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SYMPOSIUM REMARKS: TERRORISM AND ITS IMPACT ON INSURANCE: LEGISLATIVE RESPONSES AND COVERAGE ISSUES

GREGORY V. SERIO*

I would first like to direct your attention to our Web site, our award-winning Web site of the department.¹ We have testified extensively, both before Congress and before the New York Assembly on TRIA², on coverage and claims issues arising out of 9/11.³ If you wanted to add our testimony from the Assembly hearings, we testified three different times since October 2001, which really lays out the department's perspective, both on what the implications of 9/11 were for insurance generally, but also what TRIA would do or would not do. When you are eleven-and-a-half billion dollars in the whole, you do not make a lot of copies of testimony, but go read it online and you will see where the department's perspective has been and where it has evolved.⁴

Let me say this about TRIA up front. TRIA is an extraordinarily unique piece of legislation for two reasons. First, it shifted some responsibility for issues of public policy and recognized issues of public policy in terms of coverages and natural security to the federal government definitively.⁵ It said,

* Superintendent, New York State Dept. of Insurance. These remarks are an actual transcript of the author's comments at the St. John's Journal of Legal Commentary Symposium on Mar. 14, 2003.

¹ <http://www.ins.state.ny.us> (last visited Jan. 14, 2004).

² Terrorism Risk Insurance Act of 2002, Pub. L. No. 107-297, § 101-03, 116 Stat. 2322 (2002).

³ See STATE OF N.Y. INS. DEPT., ANN. REP. OF THE SUPERINTENDENT OF INS., at 2 (2002) available at <http://www.ins.state.ny.us/acrobat/annrpt02.pdf> (last modified Sept. 12, 2003) [hereinafter ANNUAL REPORT OF THE SUPERINTENDENT] (referring to testimony to Congress in 2002 expressing the priority to protect consumers and businesses from liability exposure from terrorist attacks).

⁴ See *id.* (explaining the nature of the department's response to September 11).

⁵ See Peter R. Fisher, Implementing the Terrorism Risk Insurance Act of 2002, Remarks Before the Worldwide Conventions and Business Forums Successfully Managing Terrorism Insurance Risk (Jan. 29, 2003), at <http://www.ustreas.gov/press/releases/kd3810.htm> (discussing the key features of TRIA, whereby the federal government is placed in the terrorism risk insurance business and shares the excess losses).

we have a stake in this. The big underlying argument in TRIA having been, what is public policy and what is appropriate for an insurance policy. Also, what is the responsibility of private landowners, property owners and insurance companies? So it started to do that in earnest. In fact, even beyond the flood program, which was really a uniquely federal program,⁶ while written through some insurance carriers under a write your own basis, it really was fully funded by the federal government. This really started to try and divide a split of responsibility between the public sector and the private sector, and I think that is why it took fourteen months to do it.⁷

Also what it did, it shifted the buying decision of terrorism insurance coverage from the seller to the buyer himself.⁸ Making a decision not whether to sell, but whether to buy. I think that is an important shift. I am going to go into some of the claims and coverage issues that are arising both out of 9/11 and out of TRIA, but I think you can use that as a baseline fundamental shift in terms of any legislation. We have always mandated in legislation that companies sell certain coverages.⁹ But, it has never been as clearly defined, as it is in TRIA, of an individual's right to buy and an individual's right to have it made available to them at a price that needed to be identified up front. That to me has been significant and reflects the significant shift in the insurance community since then. I think what is going to be one of the great lessons of TRIA, and one of the great legacies of TRIA, is the growing shift from the power focus being just on the carriers and to not just the consumers, but really to the buying public. Whether it is in trade associations or individually, as constituents they have been given a great power with respect to the legislation that was passed by Congress.

If you take those two things as precedent-setting events for TRIA you do not need to ask any other questions about whether

⁶ See FEMA, *About National Flood Insurance*, at <http://www.fema.gov/nfip/whonfip.shtm> (last modified June 30, 2003) (describing federally funded flood insurance).

⁷ See Homeland Education Resource Organization, LLC, *Terrorism Risk Insurance Act*, at <http://www.homelandeducation.org/index1b6e.html> (last modified July 14, 2003) (explaining TRIA's systematic sharing of compensation between the private and public sectors for insured losses).

⁸ See *id.* (explaining mandatory availability of TRIA, whereby all insurers must participate in the program).

⁹ See generally ANNUAL REPORT OF THE SUPERINTENDENT, *supra* note 3, at 2 (explaining the general insurance coverage types and requirements).

