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H.R. 920, THE MULTIPLE PERIL INSURANCE ACT OF 2007

HEARING

BEFORE THE

SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

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H.R. 920, THE MULTIPLE PERIL INSURANCE ACT OF 2007

Tuesday, July 17, 2007

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HOUSING AND
COMMUNITY OPPORTUNITY,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2 p.m., in room 2128, Rayburn House Office Building, Hon. Maxine Waters [chairwoman of the subcommittee] presiding.

Members present: Waters, Cleaver, Green; Biggert, Pearce, and Miller of California.

Also present: Representatives Watt, Kanjorski, Hinojosa, Baker, Melancon, Taylor, and Jindal.

Chairwoman WATERS. Good afternoon. This hearing of the Subcommittee on Housing and Community Opportunity will come to order.

Good afternoon, ladies and gentlemen. I would like to thank the ranking member, Ms. Judy Biggert, and members of the Subcommittee on Housing and Community Opportunity for joining me for today's hearing on the Multiple Peril Insurance Act of 2007, H.R. 920.

I would like to start by noting that without objection, Mr. Paul Kanjorski, the chairman of the Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises; Mr. Mel Watt, chairman of the Subcommittee on Oversight and Investigations; and Mr. Ruben Hinojosa will be considered members of the subcommittee for the duration of this hearing. Also without objection, all members' opening statements will be made a part of the record.

I am looking forward to hearing from today's witnesses about H.R. 920, the Multiple Peril Insurance Act of 2007, introduced by Rep. Gene Taylor and co-sponsored by a number of Members, including me. As you know, last month, the Subcommittee on Housing and Community Opportunity held a hearing on H.R. 1682, the Flood Insurance and Reform Modernization Act of 2007, because of issues related to flood insurance reform and modernization, as well as funding, and the National Flood Insurance Program.

Given the ongoing debate concerning wind and flood risk, I believe it is prudent for the subcommittee to address the policy implications of H.R. 920 related to the National Flood Insurance Program. H.R. 920, the Multiple Peril Insurance Act, would create a new program in the National Flood Insurance Program to enable the purchase of wind and flood risk in one policy. The bill requires

premiums for the new optional coverage to be risk-based and actuarially sound, so that the program would be required to collect enough premiums to pay claims.

Multiple peril policies would be available where local governments agree to adopt and enforce building codes and standards designed to minimize wind damage in addition to the existing flood program requirements for floodplain management. Any community participating in the flood insurance program could opt-in to the multiple peril option, but the greatest demand for the optional coverage product will be in coastal areas that face both flood and wind risk from hurricanes and tropical storms.

Because insurance companies are withdrawing from coastal areas, State-sponsored insurers of last resort have been forced to take on much more disaster risk. The Multiple Peril Insurance Act would allow homeowners to buy insurance and know that their damage from both wind and water will be covered. This is primarily a concern after a hurricane, where the worst destruction is typically caused by a combination of wind and flooding. Homeowners would not have to hire lawyers, engineers, and adjustors to determine what damage was caused by wind, and what was caused by flooding.

The bill would set residential policy limits at $500,000 for the structure, and $150,000 for contents and loss of use. Non-residential properties could be covered up to $1 million for structures and 750,000 for contents and business interruption. Once the new optional coverage program is enacted, a private insurance market should develop to offer coverage above the limits. This would allow insurance companies to design policies that would have the equivalent of a $500,000 deductible for residential properties or a $1 million for non-residential properties.

Again, I look forward to hearing the witnesses' testimony on H.R. 920, and now I would like to recognize the ranking member, Ms. Biggert, for her opening statement.

Mrs. BIGGERT. Thank you, Chairwoman Waters, and thank you for holding today's hearing on H.R. 920, the Multiple Peril Insurance Act of 2007.

I had the pleasure of spending time with Mr. Taylor at a field hearing in Mississippi earlier this year, and I appreciate his hospitality as well as his commitment to his community and the issue of insurance availability. I'd also like to thank both Congressman Baker and Congressman Jindal for their longstanding interest in natural disaster issues, and I look forward to their testimony today.

In February, I did visit the Gulf Coast and saw the devastation that Hurricanes Katrina and Rita caused in both Louisiana and Mississippi. It has been almost 2 years since the hurricanes hit land, and entire neighborhoods still await rebuilding, in part because many homeowners face difficulties in securing insurance. Today we will hear from witnesses to help us determine if wind should be added to the National Flood Insurance Program, and I will admit that at this time, I do not support this idea, which is envisioned in Mr. Taylor's legislation. But at the same time, I do think that we need to more closely examine the insurance avail-

ability problems that exist in some areas of the country like the Gulf Coast.

First, I am interested in hearing from today's witnesses about the ways that State regulatory systems influence insurance availability. Why are there availability problems in some States, but not others? Are insurers allowed to price for the true risk a particular property faces? In Illinois, free market pricing benefits consumers, ensuring that they will have choices, since insurers are encouraged to compete for their business. I'm also interested in discussing ways we might lessen the regulatory burden to spur the creation of a private market multiple peril policy at an affordable rate for consumers.

Second, I'm concerned that expanding the Flood Insurance Program to include wind could compromise efforts to enact much-needed reform of it and FIP, which is the Nation's largest single-line property insurance provider. To help reform the Flood Insurance Program, I introduced H.R. 1682, the Flood Insurance Reform and Modernization Act, with Chairman Frank. I look forward to marking-up this legislation at the end of this month.

To put it simply, the NFIP is under water. To pay 2005 hurricane claims, the Program was forced to borrow from the Treasury a substantial amount of money, over $17 billion, that it will likely not be able to repay. I'll admit that I'm a bit of a skeptic. It seems to me that before expanding a sinking Federal program, we should reform it. We need to reform the NFIP by updating the Nation's flood maps, improving private/public sector coordination, and removing subsidies from properties that repeatedly flood.

In January, the Government Accountability Office placed the Flood Insurance Program on its high-risk series list which recommends increased congressional oversight for troubled programs. So before expanding the NFIP to include wind, we should keep our commitment to reform the NFIP and to move H.R. 1682.

Third, H.R. 920 requires that wind coverage be offered at actuarial rates. I support actuarial insurance pricing, but I'm concerned that it is a concept that does not work in practice. Approximately one quarter of NFIP policies currently in place are subsidized. The Congressional Budget Office believes that even unsubsidized properties may not be charged at actuarial rates because outdated flood maps do not in many cases accurately identify risk. I'm concerned that wind coverage would be no different, further exposing taxpayers to large financial risks should an underfunded wind program face another Katrina.

After such large events like the 2005 Gulf Coast hurricanes, the market must reevaluate its exposure and the regulatory environment in the wake of tremendous disasters, natural and otherwise.

We often seek a silver bullet to make things run more smoothly next time or prevent the past from repeating itself; however, we must be careful not to move too quickly. After Enron and other accounting scandals, the committee worked diligently to enact reform legislation. While Sarbanes-Oxley represents an important step forward in safeguarding our Nation's financial markets, in the years since its enactment, we have learned that acting too quickly can lead to problems down the road.

Instead of endorsing one legislative approach over another, at this point we should study and review ways to increase insurance availability and encourage the private sector to offer this coverage over the long term.

I look forward to continuing to work on reforming flood insurance programs and setting ways to encourage a more robust market for catastrophic insurance.

I yield back.

Chairwoman WATERS. Thank you very much, Ranking Member Biggert. I would now like to recognize Mr. Cleaver for 5 minutes.

Mr. CLEAVER. Thank you, Madam Chairwoman, and I take this opportunity to express appreciation to you and Ms. Biggert for leading the delegation down to the Gulf region earlier this year, and we had an opportunity to visit with our colleague, Congressman Gene Taylor, who was kind enough to spend a considerable amount of time with us, showing us around.

This is a very important hearing. I think most of the hearings we have are important, but to me this is extremely significant because of the discussions that people are still having about what happened in the Gulf Coast region and, in many instances, the failures of the Federal Government. And I think we have an opportunity now to be proactive.

I have a little different perspective with regard to the term "acts of God," only because in the context that we are dealing with, it is something negative, and we are experiencing one of the "acts of God" right now. It's just called an avalanche of oxygen.

That's theological. We don't have to get into it. We can exchange papers on the subject, but the final point I want to make here is that—and this may be somewhat provocative—in addition to flood and wind coverage, at some point, perhaps not today, but at some point, I think it is going to be important for us to explore other perils like earthquakes and tornadoes.

Tornadoes, for example, are readily seen in my native State of Texas, and of course in Missouri, which I represent today, and all over the Midwest. And so I think at some point that needs to be dealt with. I am very proud to be a co-sponsor with my colleague, Gene Taylor, on the all peril insurance bill, H.R. 920. I look forward to hearing your comments and being directed in another way that would be better than the direction we're traveling.

Thank you, Madam Chairwoman.

Chairwoman WATERS. You're welcome. And now, I would recognize the gentleman from North Carolina, Mr. Mel Watt, who is also the chairman of the Subcommittee on Oversight and Investigations.

Mr. WATT. I thank the gentlelady for yielding me time, but I just came to listen, having developed an intense interest in this because of the oversight hearings that we are having regarding the failure of the insurance payment process in the aftermath of Hurricane Katrina. I'm disappointed that more of the members are not here to get actively engaged in this because it's an issue that we really, really must deal with and deal with more aggressively than we have.

And like Representative Cleaver, one of the concerns I have is whether the proposal goes far enough in defining the range of per-

ils that should be included under a policy that is written by the Federal Government as opposed to private insurers.

The difference, it seems to me, between the market being able to take care of insurance, as Ms. Biggert has indicated is a desirable and worthy objective for the market to be able to do, is that when you have catastrophic acts of God that can't be really anticipated or reserved for, those are the circumstances in which the risk should be spread throughout the Nation because that's what the whole idea of the Nation coming to the aid of people who have had catastrophic losses is all about.

So while private insurers can model and anticipate and reserve for and calculate on statistically the likelihood of fires in Chicago, or in Illinois, where the gentlelady is from, I don't think I remember Chicago having a flood of the magnitude of Katrina, or Illinois having a flood of the magnitude of Katrina. So you get into these situations where, if the private market has part of the coverage, and the Federal Government has part of the coverage, you are always going to have these finger-pointing episodes with people pointing the finger at each other and saying, you're responsible for that.

And so there needs to be some threshold, I think, above which a Federal catastrophic policy, call it a multi-peril policy, kicks in because we recognize that as being beyond what can be reasonably anticipated by the private market and reasonably insured against by the private market. So this is a very difficult issue, and it's not that I have any opposition to the private sector doing this, but I think the gentlelady will find that even the private sector is in full accord with trying to get out of these guessing games when you have a 100-year or 1,000-year flood.

The private market simply can't model and insure against that, and the masses of the American people ought to be put at risk under those circumstances so that we can spread that risk appropriately across the entire Nation.

Chairwoman WATERS. Would the gentleman yield?

Mr. WATT. I'm happy to yield to the gentlelady.

Mrs. BIGGERT. Since the gentleman mentioned fire, I might just remind him that the whole City of Chicago burned down.

Mr. WATT. And I'm not suggesting that fire is one of the perils that ought to be insured against. I guess there are occasions on which fires have been caused by acts of God where you have lightning striking somewhere, and it sets off a fire. But at least the insurance companies know the likelihood that a fire is going to break out, and it may be a theological debate, as Reverend Cleaver indicated. Few of us know the likelihood that an act of God is going to consume us, and I think that's kind of the threshold that the American people ought to be prepared to accept when they accept the fact that an act of God has intervened and you can't really anticipate that.

I'm over my time. I appreciate the gentlelady yielding the time. I didn't really intend to take anywhere near that amount of time, but I appreciate the gentlelady having to yield.

Chairwoman WATERS. Thank you very much, Mr. Watt.

At this time, I'd like to introduce our first panel of witnesses, including several of our distinguished colleagues in the House. Serv-

ing on this committee: Hon. Richard Baker, the author of the bill; the Hon. Gene Taylor; and also, representing Louisiana, Hon. Charlie Melancon and Hon. Bobby Jindal.

Thank you all for coming. I don't know when we've had such a distinguished panel before my subcommittee. So with that, we will start with our first witness, Mr. Taylor.

STATEMENT OF THE HONORABLE GENE TAYLOR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. TAYLOR. Thank you, Madam Chairwoman.

Madam Chairwoman, just as a quick reminder, on the day I was elected to Congress, coincidentally, the San Francisco earthquake occurred, and I remember some of the earlier votes that I cast were for the supplementals to help the people in that area. The people—people back home—said, "Why are you doing that?" And I distinctly remember saying that there will come a time when we're going to need the help of the people from California, and I want to thank you for being the face of that help. You have been of tremendous assistance, and I'm personally indebted to you. And when this is all said and done, the people of Mississippi, the people of our country, are going to be indebted to you as well.

I want to thank all of you for being here and for your trips to Mississippi. Most of you have come to Mississippi only in the aftermath of the storms, but if you had been to the south coast of Mississippi prior to Hurricane Katrina, if you'd gone to my neighborhood, you would have seen a house like this one.

That's my buddy, Jody Bienvenutti. He lived about a hundred yards from me. He had a house that was about 180 years old, been through no telling how many hurricanes. He is in the supplemental health insurance business, so he had a lot of faith in the insurance industry. He bought a lot of insurance—about $586,000 worth of insurance on that house.

That's what it looked like the day before Katrina. This is what it looked like 2 days later when he could make his way back from Mobile to see what he had left. If he would have gone a little bit further down the block, you'd have seen the home of Corky and Molly Hadden. And Corky is a financial planner, MBA, built a hurricane-proof home. Look at it. It's up on stilts. It has a very shallow roof to minimize the wind exposure. It has shutters. He built a hurricane-proof home. He's a financial planner, a very smart guy financially.

So he insured that home for $650,000. He was also out of town, smartly, on the day of the storm; he got out like the local authorities told him to. When he got back, this is what he found. Jody had $580,000 worth of insurance; Corky had $650,000; and 23 months after that storm, neither one of them has gotten a penny from their insurance company. To give you an idea of the magnitude of the storm, I really could have started in Slidell, Louisiana, about 30 miles to the west of where my house was, and I could have gone to Bayou la Batre, Alabama, which is probably 80 miles to the east of me.

So I'll go a little bit further to the east to the town of Long Beach, Mississippi, which looking at is a fairly typical south Mis-

sissippi home owned by the Kissingers. They had $149,000 worth of insurance. This is what it looked like the day before the storm. This is what it looked like when they could make their way back to it. They had $149,000 worth of insurance. They were luckier than most. They were paid $21,000 on a $149,000 policy.

Now, if you go about another 15 miles to the east of Biloxi, Mississippi, and if you'd been there the day before the storm, you would have seen the Strawns' home and get a fairly typical south Mississippi home. They had $134,000 worth of insurance. They came home to that, and their insurance company paid them nothing.

You could go east another 20 miles to Ocean Springs, Mississippi, to the home of the Openchofski family, again, another fairly typical south Mississippi home. This is what it looked like the day before Katrina. This is what it looked like the day after. They had a $143,000 policy, and they got paid nothing.

The point I'm trying to make is whether it is Slidell, Louisiana; Bay St. Louis, Mississippi; Ocean Springs, Pascagoula, Mississippi; or Bayou la Batre, Alabama, a natural event occurred where people built what they thought were safe houses, where they bought what they thought was an insurance policy that would be their good neighbor, or they'd be in good hands. They paid their premiums.

And in the weeks after the storm, one by one they had an adjustor come to their house and say, we see no evidence of wind damage. We're not going to pay you a dime. Sometimes they stretched that out for days, sometimes for weeks, and sometimes for months. And the insurance will come to you and they'll say, but we settled all these claims. We settled 98 percent of them.

The day they walked on my property, 2 weeks to the day of the storm and said—despite all the evidence to the contrary and despite that I walked them hundreds of yards from where my house was, showed them where my tin roof was—tin doesn't float; where the holes were where it ripped through the bolts that attached it to the roof—and they just, with bold face said, "We see no evidence of wind damage."

So I know what happened. And so whether they told you 2 weeks after the storm, 2 months after the storm, or 2 years after the storm, the fact of the matter is that people who played by the rules and expected their insurance company to play by those same rules got screwed by their insurance companies. It is the only way to describe it, as individuals.

But it gets worse, you see, because when the insurance companies don't pay claims that they should, because we are a generous nation, our taxpayers do.

Almost every homeowner's policy had cost-of-living expenses. If you lose your place, while you are out, we are going to pay for your apartment. We're going to pay for this. Well, if they deny your claim, you don't get the cost-of-living. So in south Mississippi alone, at its peak, we had 42,000 government-furnished FEMA trailers for people whose homes were either completely destroyed or substantially destroyed, where our Nation paid to put that $16,000 trailer on their property, paid another $16,000 just to deliver it to their property, where our Nation wrote them a FEMA check for their ad-

ditional cost-of-living expenses because the insurance company didn't pay.

Madam Chairwoman, it gets worse than that because not only did we get stuck with that expense, but under the Federal write-your-own policy, we allowed the insurance companies to determine whether the claim was for wind or for water. And so you're sending a 25-year-old claims adjustor out there who's thinking about his Christmas bonus, who's thinking about his next promotion. And you're putting him in the horrible position of saying, do I ask my company to pay and say the wind did it, or do I ask the taxpayers to pay and say the water did it all?

Whenever given the chance, they blamed it on the water. They stuck the taxpayer with the bill and right now in the State of Louisiana, there is a multi-billion-dollar civil action suit for people who are trying to recover the money that the taxpayers were wrongfully billed.

So, for a lot of reasons, I want to commend you for what you're doing, for looking into this. I'd like to submit for the record letters from Senator Lott and Governor Barbour, who are both in support of something along this line of addressing the problem.

And again, thank you for your personal interest and your willingness to have what is now, I think, the fifth hearing on insurance reform since the Democrats took over.

[The prepared statement of Representative Taylor can be found on page 115 of the appendix.]

Chairwoman WATERS. Thank you very much. And without objection, such is the order.

Mr. Melancon?

STATEMENT OF THE HONORABLE CHARLIE MELANCON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. MELANCON. Thank you, Madam Chairwoman.

I appreciate you holding this hearing today and I appreciate Gene for working so hard and putting together a bill. No bills are perfect, but at least maybe we can get this thing and move it along to where we start remedying the problems, which may have started in Mississippi, Louisiana, Alabama, and Texas, but are obviously spreading and spreading quickly along all coastal areas of this country that are subject to storms, including the island of Manhattan.

In August of 2005, America watched as Katrina destroyed over 200,000 homes in southeast Louisiana, and then saw even more destruction just a few weeks later as Hurricane Rita ripped apart southwest Louisiana and took almost another 25,000 homes. After the Gulf Coast suffered through two of the worst natural disasters in the country, our people were forced through the indignity of another battle—that of fighting their insurance companies, as homeowners' insurance policies covered damage caused by wind, but not damage from flooding or storm surge.

Because it can be difficult to prove whether wind or water from a hurricane caused a home's damage, many Katrina and Rita victims found that their insurance companies denied or low-balled their claims, leaving some of them to rely solely on payouts from

the National Flood Insurance Program, which in turn had to make outrageously high payments at taxpayers' expense.

Thousands of homeowners took their insurance companies to court before they got the insurance payouts they were owed from years of faithfully paying their homeowners' premiums. Today, almost 2 years after the storm, some are still waiting for a check so they can rebuild their homes; family and friends and others that I know included.

