



**House  
Legislative  
Analysis  
Section**

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**FIRE POLICY MAY EXCLUDE  
TERRORISM COVERAGE**

**House Bill 4432 (Substitute H-1)  
First Analysis (4-3-03)**

**Sponsor: Rep. Larry Julian  
Committee: Insurance**

***THE APPARENT PROBLEM:***

The Insurance Code requires that fire insurance policies contain certain specified mandatory provisions. In addition to the provisions specified in the statute, the code also requires that each fire insurance policy “contain, at a minimum, the coverage provided in the standard fire policy under former section 2832 [of the code]”. The former section referred to was repealed in 1990 and contained what was known as the “standard fire policy”. Insurance specialists say that these provisions were derived from the 165-line New York Standard Fire Policy first adopted in the 1940’s. The standard fire policy contained a list of exclusions (“perils not included”). It would not cover losses caused directly or indirectly by: enemy attack by armed forces; invasion; insurrection; rebellion; revolution; civil war; usurped power; order of any civil authority, with some exceptions for fire fighting orders; and neglect of the insured to use all reasonable means to save and preserve the property at and after a loss. (Insurance specialists point out that the standard fire policy is the bare minimum policy that as a practical matter no one purchases. The policies that individuals and businesses purchase go far beyond the standard policy. It remains nonetheless as a starting point.)

The attacks on New York and Washington on September 11, 2001 introduced a previously unanticipated peril similar in potential catastrophic consequences and costs to those listed above: terrorism. Representatives of insurance companies have been urging states to amend their laws to allow commercial fire insurance policies to exclude terrorism in the same way that enemy attacks and invasions (and similar perils) are excluded. Terrorism coverage would then be an optional coverage; businesses would decide whether or not to purchase the coverage and pay any additional premium.

Also, in response to the 9-11 attacks, the U.S. Congress enacted the Terrorism Risk Insurance Act

of 2002. That act is typically described as providing a temporary federal “backstop” for commercial insurance policies; that is, the federal government will share in the cost of claims for losses due to certain kinds of terrorism that exceed certain amounts. (The federal law also preempted existing state exclusions for foreign terrorism.) The new federal act requires that insurance companies make terrorism coverage available to its commercial policy customers. Customers are free to accept or decline the coverage. The insurance companies must inform customers of any premium charged for terrorism coverage and of the federal share of terrorism losses. Making terrorism an optional coverage in Michigan would make state law conform to the new federal law.

***THE CONTENT OF THE BILL:***

The bill would amend the Insurance Code to permit a commercial fire insurance policy issued or delivered in Michigan to exclude coverage for loss by fire or other perils insured against if the fire or perils were caused directly or indirectly by terrorism.

For the purposes of the bill, the term “terrorism” would be defined to mean: a) a certified act of terrorism as defined in the federal Terrorism Risk Insurance Act of 2002; b) a violent act or an act that is dangerous to human life, property, or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion; or c) terrorism as defined in a form that is voluntarily filed under and subject to Section 2236 of the Insurance Code and is properly in use. [See *Background Information* for the definition of a certified act of terrorism in the federal act.]

MCL 500.2834

**House Bill 4432 (4-2-03)**

**BACKGROUND INFORMATION:**

The federal Terrorism Risk Insurance Act of 2002 contains a definition of an “act of terrorism”. Essentially, this term refers to an act certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General, as a violent act dangerous to human life, property, or infrastructure, that resulted in damage within the United States (or outside the U.S. in limited cases) and committed by an individual or individuals on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population . . . or to influence the policy or affect the conduct of the U.S. government by coercion. Certification can only apply to property and casualty insurance losses exceeding \$5 million.

**FISCAL IMPLICATIONS:**

There is no information at present.

**ARGUMENTS:****For:**

The bill would make terrorism coverage an optional coverage in commercial fire insurance and similar policies. It would join such existing exclusions as enemy attack, invasion, insurrection, civil war, and revolution. The events of September 11, 2001 have introduced a new kind of peril that could produce catastrophic losses and costs. The argument is that businesses should not have to acquire and pay for this coverage if they do not want it. Typically, businesses negotiate the kind of coverage they want with insurers based on their own perceived needs and interests. Also, unlike with personal lines, insurance companies can decline to provide coverage to a given business. (The bill only applies to commercial policies not policies for individuals.) A new federal law provides a kind of reinsurance for terrorism coverage (in recognition of the potential enormous costs and the lack of available private reinsurance) and requires that insurance companies make the coverage for federally certified terrorism available as an option.

**Response:**

It should be noted that the bill refers to losses caused directly and indirectly by terrorism. Some people are concerned about how this would be interpreted and applied. Further, the definition of “terrorism” in the bill is broader than that contained in the federal act and applies to what might be called domestic terrorism as well as terrorism from foreign persons or interests. Is this wise?

**POSITIONS:**

The Office of Financial and Insurance Services, within the Department of Consumer and Industry Services, is supportive of the bill. (4-2-03)

The Insurance Institute of Michigan supports the bill. (4-2-03)

The Michigan Insurance Coalition supports the bill. (4-2-03)

A representative of the Alliance of American Insurers testified in support of the bill. (3-26-03)

Analyst: C. Couch

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.