notwithstanding subparagraphs (1) through (4), for the Transition Period, Program Year 1, Program Year 2, or Program Year 3, if an insurer has not had a full year of operations during the calendar year immediately preceding such Period or Program Year, such portion of the direct earned premiums of the insurer as the Insurance Commission determines appropriate, subject to appropriate methodologies established by the Insurance Commission for measuring such direct earned premiums.

(H) PERSON- The term 'person' means any individual, business or nonprofit entity (including those organized in the form of a partnership, limited liability company, corporation, or association), trust or estate, or political subdivision or other governmental unit.

(I) PROGRAM- The term 'Program' means the Terrorism Insurance Program established by this title. (10) PROGRAM YEARS-

- (1) TRANSITION PERIOD- The term 'Transition Period' means the period beginning on the date of enactment of this Act and ending on December 31, 2014.
- (2) PROGRAM YEAR 1- The term 'Program Year 1' means the period beginning on January 1, 2015 and ending on December 31, 2015.
- (3) PROGRAM YEAR 2- The term 'Program Year 2' means the period beginning on January 1, 2016 and ending on December 31, 2016.
- (4) PROGRAM YEAR 3- The term 'Program Year 3' means the period beginning on January 1, 2017 and ending on December 31, 2017.

(J) PROPERTY AND CASUALTY INSURANCE- The term 'property and casualty insurance'—

- (1) means commercial lines of property and casualty insurance, including excess insurance, workers' compensation insurance, and surety insurance; and
- (2) does not include—
 - (a) crop insurance issued or reinsured, or any other type of crop or livestock insurance that is privately issued or reinsured;
 - (b) private mortgage insurance or title insurance;
 - (c) financial guaranty insurance issued by monoline financial guaranty insurance corporations;
 - (d) insurance for medical malpractice;

- (e) health or life insurance, including group life insurance;
- (f) flood insurance; or
- (g) reinsurance or retrocessional reinsurance.

(K) **RULE OF CONSTRUCTION FOR DATES-** With respect to any reference to a date in this title, such day shall be construed--

- (1) to begin at 12:01 a.m. on that date; and
- (2) to end at midnight on that date.

Section 4. Terrorism Insurance Program.

(A) **ESTABLISHMENT OF PROGRAM-**

- (1) **IN GENERAL-** There is established in the Insurance Commission the Terrorism Insurance Program.
- (2) **AUTHORITY OF THE COMMISSIONER-** Notwithstanding any other provision of law, the Commissioner shall administer the Program, and shall pay the government share of compensation for insured losses in accordance with subsection (E).
- (3) **MANDATORY PARTICIPATION-** Each entity that meets the definition of an insurer under this title shall participate in the Program.

(B) **CONDITIONS FOR PAYMENTS-** No payment may be made by the Insurance Commission under this section with respect to an insured loss that is covered by an insurer, unless—

- (1) the person that suffers the insured loss, or a person acting on behalf of that person, files a claim with the insurer;
- (2) the insurer provides clear and conspicuous disclosure to the policyholder of the premium charged for insured losses covered by the Program and the government share of compensation for insured losses under the Program--
 - (a) in the case of any policy that is issued before the date of enactment of this Act, not later than 90 days after that date of enactment;
 - (b) in the case of any policy that is issued within 90 days of the date of enactment of this Act, at the time of offer, purchase, and renewal of the policy; and
 - (c) in the case of any policy that is issued more than 90 days after the date of enactment of this Act, on a separate line item in the policy, at the time of offer, purchase, and renewal of the policy;
- (3) the insurer processes the claim for the insured loss in accordance with appropriate business practices, and any reasonable procedures that the Insurance Commission may prescribe; and
- (4) the insurer submits to the Insurance Commission, in accordance with such reasonable procedures as the Insurance Commission may establish—
 - (a) a claim for payment of the government share of compensation for insured losses under the Program;
 - (b) written certification--
 - (i) of the underlying claim; and

(ii) of all payments made for insured losses; and

(c) certification of its compliance with the provisions of this subsection.