At the same time, insurance companies have been hastily pulling out of coastal areas like south Louisiana, canceling policies and refusing to write new ones. More and more people in south Louisiana are being forced to turn to Louisiana's State-sponsored insurer of last resort for their homeowners' insurance, paying premiums that are way above market rates.

While Louisiana's strong consumer protection laws protected many homeowners who have had insurance policies for at least 3 years from being dropped by their insurance companies, they are by no means the lucky ones. Even those who did not file claims after the 2005 hurricane are now being hit with skyrocketing premium increases, often as much as 2 or 3 times what they had paid before the storm.

The district I represent in Louisiana is almost entirely in the hard-to-insure part of the State, and every day I get calls, e-mails and letters from constituents begging that the Congress do something about the insurance crisis in south Louisiana. I've brought some of those, and we can enter those into the record.

One is a guy named Roy Barrios of South Lafourche who wrote me saying that Allstate recently canceled his homeowners' insurance policy and he now will have to pay 3 times as much for coverage from Louisiana's insurance of last resort. He was only 2 months shy of being covered by Louisiana's consumer protection laws that would have kept his policy from being canceled, although he noted that Allstate is still happy to renew his profitable automobile insurance policy.

Similarly, Todd Ramirez of Thibodaux, Louisiana, told me his annual premium increased in one year from $1,188 to $4,165, almost 300 percent.

Jeanette Tanguis of Houma, Louisiana, said her premium increased $200 per month. In a letter to me she wrote: "Having spent most of my life living in Terrebonne Parish, it never occurred to me that I would be forced to move from the place I love and have called home for most of my life. Unfortunately, my family and I are being forced to make this sad decision."

These are only a few of the many stories I hear from people who are being forced to leave their homes and their communities.

We in Congress must act quickly to solve this insurance crisis so that middle-class families, the backbone of our economy, can continue to afford to live in coastal communities.

All-peril insurance, like the proposal Mr. Taylor has, would go a long way in addressing some of the insurance problems highlighted by Katrina and Rita. By bundling wind and water coverage into one plan, multi-peril insurance would cover home damage by hurricanes, regardless of whether winds or flooding caused the damage.

Not only will this provide homeowners with peace of mind, it will indirectly save them money because they will be able to avoid costly and time-consuming legal battles like those waged after Katrina and Rita, when many homeowners had to hire lawyers and engineers to do independent assessments. A multi-peril insurance policy will create more efficiency in adjusting claims, and homeowners will receive their payments much faster than under the two-policy system.

Finally, a multi-peril homeowners' insurance program will rein in insurance premium costs because rates would be required to be actuarially sound. Also, a multi-peril NFIP can make premiums in coastal communities manageable by spreading risk among a much larger pool of policyholders. With over 50 percent of Americans living within 50 miles of the coast, a national multi-peril insurance program would have plenty of prospective customers. It is time to recognize that market failure exists.

The Federal Government recognized this reality when it created crop insurance, which now supports a healthy, domestic agriculture industry that can feed American families. The inability of private insurance markets to handle catastrophic losses became evident after Katrina and Rita and the sharp decline in the availability of affordable homeowners insurance is crushing our rebuilding effort along the coast.

I thank Mr. Taylor, and Ms. Waters, I thank you for your efforts.

Chairwoman WATERS. Thank you very much.

Now, we'll hear from Representative Baker.

STATEMENT OF THE HONORABLE RICHARD H. BAKER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. BAKER. Thank you, Madam Chairwoman, Ranking Member Biggert, and members of the subcommittee.

I appreciate the opportunity to be here, and I want to acknowledge the work of my colleagues as being helpful to bringing about a remedy. At least they have come together with a proposal and got it on the table. I, however, have slightly different suggestions to make to the committee, that I hope will be taken under consideration, and I'll jump right to it.

Similar to the effect of H.R. 920, but without the taxpayer liability component, Congress can authorize the issuance of a national, multi-peril insurance policy. The Congress can determine what goes into that insurance box. We can include Mr. Cleaver's tornadoes; we can include western wildfires. We can describe the risk that would be covered by such a proposal and ensure that there would be no limits. One of the difficulties with the flood insurance program is a person's second home, a vacation home on the beach that's eliminated, or greatly pays a higher premium rate.

We don't necessarily like it, but we have to constrain the commercial liability for which we expose ourselves to the marketplace, and that is driven because ultimately, taxpayers back up the National Flood Insurance Program, and all too often, the claims in recent days, are far larger than the premium flow, which leaves us in a $17 billion hole today. And may the Lord have mercy on us

going through this next season that we don't have more because that deficit will only grow larger.

Why would a company then write such a policy? It would necessitate preemption of State law with regard to pricing. I have noted with great interest, everyone is insisting on actuarial rates, not NFIP actuarial. NFIP actuarial only looks to historical loss data. It doesn't use the sophisticated risk modeling capabilities that any insurance company still in business today has to use to protect itself against future losses, so that if we had real actuarial, as I understand is the interest, the difference between a market-priced policy and NFIP-like price policy would be negligible because we'd both be pricing to the risk.

Currently, it is the local rate control at the State level which precludes many from entering markets. It's an arbitrary ceiling against the company's product. And so I suggest that one way to go is to authorize the creation of such a product. I had hoped to have a document to lay before the committee today. We are engaged in working on it now, but it is not finished. I had indicated to Mr. Taylor that I would try to get it to him before the hearing, but it's not ready for prime-time and I will not bring it to the committee until I know it's a defensible product.

However, there is another alternative. As we did in terrorism risk insurance, many commercial writers would not enter into the New York market without the absolute assurance that they know the finite amount of loss they would engage in.

The same is true in the post-Katrina world below the interstate. People don't want to write because they don't know how much money they're actually going to be engaged in losing.

If we were to create a Federal backstop with limits—and I'm quick to add "with limits"—there is an enhancement that would come for people entering into the market. Couple that with the ability to build up the internal reserves. Today, the IRS does not look favorably upon people building up pots of money because they think you're attempting to tax evade, as well as other regulators don't allow financial entities to build up what they believe to be artificial reserves. And if we were to allow the reservings to build specifically for the purpose of paying all perils loss, while ratcheting down the Federal backstop, the two could cross. So at some point, the private market would have in its sock drawer somewhere sufficient money to have a likelihood of paying all claims made against such a multi-peril policy. That should also, however, be coupled with freedom to price the product according to the risk the company agrees to take, and that is a voluntary decision.

If you really want to fix the problem, and this is not maybe quite so serious; it's my remedy but I don't expect you to take it. It would likely be very controversial, and that is in the insurance world, generally, to allow people to sell insurance product for the price they can sell it for. Allow them to take the risk they choose to take as long as the State advocacy for the consumer stays in place to ensure that obligations made are obligations kept.

Now, that is a very dangerous precedent, and I have 6 years of hearings, 21 to be exact, with 150 witnesses and volumes of letters in my file to prove how wrong I am. But it is absolutely the right

thing to do in the marketplace to make this system work in a responsible manner.

Why is this important? When you look at the average rate of return in financial sectors, securities firms—they almost beat Fannie Mae and Freddie Mac. They have averaged, over the last 5 years, a 19 percent rate of return on equity. Commercial banks have averaged 14 percent. The property and casualty insurance sector has barely made a 5 percent rate of return. Now, there's a reason why people don't get into the business of taking this risk. They're not just worried about an unprofitable year. They're worried about insolvency.

And so we need to address the issues of why the underlying elements of the commercial insurance marketplace is not working the way the rest of the financial marketplace is apparently working. The end result of a flood insurance program, which I support, is that it has distorted the marketplace. We have created a program that takes one product, subsidizes it in a taxpayer way, and therefore has created this wind versus water litigation flood that we're all in the midst of.

I agree with Mr. Taylor that something has to be done, but I think a remedy other than creating additional taxpayer liability is what makes the most sense.

I will move ahead because I'm already out of time.

There is a chart, Madam Chairwoman, that I think we have distributed. Anyway, it's just simply two pages. The first one is all storms of record that have come across the Gulf or Atlantic Coast. The more important and relevant chart for my discussion is the one that's entitled "1990 to 2006." Those are the storms of record of the last 16 years.

When one takes a look at the frequency of storms landing on the coastal United States—and you couple that with this piece of information—I called this morning to the Louisiana Insurance office in Baton Rouge and asked for this morning's average quote for an insurance policy in Orleans Parish for a $200,000 new construction brick home. The premium today, average, this is not a single company, is $2,100 per year; 80 miles north in Baton Rouge, same house, same set of facts, that premium is $1,200, so there is a $1,000 difference by driving 80 miles.

What you really don't often think about, though, is if you had a $200,000 obligation sitting on this chart, and it was your money, would you take $2,100 a year on the chance that you might have to pay out $194,000 at some point in the future? That's $200,000 less the 5 percent deductible. In other words, we're asking the insurance industry to take $2,100 premium flow in today's market place, assume $190,000 responsibility, and bet that one of these lines isn't going to cross your back yard. That's the problem we face.

And, Madam Chairwoman, I appreciate your time and courtesy. I really want to work with the committee in going forward and hope these ideas will have some relevance in your discussion.

Chairwoman WATERS. Thank you very much, Mr. Baker.

Mr. Gene Taylor?

STATEMENT OF THE HONORABLE BOBBY JINDAL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. JINDAL. Thank you, Madam Chairwoman, Ranking Member Biggert, and members of the subcommittee, for allowing me to testify. Thank you, more importantly, for having this hearing.

I also want to thank Gene for allowing me to work with him on this legislation, The Multiple Peril Insurance Act. As you've heard, and I think it's important to remember what this legislation will do.

Chairwoman WATERS. Excuse me, did I call you Gene Taylor? I have Gene Taylor in my head.

Mr. BAKER. Don't let that bother you. He's been called a lot worse than that.

Mr. JINDAL. That is true.

[Laughter]

Chairwoman WATERS. Thank you very much, Bobby Jindal. Excuse me.

Mr. JINDAL. That's all right, Madam Chairwoman. Thank you. Unfortunately, I've been called a lot worse by my colleagues in the delegation.

[Laughter]

Mr. JINDAL. I think it's important to remind ourselves what the bill would actually do. It actually enables individuals to purchase insurance covering losses resulting from flood and wind storms without requiring those policyholders to distinguish flood damage from wind damage. I've heard members suggest we consider expanding the scope. Certainly, in the future, other legislation will be open to doing that, but for these purposes, this has been a huge concern, especially when you have a hurricane like Katrina, or like Rita, where the worst destruction is caused by a combination of wind and flooding.

Under this legislation, homeowners wouldn't have to hire lawyers, engineers, and adjustors to determine in retrospect what damage was caused by wind, what damage was caused by flooding. It has been nearly 2 years since those hurricanes devastated the Gulf Coast of the United States, including large land areas in my home State of Louisiana. Many property owners in Louisiana and along the Gulf Coast continue to battle their insurance companies for unpaid wind damage claims that they claim should have been paid by their insurance companies, while others are discovering discrepancies in the way wind versus flood damages were paid out by their insurance companies.

For example, take the case of Michael Holman, a resident of the mid-City section of New Orleans. He should have been able to repair his home. He had both flood and homeowners insurance. His home suffered damage from hurricane winds that caused it to lean substantially in one direction. His home also took on 3 feet of water. He was an actual eyewitness to the destruction of his home. He can substantiate his claim that the hurricane event caused his home to shift. Despite that, his insurance company has refused to pay out damage claims to his home. Today, he is suing his company for not covering the wind damage that has made his home a complete loss.

Consider the case of Chris Karpells, a prospective buyer of a townhouse in Slidell, Louisiana, who would be collecting insurance money as part of the real estate transaction. He discovered the insurance company had two ways of pricing the damage repair cost, depending, of course, on whether the damage was caused by wind or flooding.

If the company attributed the damage to wind or rain, the price of replacing drywall, for instance, was estimated at $.76 per square foot. If the damage was due to flooding, the estimate quadrupled to $3.31 per square foot. The homeowner noted other increases in his insurance adjustment and noted that they are frontloading all the money on the flood policy.

More than half of our country's population lives along the coast in hundreds of counties or parishes. In areas such as these, many residents are required to purchase at least two insurance policies: required flood insurance; in addition to a regular homeowner insurance policy that offers wind coverage.

We all know the limits, especially those of us living along the coastal areas. We all know about the exclusions as well, including, under the current law, any damages caused by wind or a wind storm. Under our current system, a single company can determine and apportion damages caused by the wind policy that it insures along those caused by flooding, which is insured by the NFIP and paid for by the Federal Treasury.

In the aftermath of an event like Hurricanes Katrina or Rita, it sometimes is difficult to determine whether the source of damage was the wind that toppled the roof and allowed a property to flood, or if the damage was caused by rising flood waters caused by failed levies. That's especially important considering that U.S. taxpayers are responsible for paying flood claims.

While we appreciate the fact that after Hurricanes Katrina and Rita, the NFIP approved expedited claims processing for approximately 240,000 anticipated claims, thus appropriately ensuring homeowners weren't prevented from rebuilding by red tape, that current process allows insurers to apportion damage that may inadvertently open the door to allow insurance companies to blame flood water when wind was the source of property damage.

The proposed legislation could eliminate this problem by covering wind and flood damage under one program. Look, certainly many questions have been raised. Many questions should be answered about how exactly H.R. 920 should be implemented, what modifications can and ought to be made to make their proposed program even more effective. However, I believe this legislation is a positive solution, a positive step toward solving the problem of a lack of affordable and available insurance in Louisiana.

Many of our constituents are still struggling with insurance companies over settlements and payments nearly 2 years after the storms. These are normally problems typically resolved within 3 months after a natural disaster strikes.

Since the 2005 hurricanes, many homeowners' policies in the greater New Orleans area have seen their premiums go up more than 50 percent. Insurance costs have gone up an average of 12 percent statewide. Obtaining insurance is difficult because only a handful of companies are writing property insurance in the State;

10 of the top 25 property insurers don't do business currently in the State. Many of those companies that are remaining are working to eliminate or reduce hurricane coverage from their portfolio.

In summary, Louisianans are paying more for less insurance, if they can get it, which is hampering my State's recovery from the storms. This legislation is a good proposal that will ensure the availability of property insurance which can allow recovery in this region to continue.

Madam Chairwoman, I also want to thank you for your attention to the ideas of a Federal backstop and your general interest in the recovery of the Gulf Coast. We have noted your many trips down, your attention to the Road Home Program, and many of the challenges we face in Louisiana.

Thank you very much.

[The prepared statement of Representative Jindal can be found on page 79 of the appendix.]

Chairwoman WATERS. Thank you very much.

And I'd like to say that all of the members of this committee, on both sides of the aisle, are very concerned about the recovery of all of the Gulf Coast, and we know how much time and energy all of you have put into trying to make that recovery happen. So we are going to do everything that we can, including dealing with this issue of wind versus water.

And I'd like to invite all of you, if you would like, to stay and sit with us and ask questions. Without objection, it is so ordered. Thank you very much for having been here today.

I'd like to bring our second panel to the table. Our first witness will be Mr. David Maurstad, Assistant Administrator for Mitigation, Federal Emergency Management Agency. And the second witness will be Mr. Phillip Swagel, Assistant Secretary for Economic Policy, U.S. Department of the Treasury.

Thank you gentlemen for being here with us today. I will call on our first witness, Mr. Maurstad.

STATEMENT OF DAVID I. MAURSTAD, FEDERAL INSURANCE ADMINISTRATOR, AND ASSISTANT ADMINISTRATOR, MITIGATION DIRECTORATE, FEDERAL EMERGENCY MANAGEMENT AGENCY

Mr. MAURSTAD. Good afternoon, Chairwoman Waters, Ranking Member Biggert, and members of the subcommittee.

I am David Maurstad, Federal Insurance Administrator and Assistant Administrator for FEMA's Mitigation Directorate. I appreciate the opportunity to appear to discuss H.R. 920 and the bill's proposal to add wind coverage to the National Flood Insurance Program, a program helping more than 20,300 communities nationwide reduce their vulnerability to flooding, recover faster after floods, and protect their personal and community investments with a financial safety net.

The NFIP's floodplain management and building code guidance, its mitigation base, saves an average of $1.2 billion annually in prevented damages, while structures built to the program's standards experience 80 percent less damage than structures not built to such standards. And we're committed to making the NFIP even better, a commitment requiring that we stay focused on the pro-

gram's objectives, helping communities understand and address their flood risks, and making sure that more citizens are protected with the financial backstop that flood insurance provides.

H.R. 920 does not foster these objectives, so FEMA opposes the bill for several reasons. First, the private marketplace already offers windstorm coverage. Traditionally, the Federal Government has provided insurance only when the marketplace cannot or will not offer coverage that the public must have. Private property and casualty companies provide wind insurance throughout the 50 States, and some States have wind pools to augment their market conditions.

For the most part, the property and casualty industry is healthy, and although fiscal troubles may occasionally arise, the solution lies in making certain that rates are adjusted to reflect the true risk from wind damage and to build the reserves needed to pay claims after a disaster. As long as the industry and wind pools adequately address wind insurance matters, they and not the Federal Government should remain the market of last resort.

Second, a multi-peril NFIP would be costly to the government and to taxpayers. Adding wind coverage to the Nation's largest, single peril insurance entity could make the NFIP one of the world's largest underwriters. Such a high-risk program would need reinsurance to protect the Treasury, and FEMA would have to reconfigure the NFIP's financial structure, a costly undertaking for a program already billions of dollars in debt.

Also, the Act is concerned about the hurricane-related winds threatening parts of only a few States, while flooding occurs nationwide. If wind insurance were added to the NFIP, policyholders and taxpayers in all States would end up subsidizing the insurance costs of hurricane-prone States.

Third, a multi-peril NFIP would derail State efforts to foster and sustain private markets that address wind risk. As insurance is a State-regulated industry, States address wind risk in a variety of ways.

Florida, for instance, has tightened their regulations and expanded their State wind pools. Louisiana recently passed proposals to disband their insurance rating commission, allowing insurers to set hurricane deductibles based on risk, rather than requiring one deductible for all the State's policyholders. South Carolina is calling for market-based solutions to insuring coastal homes against windstorm damage, and they are thinking about imposing damage costs on builders who construct in high-risk areas.

A multi-peril NFIP would displace such efforts, forcing all high wind risk insurance burdens onto the Federal Government. Clearly, the private industry, the States and communities are in the best position to address wind risk and related insurance matters. The NFIP is the result of an integrated approach aimed at a long-term systemic problem. Before the program was created in 1968, several academic and government studies recognized that the private insurance industry was unwilling to provide affordable flood insurance.

The definitive study was the Johnson Administration's report, "Insurance and Other Programs for Financial Assistance to Flood Victims," which concluded that a Federal flood insurance program

is feasible and will promote the public interest. Furthermore, the natural hazard insurance arena has been thoroughly analyzed over the past 2 decades with reports clearly recognizing the commercial availability of wind insurance and remaining silent on the matter of government involvement.

Finally, the vulnerability of wind-prone communities will not be reduced by adding wind insurance to the NFIP. Communities must understand the risks that threaten them. They must take the initiative to manage and reduce their risks and their efforts must revolve around a comprehensive mitigation strategy.