TRIA works, does not work or will work. Some claim success of TRIA based upon the degree of company insurance carrier acceptance of its terms.¹⁰ Some of those provisions, particularly the deductibles,¹¹ are fairly onerous, depending upon what situation or position you are in the marketplace. But, to measure the success or impact of TRIA based upon whether companies are using it or not is wrong. I think the lesson and the value of TRIA has already been established.

As I have noted,¹² TRIA will not work if the carriers do not want it to work, and I think to some degree that is already happening. That in turn is now fostering some additional legislative activity both in Congress and also in the statehouses that I think you are going to see.¹³

With that as the construct that you are suddenly moving to this focus on the relationship between the buyer and the seller, you now look at this continuum of coverage and claims from prior to 9/11, past 9/11, past the TRIA enactment, and now that we have TRIA. In addition for the next three years will have it, so what does that portend for the marketplace? In this new construct, in these shifting power dynamics between the two, both legally and also economically, you will see some changes come about. You can actually map the continuum. Coverages and the effectiveness or the usefulness of coverages is oftentimes in real lives in the claims process. The claims process in turn will give you a new set of coverage dynamics. The process goes on and on, inserting events like the 9/11 event itself and then inserting again the passage of TRIA into that continuum. You will see some of the dynamics that have taken place, and then set

¹⁰ See generally, Wade Financial Group and Global Asset Protection, Inc., *Terrorism Insurance and Risk Management, Implications for Clients Following Terrorism Risk Insurance Legislation and Terrorism Risk Insurance Act*, at http://www.terrorism-insurance-risk-management.com/implications_of_tria.html (last visited Jan. 14, 2003) (highlighting how some insurers opt not to offer any coverage at all for properties they believe are terrorism target).

¹¹ See ANNUAL REPORT OF THE SUPERINTENDENT, *supra* note 3, at 2 (discussing how TRIA requires insurers to provide commercial insureds coverage for losses due to terrorism).

¹² See Tamara Loomis, *Rates Mixed After Terror Insurance Act*, N.Y.L.J., Mar. 11, 2003, at 1 (quoting Commissioner Serio implying that success depends on insurer acceptance).

¹³ See Press Release, New York State Insurance Department, Department Announces Agreement with Excess Lines Insurance Community to Offer Guidance on Terrorism Insurance (Sept. 4, 2003) available at <http://www.ins.state.ny.us/p0309041.htm> (discussing guidelines carriers should use to limit terrorism coverage premiums).

the stage for that next generation of that relationship between coverage and claims. That relationship between coverage and claims now of course, being influenced more by the buyer, having more power in the scenario.

So we go back and look at 9/11 and at some of the claims dynamics from 9/11 itself. We look at the idea of settling or adjusting claims without certain documentation or records that had previously been sacrosanct to the claims process.¹⁴ Particularly on the life side, but no doubt also on the property side, lost documentation and records has created alternative methods of adjusting and settling claims.¹⁵ At the same time, in terms of the coverage dynamic, since you do have that continuum operating, perhaps you have new coverage requirements in terms of how you protect records and documentations; Exclusions, exceptions or endorsements for business continuity planning. Also, disaster preparedness within individual insurers in order to trigger coverages, and trigger claims settlements for lost documents and records, particularly if both were destroyed on 9/11. You had massive destruction, particularly on life and health where you had group policies, and the group policyholder being the business, the employer being the primary repository of all records on group life and group health policies.¹⁶ Information on group policies lost completely requires a new way of handling and adjusting on health claims and on life insurance claims because of that total destruction.

In addition, you saw firsthand the limitations and restrictions on coverages that had been part of the lexicon, frankly, for generations in insurance. Civil authority insurance,¹⁷ business

¹⁴ See generally Press Release, Insurance Information Institute, Insurance Information for Media Covering Hurricane Isabel – Insurance Claims Settlement Process Begins in Affected States as Additional Adjusters Arrive and Claims Centers Open (Sept. 19, 2003), available at <http://www.iii.org/media/updates/press.741940/> (listing necessary documents in claim settlement process).

¹⁵ See eg. Martin A. Schwartzman, Empire Healthchoice, Inc. Summary of Recovery Efforts Related to September 11, 2001 (June 10, 2002) (on file with author) available at <http://www.ins.state.ny.us/acrobat/ebcbs01.pdf>. (discussing general counsel status and how all litigation paper files for Empire Blue Cross and Blue Shield were lost in World Trade Center disaster).