(C) MANDATORY AVAILABILITY-

(1) INITIAL PROGRAM PERIODS- During the period beginning on the first day of the Transition Period and ending on the last day of Program Year 2, each entity that meets the definition of an insurer under section 3--

(a) shall make available, in all of its property and casualty insurance policies, coverage for insured losses; and

(b) shall make available property and casualty insurance coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism.

(2) PROGRAM YEAR 3- Not later than September 1, 2016, the Insurance Commission shall, based on the factors referred to in section 9(D)(1), determine whether the provisions of subparagraphs (a) and (b) of paragraph (1) should be extended through Program Year 3.

(D) RESIDUAL MARKET INSURANCE ENTITIES-

(1) IN GENERAL- The Insurance Commission shall issue regulations, as soon as practicable after the date of enactment of this Act, that apply the provisions of this title to residual market insurance entities and workers' compensation funds.

(2) TREATMENT OF CERTAIN ENTITIES- For purposes of the regulations issued pursuant to paragraph (1)--

(A) a residual market insurance entity that does not share its profits and losses with private sector insurers shall be treated as a separate insurer; and

(B) a residual market insurance entity that shares its profits and losses with private sector insurers shall not be treated as a separate insurer, and shall report to each private sector insurance participant its share of the insured losses of the entity, which shall be included in each private sector insurer's insured losses.

(3) TREATMENT OF PARTICIPATION IN CERTAIN ENTITIES- Any insurer that participates in sharing profits and losses of a residual market insurance entity shall include in its calculations of premiums any premiums distributed to the insurer by the residual market insurance entity.

(E) INSURED LOSS SHARED COMPENSATION-

(1) GOVERNMENT SHARE-

(A) IN GENERAL- The government share of compensation under the Program to be paid by the Insurance Commission for insured losses of an insurer during the Transition Period and each Program Year shall be equal to 90 percent of that portion of the amount of such insured losses that exceeds the applicable insurer deductible required to be paid during such Transition Period or such Program Year.

(B) PROHIBITION ON DUPLICATIVE COMPENSATION- The government share of compensation for insured losses under the Program shall be reduced by the amount of compensation provided by the local government to any person under any other program for those insured losses.

(2) CAP ON ANNUAL LIABILITY-

(a) IN GENERAL- Notwithstanding paragraph (1) or any other provision of law, if the aggregate insured losses exceed P100,000,000,000, during the period beginning on the first day of the Transition Period and ending on the last day of Program Year 1, or during Program Year 2 or Program Year 3 (until such time as the Congress may act otherwise with respect to such losses)--

(i) the Insurance Commission shall not make any payment under this title for any portion of the amount of such losses that exceeds P100,000,000,000; and

(ii) no insurer that has met its insurer deductible shall be liable for the payment of any portion of that amount that exceeds P100,000,000,000.

(b) INSURER SHARE- For purposes of subparagraph (A), the Insurance Commission shall determine the pro rata share of insured losses to be paid by each insurer that incurs insured losses under the Program.

(3) NOTICE TO CONGRESS- The Insurance Commission shall notify the Congress if estimated or actual aggregate insured losses exceed P100,000,000,000 during the period beginning on the first day of the Transition Period and ending on the last day of Program Year 1, or during Program Year 2 or Program Year 3, and the Congress shall determine the procedures for and the source of any payments for such excess insured losses.

(4) FINAL NETTING- The Insurance Commission shall have sole discretion to determine the time at which claims relating to any insured loss or act of terrorism shall become final.

(5) DETERMINATIONS FINAL- Any determination of the Insurance Commission under this subsection shall be final, unless expressly provided, and shall not be subject to judicial review.