I look forward to working with the subcommittee, our insurance companies and other stakeholders, to improve the National Flood Insurance Program, and I look forward to answering any questions that the subcommittee may have.

Thank you.

[The prepared statement of Mr. Maurstad can be found on page 86 of the appendix.]

Chairwoman WATERS. Thank you very much.

Mr. Phillip Swagel.

STATEMENT OF THE HONORABLE PHILLIP SWAGEL, ASSISTANT SECRETARY FOR ECONOMIC POLICY, DEPARTMENT OF THE TREASURY

Mr. SWAGEL. Thank you, Madam Chairwoman.

Good afternoon, Chairwoman Waters, Ranking Member Biggert, and members of the subcommittee. I will very briefly summarize my statement and have provided the full written statement to be included in the record.

The Administration supports leaving wind coverage to the well-developed, private market for such insurance and does not support creating a Federal program for wind losses. The private sector is effective at providing insurance for damage from wind events. Private market coverage can be expensive in areas facing substantial risk of wind events. This is a reflection of the risk, not a defect of the market.

Federal involvement in wind insurance will displace private coverage, lead to costly inefficiencies, and retard innovation. A Federal program will face pressures to set aside risk-based pricing. By subsidizing insurance, a Federal program would undermine incentives to mitigate risk and encourage development in high-risk areas, potentially increasing future liabilities.

A Federal role in bearing risk would have taxpayers nationwide subsidizing insurance rates for the benefit of a smaller population. Federal Government interference in the wind insurance market will displace markets, promote riskier behavior, be unfair to taxpayers, and be economically costly. For these reasons, the Administration opposes H.R. 920. The Administration looks forward to working with the committee as it considers other reforms of the National Flood Insurance Program.

I appreciate very much the opportunity to appear before the subcommittee and will be happy to answer any questions.

[The prepared statement of Assistant Secretary Swagel can be found on page 113 of the appendix.]

Chairwoman WATERS. Thank you very much.

We have a vote on the Floor, so I'm going to have to ask all of you to remain with us until we return, so that we may ask questions. A am sorry to do that to you, but there's no other way to do it.

Thank you very much. I appreciate your patience.

[Recess]

Chairwoman WATERS. I'd like to thank you very much for your patience. I expect other members will be joining us, and I will just move now to questions that I have of this panel.

There is a motion suggested in the testimony received from both government witnesses that the private sector will be foreclosed from operating in the market if the National Flood Insurance Program is expanded to provide the coverage envisioned by the bill. It was also suggested that the States and the private sector are best positioned to address the availability and price of insurance in high-risk areas.

On what evidence do you base this conclusion? Are the private insurers retreating from providing insurance in high-risk areas, or is this just someone's imagination?

Mr. Maurstad?

Mr. MAURSTAD. Ma'am, I think that in the past, especially if you look at flood insurance as an example, when the program was started the affordability and availability of flood insurance, the lack of it, was already well-documented. And once the Federal program started, most of the industry then left the market. I think that it is safe to reason that if the National Flood Insurance Program were extended to include wind—as I believe one of the earlier witnesses indicated—that it would mostly be in the high-risk areas along the coastlines, and so that would just force further abandonment, I believe, by the insurance companies, because there is a government program. So the government program would end up insuring the riskiest of the risky and would then place the Federal Treasury at far greater jeopardy.

Chairwoman WATERS. Okay, so you have testified that you oppose H.R. 920, Mr. Maurstad. Can you think of any way that the NFIP can develop actuarially sound premiums? I heard what you just said about if the coverage is confined to high-risk areas, the private insurers would be assuming unusual risk, and they wouldn't have much to offset that with. So I guess what I want to know is, can the NFIP do it?

Mr. MAURSTAD. Well, I think that certainly an actuarially rated program can be developed as long as one understands what actuarial rating is. It would be, in this case, if you would base it on the number of policies and the amount of premium that would be generated, the pool would be relatively small, as was indicated earlier. And as a result, the actuarial rates would be very high. They may be even higher than what are being characterized as unaffordable State wind pool rates that also have, although they're high, and people have indicated they are not affordable, also clearly are not adequate because most of the wind pools are in financial difficulties.

So the actuarial rates would be very high. I'm not sure—in fact, I'm fairly certain they would not be very affordable, which would put pressure on Congress to discount those, similar to what was

done in the Flood Insurance Program with the Pre-Firm properties in the program there. But certainly an actuarially-rated program could be developed. But one also needs to understand that actuarial rates are generating premium this year and for a series of years to take care of the losses over that entire period of time.

And so, in this Federal program, if you had a catastrophic loss in the early years, where you have not generated the premium, you have not capitalized the program, there is not a reserve available; then the Federal Treasury would be looked at to take care of that catastrophic event in the early years of any actuarially rated program.

Chairwoman WATERS. Thank you very much. I will now recognize Ms. Biggert for questioning for 5 minutes.

Mrs. BIGGERT. Thank you, Madam Chairwoman.

But both the Government Accountability Office and the DHS Inspector General testified for this committee that FEMA does not currently collect adequate information on write-your-own companies' wind claims to ensure that the NFIP only pays for flood damage and no wind damage.

Does FEMA collect this information?

Mr. MAURSTAD. No, we do not. What we do is, at the time of the loss, we go out and we look at and determine the liability for the National Flood Insurance Program and then work to pay that loss as quickly and as fairly as possible. So we go out; we determine what was damaged—what property was damaged by flood—and pay the loss accordingly. The write-your-own companies that administer the program on behalf of the Federal Government have the obligation to do that according to our policies, according to statute, and to follow the guidelines that we set out so that the policyholder is treated fairly and the Federal Treasury is protected.

Mrs. BIGGERT. Well, I understand that after Katrina, many homeowners complained about a lack of coordination between the NFIP and insurance companies in adjusting claims. How is FEMA reviewing its policies to ensure that in the future there is adequate cooperation between the NFIP and wind insurers, or should there be?

Mr. MAURSTAD. Well, I think that in some States, for example in Mississippi with the State wind pool, we had the single-adjuster program that worked on behalf of both the State wind pool and the National Flood Insurance Program to adjust the losses with the policyholders and to provide that customer service that you are talking about.

If a write-your-own company both writes the homeowner policy and also administers the write-your-own standard flood insurance policy for the government, they also, under the arrangement that we have with the write-your-own companies, have the obligation to assign a single adjuster to that particular claimant to handle both of the claims.

But we have a very good working relationship. It's a very strong public/private partnership with the nearly 90 write-your-own companies that are a part of the program, and we certainly are always looking at ways to better coordinate the claims-handling process with the industry.

Mrs. BIGGERT. Well, when the Flood Insurance Program was created in the late 1960's, coverage was generally unavailable in the private market from coast to coast. How does this differ with the state of wind coverage today?

Mr. MAURSTAD. It is my understanding that there are certainly affordability—primarily affordability—issues. And in certain parts of certain States, there are availability issues for wind coverage and wind insurance. States have addressed those issues, where it has affected their market, by creating the wind pools, which we believe is the best way to deal with the circumstances within that particular jurisdiction.

But in vast parts of the country, I would say in 40 of the 50 States, there is certainly available and affordable wind coverage being provided.

Mrs. BIGGERT. Do you think that this bill, H.R. 920, would discourage private insurers from continuing to offer wind insurance?

Mr. MAURSTAD. I believe that it would. I think, as indicated before, it would be similar to when the flood program started, most of the private insurance sector—fairly shortly after the program started, those private insurers that were involved in the flood program abandoned the flood program completely and let the Federal Government deal with the risk. I think that it only is common sense that if the Federal Government is going to provide this type of coverage in the riskiest of the risky areas, that the insurance industry will avoid those areas and go to other areas where they can price their product more fairly.

Mrs. BIGGERT. Thank you.

Then, Mr. Swagel, what could State regulators and officials do to allow for more competitive, market-based pricing for insurance, and attract more insurers to their States?

Mr. SWAGEL. As Mr. Maurstad just said, in most States, wind coverage is generally available. The problems have typically been in States that have taken actions that have had unintended consequences of displacing the private coverage. Florida is one example. The symptom is the unavailability, and the problem is typically the unintended consequences of State regulators.

Mrs. BIGGERT. I might just note that I'm from Illinois, and we certainly, you know, have a lot of market competition because we don't have the regulation that so many States have. Does that help?

Mr. SWAGEL. That's right. You know, this is a case in which there's a lot of private sector capacity. There's capital both in the United States and worldwide that after a hurricane or a natural catastrophe does tend to withdraw, but then comes back in, and sometimes well-intended actions can interfere with that process.

Mrs. BIGGERT. Thank you.

Thank you, Madam Chairwoman. I yield back.

Chairwoman WATERS. Thank you very much.

Mr. Cleaver?

Mr. CLEAVER. Thank you, Madam Chairwoman.

Mr. Maurstad, FEMA has a herculean responsibility. It's one of the most difficult jobs, probably, in the Federal Government, and that's why I've always tried to restrain my criticism, even after I was very disappointed in what happened in the Gulf region.

My concern, however, at this point is that when I look at your opening statement, it appears as if FEMA is assessing economic trends. I won't criticize the failures in the Gulf region, but I have to tell you, I am really concerned about FEMA's expertise in assessing economic trends. You say that a Federal program would undermine economic incentives to mitigate risk because the program would like the historic rates from actuarial values.

Did FEMA bring on some economists to help it reach this position?

This morning—this would have been an appropriate response from Dr. Friedman from Harvard. We had a committee hearing today dealing with monetary policies and the state of the economy, with Dr. Meltzer from Carnegie Mellon and John Kenneth Galbraith from the University of Texas. And so, I guess before I can go any further, I need to understand FEMA's expertise in exercising economic trends.

Mr. MAURSTAD. Thank you, Mr. Cleaver.

Certainly, we have actuaries on our staff who assess the trends, economic and otherwise, of the insurance industry. We also have many staff members who together have nearly 40 years of experience in administering and operating the National Flood Insurance Program, which, of course, this legislation is based upon. And so, I would say that we do have the expertise to provide the information that we did in our testimony.

Mr. CLEAVER. Well, do you have data available that would demonstrate or show that incentives were undermined as a result of the National Flood Insurance Program?

Mr. MAURSTAD. I think that we can certainly provide you with information and data on mitigation activities and the extent that mitigation activities are pursued when required, versus when they're just voluntarily taken. I mean, part of that point that was attempted to be made there was that without incentives to mitigate one's property, most folks are not going to make that economic decision.

We will have a discussion with you and try to provide you with the data you are looking for to back up that statement.

Mr. CLEAVER. But you do have it?

Mr. MAURSTAD. I believe we either have it or will provide it for you. Again, I am not sure what the actuary who helped develop the testimony—and provided that advice as we were crafting our testimony—used as his basis. I will find that out and provide that to you.

Mr. CLEAVER. Okay, that was exactly where I was going, that if we don't have the data, then the statement would be at least baseless. Right? I mean, if the statement was developed without this data, then the statement is baseless.

Mr. MAURSTAD. Sure.

Mr. SWAGEL. Thank you, Mr. Cleaver. I apologize for jumping in, and thank you for—

Mr. CLEAVER. You are going to help FEMA out?

Mr. SWAGEL. I was going to mention just the sense of the second half of your question about the incentives undermined by the NFIP—and obviously, I'm not blaming Mr. Maurstad here. You know, it is well-known that a portion of the properties covered by

the Flood Insurance Program are done so at subsidized rates. This is intentional. Essentially, part of the properties were grandfathered in and a disproportionate part of the expenses of the program, the benefits they pay, relate to those properties. In a sense, it's a set of properties that have recurring losses, so they suffer damage and are built again and suffer damage again. That's the sort of incentives that the testimony has in mind.

Mr. CLEAVER. This is very interesting. I mean, who wrote the statement for FEMA, then?

Mr. MAURSTAD. We wrote the statement, sir. Because he helped to answer the question, I don't think—

Again, you're asking me to criticize my statement, which I am unwilling to do.

Mr. CLEAVER. I wouldn't do it either. Believe me, if I were over there, I would defend the statement, even if it was wrong.

Mr. MAURSTAD. Thank you, sir.

Mr. CLEAVER. And it is wrong, but I mean—

Because I don't understand. Describe the NFIP actuarial sound.

Mr. MAURSTAD. The actuarial soundness of the NFIP?

Mr. CLEAVER. Yes, soundness.

Mr. MAURSTAD. Currently, 75 percent of the policies—

Chairwoman WATERS. The gavel slipped.

Mr. MAURSTAD. Okay. Currently, 75 percent of the policies are risk-based, actuarially rated as the discussion that we've had earlier; 25 percent of the policies are discounted as a result of the way that the legislation is written and the program was designed. So the program loses about $800 million a year in foregone premium if that 25 percent that is discounted were, in fact, charged risk-based, actuarially sound premiums.

Mr. CLEAVER. Thank you, Madam Chairwoman. Thank you, sir.

Chairwoman WATERS. Thank you very much.

Mr. Green?

Mr. GREEN. Thank you, Madam Chairwoman. And I thank the witnesses for their time. Unfortunately, we do have to vote from time to time, and thank you for staying over.

A few questions, and I trust that you can provide some ocularity on something that is of great concern to me. The first question is, are you for the status quo? Yes or no.

Mr. MAURSTAD. No.

Mr. GREEN. Okay. If you are not for the status quo, what have you proposed to change?

Mr. MAURSTAD. Relative to strengthening the National Flood Insurance Program, we've testified before on essentially, five guiding principles to strengthen the program: protect the NFIP integrity by covering existing commitments and liabilities; phase out discounted premiums; increase NFIP participation incentives; improve program enforcement; and increase community risk awareness by improving information quality and distribution.

Mr. GREEN. Let me intercede and ask this. How would that help a person who was situated as was the case with Mr. Taylor?

Mr. MAURSTAD. Strengthening the NFIP—

Mr. GREEN. What does that mean?

Mr. MAURSTAD. That means providing a National Flood Insurance Program that better serves its designed purposes. Strengthening it is certainly not addressed.

Mr. GREEN. I think that's what we are attempting to do.

Terms without definition are sometimes meaningless; and to say "strengthen," and not give real substance to what that means doesn't necessarily give Mr. Taylor a lot of comfort; Congressman Taylor, excuse me. And it seems to me that while you give words, I don't see the ocularity in them such that I can understand how Mr. Taylor or the persons who are similarly situated will benefit.

Mr. MAURSTAD. Our position is that adding wind coverage to the NFIP is not the appropriate way to address the problem that Congressman Taylor has raised.

Mr. GREEN. Do you agree that Mr. Taylor had wind coverage in his policy?

Mr. MAURSTAD. I'm not sure what coverage Mr. Taylor had on his home. He indicated that he had a homeowner's policy, and most homeowners policies certainly have wind coverage, so there is no reason for me not to believe that he had wind coverage.

Mr. GREEN. If we assume that he had wind coverage with his policy, and we assume that he did not get immediate satisfaction—in fact, he had the threat of litigation to get satisfaction, are you of the opinion that this is a good way for the consumer to have to do business? To have to threaten litigation, hire a lawyer, and pledge a portion of whatever return you might receive in terms of damages? Are you of the opinion that this is the way the consumer should have to do business?

Mr. MAURSTAD. I believe that litigation should always be a last resort.

Mr. GREEN. So you would have this as a resort of first impression as opposed to last? Because that's what Mr. Taylor had to do, and that's what many people along the Gulf Coast had to do. They had to sue.

Now, this new plan would propose to give people the opportunity to have coverage that's certain so that we take out the notion that they have to have some degree of consternation as to whether they're covered or not. And in so doing, they then can buy additional coverage.

Would you agree that under the new plan, we, in essence, would have a $500,000 deductible for insurance companies? Would you agree with this under the new plan?

Mr. MAURSTAD. As I understand the legislation is written, sure.

Mr. GREEN. Okay, so an insurance company would have a $500,000 deductible. Why would a company oppose doing business in a State wherein they get that deductible and where they don't have any loss until there's a $500,000 loss. They have no loss. Why would they oppose that? Doing business in that State?

Mr. MAURSTAD. Yes, Mr. Green, they certainly may provide the excess coverage over that.

Mr. GREEN. But that's what this plan would propose. Excess coverage and a degree of certainty for consumers so that they don't find themselves in a position that the Congressman Taylors of the world were in, not knowing whether they would get coverage; having to hire lawyers, bring experts in, threatening to sue, having the

Attorney General a part of the litigation process. This is not the way we want to treat American citizens, consumers, is it?

Would you have Mr. Taylor go through this again?

Mr. MAURSTAD. I would hope that no one would have to go through that scenario.

Mr. GREEN. Okay, well, then if you wouldn't want him to go through this again, isn't it logical to provide a means by which we can be sure that persons who seek to have wind coverage will have in fact wind coverage without litigation. We have thousands of people who are now entangled in litigation when they should have had an opportunity to simply present the damages and go on.

If they have the wind coverage and the flood coverage, then they have the coverage necessary to avoid litigation. Do you see this as a reasonable premise?

Mr. MAURSTAD. Mr. Green, I certainly understand your support for the legislation.

Mr. GREEN. No. No. Let's not talk about my support of legislation because my time is almost up.

Do you agree that with this bill, consumers will be protected if the bill provides the $500,000 ceiling in coverage and then insurance companies can pick up excess damage?

Mr. MAURSTAD. No. I'm not sure that would be the outcome.

Mr. GREEN. Are you not sure that if Congress writes a bill to provide the coverage, that the coverage will be there? So you doubt the credibility of Congress to write the legislation?

Mr. MAURSTAD. I don't believe that's what I did.

Mr. GREEN. Okay, then, so you assume that Congress can do what it says it will do. Yes or no.

Mr. MAURSTAD. Well, yes.

Mr. GREEN. Okay, if Congress does what it says it will do, and then that only leaves excess coverage, do you agree that the person who benefits from the $500,000 worth of coverage will in fact have coverage?

Mr. MAURSTAD. Sir, I don't mean any disrespect to you or the institution, but there are many cases where unintended consequences have occurred because of legislation that's adopted.

Mr. GREEN. I agree. Let's talk about intended consequences for a moment, however. Unintended consequences could cause a plane to land on this building right now. Hopefully, that won't happen. But the intended consequence, do you agree that if it occurs the consumer would have coverage?

Mr. MAURSTAD. The consumer may have coverage at the expense of the Federal Treasury.

Mr. GREEN. But the consumers are having coverage at the expense of the Federal Treasury right now based on claims that they filed that they can't have fulfilled without litigation. The consumer is put in a position where either he or she has the courage and the ability to sue or they don't get the coverage. They get nothing.

So is that what you would have for consumers, an all-or-nothing proposition?

Mr. MAURSTAD. No, I don't think consumers should ever be placed in an all-or-nothing position.

Mr. GREEN. I yield back. Thank you, Madam Chairwoman. You were quite generous.

Chairwoman WATERS. Thank you very much.

The gentleman from California, Mr. Miller, for 5 minutes.

Mr. MILLER. This is a really complicated issue. I remember your testimony before. We heard from the Attorney General of one State that I believe should have been suing the insurance commissioner of his own State because he disagreed with what the insurance commissioner allowed. And it's kind of difficult when you get in a situation like that and for years, I have been saying that we perhaps need an optional Federal charter for insurance companies so we can forego the State requirements today and have a Federal charter that is somewhat all-inclusive.