¹⁶ See generally *id.* (discussing how vast amount of paper documents for audit, fraud, legal, human resources, senior medical management medical delivery, and sales departments located in World Trade Center were destroyed in disaster).

¹⁷ See Press Release, Office of the Governor, Governor Introduces “Civil Authority” Insurance Legislation, (June 4, 2003), available at http://www.state.ny.us/governor/press/year03/june4_03.htm (defining civil authority insurance).

interruption insurance,¹⁸ assumed to be appropriate in terms of their coverage limits and their coverage scope, suddenly becoming overly restrictive, overly limiting, and restricting the abilities of businesses to attain the level of coverage that they needed, given the facts and circumstances surrounding 9/11.

You have, in addition, multiple payouts not working to settle claims ultimately. What I mean is you had carriers putting a lot of money out on the street, up front, early. Advances followed by more advances, followed by more advances. Then you have these multiple payouts without it getting any closer to resolution of the underlying claim. That has now become almost a sub-topic in the whole 9/11 situation because we do have eighteen , twenty months later still some very hardcore claims that we still cannot solve or settle. The carriers are saying I have already paid X amount of dollars and cleaned up this property once, twice, or even three times but I cannot continue to pay it. That certainly goes far beyond what the original coverage terms required anyway.

That also goes into the clean versus repair versus replace on property claims.¹⁹ All these things are now subject to litigation over whether someone should have cleaned the equipment, cleaned the facility, repaired equipment or a facility, or replaced it.²⁰ Litigation is now taking place even after the intervention of the department. Litigation over whether an individual should have mitigated his losses up front by replacing equipment, only to have a carrier say, no, that should have been done by cleaning it or by repairing it. Suddenly where you find yourself is in court over hundreds of thousands of dollars of investments and battling between an insured who thought they were doing the right thing, or hoped they were doing the right thing, and largely doing it on their own. Now they are battling their carriers in court over whether that was an appropriate activity or not.

¹⁸ See Insurance Information Institute, *Do I Need Business Interruption Insurance?*, at <http://www.iii.org/individuals/business/basics/interruption/> (last visited Jan. 14, 2003) (defining business interruption insurance).

¹⁹ See generally Juan Gonzalez, *Still in the Dark over WTC Dust*, N.Y. DAILY NEWS, Sept. 11, 2003, at 24 (discussing insurance companies disputing property owner claims that property should be destroyed instead of cleaned).

²⁰ See David Pilla, *Sept. 11 Poses Many Claims Questions for Insurers*, BESTWIRE, Jan. 31, 2002 (stating whether damaged property should be replaced or repaired is important in resolving insurance claims).

Litigation itself is not providing any level of relief for a lot of insureds who have conflicts with their carriers. Litigation helps you win the battle, but lose the war. In terms of the amount of time that it takes to finally resolve insurance disputes, many businesses are out of business because they were not able to resolve their disputes in a timely fashion.²¹ That, I would suspect, is losing the war even if you win the principled victory of getting coverage or having a court tell you that you in fact were entitled to coverage. The long-term implications coming from that, require looking in the context of TRIA, not just from the question about whether the secretary will decide that an event is a terrorism event or not,²² but what is the undercurrent? What environment are you applying TRIA to when you are talking about claims that might arise from a terrorist event? Number one, you have this acknowledgement of the power of the buyer.²³ The buyer has power to buy coverage that they want or do not want. Second of all, coming out of 9/11, you have greater regulatory activity.²⁴ There is direct involvement; good, bad or indifferent, there is now involvement by the regulator in the

²¹ See generally Alan S. Rutkin, *Unfolding the Layers: Terror Expenses May Follow the Y2K Path, with Most Insureds Likely to Accept Terror Prevention as a Cost of Doing Business*, BEST'S REV., Mar. 1, 2002, at 64 (suggesting several reasons for plaintiff apprehension in litigating September 11th related claims against defendant insurance companies).

²² See Terrorism Risk Insurance Act of 2002, Pub. L. No. 107-297, § 102(1)(C), 116 Stat. 2322 (2002) (declaring that Secretary of Treasury's certification of, or determination not to certify, an act as an act of terrorism shall be final and shall not be subject to judicial review); see also Homeland Education Resource Organization, LLC, *TRIA Explained*, July 14, 2003, available at <http://www.homelandeducation.org/index1b6e.html> (suggesting TRIA's definition of "an act of terrorism" likely excludes terrorism committed on behalf of domestic interests, and the Secretary's decision to certify an act of terrorism not being subject to judicial review or challenge is likely to be held unconstitutional).

