NFIP Reform House Hearing Notes---11 March, 2011

“Legislative Proposals to Reform the National Flood Insurance Program”
Flood Insurance Reform Act of 2011 Discussion Draft

House Committee on Financial Services
Subcommittee on Insurance, Housing and Community Opportunity

Members of Congress present at one point or another during the hearing:

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<th>Republicans</th>
<th>Democrats</th>
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<td>Chairman Judy Biggert (R-IL)</td>
<td>Rep. Luis Gutierrez (D-IL) Ranking Member.</td>
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<td>Rep. Steven Palazzo (R-MS) guest</td>
<td>Rep. Nydia Velazquez (D-NY)</td>
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<td>Rep. Lynn Westmoreland (R-GA)</td>
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<td>Rep. Steve Stivers (R-OH)</td>
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Witness List:
Panel One

The Honorable Craig Fugate, Administrator, Federal Emergency Management Agency
Orice Williams Brown, Managing Director, Government Accountability Office
Sally McConkey, Vice Chair, Association of State Flood Plain Managers and Manager, Coordinated Hazard Assessment and Mapping Program, Illinois State Water Survey

Panel Two

Stephen Ellis, on behalf of the SmarterSafer Coalition, and Vice President, Taxpayers for Common Sense, Washington D.C.
Terry Sullivan, Chair, Committee on Flood Insurance, National Association of REALTORS® and Owner, Sullivan Realty, Spokane, Washington
Spencer Houldin, Chair, Government Affairs Committee, Independent Insurance Agents and Brokers of America and President, Ericson Insurance Services, Washington Depot, Connecticut
Franklin Nutter, President, Reinsurance Association of America, Washington D.C.
Sandra G. Parrillo, Chair, National Association of Mutual Insurance Companies and President and CEO of Providence Mutual Fire Insurance Company, Warwick, Rhode Island
Donna Jallick, on behalf of the Property Casualty Insurers Association of America, and Vice President, Flood Operations, Harleysville Insurance, Harleysville, Pennsylvania
Barry Rutenberg, First Vice Chairman, National Association of Home Builders, Washington D.C.

Overview

The hearing was interesting. A broad range of interests associated with aspects of the NFIP was heard from with the exception that there was no witness from the environmental community. There was a surprising amount of apparent consensus among witnesses on many aspects of the discussion draft bill.
In very brief summary, the Discussion Draft bill provides for:

- 5 year extension of NFIP authorization
- Provides for a 5-year delay in mandatory purchase requirement for areas newly mapped as floodplain in certain kinds of newly mapped floodplain areas if they apply to FEMA for suspension of mandatory purchase requirement for 12 months, renewable twice. The bill notes that even if delay approved by FEMA, lenders may still require flood insurance. Delay does not apply to land use provisions.
- Refund of amounts paid under force-placed policies after acquisition of regular policy
- Increase in minimum deductibles to $2,000 for subsidized properties and $1,000 for non-subsidized policies
- Additional optional, actuarially priced coverage for living expenses capped at $5,000 and for business interruption capped at $20,000.
- Increase in premium rates up to 20% annually and index for inflation
- Phased-in rates for areas newly mapped as floodplain at 50% first year, 20% each subsequent year until actuarial rate achieved
- Phased-in actuarial rates for second homes and commercial properties
- No subsidies for lapsed and then renewed policies
- Establishment of Technical Mapping Advisory Council for 5 years to develop standards for flood insurance rate maps used in NFIP
- Implementation of TMAC recommended mapping standards by FEMA within six months after receipt of recommendations. The standards are to address: 100 and 250 year floodplains, areas of residual risk, areas of graduated risk, including levees, decertified levees and the level of protection conferred, current land use and topography and accurate ground level data, effects of fill and altered hydrology, incorporation of natural features and associated flood protection benefits and watershed based mapping. All maps must be updated to new standards within 5 years.
- Studies by FEMA and GAO to assess options, methods and strategies for privatization of the NFIP.
- Private risk management initiatives to test capacity of private insurers, reinsurers and financial markets to assist communities on voluntary basis in managing financial risks of flooding
- Community building code administration matching grants to provide for increased staff, training and administrative capacity for state or local building code activities.