But in your previous testimony, Mr. Maurstad, before the Oversight and Investigations Subcommittee, you said that FEMA did not find any pattern of abuse in write-your-own insurance companies. Would you give me an update?

Mr. MAURSTAD. At this point, as we continue to review the circumstances, there has been no uncovering of a concerted conspiracy or attempt by the write-your-own companies to shift wind coverage onto the National Flood Insurance Program. As we continue to evaluate our claims, we go out and we assess and we do audits of those claims.

Was the damage by flood and was the appropriate amount compensated to the policyholder for the damage by flood? And we are finding that is what occurred.

Mr. MILLER. When you were here last time, I think we had the facts that about 98-plus percent of the claims had been paid.

Is it in excess of that today?

Mr. MAURSTAD. I believe it's a little over 99 percent at this point.

Mr. MILLER. Does FEMA have a way to ensure that write-your-own insurance companies don't have the ability to defraud the NFIP?

Mr. MAURSTAD. Sure. There are a number of processes in the control system, the auditing process.

Mr. MILLER. So when wind and flood damage occurs, they have the ability to do that?

Mr. MAURSTAD. Sure, the adjustor that's on the ground is the first individual who works with the policyholder to determine what caused the damage to what. Then there are, of course, ways that we go through by random inspection, by field audits, a number of other oversight responsibilities by the general adjustor of the program.

If claims were brought to my attention, we review them. There are a number of ways in which appropriate oversight is provided for the handling of claims.

Mr. MILLER. Mr. Swagel, I think that currently there are probably $19 trillion worth of policies written from Texas to Maine for tornadoes and wind and those types of things. And currently the U.S. taxpayers are in debt for about $18 billion from the NFIP, currently today.

Don't you believe adding this wind coverage to the National Flood Insurance Program exacerbates the problems and adds additional risk to the taxpayers that the private sector should be able, through a competitive marketplace, to deal with?

Mr. SWAGEL. Thank you, Mr. Miller.

Yes, that is really our view, that the private capacity as you say does exist, and the Federal taxpayer is already on the hook for such a large debt that it's hard to see the program paying off. And adding this new program to it would just make the situation worse.

Mr. MILLER. I do understand my good friend Mr. Taylor's situation, and he is my friend. We talk about a situation of rebuilding his home, and we joke sometimes. But it's joking in serious. I understand the situation he goes through. I haven't had it happen to me, but I can associate with what they're having to go through. But we're dealing with something here that we're looking at taking the market away from write-your-owns and placing it on the Federal Government and the taxpayers, when the testimony we received in the last hearing clearly showed that there was a major disagreement between attorneys general in States with what the insurance commissioner with their own State did and approved in insurance policies.

And that's very difficult for write-your-owns when they present a policy to the State and the State approves it through the insurance commissioner, then the AG comes back and wants to sue everybody to change it. How do you think changing this to the Federal Government would benefit anybody?

Mr. SWAGEL. No. It's hard to see how a change to the Federal Government would do anything but put the Federal taxpayer at risk. And, there's a long tradition, of course, of State regulation of insurance markets. And when you have the disputes, like you said, that's a source of uncertainty in that insurance companies looking to provide new coverage will look at those disputes and want a certain regulatory environment before they—

Mr. MILLER. I'm not asking you to approve or agree that an optional Federal charter is good. Would not the concept of an optional Federal charter where we have a charter that's approved in statute by the Federal Government that the insurance companies have an option to go in. And if they want to be an optional Federal charter or not, would that not be better and more of a market approach than going to the government and providing insurance?

Mr. SWAGEL. I think it would be. One of the strengths of the insurance system in the United States is the competition. It's what the ranking member had said existed in Illinois and we see that in the whole Nation, and giving the optional Federal charter would foster enhanced competition in many places.

Mr. MILLER. The problem I had with expanding the flood insurance program, and Ms. Waters and I have suffered the same situation by expanding it to the 100-year historic plain or 500-year historic plain—we don't even know what a 500-year historic plain is—would include the entire City of Los Angeles, and would include all of Orange County—people who are not currently at risk trying to create solvency in a Federal system that has lost a tremendous amount of money in a given area.

But by doing that, you're passing a burden onto a tremendous amount of people who aren't at risk, and I'm just concerned that, and I sympathize with my friends who had losses due to the catastrophe we faced. But by doing that, I believe we're spreading the burden to people who are not at risk requiring them to pay for policies that they would not benefit from to create solvency in high risk

areas. And that is the opposite of a free market system and that's my main concern, that we get away from competition in the free market system where if you want to write a policy in the State and no matter what insurance company you are, you're taking a risk. You're rolling the dice.

If you win, you make money. If you lose, you lose money. But placing the burden on the taxpayer is a risk that would be inappropriate, and I'm having a difficult time understanding it. But I thank you for your time and your input.

I thank you for the time, Madam Chairwoman, and I yield back.

Chairwoman WATERS. You're welcome.

Mr. Taylor?

Mr. TAYLOR. Thank you, Madam Chairwoman, and let me begin by asking for your consent to submit for the record a list of insurance companies that have pulled out of coastal American in the 2 years since Hurricane Katrina.

Mr. Maurstad, what percentage—

Chairwoman WATERS. Without objection.

Mr. TAYLOR. What percentage, according to the National Oceanographic and Atmospheric Administration, what percentage of Americans live in coastal America?

Mr. MAURSTAD. If my memory serves me right, which usually fails me at times like this, I'd say 65 percent.

Mr. TAYLOR. Okay, it was probably closer to 52 percent. So wind damage might be just a little bit more than as you said, something that effects some people in some places if it's more than half of all America. Would you agree to that?

Mr. MAURSTAD. I think my comments were I think on the heels of your comments that you acknowledged that.

Mr. TAYLOR. Your quote was that wind only affects a portion of some States.

Mr. MAURSTAD. Yes, 52 percent of all Americans is a lot more than a portion of some States.

Mr. TAYLOR. The second part is, you say that the private market already provides wind insurance. Those five people, and I could probably supply 8,000 more, if time would permit, who have not been paid in 2 years, would certainly disagree.

The fact that after their company didn't pay them, that their company completely left the State and said, we're not even coming back, would certainly be contrary to what you said. But there are some things that you said that I'm really having trouble comprehending because listening to you would have me think that our Nation in no way ended up paying these wind bills, that you're afraid our Nation is going to get stuck with wind bills and that somehow we haven't.

But I would remind you that according to a memo that you gave out on September 21, 2005, talking to the national write-your-own insurance companies about what to do after Katrina, you said that FEMA will not seek reimbursement from the company when a subsequential review identifies overpayments resulting from the company's proper use of the FEMA depth data and a reasonable method of developing square foot value and concluding claims.

Later on, when Ms. Waters, in the follow-up hearing on February 28th of this year, asked you a direct question, her question was,

as I understand it, you could have damage that occurred from both; some by water, some by wind. Are you telling me you do the assessment, you have the information, and you just pay the water. You don't pay the wind or you don't take any of that into consideration. If you have some coverage there, you pay everything.

Your answer, and I'm quoting: "If there's damage that's caused by both flood and wind, we're obligated to pay for that damage." That means all the damage. So you send out a memo in effect giving the insurance companies a get-out-of-jail-free pass. You say before this committee that when there's both, we're going to pay. You argue that you don't want people to pay premiums for the coverage that they're apparently getting.

But I think what interests me after hearing all this is that there were obviously tens of thousands of Katrina claims where we let the private sector go out and adjudicate that claim, adjust it, and decide which is wind and which is water. So I'm curious after those thousands of claims written by human beings that we know are imperfect, how many times since Katrina have you gone back and found fault with those claims?

How many times have you said no, the government shouldn't have paid that? You should have paid that, Allstate or Nationwide or State Farm. Because I'm reading some really interesting stories in the New Orleans Times-Picayune, where they're naming street addresses. They are naming the people's names. They are giving instances of eyewitnesses who said, "I didn't have any flood damage, and yet I got an $80,000 flood insurance check." So how many times have you sought reimbursement?

Mr. MAURSTAD. Well, we can institute an audit for cause at any time when any irregularities are brought up. We've gone back direct.

Mr. TAYLOR. How many times, sir?

Mr. MAURSTAD. I don't know the exact number.

Mr. TAYLOR. Is there one?

Mr. MAURSTAD. Sure, there have been a number of times we've gone back.

Mr. TAYLOR. Is it ten?

Mr. MAURSTAD. More than ten.

Mr. TAYLOR. Is it more than a hundred?

Mr. MAURSTAD. Probably.

Mr. TAYLOR. Well, give me a rough idea.

Mr. MAURSTAD. I'll get you that number.

Mr. TAYLOR. Okay.

Mr. MAURSTAD. I know that we reviewed 10 percent of the claims that were handled from the expedited claim-handling memo that you referred to, so that in itself was about 1,600 times we went back and reviewed claims.

Mr. TAYLOR. So, how many times have you sought reimbursement?

Mr. MAURSTAD. Well, during those times we discovered that they paid $5 a square foot for something instead of $4.50, we go back and we recover that. We do that, but I don't have the exact number.

Mr. TAYLOR. Okay, would you supply that for the record?

Mr. MAURSTAD. I'll see if I can provide it for the record. We'll do our level best to provide you the answer.

[The following information was provided for the record:]

> "As a result of Hurricane Katrina, FEMA has conducted 5,294 re-inspections. We have discovered 148 cases of overpayment, totaling $3,704,000. To date, we have recovered approximately $1,826,000."

Mr. TAYLOR. So when you came before this committee and said that when there's both, we pay for both, did you misspeak?

Mr. MAURSTAD. No, sir. I think that people are misinterpreting my comments. What I am indicating is that the standard flood insurance policy says that if there is property that is damaged by flood, we are obligated to pay that. If wind is a part of that damage also, that is not relevant in our determining what the flood insurance policy owes that policyholder.

Mr. TAYLOR. Mr. Swagel, I'm curious in your concerns about this. Let's compare this to the founding of the original National Flood Insurance Program. At any time when the National Flood Insurance Program became law, was there ever a requirement that it pay for itself?

Mr. SWAGEL. You know, I have to apologize. I don't know the entire history. So I don't know in 1968.

Mr. TAYLOR. The correct answer, sir, is "no." Okay, I'll let you go back and check.

Mr. SWAGEL. Okay, yes. I am sorry. I know what the status is today.

Mr. TAYLOR. Are the rates set by law? Is there a legal statute that says how much those rates can be raised in an individual year?

Mr. SWAGEL. Well, Mr. Maurstad would probably know the details like that.

Mr. TAYLOR. The correct answer is "yes." Now, this contrast is with what we're trying to do, which under the Rules of the House can't even be brought to the Floor unless it pays for itself under the pay-go rules, number one.

Is there a provision in that bill that limits the amount of increase in rates, should there be a short-fall? The answer is "no."

Mr. SWAGEL. In your bill, no, there isn't.

Mr. TAYLOR. So how can you wax eloquently about the beauty of one that has no provision that has to pay for itself; has no provision to catch up; but yet condemn the other one that is trying to establish itself in a fiscally responsible manner?

Chairwoman WATERS. Thank you very much. We're going to move on to the other panel.

I thank you for being here today, and I thank you for your patience. Again, we know that you were terribly inconvenienced by the time that we took on the Floor, but I thank you for remaining.

All right, we will call our third panel now. Our first witness will be Ms. Pam Pogue, vice chair, Association of Floodplain Managers. Our second witness will be Ms. Sandy Praeger, commissioner, Kansas Insurance Department, on behalf of the National Association of Insurance Commissioners. Our third witness will be Mr. Ted Majewski, senior vice president, Harleysville Insurance, on behalf

of the Property Casualty Insurers, the American Insurance Association, and the National Association of Mutual Insurance Companies.

Our fourth witness will be Ms. Cheryl Small, policy advisor, National Flood Determination Association. Our fifth witness will be Mr. W. Anderson Baker, III, CPCU, Gillis, Ellis & Baker, Inc. Our sixth witness will be Mr. Robert Hartwig, Ph.D., CPCU, president and chief economist, Insurance Information Institute, and our final witness will be Mr. David Conrad, senior water resources specialist, National Wildlife Federation.

Without objection, your written statements will be made part of the record. You will now be recognized for a 5-minute summary of your testimony. Thank you.

Ms. Pogue?

STATEMENT OF PAMELA MAYER POGUE, IMMEDIATE PAST CHAIR, ASSOCIATION OF STATE FLOODPLAIN MANAGERS, INC.

Ms. POGUE. Thank you, Madam Chairwoman. My name is Pam Pogue and I am actually the immediate past chair of ASFPM, and I am also the State floodplain program manager in the State of Rhode Island.

ASFPM is pleased to comment on the legislation proposed by Representative Gene Taylor and co-sponsored by a number of members of the committee, the Multiple Peril Insurance bill. The Association of State Floodplain Managers and its 26 chapters represent over 12,000 members—State and local officials and other professionals who are engaged in all aspects of floodplain management, including mitigation management, mapping, engineering, planning, community development, hydrology forecasting, emergency response, water resources, and insurance.

Many of our members worked with communities impacted by Hurricanes Katrina and Rita, or worked with organizations that continue to support these very important rebuilding efforts. All ASFPM members are concerned with working to reduce our Nation's flood-related losses. Our State and local officials are the Federal Government's partners in implementing flood mitigation programs and we are working to achieve effectiveness and mitigate in meeting these shared objectives.

Because we have been directly involved in aiding recovery from the hurricanes of 2005 that devastated the Gulf Coast, we are very much aware of the difficulties in resolving insurance claims differentiating between damage caused by flood waters and wind. We note the validity of the problem and respect Congressman Taylor's commitment to address the associated issues, which led to the introduction of H.R. 920. However, before enacting this legislation, it seems appropriate that Congress work with FEMA to seek administrative means to address these concerns.

We would also like to note the problem of private insurance availability in coastal areas. Companies have been changing their policies on where to offer coverage, following major losses and in light of predictions of more intense storms that will frequent the Gulf and Eastern coasts of the United States. We suggest that this problem needs thoughtful analysis in the development of rec-

ommendations, perhaps in the context of overall provision for catastrophic losses.

Offering Federal wind coverage without analysis of the effects on consumers, the insurance industry, and the National Flood Insurance Program can result in a significantly detrimental impact. At this time, the House Financial Services Committee is considering H.R. 1682, the National Flood Insurance Program Reform Act of 2007. That bill has a number of key provisions that we and others believe should be enacted promptly.

With regard to H.R. 920, we respectfully suggest that the committee act quickly on H.R. 1682 with the following additions: require that FEMA report on policies and procedures used to adjust claims when damage to insured property results from a combination of wind and flood water damage; and require a study of the premise and implications of the proposal in H.R. 920, including all questions that will be needed to be answered before a new insurance program is undertaken. So, therefore, what we'd like to do is pose a number of questions related to H.R. 920 and the Multiple Peril Insurance bill.

One: Congress created the NFIP to fill a gap. The private insurance industry declined to offer flood coverage. H.R. 920 makes wind coverage available in all of the Nation's floodplains, not just coastal floodplains in direct competition with the private sector. Is that the appropriate role for the Federal Government?

Two: how big is the potential market for wind and flood insurance; what is the potential new loss exposure? How high would premiums have to be to be actuarial? Is the new wind coverage supposed to cover wind damage, even if there is no associated flooding? If no flooding was involved, would a floodplain home and tornado—

Mr. CLEAVER. [presiding] Ms. Pogue, if you would like, you could just submit that to us.

Ms. POGUE. I have a few more questions and I'm done.

Mr. JONES. All right.

Ms. POGUE. The point is, there are a lot of questions. Would the private insurance industry be likely to develop a homeowners' policy that excludes wind damage, or would the homeowners buy two policies: one homeowners' policy with wind included; and one for wind and flood. What insurance would there be that the combined coverage would be comprehensive?

Under the NFIP, actuarial rates are charged on structures that are built after the adoption of a flood insurance rate map. To rate policies for these post-FIRM buildings, homeowners provide surveyed elevation data so that the insurance agent can write the policy based on the risk. Does the bill anticipate the owners of the older buildings will have to provide some form of certification that the home meets certain wind-resistant construction methods in order to determine appropriate, actuarial rates for wind coverage? Would it cost a homeowner or business more to have such a certification prepared by a qualified engineer and architect?

Finally, Section 5 calls for the director to determine appropriate land use, zoning, and wind damage prevention measures. This would seem to call for a new Federal building code. Would communities be required to adopt such a Federal building code to require construction to meet certain wind resistant standards? How would

a community handle conflicts between a new Federal building code and currently adopted State or local building codes?

We appreciate the opportunity to comment on H.R. 920 and look forward to continue the discussion on the ways the NFIP and the private insurance industry can improve adjusting practices, while also looking for ways to reduce future damage and flood damage to strengthen the NFIP.

Thank you for this opportunity.

[The prepared statement of Ms. Pogue can be found on page 89 of the appendix.]

Mr. CLEAVER. Thank you.

Ms. Praeger?

STATEMENT OF SANDY PRAEGER, COMMISSIONER, STATE OF KANSAS INSURANCE DEPARTMENT, AND PRESIDENT-ELECT, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Ms. PRAEGER. Thank you, Congressman Cleaver, Ranking Member Biggert, and members of the subcommittee. Thank you for the opportunity to testify here today on behalf of the National Association of Insurance Commissioners. My name is Sandy Praeger and I am the elected insurance commissioner for the State of Kansas. I also serve as the president-elect of the NAIC.

As a citizen and public official of a State that has just suffered massive flooding and millions of dollars in losses, I applaud you for focusing attention on improving insurance coverage. The recent storms and flooding in Kansas pale in comparison to the devastation of Hurricane Katrina, but there are some alarming similarities as insurance claims come in.

Private insurers have stepped in to pay millions in wind claims, but there are some flooded communities where the number of people with flood insurance can literally be counted on one hand. With regard to flood coverage, we have a national problem of the uninsured and underinsured. The current system of coverage is just not good enough. Congressman Taylor has first-hand experience with that and we commend him for raising the issue of how comprehensive coverage is delivered to consumers.

Consumers expect all perils insurance coverage and too often they wrongly assume they have it. The NAIC recently conducted a survey of homeowners and found that despite the extensive media coverage of Hurricane Katrina and the insurance problems that followed, 33 percent of households still incorrectly believe that flooding is covered by the standard homeowner's policy; and 35 percent incorrectly believe that earthquakes are covered. The results are alarming, but I would argue that they are really not surprising.

A single policy for a single price should be available to those who want it. Congressman Taylor has proposed one approach that deserves consideration. His bill addresses two main perils affecting his constituents: wind and water. But the outcry over wind and water could just as easily be heard over earthquake and fire in another region of the country. As this subcommittee considers flood insurance reform, we believe it should do so with all natural catastrophes in mind, so that solutions to these problems are comprehensive in nature.

Insuring one's home currently requires several policies that still may leave some residents underinsured. This approach has led to gaps in coverage and room for potential bad actors to shift their obligations from one policy to another. These gaps in coverage can result in costly litigation or taxpayer obligation if the Federal Government steps in following a natural disaster.

The burden of managing the mechanics of multiple insurance policies has effectively been placed on the shoulders of consumers. Seamless, all perils insurance can and should be an option for those who want it. Providing this type of coverage may raise issues of affordability, but addressing affordability without first closing gaps in coverage is not in the best interest of consumers. With respect to H.R. 920, this approach does address the issue of wind and water, but moved the line of contention to other perils. Homeowners would still have to buy fire, theft, liability, and potentially excess wind coverage if their home value exceeds the NFIP coverage limits.