(6) INSURANCE MARKETPLACE AGGREGATE RETENTION AMOUNT- For purposes of paragraph (7), the insurance marketplace aggregate retention amount shall be--

(a) for the period beginning on the first day of the Transition Period and ending on the last day of Program Year 1, the lesser of--

(i) P10,000,000,000; and

(ii) the aggregate amount, for all insurers, of insured losses during such period;

(b) for Program Year 2, the lesser of--

(i) P12,500,000,000; and

(ii) the aggregate amount, for all insurers, of insured losses during such Program Year; and

(c) for Program Year 3, the lesser of--

(i) P15,000,000,000; and

(ii) the aggregate amount, for all insurers, of insured losses during such Program Year.

(7) RECOUPMENT OF GOVERNMENT SHARE-

(a) MANDATORY RECOUPMENT AMOUNT- For purposes of this paragraph, the mandatory recoupment amount for each of the periods referred to in subparagraphs (a), (b), and (c) of paragraph (6) shall be the difference between--

- (i) the insurance marketplace aggregate retention amount under paragraph (6) for such period; and
 - (ii) the aggregate amount, for all insurers, of insured losses during such period that are not compensated by the National Government because such losses—
 - (I) are within the insurer deductible for the insurer subject to the losses; or
 - (II) are within the portion of losses of the insurer that exceed the insurer deductible, but are not compensated pursuant to paragraph (1).
 - (b) NO MANDATORY RECOUPMENT IF UNCOMPENSATED LOSSES EXCEED INSURANCE MARKETPLACE RETENTION- Notwithstanding subparagraph (a), if the aggregate amount of uncompensated insured losses referred to in clause (ii) of such subparagraph for any period referred to in subparagraph (a), (b), or (c) of paragraph (6) is greater than the insurance marketplace aggregate retention amount under paragraph (6) for such period, the mandatory recoupment amount shall be zero.
 - (c) MANDATORY ESTABLISHMENT OF SURCHARGES TO RECOUP MANDATORY RECOUPMENT AMOUNT- The Insurance Commission shall collect, for repayment of the government financial assistance provided in connection with all acts of terrorism (or acts of war, in the case of workers compensation) occurring during any of the periods referred to in subparagraph (a), (b), or (c) of paragraph (6), terrorism loss risk-spreading premiums in an amount equal to any mandatory recoupment amount for such period.
 - (d) DISCRETIONARY RECOUPMENT OF REMAINDER OF FINANCIAL ASSISTANCE- To the extent that the amount of government financial assistance provided exceeds any mandatory recoupment amount, the Insurance Commission may recoup, through terrorism loss risk-spreading premiums, such additional amounts that the Insurance Commissioner believes can be recouped, based on--
 - (i) the ultimate costs to taxpayers of no additional recoupment;
 - (ii) the economic conditions in the commercial marketplace, including the capitalization, profitability, and investment returns of the insurance industry and the current cycle of the insurance markets;
 - (iii) the affordability of commercial insurance for small- and medium-sized businesses; and
 - (iv) such other factors as the Insurance Commission considers appropriate.
- (8) POLICY SURCHARGE FOR TERRORISM LOSS RISK- SPREADING PREMIUMS-
- (a) POLICYHOLDER PREMIUM- Any amount established by the Insurance Commission as a terrorism loss risk-spreading premium shall—
 - (i) be imposed as a policyholder premium surcharge on property and casualty insurance policies in force after the date of such establishment;
 - (ii) begin with such period of coverage during the year as the Insurance Commi determines appropriate; and
 - (iii) be based on a percentage of the premium amount charged for property and casualty insurance coverage under the policy.