Panel 1
The first panel included only GAO and ASFPM. Craig Fugate, FEMA Administrator, was unable to be present because the earthquake and tsunami affecting Japan had just occurred. His statement was made a part of the official record – and does include discussion of the “Re-Thinking the NFIP” effort and the straw-men policy options under evaluation. Another hearing is set for April 1 for Fugate to testify.

Orice Brown Williams, testifying for GAO, noted approval of the bill's provision of greater authority for FEMA and GAO to explore expansion of private sector involvement in the NFIP. She called for improved leveraging of mitigation programs and further definition and development of consequences if mitigation offers are refused. She also called for mapping of all risks associated with flooding including erosion.

Following her testimony, questions were asked about how the debt to the Treasury could be repaid and about management and administrative challenges. To the first question, she replied that dealing with the debt is a problem that must be addressed by Congress, that the repayment accomplished so far happened only due to two low flood loss years. She noted that the debt could be forgiven or perhaps a surcharge levied, but noted that that could give rise to questions of fairness. Her reply to the second question pointed to rate setting processes, data quality, oversight of WYOs and IT failures.
Sally McConkey, testifying for ASFPM, explained that ASFPM recommends a 2-3 year reauthorization rather than 5 year to facilitate full Congressional consideration of the major reform recommendations expected from FEMA’s “Re-Thinking the NFIP” this summer. She noted that while the Discussion Draft provides some helpful elements, it could not be considered reform legislation. She pointed out fundamental issues needing consideration: Should the NFIP be expected to accommodate catastrophic losses? Are there realistic, affordable ways to do that? If not, should the Congress clarify that the program is not expected to cover catastrophic losses? The Congress should also give serious consideration to who benefits and who pays for development at risk.

Sally then summarized concepts ASFPM has identified that should be part of any reform: a comprehensive national flood risk management framework, movement toward actuarial soundness to reflect actual risk and enable market-based decisions, need for a long term mapping program to incorporate constantly improving technology and methodology and improve risk identification and assessment and improved and strengthened flood hazard mitigation.

In commenting on the Discussion Draft, Sally expressed appreciation for the subcommittee’s efforts to modify and tighten earlier consideration of delay in the mandatory purchase requirement for all areas newly mapped as floodplain, but suggested that other ways to address the affordability problem be explored instead. She suggested evaluation of a means tested flood insurance voucher system to be administered by HUD.

Sally expressed support for re-establishment of the Technical Mapping Advisory Council, but cautioned that it should function as an advisory group to assist FEMA in improving mapping and related processes like outreach, not a standards setting body. She also called for two additional studies: one to study the feasibility of group flood insurance either for entire communities, for identified floodplain areas or for residual risk areas behind levees and another study to do an economic analysis of the benefits and costs to taxpayers of providing flood insurance vouchers to lower income property owners. She also called for legislative improvements to the Severe Repetitive Loss program.

**Questions**

Questions for Sally specifically were from Chairman Biggert (R-IL) on mitigation in Illinois and from Rep. Cleaver (D-MO) on how privatization of flood insurance might affect low-income people. Other questions for both Sally and Orice Brown (GAO) were:

**Rep. Hurt (R-VA)**
Is this debt (of $17.6 billion) consistent for years pre and post Katrina? How much is the subsidized amount each year? What about the moral hazard here – how is that affected by this bill?

**Rep. Cleaver (R-MO)**
What about use of private reinsurance? Is that feasible?

**Rep. McCarthy (D-NY)**
How accurate are the new maps? Seems some areas mapped out of floodplain should not have been – example is her own house along the shore, where she should have flood insurance and not subsidized.

**Rep. Palazzo (R-MS)**
What about the high cost of wind insurance and former Rep. Taylor’s efforts to include wind coverage in the NFIP? Realize not likely to happen, but the problem needs to be addressed in some way.

**Panel 2**

Steve Ellis  Taxpayers for Common Sense and SmarterSafer Coalition

The program is fundamentally flawed. Rates must be more actuarial. It’s a problem that rates cover the average loss year and not catastrophic events. Supported rate increase up to 20% and the no lapsed policy subsidy. Support TMAC, but it should not delay or interfere with FEMA’s map processes. Does
not support business interruption and loss of use coverage because coverage should not be expanded. A catastrophe reserve should be provided.

Terry Sullivan  National Association of Realtors
Supports 5 year extension – need the certainty. Coverage should be indexed for inflation. Repetitive Loss program needs improvement. Concerned about consideration of reliance on private sector for flood insurance. The private market would charge too much and can’t guarantee affordability or availability. Entered into the Record the Federal Register Notice from 1977.