The bill ultimately seeks to improve the quality of coverage for consumers; and we support that goal. But we think there are some alternatives to consider that place the private market as the first line of defense and close gaps in coverage while addressing concerns about affordability. For example, the NFIP could be restructured as a reinsurer to provide first dollar reinsurance to companies writing flood coverage into their standard homeowner's policy. This would allow companies to offer their customers a more attractive product, but it shifts any debate over the cause of loss to the insurer and the NFIP, leaving the consumer with a seamless product.

In the event of a loss, the consumer receives only one check, only deals directly with one adjustor and one insurance company. While this approach does not address every peril, it is an alternative to H.R. 920 that keeps wind coverage in the private market. Another concept is to eliminate the flood program and have the private market offer all perils coverage directly in exchange for comprehensive coverage and as a way to manage affordability, the Federal Government could provide a backstop or a credit line over a certain magnitude of loss. This would cap catastrophic exposure for the insurers, but would leave the government out of the vast majority of insured events.

Such an approach would have to be structured to encourage participation by insurers of different sizes and would need to work in tandem with State-run catastrophe programs that have been designed to address the risk of a particular region. Insurers in States would be the first and second lines of defense, while the Federal Government would utilize its ability to spread risk over time.

Federal involvement is inevitable when a major catastrophe strikes, but if better insurance is more widely held by consumers, that involvement would be less frequent and flow more as risk-based insurance dollars than as relief dollars. Insurers could also factor in this involvement to their pricing and spread their capacity more broadly.

Congressman Taylor had shed light on the gaps in insurance coverage as it's offered today, and we commend him for that and hope our alternatives will be met with an open mind and recognized as

an effort to move toward a common goal. Providing all perils insurance will require a collaborative effort. There are challenges of affordability that are serious considerations for public policymakers.

Given the complexity and the scope of this issue, the NAIC continues to strongly endorse the concept of a national commission on catastrophe preparation to weigh all the options.

Thank you for inviting me here today to testify and for considering our views. State insurance officials stand ready to assist Congress as you consider this important national issue.

[The prepared statement of Ms. Praeger can be found on page 95 of the appendix.]

Mr. CLEAVER. Thank you very much.

Mr. Majewski.

STATEMENT OF TED A. MAJEWSKI, SENIOR VICE PRESIDENT, HARLEYSVILLE INSURANCE GROUP, ON BEHALF OF THE PROPERTY CASUALTY INSURERS (PCI), THE AMERICAN INSURANCE ASSOCIATION (AIA), AND THE NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES (NAMIC)

Mr. MAJEWSKI. Thank you, Mr. Chairman.

My name is Ted Majewski, and I am senior vice president of Harleysville Insurance Group, a member of the Property Casualty Insurers. Harleysville writes homeowners', commercial property and other property, and casualty insurance, and is domiciled in Pennsylvania. Harleysville also participates in the National Flood Insurance Program's Write-Your-Own Program.

Thank you for the opportunity to appear before you today on behalf of Harleysville, PCI, AIA, and NAMIC, to provide our comments to this important legislation.

The Multiple Peril Insurance Act of 2007, H.R. 920, is an admirable effort to resolve issues related to property insurance coverage disputes that are currently being decided in our State and Federal courts. However, Harleysville and a significant portion of the property casualty insurance industry have concerns about the current provisions of this legislation, and therefore oppose their being added to the National Flood Insurance Reformation and Modernization Act of 2007, H.R. 1682, for the following reasons.

H.R. 920 would dramatically increase the exposure of the NFIP and the Federal Government to catastrophic losses. The States along the Gulf Coast and Eastern seaboard contain more than $19 trillion in insured property values. The majority of these risks are currently insured in the private marketplace or in a State residual market program where the private insurance industry shares in the potential losses. Moving significant numbers of these properties from the private insurance marketplace to the NFIP would significantly increase the exposure of loss to the Federal Government and despite the provision that calls for actuarially sound rates for the windstorm portion of this coverage, increase the potential for a significant taxpayer subsidy.

H.R. 920 would increase the potential losses of the NFIP at a time when the NFIP is already more $17.5 billion in debt. A recent Congressional Budget Office report states that the interest alone on this debt will run about $900 million a year. The bill purports to eliminate the need to determine whether hurricane loss is caused

by wind or water; however, while the number of wind-water disputes that occurred after Katrina is significant, they are relatively rare when compared to the more than 3 million insurance claims from these events. When flooding does occur, it is rarely a massive tidal surge as happened in Katrina. The proposal seems to be adopting a one-size fits all approach for all States, when the need for such a program is limited to coastal areas of coastal States.

H.R. 920 would increase the amount of coverage available above the current NFIP limits, but even these higher limits would still be inadequate for many properties. Many property owners would still need to purchase additional coverage from the private market and integrate two different insurance policies. One provided by the NFIP and one regulated by State insurance departments. Policy integration issues would need to be property addressed in the bill to avoid numerous operational challenges and the same types of claim disputes that exist today.

Wind storm residual markets exist in many coastal States. These pools typically provide wind-only coverage to homeowners living in a designated coastal area who are unable to obtain their coverage in the voluntary market. Thus, a private market mechanism providing such coverage already exists in these markets. States have designed these residual markets to respond to their unique geographic and insurance market needs. The bill does not address how these programs would operate or if they would be replaced with a Federal program.

As insurers, we understand the Katrina wind and water disputes that have arisen are a significant problem for homeowners who have suffered the loss of their home and belongings. Therefore, these issues are being resolved in courts based on contracts purchased by individual policyholders and the decisions that will be made by courts who will guide how future hurricane claims are handled and will reduce the number of disputes in the future.

There are additional programs that could help address the sponsors' concerns and that address the various objections that are contained in this testimony. For example, it's possible to put a workable dispute mechanism in place. The current program can be amended to require the NFIP to participate in State-sponsored mediations to determine the extent of the damage caused by wind versus flood as is currently proposed in 1682.

In summary, passage of H.R. 920 would create a program that if not properly structured has the potential to incur enormous deficits following a hurricane of any significance. We would appreciate any opportunity to work with the sponsors of the bill and Congress on reforms to the NFIP as they are needed and other potential solutions to the issues raised by these events.

Again, thank you for the opportunity to present our views.

[The prepared statement of Mr. Majewski can be found on page 82 of the appendix.]

Mr. CLEAVER. Thank you very much.

Ms. Small.

STATEMENT OF CHERYL A. SMALL, POLICY ADVISOR, NATIONAL FLOOD DETERMINATION ASSOCIATION

Ms. SMALL. My name is Cheryl Small, I am the policy advisor for the National Flood Determination Association (NFDA), and I am pleased to comment on the Multiple Peril Insurance Act of 2007, H.R. 920. The NFDA shares the concerns for the viability of the National Flood Insurance Program and for the homeowners in coastal regions who need reliable and affordable insurance coverage to protect against losses from windstorm and flood.

We respect the fact that Congressman Taylor has introduced H.R. 920, which creates a Federal program that would make these coverages available to homeowners located in coastal communities. The NFDA is a professional association of companies that work with federally-regulated lenders to facilitate compliance with the NFIP's mandatory purchase requirements by helping to ensure that structures located in special flood hazard areas are covered by flood. Lending institutions provide the compliance mechanism for the NFIP. Our industry completes approximately 20 to 30 million flood risk determinations per year, and we respond to approximately 1,250,000 telephone inquiries from lenders, insurance agents, and homeowners regarding the NFIP and flood compliance matters.

The NFDA recognizes and appreciates the critical place the NFIP holds by bringing together floodplain management, hazard mitigation, mapping, and planning of flood insurance. We want to see the foundation of the NFIP supported and strengthened by thoughtful action.

Mr. CLEAVER. Ms. Small, can you pull the microphone up a little closer?

Ms. SMALL. Sure.

While we want to see the foundation of the NFIP supported and strengthened by thoughtful action, while we support the motives and spirit behind the bill, we strongly urge the committee to consider the implications associated with the creation of a Federal multi-peril insurance program and suggest that the committee require a study to include a comprehensive assessment of the loss exposure due to windstorm, the market for voluntary windstorm insurance, the effect on the NFIP in the private insurance industry, and the implications on flood compliance for federally-regulated lenders.

The NFDA's concerns center around the financial and administrative impact this program may have on the National Flood Insurance Program, the potential impact of federally-regulated lenders in the form of inconsistence compliance guidelines, gaps in coverage, and possible exposure to litigation. Although actuarial rates will be implemented, they may not produce sufficient premium income to bear administrative costs and losses in the event of a natural disaster.

To continue to articulate our concerns, currently the write-your-own companies provide a sales channel through insurance agent networks that conduct training, administer claims, and provide policyholder services, including policy issuance.

What mechanism will be used to provide these services within the multi-peril program?

What would be the extent of the administrative burden to the NFIP?

Will FEMA require additional staff expertise pertaining to underwriting actuarial science policy development claims program oversight and management?

What will be the cost in time and money for FEMA to modify the NFIP databases and systems to include management reporting and requirements for statistical and financial reporting of policies, premiums, and claims?

Would the Federal multi-peril wind and flood program be authorized to borrow from the U.S. Treasury to cover shortfalls?

What would be the flood compliance implications for lenders if a mortgagor, whose property is in a special flood hazard area, drops an optional windstorm and flood policy?

Will gaps and coverage be created when lenders initiate the process to place flood insurance?

Will there be a notification obligation for lenders to inform their borrowers of the availability of this higher limit coverage?

What additional exposure to liability will lenders face related to separate policies under the NFIP, standard flood versus multi-peril?

We are in favor of prudent action which considers the impact of all the various stakeholder groups, and I hope the subcommittee continues a dialogue among these groups to develop a course of action which addresses the problems, but does not, inadvertently, create new ones.

Thank you.

[The prepared statement of Ms. Small can be found on page 107 of the appendix.]

Mr. CLEAVER. Thank you, Ms. Small.

Mr. Baker?

STATEMENT OF W. ANDERSON BAKER III, CPCU, ARM, PRESIDENT, GILLIS, ELLIS & BAKER, INC.

Mr. BAKER. Congressman Cleaver and members of the subcommittee, I am Anderson Baker, president of Gillis, Ellis & Baker, Incorporated, one of Louisiana's largest independent insurance agencies.

I appreciate the opportunity to appear before the subcommittee today on behalf of Greater New Orleans, Inc. (GNO, Inc.), a 10-parish economic development organization in southeast Louisiana.

I would like to extend my personal appreciation to the chairwoman for the intense interest she has shown in New Orleans over the past 2 years, and also to acknowledge Congressman Taylor from our neighboring State of Mississippi for the leadership he has demonstrated after these intense hurricanes devastated the Gulf Coast and for his leadership on H.R. 920.

GNO, Inc., has grappled with the maze of insurance challenges presented by the post-Katrina environment every day since Katrina. Our company has handled thousands of Katrina claims. We have as much experience with the insurance challenges facing New Orleans and the Gulf Coast as any other local organization, and have transferred that experience to advice to GNO, Inc., since Katrina. One of the biggest challenges to the recovery in New Orle-

ans and along the Gulf Coast has been the placement of insurance. Prior to Hurricanes Katrina and Rita, the private insurance market would have readily provided wind coverage. Now, insurance companies are in most cases either significantly restricting wind coverage or are simply no longer providing it at all.

As an insurance agent in New Orleans, I am forced to place the coverages in the surplus lines markets, place the coverages with Louisiana's residual market plan, or not provide the coverage at all. How can we expect homeowners and businesses to rebuild New Orleans when insurance is either unavailable or not affordable. It is essential that the Federal Government work closely with those of us on the ground facing the crisis on a daily basis to develop common sense solutions to this problem.

The NFIP has been a valuable insurance program to date, but it must be modernized to reflect the current realities. Insurers typically do not wish to provide coverage for an event that can cause significant loss to numerous properties at the same time and in the same area. They tend to insure random yet predictable events; and as the hurricanes aptly demonstrated, there are times when the private industry simply does not have the capacity to adequately respond to a massive event.

H.R. 920 will provide an incentive for insurers to continue writing policies in coastal areas by removing the burden of providing the initial levels of wind coverage. This will relieve much of the risk of uncertainty that exists in the current wind versus flood debate. The result will be more capacity in the private sector, which would hasten the rebuilding of my city or any other area similarly affected in the future. Under H.R. 920, insurers could structure their policies to eliminate the lower level of wind coverage that currently causes such difficulties in the event of a massive loss.

If the revised NFIP program were actuarially priced as proposed by H.R. 920, it would allow for the build-up of capital in the program and diminish the likelihood of large losses incurred after Hurricanes Katrina and Rita. It is a reality that an increasing number of Americans are now living in coastal regions. In the event of major windstorms in the future, the Federal Government will certainly be called upon for financial assistance. H.R. 920 would allow more people to pay into a program that will build up reserves for future losses, and thereby reduce some portion of the Federal Government's exposure when the next major hurricane hits one of our coastlines.

I am pleased to add the solid support of GNO, Inc., for H.R. 920. The economies of hundreds of counties, parishes, and cities are at stake. In this environment, it is essential that Congress act aggressively to provide appropriate relief to the thousands of homeowners and businesses hamstrung by the insurance crisis along the Gulf Coast. H.R. 920 takes a significant step in that direction.

Thank you for the opportunity to appear before you today. GNO, Inc. and its insurance task force look forward to working with the Financial Services Committee on this important legislation.

I would be pleased to answer any questions that you may have or submit additional information that you may require.

[The prepared statement of Mr. Baker can be found on page 58 of the appendix.]

Mr. CLEAVER. Thank you very much, Mr. Baker.

Dr. Hartwig?

STATEMENT OF ROBERT P. HARTWIG, PH.D., CPCU, PRESIDENT AND CHIEF ECONOMIST, INSURANCE INFORMATION INSTITUTE

Mr. HARTWIG. Good afternoon, Mr. Cleaver, Ranking Member Biggert, and members of the subcommittee.

My name is Robert Hartwig, and I am president and chief economist for the Insurance Information Institute.

Thank you for the opportunity to appear before the committee today to discuss the economic and fiscal ramifications associated with the expansion of the National Flood Insurance Program to cover windstorm losses as proposed under H.R. 920.

My testimony today will address five major issues: the true scope of windstorm exposure in the United States; the historical difficulties that government-operated property insurers have encountered in implementing a rating system that is actuarially sound; the distortionary economic effects an expanded program could have should H.R. 20 fall short of its stated requirement that rates be actuarially based; recognizing that even if rates are actuarially sound, H.R. 920 does not address or correct the fundamental problem of low flood insurance penetration rates; and the fact that the ability of the NFIP to offer windstorm coverage at actuarially sound rates will be undermined by political decisions made by many State-run insurers to subsidize windstorm coverage, thereby pricing the Federal coverage out of the market.

In many parts of the United States, wind is the most costly and frequent cause of catastrophic loss, as you can see in Figure 1, on the easel to my right.

As Figure 1 shows, wind plays a role in approximately 80 percent of the catastrophe losses paid by insurers. Hurricanes and tropical storms accounted for nearly half of the $278 billion in insured catastrophe losses over the past 20 years. Tornadoes accounted for another 25 percent. Severe winter storms and other strong wind events accounted for another $30 billion or 11 percent in cap losses. It's important to point out that the vast majority of wind losses today are paid by private insurers, including those in coastal areas.

There is no question that government-operated insurers play a vital and necessary role as insurers of last resort, but many operated deficits, even in years with light catastrophe losses. The reason: Government-run property insurers are highly susceptible to political pressure and frequently are not permitted to charge rates or to adopt underwriting criteria that are commensurate with the risk being assumed. While H.R. 920 requires that rates be established on an actuarial basis, the financial consequences of not doing so historically in other plans have been nothing short of disastrous. The NFIP itself, as we have heard several times, has a current deficit of $17.5 billion. Of the 31 State-run Fair Access to Insurance Requirement Plans for which data are available, 26 have incurred at least one operating deficit since 1999, while all seven beach and windstorm plans have sustained at least one underwriting loss since that time.

In the course of the last decade, the Fair Plans have also seen a more than 50-fold ballooning in their aggregate operating loss from $52 million in 1995 to $2.8 billion in 2005. Given this real world experience, it is unclear what practical safeguards beyond the language in the bill itself could or would be implemented as part of H.R. 920 and would prevent deviations from actuarially-sound pricing practices. At the Federal and State level, legislators and regulators have almost universally chosen to sacrifice actuarially-sound rating and underwriting practices for political gain. Though popular with voters, the combination of artificially low rates and lax underwriting standards is financially lethal, enabling and encouraging rampant or substandard development in vulnerable areas.

Should coastal dwellers be required to pay more to bring rates to an actuarially-sound basis? This is a politically unpopular question to ask, which is precisely the reason why it is seldom answered. Instead, legislatures tend to search for ways to spread the cost of financing deficits well beyond the policyholders who actually incur the losses, to include property owners who have never filed a claim, inland dwellers, and people who take every precaution to protect their homes against storm damage. Even auto insurance and commercial liability policyholders can be assessed.

Practical experience has demonstrated repeatedly that government property insurers rarely operate on an actuarially sound basis. So a fundamental question to ask is whether expanding the NFIP to include optional windstorm coverage will solve the problem associated with discerning wind from water damage. There are several reasons to suspect that it will not.

Low flood penetration rates, as I have already mentioned on Chart 2, that you will see up here in a moment—you will see that fewer than half of homes and even flood zones have coverage, and only 1 percent outside of those zones. Consumers generally skip optional coverages. For instance, we could take another example of California. Only 12 percent of homeowners have earthquake coverage in that State, and of course again the minority of homeowners have flood coverage.

And again, the subsidies that I mentioned earlier price H.R. 920 windstorm coverage out of the market. To give you an example, Florida Citizens Property Insurance Corporation in 2006 became the State's largest insurer of homes and is growing rapidly today in large part because the State has consciously decided to subsidize every single, new policy written. Despite having accrued deficits over the 2004–2005 hurricane seasons totaling some $2.3 billion, Governor Charlie Crist earlier this year ordered that Citizens' rates be rolled back and then frozen through 2008.

So, in conclusion, the proposed expansion of the NFIP to provide windstorm coverage as specified under H.R. 920 is risky and potentially an enormous financial undertaking.

Thank you very much for the opportunity to address the committee today. I would be happy to answer any questions that you have.

[The prepared statement of Mr. Hartwig can be found on page 68 of the appendix.]

Mr. CLEAVER. Thank you, Mr. Hartwig.

Mr. Conrad.

STATEMENT OF DAVID R. CONRAD, SENIOR WATER RESOURCES SPECIALIST, NATIONAL WILDLIFE FEDERATION

Mr. CONRAD. Thank you, Congressman Cleaver, Ranking Member Biggert, and members of the subcommittee.

The National Wildlife Federation is the Nation's largest conservation, education, and advocacy organization. We appreciate the opportunity to share our views on H.R. 920, the Multiple Peril Insurance Act of 2007. In general, while we understand there are substantial issues raised regarding the insurance adjustment process when there are both flood and wind-related damages, the National Wildlife Federation is deeply concerned that adding a wind peril dimension to the NFIP could substantially undermine the Program's already precarious financial position, would add greater risk and uncertainty, especially for the taxpayers and the public, and would distract, we believe unnecessarily, from the critical missions of the NFIP.

