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| **Maritime Legislation Committee** |
| **Author:** Barbara Burke **Source:** MLA **Date:** November 1, 2002                   MS. BURKE:  Thank you, Mr. President.  Good morning, everyone.  I just wanted to alert you to an important development in Washington, D.C.                     Just before adjourning for the election recess, conferees on legislation to create a Federal backstop for the terrorism insurance did reach a tentative agreement and there is an unofficial draft.   Congress returns the week of November 12th for a lame duck session which may or may not accomplish a lot, but chances are very high that this particular piece of legislation will pass both the House and Senate as a conference agreement before Thanksgiving and be signed into law by the President.                     The one wild card in the whole process is that the compromise reached between the Administration and Senate Democrats on the controversial tort reform issue that had been holding up the legislation.  This compromise so far does not have the agreement of the Chairman of the House Judiciary Committee, Jim Sensenbrenner. Without him on board, it is not a done deal.  So we'll see what happens.                     The Chairman of the Judiciary Committee would like to see a stronger ban on punitive damages so that claims against insurance companies and their policyholders would not be made for punitive damages.  He also tried to get a restriction, a cap on non-economic damages.  None of these other points that the Chairman wanted were included in the compromise, so he's reportedly miffed.                     What is in the compromise that has a very good chance of becoming law?  It is called the Terrorism Risk Insurance Act, and it requires the primary property casualty industry to share the risk of loss with the Federal Government from future terrorist attacks aimed at U.S. interests.  It's a three-year program which will terminateDecember 31, 2005.  There is a minimum of $5 million in damage to trigger the program, and maximum aggregate losses in any year are capped at a hundred billion dollars, unless Congress provides for additional payments.                     During the first two years of the program, participation is mandatory by the affected commercial property casualty insurers, meaning terrorism coverage must be offered in all policies issued by these insurers.  The covered insurers include everyone, whether on the NAIC surplus lines list, admitted in the state, or you are a foreign insurer which is to be approved by a Federal regulator to be covering a maritime, energy or aviation activity.  So, pretty much everyone is in and the coverage is mandatory.                     All terrorism exclusions will be void upon the day of enactment of the bill. And these exclusions can be reinstated only with a separate pricing of the coverage for terrorism, which has to be a line item in the policy, and with approval of the assured.  So, it is a very important development.  It is not a done deal yet, but I wanted you to watch for it.                 Thank you, Mr. President. |