²³ See generally Michael Prince, *N.Y. to Require Refunds on Cancelled Terror Cover*, BUS. INS., (Mar. 21, 2003) (discussing New York State Insurance Department's amendments in response to prevalent practice of policyholders canceling their policies due to price fluctuations), available at <http://www.businessinsurance.com/cgi-bin/news.pl?newslid=2140> (last visited Jan. 14, 2004); Wade Financial Group, *supra* note 10 (outlining typical due diligence of terrorism insurance purchaser).

²⁴ See Terrorism Risk Insurance Act of 2002 § 101 (declaring TRIA's purpose is to contribute to the stabilization of the United States economy during widespread financial market uncertainty following the attacks of Sept. 11, 2001); see also Laura E. Hannusch & Suneil M. Thomas, *Terrorism Insurance: Congress to the Rescue?* (2003), at <http://articles.corporate.findlaw.com/articles>

[/file/00078/009098](http://file/00078/009098) (last visited Jan. 14, 2004) (stating that insurers exclusion of terrorist acts from coverage after September 11th required Congressional regulation through TRIA in order to ensure availability of terrorism coverage at affordable rates).

marketplace.²⁵ In terms of claims adjudication, and market facilitation, the regulator is now a partner for better or for worse.

We as regulators with our offices down on Beaver Street,²⁶ became part and parcel of the business community affected by 9/11. We had, perhaps for the first time, a firsthand look, in terms of what our constituents were going through, because we went through exactly the same thing at the department. We had our own disaster recovery plan, and our staff walking through the mess that day. That has kept us through the last two years focused on what our involvement should and could be with respect to regulatory activism in the settlement of claims and also in the procurement of coverages.

Greater coverage flexibilities are absolutely in high demand right now.²⁷ While the carriers have a certain amount of rating requirements, the dedication of capital goes far beyond the question of terrorism, terrorism being one component to it. I noted to Congress, back in September of '01, another terrorism event was not my concern as a financial regulator.²⁸ The concern was a hurricane coming from the south shore of Long Island due to the kind of capital commitment that a natural disaster would require, in the context of a large manmade disaster that we have just experienced. With that, you have greater coverage flexibilities now covering the spectrum.

TRIA provides financial security to some degree for the industry, but it does not really go to the question of coverage benefits or coverage flexibility. What is it that the public is

²⁵ See Terrorism Risk Insurance Act of 2002 § 101 (stating TRIA's purposes include establishing Federal regulation to protect consumers, ensuring widespread availability of affordable terrorism insurance, allowing private market stabilization during industry adaptation).

²⁶ See New York State Insurance Department, at <http://www.ins.state.ny.us/hpoffnos.htm> (last visited Jan. 14, 2004) (listing New York State Insurance Department address as 25 Beaver Street, New York, N.Y. 10004).

²⁷ See generally Hannusch & Thomas, *supra* note 24 (discussing how unpredictability of future terrorist attacks coupled with varying needs of property owners increased demand for terrorism insurance).

²⁸ See generally *How Much are Americans at Risk Until Congress Passes Terrorism Insurance Protection?: Hearing Before the Subcomm. on Oversight and Investigations, 107th Cong. (2002)* (statement of Gregory Serio) ("And so as we approach hurricane season . . . I think their concern is certainly more financial than procedural in terms of their ability to get in and handle a large risk, something in the order of whether it's an Andrew at \$19 billion or something like World Trade which is substantially more."); *Before The Next Hurricane: Review Your Insurance Policy To See What Coverages and Deductibles You Have*, PR NEWSWIRE, Aug. 23, 2002 (noting that Hurricane Andrew was the most significant insured loss until the World Trade Center attack).

getting? We have gotten the power to buy, but what is it that we are buying, and what is it that we can buy? I think that is what people are looking for and demanding it to a greater degree. There is a push for greater insured understanding of the insurance process. That has occurred to some degree, but that has also been tailored with a greater degree of frustration as well. Wariness and concern over claims activity resulting in adverse coverage decisions or decisions to underwrite based upon your claims activity has been a dark side of the insurance process forever. If I make a claim do I get canceled? Do I get non-renewed? Do I get lesser coverage the next time around? It has come into sharp relief and sharper focus here in the days after 9/11 because you're seeing this combination, but not necessarily one that's connected, between claims activity and the loss of coverage.²⁹ The loss of coverage coming from things that we have all discussed earlier with respect to capital decisions, and reinsurance limits or gaps. You may be able to draw an illustration showing a connection between your claims activity and your inability to get future coverage. While that connection may not always be appropriate, it is certainly what has been perceived to be the connection in the minds of the general public—that active claims activity will result in some negative underwriting decisions somewhere down the road. I think that has now become one of the foundations for the future of coverages, the way that we handle coverages and the way we handle insurance risk in New York and elsewhere.