We applaud Representative Taylor and other members especially for their continuing efforts to raise the Nation's awareness of the increasing risks associated with coastal storms. Current science is predicting that these storms could become more powerful and of longer duration, due especially to rising sea levels and warming of the climate. The Intergovernmental Panel on Climate Change and many prominent climate scientists are warning that such storms are likely results of global warming, due to buildup of greenhouse gases.

It is clear also that Hurricanes Katrina, Rita, and Wilma in 2005, plus powerful hurricanes that struck Florida in 2004, have increased the public's concerns. At the same time, the rash of storms have driven the National Flood Insurance Program into the most dire financial condition in its history, now with a virtually insurmountable U.S. Treasury debt of approximately $18 billion. We are strongly urging Congress to make the critically necessary changes in the Nation's energy systems to directly address causes of global warming. Yet, we believe it would not be appropriate or wise to add to the current liabilities of the National Flood Insurance Program the potentially very large additional liabilities that would be associated with coverage of wind peril, especially given that the Nation has a long history of this peril being served by the private sector.

Recent insurance industry estimates of major storms potentially striking a number of the more populated coastal areas show that the costs of storms like Hurricane Katrina that were in the $15- to $20 billion range for the NFIP today could be 3 to 5 times more, if wind perils were included. Such costs could potentially overwhelm the program and the costs to taxpayers could balloon to staggering levels. This could undermine the ability of the NFIP to accomplish its other established goals.

The National Wildlife Federation has been concerned for years that the NFIP is having severe difficulties managing the growth of flood-related risk. We see a continual buildup of at-risk development, with little to suggest that our programs are not in many ways increasing disasters. That was not how the NFIP was sup-

posed to work. Nearly 10 years ago, the National Wildlife Federation released a report called, "Higher Ground." On the problems of repetitive losses where in thousands of communities, buildings were experiencing repeated flood-related losses, only to be reconstructed again and again with little or no mitigation of risk, in part for lack of incentive to move out of harm's way.

The lack of incentive for mitigation was driven by rates that are below, some of them far below, true actuarial rates, flood hazard maps that are inaccurate or out-of-date, and failure to consider changing conditions, and failure of communities and FEMA to enforce even minimum standards of the program, let alone set higher standards to reduce or avoid risk. Today, we still find that after Congress passed the 2004 amendments and provided funding to address repetitive losses, the new program is still largely not implemented and has failed to spend much of the funds made available to reverse that trend.

In the intervening decade since our report, the number of repetitive loss properties has grown from 74,500 to now over 135,000 properties, and the cost to the NFIP of these buildings has more than tripled to over $8.5 billion. The NFIP continues to face enormous challenges, and the public's confidence is lacking in the program's ability to reduce risks, manage costs, and protect the environment. Given this context, if the NFIP were subject to the additional burden of wind perils, it could so tax the program's capabilities that many other functions would be slowed or lost.

As the committee knows, the NFIP is engaged in a major effort to modernize maps that have fallen far out-of-date. Currently, staffing at the NFIP is straining to carry out these and other functions. Yet, we do not believe that the NFIP is equipped to analyze and rate wind-related risks as well, whereas the private sector has devoted substantial resources for decades to these issues—both rating and hazard mitigation technologies.

Even when the focus has been on managing risk in the more defined area of floodplains, it is clear that the NFIP has a long way to go. New standards must be developed to provide higher levels of protection. Flood risk mapping needs to be substantially expanded to support the varied goals of the NFIP, and the NFIP needs to be integrated much better with other flood-related programs of the government.

The addition of the wind-related perils would expand the flood program's footprint far beyond the present level and greatly complicate the potential for success. For this reason, the National Wildlife Federation would oppose H.R. 920 as written.

Chairwoman WATERS. Thank you very much.

Mr. CONRAD. Thank you.

[The prepared statement of Mr. Conrad can be found on page 65 of the appendix.]

Chairwoman WATERS. I thank the panelists for your participation, and I will recognize myself for 5 minutes for questions to this panel.

To tell you the truth, I am a bit frustrated with the lack of solutions that have not been presented to us. I joined Mr. Taylor in support of his legislation because I thought that he came up with a solution that made good sense, particularly since we have learned

that the private insurance companies have been trying every way that they possibly can not to pay, when clearly they should be paying.

And it seems as if the Federal Government has been picking up the tab, the Flood Insurance Program, that perhaps should have been paid by some of the private insurers. Then, of course, we are constantly threatened by the private insurers that they are not going to insure anymore. They are going to pull out. They are not going to provide coverage. But when there is a solution developed based on some of the comments and unhappiness of the insurance company, then all of a sudden we hear from the private sector, private insurance companies that that's not the way to go.

So what are we to do? Are we to say to the private insurance companies, we don't have any alternatives. Please don't pull out. Please pay the claims. Please don't abandon the areas that desperately need coverage. What is a compromise solution to this problem? And I'm sorry I didn't hear all of your testimony. One of you may have given a compromise solution. If you did, would you please just reiterate it a bit for me and the rest of the members who may be left?

Ms. PRAEGER. Madam Chairwoman?

Chairwoman WATERS. Yes.

Ms. PRAEGER. I did suggest on behalf of our national association that perhaps Congressman Taylor's proposal should be more inclusive. We recognized the conflict between wind and water, but we pointed out that you could have the same conflict between earthquake and fire, should there be a major earthquake in your home State.

Our proposal was multi-faceted and certainly not thought out yet. We are putting on the table some suggestions, and one of them is to have homeowners' policies be all-perils policies, so that you don't have that dispute. And perhaps then cap the catastrophic loss with a Federal, first-dollar reinsurance coverage. We have had a major tornado hit in Kansas that literally wiped a small community off the face of the map. That was wind. Companies were quick to come in. People were paid policy limits, and we have had now major flooding in Kansas. And most of our homes did not have flood insurance. Many of them were in communities where they could participate, but chose not to, and mistakenly thought that their homeowners' policy covered floods.

So I think moving to an all perils policy with Federal participation in some form, whether it be with bonds that companies buy, or with a reinsurance model, we think should be studied.

Chairwoman WATERS. Without knowing how much participation from the Federal Government or the ways in which the private sector and the Federal Government may interact, how many of you on this panel agree that we should have something that would be an all perils approach to dealing with these disasters?

How many disagree?

Would you tell me why you disagree? I can't see the name. Mr. Majewski?

Mr. MAJEWSKI. Ted Majewski.

One of the things that insurance is out there for is private enterprise to go out and write insurance. If you put the Federal Govern-

ment out there doing all-perilall-peril being theft, fire; I mean all peril is everything—you have taken something out of the independent market, and I think that is bad for business.

Chairwoman WATERS. But my question was not all-perils solely as a government response. My question was, could it be a combination of private and government? But do you believe that the homeowners, the citizens of this country, should have a policy of some kind that covers all perils, whether it is wind, water, as was mentioned, tornado, or earthquake?

Do you think there is something to that?

Mr. MAJEWSKI. I think that is an admirable thing to do, to try and provide as much coverage as you possibly can provide, with the policy. But there would be costs involved with that. I mean, you could bring that also to terrorism. You are already working on a TRIA Act, currently, and you know the problems that are involved with that. So I mean there are a number of perils.

Chairwoman WATERS. I just want to deal with natural disasters right now.

Mr. MAJEWSKI. Yes, I believe natural disasters could be covered. There would be a cost involved with it.

Chairwoman WATERS. Do you envision that there's some way that the government and the private sector could participate?

Mr. MAJEWSKI. Absolutely.

Chairwoman WATERS. And what is that?

Mr. MAJEWSKI. I believe that what Congressman Taylor has put together is a very good attempt to get started on this. I think that there are a number of things that were mentioned at this panel or on prior ones that if we started to take pieces of those and put them together, they would make a lot of sense.

For example, one of the things that I've been thinking about was from a catastrophe standpoint. Instead of covering every dollar from a FEMA standpoint, and from a Federal Government standpoint, if you were to take a Category 3 storm and above, which rarely happens but is really what this whole thing started over, was major, major storms, not necessarily the small ones, but the largest storms that are out there, which from a probability standpoint will occur, but not as often as smaller storms, and starting a program that began with a category, say, 3 or 2 storm and above and have participation from a Federal Government standpoint there.

If you could meld something like that into your bill, that would then eliminate the need to look at the smaller claims that are out there and the smaller storms, and then let the insurance companies handle those, you know, that would be one, I believe, compromise that would be certainly from my standpoint and my company's standpoint worth working on and worth solving.

Chairwoman WATERS. Thank you. I think Mr. Watt alluded to something like that.

Mr. MAJEWSKI. Exactly, he did, and that's why I said it was mentioned earlier. And it makes a lot of sense to take that approach.

Chairwoman WATERS. All right, thank you very much.

Ms. Biggert?

Mrs. BIGGERT. Thank you, Madam Chairwoman.

Could I ask you, before I ask a question, what your intentions are in moving this bill forward? We are scheduled to mark-up H.R. 1682 at the end of the month. Are you looking at Mr. Taylor's bill as being an amendment or do you plan to introduce a new bill?

Chairwoman WATERS. I am sorry. Would you repeat that?

Mrs. BIGGERT. I just wondered what your intentions were with regard to moving this bill forward if we mark-up H.R. 1682 at the end of this month. Are you planning on including this bill within that bill, are you going to introduce a new bill, or how does that fit in with this bill?

Chairwoman WATERS. I am not sure how we are going to do it. I am going to talk with Mr. Taylor, with Chairman Frank, and with you, and we are going to decide.

Mrs. BIGGERT. Okay, thank you.

Chairwoman WATERS. Thank you.

Mrs. BIGGERT. All right, then I have a question for each of the panel.

Chairwoman Waters asked you about a multi-perils bill and I would just like a yes or no answer from each of you.

Would you support the addition of wind coverage to the National Flood Insurance Program?

Ms. Pogue?

Ms. POGUE. No. One of the—

Mrs. BIGGERT. Just yes or no.

Ms. POGUE. No.

Mrs. BIGGERT. Ms. Praeger?

Ms. PRAEGER. No.

Mrs. BIGGERT. Okay, Mr. Majewski?

Mr. MAJEWSKI. No.

Mrs. BIGGERT. Okay. Ms. Small?

Ms. SMALL. No.

Mrs. BIGGERT. Mr. Baker?

Mr. BAKER. Yes.

Mrs. BIGGERT. Mr. Hartwig?

Mr. HARTWIG. No.

Mrs. BIGGERT. Mr. Conway?

Mr. CONWAY. No.

Mrs. BIGGERT. Okay, thank you.

And Ms. Pogue testified and she set forth several questions about H.R. 920 that I think at this point remain unanswered.

Would you all consider, do you think? Would you support a GAO study to examine such questions, and I think you have all raised several questions, in order for Congress to proceed in a more informed manner before we would consider such legislation.

Ms. Pogue, yes or no?

Ms. POGUE. Yes.

Mrs. BIGGERT. Okay, Ms. Praeger?

Ms. PRAEGER. Yes.

Mrs. BIGGERT. I'm not going to even try to pronounce your name again.

Mr. MAJEWSKI. Yes.

Mrs. BIGGERT. Ms. Small?

Ms. SMALL. Yes.

Mr. BAKER. No, but I would love to elaborate.

Mrs. BIGGERT. I don't have time. Dr. Hartwig?

Mr. HARTWIG. Yes.

Mr. CONWAY. Yes.

Mrs. BIGGERT. Okay, thank you, and I am sorry. I have another meeting, so that's why I have to hurry. I appreciate you all coming, and I yield back my time.

Chairwoman WATERS. Thank you very much. Mr. Green, for 5 minutes.

Mr. GREEN. Thank you, Madam Chairwoman, and I thank the ranking member as well.

Let me start by saying that this really, while it references Mr. Taylor, is not about him. He is symbolic of many other persons who are not here to represent themselves, and quite candidly, I thank God that he's here. I regret that it happened to him, but I am grateful that he was available to shed a lot of light on a situation that probably would not have received the attention that it has received if nor for the Taylors of the world who have the wherewithal to make the issue available for all of us to see.

Having said this, let me continue the trend. We call this voir dire, or voir dire, depending on where you're from when we take you en banc and we ask questions. Voir dire is a French term that means to speak the truth, so this becomes the truth-telling portion of this hearing for members of the venire. That would be you, the witnesses.

Now, having said this, which is what we have been doing, let me ask in this way. If the private sector were taking care of this problem in its entirety, do you agree that there would be no need for involvement of the public sector. If your answer is yes, you need not say anything. Your silence will indicate consent.

All right. Do you agree that if the private sector refuses to provide any wind coverage at all, the public sector should get involved in these coastal areas? If the private sector refuses to provide any wind coverage at all, zero, should the public sector get involved?

If your answer is yes, you need not say anything. Your silence will be consent. Now because this is so critical, I would like to get your actual consent. Do you agree? We will start with the first lady to my left. And is your answer yes?

Ms. POGUE. My answer is no.

Mr. GREEN. If the private sector provides, refuses to provide, any wind coverage at all, you would not want the public sector involved?

Ms. POGUE. Oh, I was answering your first question.

Mr. GREEN. No, as to my second now.

Ms. POGUE. Your second question?

Mr. GREEN. Yes. Private sector, zero coverage; would you want the public sector involved in providing wind coverage? Would you?

Ms. POGUE. My answer—

Mr. GREEN. If the private sector is providing zero wind coverage, would, yes.

Ms. POGUE. Yes. You have me thoroughly confused, yes.

Mr. GREEN. All right, it's not going to be tricky.

All right, let's go to the next lady. If the private sector provides zero wind coverage, would you want the public sector to step in?

Ms. PRAEGER. At that point, I don't believe we'd have a private sector market, sir.

Mr. GREEN. Okay, without explanation, would you want the public sector?

Mr. MAJEWSKI. Yes.

Mr. GREEN. Ma'am?

Ms. SMALL. Yes.

Mr. GREEN. Sir?

Mr. BAKER. Yes.

Mr. HARTWIG. Yes.

Mr. GREEN. Sir, if the private sector refuses to provide zero coverage, any coverage, would you want the public sector to step in, or would you want people to simply be at the risk of the wind, at the risk of nature, and those who have their homes destroyed, that is just tough luck. Life is like that. It's unfortunate that it had to be you. Thank God it wasn't me.

Is that your attitude, or would you want the public sector to step in?

Mr. CONRAD. I think the public sector would need to step in.

Mr. GREEN. Excuse, me. Sometimes, when people finish, I don't know whether they said yes or no. So I have to pressure you to say yes or no. If the private sector provides zero coverage, would you want the public sector to step in?

Mr. CONRAD. To step in, in some form, yes.

Mr. GREEN. Okay, now, so the question becomes really how many companies will have to leave Louisiana and Texas or perhaps Mississippi, before we decide that we need to do something, that's really where we are, because if we know that if we have zero help from the private sector, then the public sector should do something. The question becomes, where is it between zero and 100 percent coverage. Where is it that we should be involved in this process?

And the contention is that many of these insurance companies are leaving the Gulf Coast area or they are threatening to leave, one or the other. And at some point, we have to consider the people who are left behind, not only because of their homes, but also because of the economic infrastructure that's in place there.

If we are not careful and we can continue to dilly-dally to the extent that we could impact the economic order, not only in the Gulf Coast area because it dominos and it impacts the entirety of the country, we have to consider the stability of the economic order as well and insurance is a part of the stabilizing process. So at some point we have a responsibility to do something to try to help.

That appears to be what H.R. 920 proposes to do. Now, friends, I don't know the name of the phobia. Sorry that I don't, but there is this fear that some people have of leaving home. They ask themselves, if I go out of that door, will I trip and fall? And if I go out of that door, and I don't trip and fall, when I get outside, will a plane fall on me? And they continue to ask themselves questions, and they do this to the extent that they suffer from what's called a paralysis of analysis.

They engage in analysis to the extent that they never do anything and literally they are people who will stay at home because they are afraid. My point to you is that we don't have that luxury in Congress. I believe we have a duty to try to find a solution so

that the economic order receives stability and so that citizens can know that they will be insured. And I don't think that we want to put it all on the Federal Government, nor do I want to put it all on the private sector. There has to be some balance. H.R. 920 seems to seek that balance, and I yield back the balance of my time.

Chairwoman WATERS. Mr. Miller?

Mr. MILLER. Thank you, Madam Chairwoman. I saw you smiling. It's good to see that we can have some fun once in a while.

When I read the results of a poll, I always look to see how the question was asked too, you know, before I just accept the results of a poll. But Mr. Hartwig, why would the insurance industry in a free market system, and I quote, "free market system," decide to pull out or refuse business in various States?

Mr. HARTWIG. Well, to begin with, in none of the States at issue here do we have a free market system. The ranking member, Mrs. Biggert, actually hails from the only State that has complete and total flexibility in terms of rates in the entire United States.

The reality is in States like Florida and other coastal States, you do have fairly strict rate regulation laws and laws that govern, of course, the forms that are used. To the extent that an insurer cannot generate a rate of return that is sufficient to cover its expected losses, that is the reason why you have seen most of the pullback that you have seen in coastal areas.

In some States, in Florida in particular, there is a deliberate attempt to drive insurers out of the State for political reasons. Make no mistake about it, that is the reason why this is a very active issue for the current Governor and he is underpricing policies deliberately at this point. So insurers do want to participate in markets, even in risky areas. And, by the way, insurers do offer and participate in markets that are extremely risky all around the world in all sorts of ventures.

But when you have a regulatory environment that prevents even the opportunity for earning a reasonable rate of return over extended periods of time, it is impossible to participate. So if I ask the question to all of you in a different way, if a free market system existed, do you believe any State would be without insurance for their people. The advantaged probably know they would all have it if the free market system existed.

When the Flood Insurance Program was implemented in the late 1960's, the coverage generally was unavailable from coast-to-coast, Mr. Hartwig, and how does this rationale for Federal flood insurance differ from the state of wind coverage today?

Mr. HARTWIG. Well, in wind coverage today, wind coverage is generally available all across the United States with the exception of some coastal areas where there are some difficulties that are a combination of both excessive risk and exposure that insurers do have that has caused them to back off some of these policies, combined with rate suppression issues and litigation issues in a number of States.

Mr. MILLER. So the rates are being mandated so low that the insurance companies will not accept the risk-based rate of return?

Mr. HARTWIG. That's precisely it, particularly in States like Florida. Yes. If you are not given the opportunity to at least cover your

costs and a reasonable rate of return, you simply can't operate in that environment. No business could operate.

Mr. MILLER. So you think it is probably appropriate for the Federal Government to be involved in some flood insurance, but not necessarily in wind insurance.

Mr. HARTWIG. The insurance industry has no problem with the National Flood Insurance Program and the insurance industry believes there is an appropriate role for government in every State, particularly a safety valve function, until markets stabilize.

Mr. MILLER. I guess a question for each of you would be, do most States operate a free market insurance system that allows the insurer to share a fair price based on their risk. Starting from left to right, what would your response be?

Do you think the States allow or operate a free market system for insurance companies that allow the insurer to charge a fair price that accurately reflects the risk?

Ms. POGUE. Congressman Miller, to be honest with you, I wouldn't have a basis for answering that question. It would be more the government's involvement in flood insurance.

Mr. MILLER. Sure.