- (b) COLLECTION- The Insurance Commission shall provide for insurers to collect terrorism loss risk-spreading premiums and remit such amounts collected to the Insurance Commission.
- (c) PERCENTAGE LIMITATION- A terrorism loss risk- spreading premium (including any additional amount included in such premium on a discretionary basis pursuant to paragraph (7)(d)) may not exceed, on an annual basis, the amount equal to 3 percent (3%) of the premium charged for property and casualty insurance coverage under the policy
- (d) ADJUSTMENT FOR URBAN AND SMALLER COMMERCIAL AND RURAL AREAS AND DIFFERENT LINES OF INSURANCE-
 - (i) ADJUSTMENTS- In determining the method and manner of imposing terrorism loss risk-spreading premiums, including the amount of such premiums, the Insurance Commission shall take into consideration—
 - (I) the economic impact 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;
 - (II) 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
 - (III) the various exposures to terrorism risk for different lines of insurance.
 - (ii) RECOUPMENT OF ADJUSTMENTS- Any mandatory recoupment amounts not collected by the Insurance Commission because of adjustments under this subparagraph shall be recouped through additional terrorism loss risk-spreading premiums.
- (e) TIMING OF PREMIUMS- The Insurance Commission may adjust the timing of terrorism loss risk-spreading premiums to provide for equivalent application of the provisions of this title to policies that are not based on a calendar year, or to apply such provisions on a daily, monthly, or quarterly basis, as appropriate.
- (f) CAPTIVE INSURERS AND OTHER SELF-INSURANCE ARRANGEMENTS- The Insurance Commission, apply the provisions of this title, as appropriate, to other classes or types of captive insurers and other self-insurance arrangements by municipalities and other entities (such as workers' compensation self-insurance programs and workers' compensation reinsurance pools), but only if such application is determined before the occurrence of an act of terrorism in which such an entity incurs an insured loss and all of the provisions of this title are applied comparably to such entities.
- (g) REINSURANCE TO COVER EXPOSURE-
 - (1) OBTAINING COVERAGE- This title may not be construed to limit or prevent insurers from obtaining reinsurance coverage for insurer deductibles or insured losses retained by insurers pursuant to this section, nor shall the obtaining of such coverage affect the calculation of such deductibles or retentions.
 - (2) LIMITATION ON FINANCIAL ASSISTANCE- The amount of financial assistance provided pursuant to this section shall not be reduced by reinsurance paid or payable to an insurer from other sources, except that recoveries from such other sources, taken together with financial assistance for the Transition Period or a Program Year provided pursuant to this section, may not exceed the aggregate amount of the insurer's insured losses for such period. If such recoveries and financial assistance for the Transition Period or a Program Year exceed such

aggregate amount of insured losses for that period and there is no agreement between the insurer and any reinsurer to the contrary, an amount in excess of such aggregate insured losses shall be returned to the Insurance Commission.

(h) GROUP LIFE INSURANCE STUDY-

(1) STUDY- The Insurance Commission shall study, on an expedited basis, whether adequate and affordable catastrophe reinsurance for acts of terrorism is available to life insurers that issue group life insurance, and the extent to which the threat of terrorism is reducing the availability of group life insurance coverage for consumers.

(2) CONDITIONAL COVERAGE- To the extent that the Insurance Commission determines that such coverage is not or will not be reasonably available to both such insurers and consumers, the Insurance Commission—

(A) apply the provisions of this title, as appropriate, to providers of group life insurance; and

(B) provide such restrictions, limitations, or conditions with respect to any financial assistance provided that the Insurance Commission deems appropriate, based on the study under paragraph (1).

(i) STUDY AND REPORT-

(1) STUDY- The Insurance Commission, representatives of the insurance industry, and other experts in the insurance field, shall conduct a study of the potential effects of acts of terrorism on the availability of life insurance and other lines of insurance coverage, including personal lines.

(2) REPORT- Not later than nine (9) months after the date of enactment of this Act, the Insurance Commission shall submit a report to the Congress on the results of the study conducted under paragraph (1).

SECTION. 5. GENERAL AUTHORITY AND ADMINISTRATION OF CLAIMS.

(A) GENERAL AUTHORITY- The Insurance Commission shall have the powers and authorities necessary to carry out the Program, including authority—

(1) to investigate and audit all claims under the Program; and

(2) to prescribe regulations and procedures to effectively administer and implement the Program, and to ensure that all insurers and self-insured entities that participate in the Program are treated comparably under the Program.

