

HOUSE No. 4983

Message from His Excellency the Governor (under Article LVI of the Amendments to the Constitution) returning with recommendation of amendment the engrossed Bill relative to the standard fire insurance policy (see House, No. 960).

The Commonwealth of Massachusetts

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August 11, 2010

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment House Bill No. 960, "An Act Relative to the Standard Fire Insurance Policy."

This bill amends the standard fire insurance policy statute to allow commercial policy insurers to exclude coverage for fire and other perils caused directly or indirectly by an act of terrorism.

Historically, fires caused by any acts, including acts of terrorism, were covered under standard fire insurance policies. Prior to 9/11, the risk of fires caused by acts of terrorism was remote and insurers underwrote risks accordingly. After 9/11, however, the possibility of these perils became real and the historical underwriting for these types of perils in standard fire policies became inadequate. In response to this increased risk, and to ensure that insurance coverage in this line continued, the federal government enacted the Terrorism Risk Insurance Act of 2002 ("TRIA").

TRIA requires, among other things, that insurance companies offer terrorism coverage to commercial entities, but it also permits insurers to charge premiums for such coverage, commensurate with the heightened risks. Under TRIA, the Treasury Secretary, in concurrence with the Secretary of State and the United States Attorney General, must certify that an act is an act of terrorism within the statutory parameters of TRIA. Those parameters include that the act

is violent or dangerous to human life, property or infrastructure and has resulted in damage as part of an effort to coerce the US civilian population or to influence the policy of the US government by coercion. Currently, TRIA is scheduled to expire on December 31, 2014.

I understand the insurance industry ' s concerns regarding the difficulty of insuring the threat of terrorism. I support bringing Massachusetts insurance law and underwriting practices in line with post-9/11 risks and providing an exclusion for acts of terrorism. However, the definition of " act of terrorism " contained in this bill is overly broad and could be interpreted to include mere acts of vandalism .

For these reasons, I am returning this bill with an amendment to define " act of terrorism " by referencing the definition in TRIA.

I recommend that House Bill No. 960 be amended by striking out the text and inserting in place thereof the following text:-

Section 99 of chapter 175 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after clause Twelfth A the following clause: -

Thirteenth. Notwithstanding any other provision of this chapter, a commercial policy issued in compliance with this section may exclude coverage for loss by fire or other perils insured against if the fire or other perils insured against were caused directly or indirectly by an act of terrorism; provided, however, that " an act of terrorism " shall have the meaning as defined in the Terrorism Risk Insurance Act of 2002 (P.L. 107-297), as amended. Exclusions under this clause shall remain valid and in effect until the expiration of the Terrorism Risk Insurance Program created by the Terrorism Risk Insurance Act of 2002, or its successor.

Respectfully submitted,

DEVAL L. PATRICK,

Governor.