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Senate Passes Bill Limiting Insurers' Liability After an Attack

By JOSEPH B. TREASTER

The Senate adopted legislation yesterday requiring the federal government rather than insurance companies to pay the overwhelming majority of financial losses in a terrorist attack, triumphantly ending a long, determined campaign by President Bush.

By a vote of 86 to 11, the Senate endorsed a program passed last Thursday by the House that provides for the government to pay up to \$100 billion in terrorism losses annually for three years.

Mr. Bush was in Europe last night, but his administration and the nation's insurers and bankers, as well as real estate and construction companies, hailed the passage of the legislation as a strong shot in the arm for the country's struggling economy.

Treasury Secretary Paul H. O'Neill called passage of the legislation "perhaps the single most important thing we can do to boost job creation in the short run, as well as minimize negative economic consequences of possible future attacks."

But having achieved their long-sought goal, the insurers were looking ahead with trepidation.

"Now the real work begins," said Julie Rochman, a spokeswoman for the American Insurance Association. "We have to implement this program. That is not going to be easy. This is still a volatile situation with a lot of risk."

The legislation requires all commercial insurers to begin immediately offering terrorism coverage, which they had provided free with commercial coverage until the attacks last year at the World Trade Center and the Pentagon.

After losses in those attacks estimated at more than \$40 billion, the insurers withdrew the coverage and began appealing for help from Washington. Gradually, some insurers reintroduced terrorism insurance but in limited amounts at very high prices.

While the legislation provides for unlimited availability, it does not address the question of price. Some insurance executives say costs will probably remain high until the companies are better able to gauge their potential losses. Even though the legislation sharply limits the insurers losses, they say they still have no way of knowing how often or how forcefully terrorists may strike and therefore how much to charge. The legislation is also expected to have little immediate effect on the soaring price of other commercial coverages.

Still, Senator Charles E. Schumer, Democrat of New York, said he believed federally backed insurance would have a strong impact in New York City.

"Many in New York can't get terrorism insurance and those who can have been put at an extreme disadvantage because it's so expensive," Mr. Schumer said. "This has basically hurt New York and other cities more than other places."

Mr. Schumer said that part of the reason for passing the legislation was to reduce prices and that he believed that would happen.

Under the legislation, the government will pay 90 percent of the cost of a terrorist attack after losses are greater than \$10 billion. For lesser damages during the first year of the program, the insurance companies will pay up to the equivalent of 7 percent of their premiums toward damages with the government picking up the rest of the costs. In the third year, the insurers will be required to pay up to 15 percent of their premiums with the 90 percent share for the government kicking in at \$15 billion in losses.

Mr. Bush contended that providing terrorism insurance was vital to the country's economic recovery. Because of the lack of coverage, he said, billions of dollars in construction projects and real estate transactions have been stalled and several hundred thousand construction workers are jobless.

Some economists and consumer advocates contended that insurance was just one of many reasons that construction and real estate companies and banks were struggling.

But Mr. Bush intensified his effort just before the Nov. 5 election. Some Republicans in the House objected to the bill in its final form because it permits victims of terrorists attacks to sue corporations for punitive damages. But Mr. Bush won them over last week with personal phone calls and meetings and a pledge to strive next year for sharp limitations on lawsuits against corporations.

“The president has been very, very helpful on this bill, very engaged,” said Senator Christopher J. Dodd, Democrat of Connecticut.

Senate Democrats and Republicans said Senator Phil Gramm, Republican of Texas, threatened to block the legislation late last week. But Mr. Gramm relented, both sides said, after receiving assurances that Democrats would not try to severely undermine the domestic security bill.

An aide to Mr. Gramm and White House officials acknowledged that Mr. Bush had spoken with the senator late last week. “He called him to make sure things were in line for the bill to be passed and sent to his desk,” a senior White House official said. An aide to Mr. Gramm would not discuss the conversation, but said that by the time the president called, the senator had already decided to let the bill proceed.

The White House official said Mr. Bush continued to urge support for the bill until shortly before leaving for Europe early yesterday. “He has, on a daily basis, made what I would call baby-sitting phone calls to make sure the temperature was correct for passage of the bill,” the White House official said.

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