



Legislative Bulletin.....July 12, 2011

Contents:

Amendments to H.R. 1309— Flood Insurance Reform Act of 2011

The following Legislative Bulletin contains information on the amendments pre-printed in the Congressional Record through Thursday, July 7, 2011.

Order of Business: The bill is scheduled to be considered on July 12, 2011 under a structured rule that provides for one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services. The rule waives all points of order against consideration of the bill. The legislation also provides that the amendment in the nature of a substitute recommended by the Committee on Financial Services shall be considered as an original bill for the purpose of amendment and shall be considered as read. The bill waives all points of order against the committee amendment in the nature of a substitute. The rule makes in order only those amendments printed in the Rules Committee report accompanying the resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question. The rule waives all points of order against the amendments printed in the report. The rule also provides that the chair of the Committee on Financial Services or his designee may offer amendments en bloc consisting of amendments printed in the Rules Committee report not earlier disposed of, which shall be considered as read, shall be debatable for 10 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services or their designee, shall not be subject to amendment, and shall not be subject to a demand for division of the question. Lastly, the rule provides one motion to recommit with or without instructions.

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SUMMARY OF AMENDMENTS MADE IN ORDER BY THE RULE BY JULY 7, 2011

1. **Biggert (R-IL).** The amendment changes the period between required updates of the flood insurance rate maps by striking 5 years and changing it to 10 years. The amendment also changes the title of section 15 of the bill from “Notification of Establishment of Flood Elevations” to “Notification to Members of Congress of Flood Map Revisions and Updates”. The amendment strikes the word “offer”

and replaces it with the word “error” under section 19 part (m) so that it reads “Requirement upon Bona Fide Error”. Lastly the amendment strikes the word “sections” and inserts the word “section” under section 22 (b) part 2 and not reads “in section 1363”.

2. **Bachus (R-AL).** The amendment extends the number of years for communities making more than adequate progress on flood protection system for a possible fourth- and fifth-year suspension. The amendment also excludes from this additional suspension of mandatory purchase of flood insurance any properties that receive a new loan or increase, or extend or renew a loan secured by the property.
3. **Speier (D-CA).** The amendment makes provides a penalty for requiring purchase of coverage exceeding minimum mandatory purchase requirement. The amendment makes it a violation for a lender, whose only interest in the property is the amount of the outstanding mortgage indebtedness, to require a homeowner to purchase more than the legally required amount of flood insurance—an amount equal to the outstanding principal balance of the loan. **Some Members may be concerned that if adopted, consumers who sustain a flood loss may not receive funds sufficient to repair the damage to their homes. Similarly, lenders will be discouraged from providing financing to consumers located in Special Flood Hazard Areas ("SFHA").**
4. **Flake (R-AZ).** The amendment strikes additional coverage provided in the bill for business interruption and cost of living expenses.
5. **Ros-Lehtinen (R-FL), Rivera (R-FL), Wilson (D-FL), Hinojosa (D-TX), and Holt (D-NJ).** The amendment strikes the part of Section 5 “Reforms of Premium Rates” that would increase annual limit on premium rates increases from 10% to 20%. This will prevent a 100% increase in possible premium hikes.
6. **Matsui (D-CA).** The amendment strikes language in the bill that phases in full rates at 50% for the initial year on newly mapped properties, and inserts language that phases-in full actuarial rates at a consistent rate of 20% per year over 5 years and requires that newly mapped properties pay 100% of actuarial rates at the end of the 5 year phase in.
7. **Terry (R-NE) and Berg (R-ND).** The amendment changes the effective date of insurance policies covering properties affected by floods in progress. If a property experiences a flood during the 30-day waiting period following the purchase of insurance, the insurance will cover damage to the property that occurs after the 30-day period has expired as long as the property did not suffer damage from the flood before the expiration of the 30-day period.
8. **Waters (D-CA).** The amendment strikes language in the bill that requires actuarial rates for insurance policies for severe repetitive loss properties where the

owners have refused mitigation or purchase offers. The amendment also combines aspects of different National Flood Insurance Program (NFIP) grant programs under a single program. The amendment eliminates grants for repetitive insurance claim properties and the pilot program for mitigation of severe repetitive loss properties. It also changes the mitigation assistance grants by making the grants available directly to property owners as well as to states and communities and allowing the grants to be made to address repetitive loss and severe repetitive loss properties. The amendment changes the matching requirement for the grants: for severe repetitive loss, 100% of the funds can be from the federal grant; for repetitive loss, 90% of the funds can be from the federal grant; for all other mitigation activities, up to 75% of the funds can be from the federal grant. The amendment increases the National Flood Mitigation Fund to \$90 million annually, from \$40 million annually, and the funds remain available until expended.

9. **Palazzo (R-MS).** The amendment ensures that there is adequate representation from Gulf Coast States with coastline on the Gulf of Mexico and other States containing areas identified by the Administrator of the Federal Emergency Management Agency as at high-risk for flooding or special flood hazard areas on the Technical Mapping Advisory Panel.
10. **Walberg (R-MI)** The amendment places a moratorium on the issuance of any updated rate maps from the date of enactment until the Technical Mapping Advisory Council submits to the Federal Emergency Management Agency Administrator and Congress the proposed new mapping standards. The amendment allows for the revision, update and change of rate maps only pursuant to a letter of map change, which includes a letter of map amendment, letter of map revision and letter of map revision based on fill.
11. **Cardoza (D-CA).** The amendment eliminates requirements to more broadly map areas considered to be residual risk including areas behind levees, dams, and other man-made structures.
12. **Burton (R-IN) and Stark (D-CA).** The amendment requires, prior to the 90-day appeal period, notification by certified mail to the chief executive officer of a community affected by a proposed change in flood elevations, by first class mail to each affected property owner, publication of the proposed changes in the Federal Register, and publication in a prominent local newspaper. Notification would include an explanation of the appeals process and contact information for responsible officials.
13. **McGovern (D-MA).** The amendment allows individuals to be reimbursed for certain costs associated with a successful challenge to a bona fide mapping error made by Federal Emergency Management Agency resulting in a Letter of Map Revision.