(B) INTERIM RULES AND PROCEDURES- The Insurance Commission may issue interim final rules or procedures specifying the manner in which—

(1) insurers may file and certify claims under the Program;

(2) the government share of compensation for insured losses will be paid under the Program, including payments based on estimates of or actual insured losses;

(3) the Insurance Commission may, at any time, seek repayment from or reimburse any insurer, based on estimates of insured losses under the Program, to effectuate the insured loss sharing provisions in section 4; and

(4) the Insurance Commission will determine any final netting of payments under the Program, including payments owed to the National Government from any insurer and

any government share of compensation for insured losses owed to any insurer, to effectuate the insured loss sharing provisions in section 4.

(C) **CONTRACTS FOR SERVICES-** The Insurance Commission may employ persons or contract for services as may be necessary to implement the Program.

(D) **CIVIL PENALTIES-**

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

(A) has failed to charge, collect, or remit terrorism loss risk-spreading premiums under section 4(E) in accordance with the requirements of, or regulations issued under, this title;

(B) has intentionally provided to the Insurance Commission erroneous information regarding premium or loss amounts;

(C) submits to the Insurance Commission fraudulent claims under the Program for insured losses;

(D) has failed to provide the disclosures required under subsection (E); or

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

(2) **AMOUNT-** The amount under this paragraph is the greater of P1,000,000 and, in the case of any failure to pay, charge, collect, or remit amounts in accordance with this title or the regulations issued under this title, such amount in dispute.

(3) **RECOVERY OF AMOUNT IN DISPUTE-** A penalty under this subsection for any failure to pay, charge, collect, or remit amounts in accordance with this title or the regulations under this title shall be in addition to any such amounts recovered by the Insurance Commission.

(E) **SUBMISSION OF PREMIUM INFORMATION-**

(1) **IN GENERAL-** The Insurance Commission shall annually compile information on the terrorism risk insurance premium rates of insurers for the preceding year.

(2) **ACCESS TO INFORMATION-** To the extent that such information is not otherwise available, the Insurance Commission may require each insurer to submit terrorism risk insurance premium rates, as necessary to carry out paragraph (1).

(3) **AVAILABILITY TO CONGRESS-** The Insurance Commission shall make information compiled under this subsection available to the Congress, upon request.

(F) **FUNDING-**

(1) **GOVERNMENT PAYMENTS-** There are hereby appropriated, out of funds in the national budget not otherwise appropriated, such sums as may be necessary to pay the government share of compensation for insured losses under the Program.

(2) **ADMINISTRATIVE EXPENSES-** There are hereby appropriated, out of funds in the national budget not otherwise appropriated, such sums as may be necessary to pay reasonable costs of administering the Program.

SECTION 6. PREEMPTION AND NULLIFICATION OF PRE-EXISTING TERRORISM EXCLUSIONS.

- (A) **GENERAL NULLIFICATION-** Any terrorism exclusion in a contract for property and casualty insurance that is in force on the date of enactment of this Act shall be void to the extent that it excludes losses that would otherwise be insured losses.
- (B) **GENERAL PREEMPTION-** Any government approval of any terrorism exclusion from a contract for property and casualty insurance that is in force on the date of enactment of this Act, shall be void to the extent that it excludes losses that would otherwise be insured losses.
- (C) **REINSTATEMENT OF TERRORISM EXCLUSIONS-** Notwithstanding subsections (A) and (B) or any provision of law, an insurer may reinstate a preexisting provision in a contract for property and casualty insurance that is in force on the date of enactment of this Act and that excludes coverage for an act of terrorism only
- (1) if the insurer has received a written statement from the insured that affirmatively authorizes such reinstatement; or
- (2) if—
- (a) the insured fails to pay any increased premium charged by the insurer for providing such terrorism coverage; and
- (b) the insurer provided notice, at least 30 days before any such reinstatement, of—
- (i) the increased premium for such terrorism coverage; and
- (ii) the rights of the insured with respect to such coverage, including any date upon which the exclusion would be reinstated if no payment is received.