So we take the lessons from claims, from the limitations, and from TRIA and we find ourselves in a situation where people are looking for more and adequate coverage limits, more compatibility of coverages to the risk that they have, ease of claims management and settlement, and affordability. Not only just short term, but long-term affordability, and long-term stability of pricing in the market. It is more the legislative activity that we are going to see going forward with respect to coverages as direct consequences of claims. You are going to see

²⁹ See generally ACORDIA, INC., APPLIED TO TODAY'S RISKS (2001), at 3, available at http://www.acordia.com/img/assets/1086/Annual_1-12.pdf (last visited Jan. 14, 2004) (stating that after September 11, 2001, insurance companies have been forced to seek more restrictive, tighter markets with significant rate increases).

greater use of self-insurance mechanisms and nontraditional insurance products.

I am not sure Congress is going to revisit TRIA any time soon. War has the mindset of the Congress right now and very little else gets in or permeated into the Congressional thinking at this point. But further than that, Congress said we have spoken on TRIA, we have done it. You asked for it and we gave it to you, so make it happen. I think you are going to see the activity go back to the statehouses like it has in New York, where right now we are looking at a major expansion of our captive statute.³⁰ It is not so much to make it easier for those blue chip companies and others who had traditionally been involved in captive development and captive operation, but looking at the bill we submitted last week to the legislature,³¹ it will greatly expand captive opportunities for small and medium-sized businesses who have, correctly or incorrectly been perceiving a disenfranchisement from the traditional markets that they had customarily gotten their insurance coverages from.³² They are looking though for more than just coverage. They are looking for ease of claims administration, ease of coverage retention, and more generally affordable and more efficient methods of dealing with insurance.³³

I have told insurance carriers before, we have now, not only a more empowered, but a far more educated business community buying insurance, working through claims processes and then demanding greater coverages that suit their needs going forward. Whether it is civil authority coverage,³⁴ which for a lot of

³⁰ See *Statement of New York State Insurance Department Before Assembly Speaker Sheldon Silver & Assembly Standing Comm. on Insurance* (Oct. 15, 2002) (statement of Gregory V. Serio, Superintendent of Insurance, New York State Insurance Department), available at <http://www.ins.state.ny.us/sp021015.htm>, [hereinafter *Statement*] (noting that New York wants to move toward expanding captive insurance opportunities to small businesses).

³¹ See *id.* (requesting swift legislative action regarding the bill submitted by the New York State Insurance Department).

³² See *id.* (stating that the New York State Insurance Department's bill will expand captive insurance opportunities to small businesses).

³³ See generally Press Release, U.S. Small Business Administration, SBA Administrator Joins Senate Small Business Committee Chairwoman Snowe, To Back Association Health Plans For Small Businesses (Mar. 6, 2003), available at <http://www.sba.gov/news/current03/03-17.txt> (noting that high insurance expenses place enormous burdens on small businesses).

³⁴ See generally Kathryn K. Jensen, *Determining the Number of Occurrences: Property Insurance and the Attack on the U.S.*, CLAIMS MAG., Jan. 2002, at 29 (defining civil authority coverage as insurance coverage intended to extend business interruption

coverage issues was extremely limited, both in terms of its waiting period and as well as its limitations,³⁵ anyone who saw lower Manhattan, some businesses were out of pocket simply by civil authority interruption for six months, eight months, or at least far beyond the periods of any insurance they had. The uncertainty of business interruption and continued business interruption coverages, both in terms of time and coverage, particularly on your contingent business, interruption coverage, has created a demand on the part of the public for greater specificity of what business interruption coverage actually gives them.³⁶ For many it is the absolute lifeline for their business.

Adverse consequences of a local event elsewhere is equally important to a lot of businesses. They are looking for greater flexibility with respect to how they get those coverages, but they are looking to get this in a context of predictability of rate and of coverage. I think that is why the surplus lines market, which is largely the unregulated component of the insurance marketplace,³⁷ while it has come in to save the day in the short-term, I do not think it is the vehicle for long-term stability, simply because you have a lot of businesses that had been involved in and had relied upon the regulated marketplace for their coverage. Now they are no longer able to get that coverage in the regulated market. That may have been the third element of TRIA that was so important in that it covered the surplus lines market and the regulated market as one and the same in terms of coverages, in terms of having to offer terrorism, and in terms of having to note what that coverage was costing.³⁸

coverage to circumstances in which the policyholder's property was not physically damaged but was instead cordoned off by authorities due to damage to neighboring property).