14. **Brady (R-TX).** The amendment requires the Federal Emergency Management Agency administrator to provide to a property owner newly included in a revised or updated proposed flood map a copy of the proposed flood insurance map and information regarding the appeals process at the time the proposed map is issued.
15. **Cuellar (D-TX).** The amendment requires the Federal Emergency Management Agency administrator to communicate with communities located in areas where flood insurance rate maps have not been updated in 20 years or more and the appropriate state emergency agencies to resolve outstanding issues, provide technical assistance and disseminate all necessary information to reduce the prevalence of outdated maps in flood-prone areas.
16. **Sherman (D-CA), Bachus (R-AL), and Meeks (D-NY).** The amendment requires, not later than 90 days upon enactment, FEMA to submit a report to Congress describing the procedures and policies which FEMA shall implement to limit the number of flood insurance policies that are directly managed by the Agency to not more than 10% of the total number of flood insurance policies in force. Not later than 12 months after submission of the report, FEMA must reduce the number of policies for the flood insurance coverage that are directly managed by the agency, or by the agency's direct servicing contractor that is not an insurer to not more than 10 percent of the aggregate number of flood insurance policies in force as of the expiration of such 12-month period. The amendment also authorizes FEMA to refuse to accept future transfers of policies to the NFIP Direct program.

Argument For this Amendment: *the WYO program was created in 1983 to bring insurance company participation into the government-controlled flood insurance program in an effort to move towards privatization by having insurance companies market, collect premiums, process claims, and administer policies for the government. This step not only brought the private sector into what had been a government-only program, but also brought with it innovations in marketing to add a new base of hundreds of thousands of policyholders into the program and take them off the post-disaster, bailout rolls. At the same time, the WYO program also gave consumers real economic power in that insurance companies competing for business have an incentive to provide good service to its customers because those policyholders will likely have non-flood policies (e.g., home, auto and life) that they can move to another company if the WYO insurance company fails to provide adequate service. FEMA acted last year to undermine this progress when, counter to its organic act and historical precedent, it started taking over 800,000 into the federal government with no intention of pushing them back out to the private market. This action created a government induced barrier to private sector competition on behalf of a single large insurance company that decided to no longer participate in the WYO program.*

Argument Against this Amendment: *Opponents of the amendment contend it is a Trojan Horse that offers no real privatization reform, adds up to \$250 million in*

new federal spending, and seeks to use the coercive power of the federal government to take business from one private party and give it over to another. Regardless of whether a flood policy is issued under NFIP Direct or by a WYO carrier, the federal government assumes all underwriting risk and pays all the costs while relying on private parties to manage the policies. FEMA has projected savings of \$50 million a year (\$250 million for the five-year bill) by relying on private contractors under NFIP Direct rather than WYO carriers. The Committee looked at this issue carefully and decided it was better to have FEMA study the consequences of redistributing policies before mandating such a transfer.

17. **Loebsack (D-IA).** The amendment required the Federal Emergency Management Agency to notify a prominent local television and radio station of projected and proposed changes to flood maps. It grants an additional 90 days for property owners or a community to appeal proposed flood maps — beyond the original 90 day appeal period — so long as community leaders certify they believe there are property owners unaware of the proposed flood maps and appeal period, and that they would use the additional 90 day appeal period to educate property owners. The amendment only applies to communities that have not, as of the date of enactment, been issued a Letter of Final Determination under the flood insurance map modernization process.
18. **Palazzo (R-MS).** The amendment affords policy holders the right to request engineering reports and other documents relied on by the administrator and/or participating companies in determining whether the damage was caused by flood or any other peril. The policy holder must hold not only a National Flood Insurance Program policy, but another insurance policy for the same property, the damage must be attributed to flood or wind, and the request must be made after the administrator has issued a final decision on the claim and after the resolution of all appeals on that claim.
19. **Westmoreland (R-GA).** The amendment adds a reserve fund in the Treasury of the United States entitled a National Flood Insurance Reserve Fund. The account shall be separate from any other account of funds available to FEMA and be available for meeting the expected future obligations of the flood insurance program.
20. **Miller (R-MI).** The amendment prohibits the Federal Emergency Management Agency administrator from advertising National Flood Insurance Program (NFIP) and directs any unobligated funds allocated for advertising be used to reduce the National Flood Insurance Fund debt. The amendment allows for the dissemination of information on the NFIP to holders of flood insurance policies under the program.
21. **Luetkemeyer (R-MO).** The amendment requires the Federal Emergency Management Agency to study its processes and procedures for making a flood in

progress determination and report its findings to Congress within six months from the date of enactment.

22. **Canesco (R-TX).** The amendment requires the Federal Emergency Management Agency (FEMA) administrator to report to Congress within 6 months of enactment a plan for how FEMA can pay back within 10 years the debt it currently owes the Treasury.
23. **Scott (D-VA).** The amendment directs the GAO to conduct a study of the means and effects of facilitating a market for all-peril insurance policies for residential properties.
24. **Walz (D-MN).** The amendment allows state and local governments to use the Army Corps of Engineers to evaluate locally operated levee systems that were either built or designed by the corps, and which are being reaccredited as part of National Flood Insurance Program remapping. All costs associated with evaluations would continue to be covered by the state or local government requesting the evaluation.
25. **Miller (R-MI).** The amendment terminates the National Flood Insurance Program by Jan. 1, 2012, and to allow states to form interstate compacts to provide insurance.