SECTION 7. PRESERVATION PROVISIONS.

- (A) Nothing in this title shall affect the jurisdiction or regulatory authority of the insurance commissioner over any insurer or other person—
- (1) except as specifically provided in this title; and
- (2) except that—
- (a) the definition of the term 'act of terrorism' in section 3 shall be the exclusive definition of that term for purposes of compensation for insured losses under this title, and shall preempt any provision of law that is inconsistent with that definition, to the extent that such provision of law would otherwise apply to any type of insurance covered by this title;
- (b) during the period beginning on the date of enactment of this Act and ending on December 31, 2015, rates and forms for terrorism risk insurance covered by this title and filed shall not be subject to prior approval or a waiting period under any law that would otherwise be applicable, except that nothing in this title affects the ability of the government to invalidate a rate as excessive, inadequate, or unfairly discriminatory, and, with respect to forms, where the government has prior approval authority, it shall apply to allow subsequent review of such forms; and
- (c) during the period beginning on the date of enactment of this Act and for so long as the Program is in effect, as provided in section 9, including authority in subsection 9(B), books and records of any insurer that are relevant to the Program shall be provided, or caused to be provided, to the Secretary, upon request by the Secretary, notwithstanding any provision of the laws prohibiting or limiting such access.

- (B) **EXISTING REINSURANCE AGREEMENTS-** Nothing in this title shall be construed to alter, amend, or expand the terms of coverage under any reinsurance agreement in effect on the date of enactment of this Act. The terms and conditions of such an agreement shall be determined by the language of that agreement.

SECTION 8. LITIGATION MANAGEMENT.

(A) PROCEDURES AND DAMAGES-

- (1) **IN GENERAL-** If the President makes a determination pursuant to section 3 that an act of terrorism has occurred, there shall exist a cause of action for property damage, personal injury, or death arising out of or resulting from such act of terrorism, which shall be the exclusive cause of action and remedy for claims for property damage, personal injury, or death arising out of or relating to such act of terrorism, except as provided in subsection (B).
 - (2) **PREEMPTION OF ACTIONS-** All causes of action of any kind for property damage, personal injury, or death arising out of or resulting from an act of terrorism that are otherwise available under the law are hereby preempted, except as provided in subsection (B).
 - (3) **SUBSTANTIVE LAW-** The substantive law for decision in any such action described in paragraph (A) shall be derived from the law, including choice of law principles, in which such act of terrorism occurred, unless such law is otherwise inconsistent with or preempted by this law.
 - (4) **JURISDICTION-** For each determination described in paragraph (A), not later than 90 days after the occurrence of an act of terrorism, the Supreme Court shall designate a special court in the region where the act of terrorism occurred, that shall have original and exclusive jurisdiction over all actions for any claim (including any claim for loss of property, personal injury, or death) relating to or arising out of an act of terrorism subject to this section. The Supreme Court shall select and assign the special court or courts in every region of the country, based on the convenience of the parties and the just and efficient conduct of the proceedings.
 - (5) **PUNITIVE DAMAGES-** Any amounts awarded in an action under paragraph (1) that are attributable to punitive damages shall not count as insured losses for purposes of this title.
- (B) **EXCLUSION-** Nothing in this section shall in any way limit the liability of any government, an organization, or person who knowingly participates in, conspires to commit, aids and abets, or commits any act of terrorism with respect to which a determination described in subsection (A)(1) was made.
- (C) **RIGHT OF SUBROGATION-** The Philippine Government shall have the right of subrogation with respect to any payment or claim paid by the Philippine Government under this title.
- (D) **RELATIONSHIP TO OTHER LAW-** Nothing in this section shall be construed to affect any party's contractual right to arbitrate a dispute.
- (E) **EFFECTIVE PERIOD-** This section shall apply only to actions described in subsection (A)(1) that arise out of or result from acts of terrorism that occur or occurred during the effective period of the Program.