³⁵ See *id.* (discussing the practical criteria and limitations of civil authority coverage, including physical damage to neighboring property, interruption of business, and loss of income due to the interruption); see also *Statement*, *supra* note 30 (noting that many businesses have complained about the limitations concerning civil authority coverage).

³⁶ See generally *Statement*, *supra* note 30 (noting that proposed civil authority legislation would modernize and expand the scope of various forms of insurance coverage).

³⁷ See Brian S. Martin, *A Short Walk Through Surplus Lines*, *INS. J.* (July 22, 2002), available at <http://www.insurancejournal.com/magazines/southcentral/2002/07/22/legalbeat/22918.htm> (noting that surplus lines carriers are free from state insurance regulation).

³⁸ See Jay Romano, *Your Home: Terrorism Insurance, At a Price*, *N.Y. TIMES*, Mar. 9, 2003, at 5 (stating that TRIA enables private insurers to share risks of future losses from terrorist acts with federal government, while these insurers must notify existing policyholders of terrorism coverage availability and cost).

We are going to see further activity in the statehouses. We are also going to be pursuing how we can use the FAIR plan³⁹ more effectively to handle gaps in coverage in the marketplace. The New York Property Insurance Underwriting Association is something that was created during the days when people could not get insurance for inner-city risks.⁴⁰ When the inner cities were being burned to the ground back in the sixties,⁴¹ the FAIR plan was set up by Congress for use in the states.⁴² The plan was based on pooling of entities and interests in the insurance community to cover those risks.⁴³ We then used it again when we had trouble on the coastal market.⁴⁴ We had an impending mortgage crisis back in the mid-nineties,⁴⁵ and I think once again we are going to be pursuing ways to make the FAIR plan more pliable, and robust. The purpose is so in the event that the market does not respond, we then in turn move that responsibility to the marketplace as a group to provide the coverages that the market will not or has not provided.⁴⁶ Whether it is because of the onerous requirements of TRIA or because of other market dynamics, we need some safety net in the marketplace like a FAIR plan for terrorism, and for

³⁹ See Susanna McBee, *HUD: Insurance Redlining Widespread*, WASH. POST, May 31, 1978, at A6 (showing that FAIR Plans assure property owners in high-risk areas access to insurance).

⁴⁰ See Joseph B. Treaster, *Writing Policies in Cities Once Written Off: Protest and Possible Profit Bring Back the Insurers*, N.Y. TIMES, Oct. 30, 1996, at D1 (affirming how companies virtually wrote off urban areas in favor of suburbia and wealthy pockets of cities, where insurers believed crime and fire risk were lower).

⁴¹ See Kimberly Blanton, *What's FAIR in US Plan?*, BOSTON GLOBE, Mar. 23, 1993, at 46 (elaborating how Congress set up FAIR Plans to sell insurance in response to 1960's riots after many insurers left inner cities due to perceived risk).

⁴² See William Greider, *GAO Says U.S. Insurance May Encourage Arsonists*, WASH. POST, June 11, 1978, at A3 (describing how Congress' FAIR Plans regulate insurance pools in different states that guarantee property owners can obtain insurance in high risk areas).

⁴³ See Blanton, *supra* note 41, at 46 (stating how Congress set up FAIR Plans for inner city residents to buy insurance for homes and businesses deemed too risky by insurance companies).

⁴⁴ See Arthur M. Louis, *Insurance Coverage 'Crisis': Garamendi Offers Plan to Protect Availability in State*, SAN FRAN. CHRON., June 23, 1994, at D1 (showing California as one typical coastal state with state-run FAIR Plan associations, offering fire and earthquake policies to all Californians).

⁴⁵ See *Earnings Look Weak*, TAMPA TRIB., Jan. 30, 1998, at 7 (describing mortgage situation in mid-1990s).

⁴⁶ See Romano, *supra* note 38 (stating that TRIA as an example of sharing responsibility, enabling private insurers and federal government to share risks and future losses from terrorist acts, because insurers are required to offer terrorism coverage to customers).

commercial coverages. I think you will be seeing a legislative initiative on that regard, not just in Albany, but in other statehouses around the country.