Ms. PRAEGER. I can speak for my State. In Kansas, if companies can demonstrate that the rates they are proposing are actuarially sound, I can't statutorily refuse to allow that rate increase.

Mr. MILLER. Okay.

Mr. MAJEWSKI. I would say many States operate in a free market system. The exception would be on an assigned risk program, where you're taking like the auto insurance and you're setting a rate from a company standpoint and from a State standpoint. It's very difficult for even the State plans to stay solvent, much less the independent market side.

Ms. SMALL. Congressman Miller, I don't have a basis from which to respond to that.

Mr. MILLER. Okay.

Mr. BAKER. Congressman Miller, in the State of Louisiana, I can say with almost certainty that I cannot obtain a new homeowners policy for you in the greater New Orleans area in an area that has been flooded.

Now, it seems a bit counterintuitive, but because the area flooded, I can't provide wind insurance. But the controversy is such that the insurers will not go where there's a chance of flood if they have a chance of having a court enforce a wind ruling on that policy.

Mr. MILLER. Well, what you are saying is that if they're not willing to accept the responsibility of flood damage when they are only insuring for wind damage?

Mr. BAKER. The courts are imposing flood damage on them where they thought they were going to collect on wind.

Mr. MILLER. That was my answer. So the insurance companies are basically saying, we are only writing a policy for wind. We are not writing it for flood. So, why did we accept liability, when there's a flood, we're going to get assessed for wind damage at the same time.

Mr. BAKER. Well, what I am saying is they won't take the risk of the uncertainty.

Mr. MILLER. Yes, okay. Mr. Hartwig?

Mr. HARTWIG. The majority of the U.S. property casualty and insurance market operates in an environment that by traditional terms, at least in terms of rate flexibility, couldn't be deemed as anywhere near perfect competition.

Mr. MILLER. Okay.

Mr. CONRAD. And, Congressman, being from the National Wildlife Federation, I think I will defer to the insurance folks here.

Mr. MILLER. We will save the ducks. How's that?

I am going to ask my last one because I know my time is up. But based on the testimony at the last hearing, it sounded like the largest problem we have is an Attorney General who disagrees with the insurance commissioner. And, Mr. Baker, that seems to be a problem in your State because the courts are enforcing policies or mandating things that the insurance companies didn't believe was their responsibility.

I yield back. Thank you.

Chairwoman WATERS. Mr. Taylor?

Mr. TAYLOR. Well, Mr. Majewski and Mr. Hartwig, you have certainly earned your paychecks today.

I want you to know that your defense of the folks who told the Bienvenuttis, with their $600,000 policy, that they weren't going to pay, has been remarkable.

They told the Haddens, with their $560,000 policy, that they weren't going to pay. Remarkable.

Your defense of an industry that is exempt from the Sherman Antitrust Act and the McCarran-Ferguson Act where it is perfectly legal for State Farm to call Allstate to call Nationwide and say, we're not going to pay. Well, let's all raise our rates; or you take Alabama; you take Florida; you take Texas. No other industry in America can do that. Guys, you have earned your pay.

You are coming before this committee and saying that it is available and we work to make it available from the private sector for the public. You have earned your pay. But you see, I have a really smart guy working with me. He does research. His name is Brian Martin.

I am going to read a statement from your company, Mr. Majewski. This is from your annual report in 1997: "Our decision to reduce property exposure along the Atlantic coast has had the desired effect of decreasing our coastal exposure by more than $2 billion during the past 2 years. And we have reduced or eliminated our exposure on 61 percent of the homeowners' policies we had in force in Atlantic coastal counties when the program began in January 1 of 1996."

Now, you just told us you weren't going to make it available and the Nation doesn't need to do this. But I am going to go on because the next statement is from your company's press release announcing their earnings for the third quarter of 2005, which incidentally is right after Hurricane Katrina. And this is the part of the statement by Michael Brown, the current president and CEO: "Hurricanes Katrina and Rita had minimal impact on our financial results, in part due to our ongoing effort to effectively manage our catastrophe and windstorm exposures, which is a key component of our disciplined underwriting approach." It doesn't sound to me that you are going out of your way to write these policies. It sounds to

me, based on quotes from your company publications, that you are going out of way not to write them. You don't want to do it. I have heard with great interest Mr. Hartwig's statements that, you know, they can't do this because you can't generate a rate of return.

The company that told this guy they weren't going to pay on his $560,000 policy made $3.5 billion the year of Katrina. The company that told this insurance salesman that they weren't going to pay on his $600,000 policy made $3.5 billion. You see, they not only took them at their word that they were a good neighbor, they bought from their good neighbor who lived down the street. His wife is driving a Lexus convertible. This guy's living in a FEMA trailer.

So, Mr. Hartwig is telling me they're a little worried about the rate of return, I would remind him that the insurance industry that is exempt from Karen Ferguson had a collective profit of $44 billion after Katrina. The insurance industry that you are so worried about having an effective rate of return had a $60 billion profit last year. The same insurance industry that told these folks, we're not going to pay, we're your good neighbor. We'll take your premium, but we're not going to pay.

Well, Ed Rusk, Jr., who made that decision, he and his board doubled their own bonuses, which amounted to almost a $9 million bonus for Ed Rusk, Jr., State Farm Insurance Company. Now I appreciate that you don't see the need for change. I would invite you to south Mississippi. I would invite you to Slidell, Louisiana. I would invite you to Bayou la Batre, and I would remind you that 52 percent of Americans live in coastal America and the odds of it happening to us again are pretty slim.

And this, unlike efforts in the industry to paint it about being about me, it isn't. You see, I was one of those people who walked into a lawyers office and said, yes, I'll give you 40 percent of what I get because they are not going to give me anything. So right now, I am getting 100 percent of nothing, and I am willing to take 60 percent of something because they are not going to give me anything. And, by the way, if they do that to a Congressman, what do you think they'd do to a school teacher or a football coach, or a retired Chief Petty Officer?

You see, I wasn't always a Congressman, and I really did put myself in that. What if I had just been a corrugated box salesman that day, and what if guys like Dickie Scruggs don't take phone calls from corrugated box salesmen? I can't make everyone I represent a Congressman, but we ought to treat them like one so that they don't have to call a Dickie Scruggs or the Merlin Group or any of these other law firms.

And so I want to tell each of you, you have earned your pay today. To defend this, to defend those profits, to defend the practice where they can call each other up and say, let's all raise our rates. You take this date; you take that one. Or, even better, let's all back out for a little while and then we'll come back in and we'll quadruple the rates and the people will be so desperate because they know hurricane season is right around the corner, they'll pay us anything.

To say that that doesn't need to change; to say that it's okay, well, you have to live with yourself. And I'm sure, quite frankly,

your financial portfolio probably looks a whole lot better than these guys. But the bottom line is, it does have to change. It's not a what-if, it has already happened. So the question is, when does it happen in North Carolina? When does it happen in New York? When does it happen in New Jersey? When does it happen in Connecticut? When does it happen in Georgia? When does it happen in South Carolina? Because it is going to happen. The Navy Oceanographic Lab tells us we are in for 10 years of this, and I believe them. We've already had our licking. The rest of the country still hasn't had theirs.

If you don't think it needs to change, fine; but I know better. And I very much appreciate the gentlewoman from California having this hearing so people could get a chance to say something. I very much appreciate Chairman Frank allowing her to have this hearing, and I very much appreciate that in the 15 months after the storm, the guys who used to run this committee didn't see fit to have one hearing on the kind of abuses that took place by the thousands in Mississippi.

In the months since the Democrats have taken over, they have had five, and we have had a promise of a vote. I appreciate your thoughts on this, if there are some things we can do to tweak it to make it better. But to sit back and do nothing would be the greatest wrong of all.

Thank you, Madam Chairwoman.

Chairwoman WATERS. Thank you very much.

Mr. Taylor, would you like to submit those quotes for the record?

Mr. TAYLOR. Yes, Madam Chairwoman, I would like to submit that for the record. I would also like to submit letters from Nationwide Insurance Company and Allstate Insurance Company, as well.

Chairwoman WATERS. Without objection, such is the order.

We have been joined by Mr. Pearce. Would you like to have 5 minutes for questions, Mr. Pearce?

Mr. PEARCE. Thank you, Madam Chairwoman, I would.

First, for Mr. Conrad, one of the criticisms of the Flood Insurance Program is that it encourages coastal development by homeowners to purchase flood insurance at subsidized prices. I would like your observation on that. And again, keep in mind we have 5 minutes, and I have a couple more questions, so short observations are better. And then the second thing is, would adding wind coverage to the Flood Insurance Program do anything to alleviate that problem? So, first of all, if you would address those?

Mr. CONRAD. Yes, sir. I have spent probably 15 years looking at some of those questions attempting to from my vantage point at the National Wildlife Federation, we have done some statistical work on repetitive losses, which I mentioned in my testimony. There are a number of aspects of the National Flood Insurance Program that are providing substantial subsidies, not only in coastal areas, but also in some other areas that I think it is getting pretty clear have particularly managed to maintain high risk properties in those locations.

There just has been not enough incentive to mitigate the risk, either by elevation or relocation. And, as a result, the Flood Insurance Program has been hurt financially by that. The other question, I'm sorry.

Mr. PEARCE. Just if we had wind, what's it going to do to alleviate that current situation that you are describing?

Mr. CONRAD. Okay, I don't believe that would have, if you added wind coverage; it would certainly not lessen the risk associated with those properties. And in fact I think it would probably increase the total exposure that ultimately the taxpayers have to the risks.

Mr. PEARCE. Mr. Hartwig, typically insurance companies are in areas where the market justifies being there. Since the Katrina catastrophe, tell me a little bit about what's happening to the market. Are companies staying in those three States or are they actually pulling out?

If you would, in the principal States affected by Katrina, insurers have reduced their exposure, generally speaking, particularly on the homeowner side, less of a difference on the commercial lines. In other words, the business type of insurance, and the reason for that is that there tends to be less regulation on prices in terms of commercial property insurance policies.

Is that reduction across the board, or are there some companies, is it some companies are saying we're going to get that market, let us have the profits there. You all move to another market. Or is it across the board?

Mr. HARTWIG. There are some insurers who reduce their exposure less than others. There are some who have simply said, we won't write any new policies, as opposed to outright reduction. So there are a variety of tolerances of risk within the insurance industry and a variety of abilities to assume risk and to distribute that risk across the world with reinsurance.

Mr. PEARCE. If H.R. 920, which is again designed to improve availability and affordability of home ownership insurance in coastal States, if this bill goes through, can you give me an idea about what the market will be like, how the insurance market itself will respond to that presence, is it going to have an effect or no effect?

Mr. HARTWIG. Well, it is unclear what the effect would be. In fact, one of the major thrusts of my testimony wasn't so much with respect to what would happen in terms of private insurance. What we have as a problem is growing influence in terms of the State-run insurance. In Florida for example, Citizens Property Insurance Corporation is the largest insurance company in the State.

We are talking more about not what is going to happen in the private sector, but what's going to happen to citizens, and thereby, that affects the private sector. Let me give you the dynamics of this. If you have a situation where you have actuarially sound rates, and under H.R. 920 in terms of a wind program you wind up with a situation where you have much, much lower rates for wind being offered through the State-run insurer.

Is the Governor of Florida going to say, I'm going to force all of you into this much more expensive program? I don't think that is going to be the case. You have a case of actually competition potentially between a Federal and a State entity with private insurers being caught somewhere in between. I will say that the long term objective of insurers is consistent with Mr. Taylor's goal of having actuarially sound rates. This is something insurers have been asking for, for decades, and have not yet been able to achieve.

Mr. PEARCE. Any reasons why they have not been able to achieve those actuarially sound rates?

Mr. HARTWIG. Well as I indicated in my testimony, in places like Florida and other coastal areas, it is simply not politically feasible to allow insurers to charge a rate that is commensurate with the risk. And even before Katrina, that is what has caused insurers to reduce their exposure to some coastal areas.

Mr. PEARCE. And so what we face is the evacuation of private insurance and the government will be left giving any insurance that's available in the extreme case. If we were to move to the extreme of what's happening right now, is there any risk that the private insurers would ever get completely out of the market?

Mr. HARTWIG. That's potentially a danger. It is not what insurers want to do, but when we see in Florida with the State-run insurer adding 25,000 policies a week with $600,000 in exposure, 1.3 million policyholders. They expect to have 2 million next year. You can see where that market is going.

Mr. PEARCE. Well, we will stay with Mr. Hartwig. On the long-term insurance companies nationwide have profitability and lack of profitability, if we take a look at 15 years and if you don't know the answer, I mean if anybody on the panel has the answer. If we take a 15-year look at the industry, what sort of profitability do we have year-by-year. What sort of losses have we seen roughly?

Mr. HARTWIG. I can answer that question. And mind you, property casualty insurance is regulated at State levels, so each State and each type of insurance needs to stand on its own. So the profits Mr. Taylor cited earlier in 2005 were earned entirely outside of his State on types of insurance like workers compensation insurance in Alaska, which I don't believe should have any relationship or should subsidize homeowners insurance in places like Mississippi.

But it is the case that in fact for 19 consecutive years, the property casualty insurance industry has underperformed the Fortune 500 group for example. The average rate of return has been somewhere in the 6 to 7 percent range over the period in question, which is roughly half that generated by the Fortune 500 group. It isn't much more than one could have generated risk free on a ten-year Treasury note.

Mr. PEARCE. So you are telling me that they could have put the money in the bank and earned as much as they are earning with their routing of insurance claims and paying of the claims and the business of insurance?

Mr. HARTWIG. That is on average across all their operations in some States like Florida or Mississippi or Louisiana. The money would have better invested by putting it under your bed. Okay?

Mr. PEARCE. And what we risk if we keep on adding requirements is at some point, the insurance market itself will say, we would rather have no risk at 6 percent, than insure these risks at 6 percent.

Mr. HARTWIG. Insurance, like any business, needs to look at where it can earn a rate of return that is sufficient to basically cover its costs with a reasonable profit. In insurance, we have the added factor that insurers need to maintain a very significant financial cushion in order to avoid regulatory sanctions and insolvency. Insurers today have to basically keep in the bank roughly

$1 for every dollar they earn in premium. And that's a very steep hurdle, and it's not one that any State-run entity has to face.

Mr. PEARCE. Thank you, Madam Chairwoman. I see my time has expired.

Chairwoman WATERS. Well, thank you very much.

The Chair notes that some members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 30 days for members to submit written questions to these witnesses, and to place their responses in the record. This panel is now dismissed and the hearing is adjourned.

Thank you all, very much.

Mr. PEARCE. Madam Chairwoman?

Chairwoman WATERS. I'm sorry.

Mr. PEARCE. I was going to ask unanimous consent.

Chairwoman WATERS. That's right, I forgot. I was fairly warned. Please, Mr. Pearce.

Mr. PEARCE. If I could, we have a couple of letters here from the Consumer Federation of America and the joint letter from NAMIC and PCI and AIA under the Financial Services Roundtable. If we could get unanimous consent to put those in the record?

Chairwoman WATERS. Without objection, it is so ordered.

Mr. PEARCE. Thank you, Madam Chairwoman.

Chairwoman WATERS. You are welcome.

The committee is adjourned.

[Whereupon, at 5:49 p.m., the hearing was adjourned.]

A P P E N D I X

July 17, 2007

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STATEMENT OF W. ANDERSON BAKER, III

PRESIDENT
GILLIS, ELLIS & BAKER, INC.

ON BEHALF OF GREATER NEW ORLEANS, INC.

HOUSE FINANCIAL SERVICES SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

HEARING ON "H.R. 920, THE MULTIPLE PERIL INSURANCE ACT OF 2007"

JULY 17, 2007

Madam Chairwoman and Members of the Subcommittee, I am Anderson Baker, President of Gillis, Ellis & Baker, Inc., one of Louisiana's largest independent insurance agencies. I appreciate the opportunity to appear before the Subcommittee today, on behalf of Greater New Orleans, Inc. (GNO, Inc.), a ten parish regional economic development organization in southeast Louisiana representing over 100 businesses in all major sectors of the local economy. Madam Chairwoman, at the outset I would like to extend my personal appreciation and thanks to you for the intense interest that you have shown in New Orleans over the past two years. Since Hurricanes Katrina and Rita, you have visited our City numerous times and have fought tirelessly in the Congress for common-sense relief for our area. For that, we are deeply grateful. I would also like to acknowledge Congressman Taylor from our neighboring State of Mississippi for the persistent and creative leadership that he has demonstrated after these hurricanes devastated the Gulf Coast, and, in particular, for his leadership on H. R. 920, the subject of today's hearing.

Almost immediately after Hurricanes Katrina and Rita, GNO, Inc., through its regional Insurance Task Force, began to work with the local business community and Federal, state and local officials to address the myriad insurance issues that arose in the aftermath of these

devastating storms. I serve as an active member of that Insurance Task Force and my company has done its best to provide guidance and perspective to GNO, Inc. on this insurance crisis as our community has struggled to rebuild. I know that I do not have to remind this Subcommittee that the New Orleans area lost 300,000 in population, 200,000 homes, and 18,000 businesses as a result of these hurricanes. We have grappled with the maze of insurance challenges presented by this post-Katrina environment literally every day since August 29, 2005. In fact, during that time, our company has handled literally thousands of post-Katrina claims. We therefore have as much or more direct, personal experience with the insurance challenges facing New Orleans and the Gulf Coast than any other local organization.

One of the biggest challenges has been the uneven treatment of policyholders, whether commercial or residential, who experienced significant wind damage to their property. Prior to Hurricanes Katrina and Rita, the private insurance market would readily provide wind coverage for both homeowners and businesses. However, in the post-Katrina environment, insurance companies that remain in the market are in most cases either significantly restricting wind coverage or are simply no longer offering this coverage. As an insurance agent in New Orleans, I am forced to either place these coverages in the surplus line markets, with the Louisiana Citizens Property Insurance Corporation (the State of Louisiana's residual plan), or not offer this coverage at all. When the private markets cannot respond to a catastrophe of this magnitude, even two years after the hurricanes, it is appropriate for the Federal government to step in and provide some reasonable form of relief, be it temporary or permanent.

For over three decades, the Federal government, through the National Flood Insurance Program (NFIP), has provided flood insurance in almost all areas of the country. The NFIP has played a valuable role in offering coverage for flooding risks that the private market has been

understandably reluctant to undertake. Insurers typically do not wish to provide coverage for an event that can cause significant loss to numerous properties at the same time and in the same area. Instead, they tend to insure random, yet predictable, events. And, as Hurricanes Katrina and Rita aptly demonstrated, there are times when the private industry simply does not have the infrastructure and capacity to adequately respond to a massive number of claims. And, of course, as this Subcommittee well knows, the NFIP does not currently provide wind coverage, a significant shortcoming in the face of a major hurricane with winds of 150 miles per hour or more.

In my company's case, we handled approximately 1,400 NFIP flood policies in the years prior to Hurricanes Katrina and Rita. After those two hurricanes ravaged south Louisiana, we handled nearly 700 flood claims with a total aggregate damage of approximately $38 million. Of course, our company addressed only a fraction of the total number of claims and the total cost of the additional thousands of claims runs into many more billions of dollars. Faced with the magnitude of these claims, it has become increasingly difficult for policyholders in the City of New Orleans and other coastal areas, such as the Gulf Coast of Mississippi, Alabama and Florida, that are susceptible to the significant perils of wind and flood damage to obtain coverage. Indeed, I am sad to report that almost all personal and commercial property policies in the New Orleans area are either not being renewed or are renewed with severe restrictions regarding wind damage. For those that are moved from one insurer to another due to non-renewal, we are seeing homeowners' premiums triple in cost and commercial property rates increase fourfold. Furthermore, for those that can obtain some sort of wind coverage, the wind provision in the typical renewal policy will almost invariably contain a deductible as high as 5%,

effectively raising out of pocket costs for consumers and lowering their claims payout in future storms. And, owners of vacant buildings are simply unable to obtain wind coverage of any sort.