Spencer Houldin  Independent Insurance Agents and Brokers (The Big I)
Supports the Discussion Draft. NFIP has filled a private market void and provided a safety net. Supports long term reauthorization, phase out of subsidies, increase rates up to 20%, indexing rates for inflation, offering of business interruption and loss of use coverage.

Frank Nutter  Reinsurance Association of America
Support moving to risk based rates. Need to plan for catastrophes. Current pricing models are for the average loss year. Reinsurance and catastrophe bonds are good ideas that should be explored. Two possibilities:
1. Transactional re-insurance
   Private sector would evaluate the NFIP risk portfolio and offer reinsurance.
   This could be pursued right away with no need for a study.
2. Reauthorization of a reinsurance pool (standing facility)
   This was provided for in the original ’68 legislation. It has been dormant, offers the basis for a new pool --- for reinsurance. There would be no need for change to the current structure.

Sandra Parrillo  National Assn. of Mutual Insurance Companies (NAMIC)
Optimizing the current framework of the NFIP is the best choice. Viable insurance product not possible privately. Should:
-- charge actuarially sound rates to show true cost and consider flood insurance vouchers independently of the NFIP to assist low-income
-- update and improve accuracy of flood maps. Putting off map adoption is unfair.
-- improve take-up rates. Only 30% of those exposed to flood hazard have flood insurance.
-- discourage repetitive loss properties
-- improve management and correct operational problems

Donna Jallick  Property Casualty Insurers Assn. of America (PCI)
Support 5 year extension – concerned about lapses and liabilities. Support indexing rates to inflation. Support additional coverages – makes flood insurance more like private insurance. Administrative costs are high for WYOs – hence the big drop from 125 to 70 WYOs.

Barry Rutenberg  National Assn. of Home Builders (NAHB)
Supports 5 year reauthorization – lapses are a problem. Financially stable NFIP is in everyone’s best interest. A strong partnership between NFIP and states and localities is important – helps ability to plan and zone. Agree with re-establishing TMAC and like the increased coverages. Thinks FEMA should do a better job of coordinating on NFIP with other federal agencies. Concerned about inclusion of mapping 250 year floodplain because this would affect resale values.

Questions
Chairman Biggert
Why the retreat in number of WYO companies?
Could flood insurance be included in basic homeowner's insurance?

**Rep. Sherman**
It’s in the national interest to have people insured – even if the federal government has to pay some cost. Otherwise we just have supplemental appropriations for disaster relief.
How to fix map accuracy problems and the associated in-out issues?

**Rep. Westmoreland**
Concerned about the debt. We need to do a better job of buying out properties and mitigation. Too many repetitive losses – need provisions in the NFIP so don’t re-insure houses rebuilt in the same place with no mitigation.
Homebuilder by background – problem when corner of property in floodplain, but structure on the property nowhere near.

**Rep. Waters**
Has introduced an updated version of the flood insurance bill passed by the House last year – now H.R. 1026. Interested in the idea of subsidies outside the premium rate system. Amenable to the balanced approach in the subcommittee discussion draft bill. Concerned about incorrect maps. There is too little ability to appeal.

**Rep. Hurt**
To what extent does NFIP contribute to increasing the national debt? Concerned about the moral hazard.
How do you measure success of the NFIP?

**Rep. Cleaver**
There were some things broken about the NFIP in Katrina other than levees. Will need to repair the wind and flood problem. How can you determine if a house was blown away or washed away?

**Rep. Stivers**
Need a better ability of the federal government to price risk; need broader participation in the NFIP; need to encourage growth of the private market over time.
How can government do a better job of pricing? How can we get more compliance?

**Chairman Biggert**
How would Congress structure assistance outside of the NFIP? If you have suggestions, please submit for the Record. Also would welcome suggestions on how to improve maps and how to enhance the ability to enforce building codes. Record will remain open for 30 days.

*All written testimony and the Discussion Draft bill are available on the committee website. Go to: [http://financialservices.house.gov/hearings](http://financialservices.house.gov/hearings). The video broadcast of the hearing can also be viewed*

*The Subcommittee has scheduled an April 1 hearing for FEMA Adm. Fugate to testify.*

*Those testifying are only allowed 5 minutes for oral testimony. Written testimony is usually more comprehensive.*