SECTION 9. TERMINATION OF PROGRAM.

- (A) **TERMINATION OF PROGRAM-** The Program shall terminate on December 31, 2017.
- (B) **CONTINUING AUTHORITY TO PAY OR ADJUST COMPENSATION-** Following the termination of the Program, the Insurance Commission may take such actions as may be necessary to ensure payment, recoupment, reimbursement, or adjustment of compensation for insured losses arising out of any act of terrorism occurring during the period in which the Program

was in effect under this title, in accordance with the provisions of section 4 and regulations promulgated thereunder

(C) REPEAL; SAVINGS CLAUSE- This title is repealed on the final termination date of the Program under subsection (A), except that such repeal shall not be construed—

- (1) to prevent the Insurance Commission from taking, or causing to be taken, such actions under subsection (B) of this section, paragraph (4), (5), (6), (7), or (8) of section 4(e), or subsection (A)(1), (c), (d), or (e) of section 5, as in effect on the day before the date of such repeal, or applicable regulations promulgated thereunder, during any period in which the authority of the Insurance under subsection (B) of this section is in effect; or
- (2) to prevent the availability of funding during any period in which the authority of the Insurance Commission under subsection (B) of this section is in effect.

(D) STUDY AND REPORT ON THE PROGRAM-

- (1) STUDY- The Insurance Commission, representatives of the insurance industry and of policy holders, other experts in the insurance field, and other experts as needed, shall assess the effectiveness of the Program and the likely capacity of the property and casualty insurance industry to offer insurance for terrorism risk after termination of the Program, and the availability and affordability of such insurance for various policyholders, including railroads, trucking, and public transit.
- (2) REPORT- The Insurance Commission shall submit a report to the Congress on the results of the study conducted under paragraph (1) not later than June 30, 2017.

SECTION 10. SATISFACTION OF JUDGMENTS FROM BLOCKED ASSETS OF TERRORISTS, TERRORIST ORGANIZATIONS, AND STATE SPONSORS OF TERRORISM.

(A) IN GENERAL- Notwithstanding any other provision of law, and except as provided in subsection (B), in every case in which a person has obtained a judgment against a terrorist party on a claim based upon an act of terrorism, or for which a terrorist party is not immune under international law, the blocked assets of that terrorist party (including the blocked assets of any agency or instrumentality of that terrorist party) shall be subject to execution or attachment in aid of execution in order to satisfy such judgment to the extent of any compensatory damages for which such terrorist party has been adjudged liable.

(B) PRESIDENTIAL WAIVER-

(1) IN GENERAL- Subject to paragraph (2), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive the requirements of subsection (A) in connection with (and prior to the enforcement of) any judicial order directing attachment in aid of execution or execution against any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(2) EXCEPTION- A waiver under this subsection shall not apply to—

- (a) property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that has been used by the Philippines for any nondiplomatic purpose (including use as rental property), or the proceeds of such use; or
- (b) the proceeds of any sale or transfer for value to a third party of any asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

SECTION 11. *Implementing Rules and Regulations.* - The Department of Finance, in coordination with the NEDA, Insurance Commission, NGOs and POs shall issue the necessary rules and regulations within sixty (60) days from the effectivity of this Act.

SECTION 12. Appropriations. - The amount of One billion pesos (P1,000,000,000.00) necessary to implement the provisions of this Act shall be initially charged against the appropriations of the DOF, NEDA and the Insurance Commission under the General Appropriations Act. Thereafter, such sums as may be necessary for its continued implementation shall be included in the annual General Appropriations Act.

SECTION 13. Separability Clause. - In case any provision of this Act is declared unconstitutional, the other provisions shall remain in full force and effect.

SECTION 14. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two newspapers of general circulation, whichever comes earlier.

Approved:

Approved.