

# Client Alert

A report  
for clients  
and friends  
of the firm

December 2002

## The Terrorism Risk Insurance Act of 2002

After nearly a year of bickering, Congress finally passed the Terrorism Risk Insurance Act of 2002 (the "Act"). Passage of the Act will ensure that coverage for terrorism is available to all policyholders. Although the legislation does not set the price of terrorism insurance, the current cost of the coverage should decline. Terrorism exclusions in current property and casualty policies are void.

In summary, the Act provides for the Federal Government to pay 90 percent of losses resulting from acts of terrorism that are covered by primary or excess property and casualty insurance issued by an insurer (the "Federal Share"). The act of terrorism must occur within the United States, or on a U.S. air carrier or vessel, or at the premises of any U.S. mission.

The Act covers only future acts on behalf of foreign persons or interests, and does not cover attacks by Americans, like the Oklahoma City bombing in 1995. Acts committed as part of a war declared by Congress are also not covered.

The Act creates the Terrorism Insurance Program through December 31, 2005 to be administered by the Treasury Department. All licensed or admitted casualty and property insurers must participate in the Program and provide coverage for terrorism. Under the Program, policyholder claims are to continue to be submitted to the insurer, which then processes the claim in accordance with its usual business practice. The insurer then submits a claim to the Treasury Department for the Federal Share.

The Act creates a Federal cause of action for property damage or bodily injury arising from an act of terrorism. The Federal cause of action preempts all state causes of action and must be brought in the federal district court designated by the Judicial Panel on Multidistrict Litigation.

NEW YORK LOS ANGELES  
WASHINGTON BOCA RATON  
NEWARK PARIS

### Client Alert

**Proskauer Rose LLP's insurance coverage practice represents clients in insurance disputes. For information on this matter, please contact:**

**John H. Gross**  
212.969.3145 - [jgross@proskauer.com](mailto:jgross@proskauer.com)

**Seth B. Schafner**  
212.969.3660 - [sschafner@proskauer.com](mailto:sschafner@proskauer.com)

Proskauer is an international law firm with more than 590 attorneys who handle a full spectrum of legal issues worldwide.

1585 Broadway  
New York, NY 10036-8299  
212.969.3000

68, rue du Faubourg Saint-Honoré  
75008 Paris, France  
331.53.05.60.00

2049 Century Park East  
32nd Floor  
Los Angeles, CA 90067-3206  
310.557.2900

1233 Twentieth Street, NW  
Suite 800  
Washington, DC 20036-2396  
202.416.6800

One Newark Center  
18th Floor  
Newark, NJ 07102  
973.274.3200

One Boca Place  
Suite 340 West  
2255 Glades Road  
Boca Raton, FL 33431-7383  
561.241.7400

You can also visit our Website at [www.proskauer.com](http://www.proskauer.com)

This publication is a service to our clients and friends. It is designed only to give general information on the developments actually covered. It is not intended to be a comprehensive summary of recent developments in the law, treat exhaustively the subjects covered, provide legal advice or render a legal opinion.

© 2002 PROSKAUER ROSE LLP. All rights reserved.