We all read the stories in the press about the slow pace of the recovery in New Orleans. And, certainly there is a lot of blame to go around at all levels. But, clearly, one of the central reasons behind the anemic recovery of our region is the insurance crisis facing homeowners and businesses all across south Louisiana. How can we expect homeowners to return to New Orleans and rebuild their lives when insurance is either unavailable or not affordable? How can we expect businesses to reopen in an economic climate where the cost of insurance - in addition to increased housing costs, labor costs and utility costs - has skyrocketed beyond any reasonable level? It is essential that the Federal government work closely with those of us on the ground facing this crisis on a daily basis to develop common-sense solutions to this problem. The NFIP has been a valuable insurance program to date, but it must be modernized to reflect current real-world realities.

Madam Chairwoman, that is why I am pleased to testify today in support of H. R. 920, Congressman Taylor's multiple peril bill, which is co-sponsored by several Members of the Louisiana delegation. As you know, this bill would amend the National Flood Insurance Act of 1968 to require that the NFIP provide policyholders the option to purchase insurance against loss resulting from physical damage or loss of property arising from any flood or windstorm, essentially adding the option of wind coverage for the first time to the NFIP. In our view, this bill will provide an incentive for insurers to continue writing policies in coastal areas by removing the burden of providing wind coverage. By amending the NFIP to allow the voluntary purchase of wind coverage, the private insurance market will be relieved of much of the risk of uncertainty that exists in the current "wind versus flood" debate. The result should be more capacity in the

private sector. H. R. 920, if enacted, would allow the property owner to insure the wind deductible that is currently being imposed through the expanded NFIP.

To fully understand the merits of this point, one must understand why insurers are currently imposing wind deductibles. As mentioned previously, private insures do not want to be exposed to a situation that threatens many properties in the same area to the same peril at the same time. The wind deductible relieves the insurers of the bulk of this exposure to a wind loss. Even with the wind deductible, most "admitted" insurers have no appetite for wind coverage along the Gulf Coast. Certainly, that is the case in New Orleans.

However, under the amendments to the NFIP as proposed by Cong. Taylor, insurers could structure their policies to eliminate the lower level of wind coverage that currently causes such difficulties in the event of a massive loss. Others in the industry are more qualified to discuss the actuarially sound prices that should be established for this coverage. Right now, the only pricing that we are seeing is either from the insurers who are forced to stay in the market at an artificially low price or others who under current market conditioners are quoting extremely high rates.

If the revised NFIP wind program were actuarially priced (as is being contemplated for flood premiums), it would allow for the buildup of capital in the program and diminish the likelihood of the magnitude of the losses incurred after Hurricanes Katrina and Rita. We must recognize that, in the event of major wind events in the future, the Federal government will be called upon for financial assistance again and again. H. R. 920 would allow more people to participate in a program that is building up reserves to pay for future losses – and thereby reduce some portion of the Federal government's exposure when the next major hurricane hits one of our coastlines, while also protecting existing assets of homeowners and businesses.

I am therefore pleased to add the solid support of GNO, Inc. for H. R. 920. We fully understand the differences of opinion on this and other post-Katrina insurance issues, and the reluctance of Congress to intervene in the past. But, it is a reality that an increasing number of Americans are now living in coastal regions and the economies of hundreds of counties, parishes and cities are at stake. In this environment, it is essential that Congress act aggressively to provide appropriate relief to the thousands of homeowners and businesses that are so hamstrung by this insurance crisis along the Gulf Coast. H. R. 920 takes a significant step in that direction.

Thank you for the opportunity to appear before you today. GNO, Inc. and its Insurance Task Force look forward to working with the Financial Services Committee on this important legislation. I would be pleased to answer any questions that you may have or submit any additional information that you may require.

Statement of David R. Conrad, Senior Water Resources Specialist, National Wildlife Federation, Before the Subcommittee on Housing and Community Opportunity, House Financial Services Committee, for Subcommittee Hearing Regarding H.R. 920, the Multiple Peril Insurance Act of 2007, July 17, 2007

Good afternoon, Chairman Waters, Ranking Member Biggert and Members of the Subcommittee on Housing and Community Opportunity.

My name is David R. Conrad. I serve as Senior Water Resources Specialist for the National Wildlife Federation. The National Wildlife Federation is the nation's largest conservation education and advocacy organization, with some four million members and supporters and affiliates in 48 U.S. states and territories. Since our founding in 1936, the Federation has been actively involved in the development of federal natural resources policy, and especially the many policies related to our nation's waters and shorelines. In this regard, we have been actively involved in the development and implementation of the National Flood Insurance Program (NFIP). I was personally actively involved in the NFIP amendments adopted in 1994 and again in 2004.

Madam Chairman, the National Wildlife Federation appreciates the opportunity to share our views on **H.R. 920, the *Multiple Peril Insurance Act of 2007***. Generally while we recognize there have been issues raised regarding the insurance adjustment process when there are both flood and wind-related damages, the National Wildlife Federation is deeply concerned that adding a wind peril dimension to the NFIP could substantially undermine the program's already precarious financial position, would add greater risk and uncertainty especially for the taxpayers and the public, and would distract, we believe unnecessarily, from the critical missions of the NFIP.

We want to applaud Representative Taylor and other Members for raising the nation's awareness of the increasing risks associated with coastal storms, which could become more powerful and of longer duration, due especially to rising sea levels and warming of the climate. The U.N-sponsored Intergovernmental Panel on Climate Change (IPCC) and many of the nation's prominent climate scientists have warned that such storms are likely results from global warming due to buildup of greenhouse gasses, especially carbon dioxide.

It is clear also that Hurricanes Katrina, Rita and Wilma in 2005, plus the four powerful hurricanes that struck Florida in 2004, have increased the public's concerns, and at the same time have driven the NFIP into the most dire financial condition in its history, now with a virtually insurmountable U.S.Treasury debt of approximately $18 billion. We are strongly urging Congress to make the critically necessary changes in the nation's energy systems to directly address the causes of global warming. Yet, we believe it would not be appropriate or wise to add to the current liabilities of the NFIP the potentially very large additional liabilities that would be associated with coverage of wind peril, especially given that the nation has a long history of this peril being served by the private sector.

Recent insurance industry estimates of major storms potentially striking a number of the more populated coastal areas show that costs of storms like Hurricane Katrina that were in the $15 to $20 billion range for the NFIP currently, could be three to five times or more, if wind perils were also included. Such costs could potentially overwhelm the program and the costs to taxpayers could balloon to staggering levels. This could undermine the ability of the NFIP to accomplish its other established goals.

The Federation has been concerned for many years that the NFIP is having severe difficulties managing the growth of flood-related risk (as well as the costs). Nearly a decade ago, the Federation released a report called "Higher Ground" on the problems of repetitive losses in the NFIP, where, in thousands of communities, buildings were experiencing repeated flood losses only to be reconstructed again and again with little or no mitigation of risk, in part for lack of incentive to "move out of harm's way." Part of the lack of incentive for mitigation was driven by rates that are below (some of them far below) true actuarial rates, flood hazard maps that are inaccurate or out of date and failing to consider changing conditions, and failure of communities and FEMA to enforce even minimum standards of the program, let alone set higher standards to reduce or avoid risk.

Today, we still find that after Congress passed amendments in 2004 and began to provide funds to address repetitive losses, the new program is still largely not implemented and has failed to spend much of the funds made available to start changing the pattern. In the intervening decade since our report, the number of repetitive loss properties has grown from 74,500 at the time of our study to now over 135,000 properties, and the cost to the NFIP of these buildings has more than tripled to over $8.5 billion in payments. The NFIP continues to face enormous challenges, and public confidence is lacking in the program's ability to reduce risks, manage costs and protect the environment.

Given this context, if the NFIP were subject to the additional burden of wind perils, it could so tax the program's capabilities that many other functions would be slowed or lost. As the Committee knows, the NFIP is engaged in a major effort to modernize maps that have fallen far out of date. Currently staffing at the NFIP is straining to carry out these and other functions. Yet, we do not believe the NFIP is equipped to analyze and rate wind-related risks as well, whereas the private sector has devoted substantial resources for decades to these issues – both rating and hazard mitigation technologies.

Madam Chairman, last October, the Federal Emergency Management Agency completed a long-awaited comprehensive *Evaluation of the National Flood Insurance Program.* This *Evaluation* involved 13 contracted studies of a wide variety of issues related to the NFIP ranging from the role of actuarial rating to building standards to environmental issues to the effectiveness of the current NFIP standards. I served on a broadly-based panel that helped write the Evaluation summary document. A key finding of the *Evaluation* was that as it is currently being applied, the basic 1% chance flood standard is "inadequate" to accomplish the purposes of the NFIP – especially in terms of reducing flood risks.

Even when the focus has been on managing risk in the more defined area of floodplains, it is clear the NFIP has a long way to go. New standards must be developed to provide higher levels of protection; flood risk mapping needs to be substantially expanded to support the varied goals of the NFIP; and the NFIP needs to be integrated much better with other flood-related programs at all levels of government. The addition of the wind-related perils would expand the program's footprint far beyond the present level, and greatly complicate the potential for success. For this reason the National Wildlife Federation would oppose H.R. 920 as written.

We instead urge that Congress and FEMA work together with the nation's private insurance industry to assure that where there are combinations of flood and wind-related damages, insurance adjustments are completed quickly, fairly and accurately, and to maintain the focus of the NFIP on reducing flood-related risk now and in the future, while improving the protection and restoration of the natural and beneficial values and functions of the nation's floodplains.

Thank you once again for the opportunity to share the Federation's views, and I would be happy to respond to any questions.

H.R. 920

The Multiple Peril Insurance Act Of 2007

Written Testimony of

Robert P. Hartwig, Ph.D., CPCU
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Insurance Information Institute
New York, NY

United StatesHouse of Representatives Committee on Financial Services
Subcommittee on Housing and Community Opportunity

Washington, D.C.

July 17, 2007

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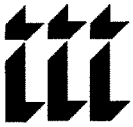


Good afternoon Chairwoman Waters, Ranking Member Biggert and members of the Committee. My name is Robert Hartwig and I am President and Chief Economist for the Insurance Information Institute, an insurance trade association based in New York City whose primary mission is to improve the public's understanding of insurance: what it does and how it works. Our members consist of insurers and reinsurers that operate on a global scale and account for more than 60 percent of the premiums written in the United States.

Thank you for the opportunity to appear before the Committee today to discuss the economic, financial and fiscal ramifications associated with the expansion of the National Flood Insurance Program (NFIP) to cover wind losses as proposed under H.R. 920, "*The Multiple Peril Insurance Act of 2007.*" Let me begin by assuring the Committee that the insurance industry is committed to finding innovative solutions to the real and growing threat posed by catastrophic windstorm and floods in the United States.

My testimony today will address five major issues:

- The true scope of windstorm exposure in the United States and the potential fiscal consequences should H.R. 920 fall short of its stated requirement that rates be "actuarially based";
- The historical difficulties that government operated property insurers have encountered in implementing a rating system that is actuarially sound;
- The distortionary incentive effects an expanded program could have on property owners and communities—likely leading to increased and accelerated development in environmentally sensitive areas vulnerable to flood and wind risk;
- The importance of recognizing that even if rates are actuarially sound, H.R. 920 does not correct the fundamental problem of inadequate flood insurance penetration rates; and
- The fact that the ability of the NFIP to offer windstorm coverage at actuarially sound rates as required by H.R. 920 will be undermined by political decisions

by many state-run property insurers to subsidize windstorm coverage, thereby pricing federal coverage out of the market.

The Scope of Wind Exposure in the United States

In many parts of United States, wind is the most frequent and costly cause of catastrophic loss. Consequently, any federal government program established to assume windstorm risk anywhere in the United States must be prepared to adjust, manage and pay losses of a scale and magnitude that are without precedent.

As Figure 1 shows, wind losses can arise from many types of disaster. In fact, wind plays a role in approximately 80 percent of the catastrophe losses paid by insurers. Tropical events (hurricanes and tropical storms) accounted for $132.3 billion or nearly half of the $278.4 billion in insured catastrophe losses over the 20 year period from 1986 through 2005. Tornadoes accounted for another one-fourth of that total or $68.3 billion. Billions of additional wind-related losses arise in the context of severe winter storms (such as Nor'easters) and storms with strong winds not associated with tropical or tornadic events. Collectively, such events accounted for $29.6 billion in insured losses between 1986 and 2005 or 10.6 percent of total catastrophe losses. The destructive effect of high winds from catastrophic events is often compounded by damage from wind-driven rain, hail, snow and ice. It should be noted that the statistics cited here apply exclusively to officially designated catastrophes, which are defined as events resulting in losses of at least $25 million. Hundreds of thousands of claims and many billions of dollars are paid by insurers each year as the result of windstorm events that fall beneath this threshold.

The purpose of the preceding analysis is twofold. First, it is clear that catastrophic windstorm losses occur frequently, are ubiquitous and can be extremely costly. Second, it is important to point out that the vast majority of windstorm losses today are paid by private insurers, including in coastal areas. Efficient and prudent management of wind related exposures takes considerable experience and significant financial, technical and human resources.

Historical Difficulties Encountered by Government Operated Property Insurers

Since the 1960s a myriad of different government programs in place across the U.S. have provided property insurance to high risk policyholders who, for a variety of reasons, may have difficulty obtaining coverage from the standard market. The National Flood Insurance Program is perhaps the largest and best known federal program. Many states operate so-called residual, shared or involuntary market programs that make basic insurance coverage more readily available.

There is no question that government operated insurers play a vital and necessary role as insurers of last resort, servicing hard to place risks and acting as "safety valves" following major catastrophic events. But today, many residual property market plans have evolved away from their original design as small insurers focused primarily on relatively low insured-value urban properties into major providers of insurance in high-risk high value coastal areas. Many operate at deficits, or slim positions of capital, even in years with light catastrophe losses. A variety of factors are at play here, including the fact that government run property insurers are highly susceptible to political pressure and manipulation and frequently are not permitted to charge rates or adopt underwriting criteria that are commensurate with the risk being assumed. The tendency of regulators and/or legislatures to suppress rates in the private sector is a major contributing factor to pull-backs by private insurers in many coastal areas. This leads directly to more property owners seeking coverage through the state's residual market facility and more pressure on politicians to keep rates down irrespective of the risk, the magnitude of losses or the deficits incurred.

While H.R. 920 requires that rates be established on an "actuarial basis," government operated insurers have historically had very little success in realizing that goal. The financial consequences have been nothing short of disastrous. The National Flood Insurance Program itself currently has a deficit of $17.5 billion according to the Congressional Budget Office.[1] Of the 31 state-run Fair Access to Insurance Requirements (FAIR) plans for which data are available, 26 have incurred at least one operating deficit

[1] Congressional Budget Office, "*Value of Properties in the National Flood Insurance Program*," Publication No. 2925, June 2007.

since 1999.[2] Of the seven Beach and Windstorm plans for which data are available, all have sustained at least one underwriting loss since 1999.[3]

In the course of the last decade the FAIR Plans have seen a more than 50-fold ballooning of their aggregate operating loss, from a $51.9 million loss in 1995 to a $2.8 billion deficit in 2005. Thus, not only have government run property insurers typically found operating on an actuarially sound basis elusive, the plans have generally grown in size over time as has the size of the deficits they incur. Given this real-world experience, it is unclear what practical safeguards—beyond language in the bill itself—could or would be implemented as part of H.R. 920 that would prevent deviation from actuarially sound pricing practices and the ensuing taxpayer-funded bailouts.

Economic Consequences of Failing to Price on an "Actuarial Basis"

Much of the debate surrounding the failure of government run plans to charge actuarially sound rates focuses on the deficits that invariably result. But as multi-billion dollar deficits become more commonplace, the size of the policyholder assessments, and tax levies needed to close those deficits, will necessarily grow. The fact that there are frequent and large deficits at all suggests that the rates are not presently actuarially sound. But from an economic perspective, the issue of who ultimately pays for those deficient rates is at least as important as their size.

At the federal and state level, legislators and regulators have almost universally chosen to sacrifice actuarially sound rating and underwriting practices and fiscal prudence for political reasons. Though popular with voters, the decision to effectively subsidize coastal dwellers has financially grave consequences and sends perverse signals about risk to the marketplace. Specifically, the combination of artificially low rates and underwriting criteria that are too lax is financially lethal, enabling and encouraging rampant and substandard development in vulnerable coastal areas far beyond what would

[2] Over the period from 1999 through 2005. Includes states with no hurricane exposed coastline.
[3] For more detail on the financial performance and operational details of residual market plans, see "*Residual Market Plans: From Markets of Last Resort to Markets of First Choice*," Insurance Information Institute, June 2007, at http://www.iii.org/media/research/residualmarket/.

occur if property owners were required to internalize the true cost of risk in their decisions to build and buy property in coastal zones.

Financing the deficits that emerge poses an unpalatable dilemma for legislators. Should coastal dwellers be required to pay more to bring rates to an actuarially sound basis? Should the government refuse to insure properties that are simply too risky to underwrite at any price? These are politically unpopular and hard decisions, which is precisely the reason why they are seldom made. Consequently, legislators tend to search for ways to spread the cost of financing deficits well beyond the policyholders who actually incur the losses. Over time, state legislatures have authorized deficits to be financed by assessments on not only their own policyholders, but the policyholders of all insurers in the state. Moreover, assessments can be levied on property owners who have never filed a claim, including those who live far from the coast as well as people who have taken every precaution to mitigate against storm damage. Even auto insurance and commercial liability policies can be assessed. General tax revenues and even federal disaster aid are sometimes diverted to offset deficits in order to lessen assessments, thereby spreading the losses to all taxpayers including those who own no property and the poor. Borrowing is also common. When money is borrowed and paid back over an extended timeframe, losses are spread intertemporally (across time), forcing future residents—people who are now children and generations yet-unborn—to shoulder part of the burden. The total cost of financing the disaster is greatly increased as well. One billion dollars borrowed at the June 2007 state and municipal bond rate of 4.6 percent for a term of 30 years would ultimately cost policyholders and/or taxpayers $1.85 billion when interest charges are factored in.

Practical experience has demonstrated repeatedly that government-run property insurers have rarely operated on an actuarially sound basis and for political reasons are unlikely to do so in the future. The effect is to enable and encourage rapid development in vulnerable areas that will inevitably drive up the size of future deficits, financed to a great extent by policyholders and taxpayers unconnected to the events that actually gave rise to the loss, perpetuating a vicious and expensive cycle.

Moreover, these subsidies have encouraged the development of environmentally fragile areas now threatened by a climate of increasingly frequent and severe storms.

Will Adding Wind Coverage to NFIP Policies Really Solve the Problem?

A fundamental question to ask is whether expanding the NFIP to include optional windstorm coverage will solve the problem associated with discerning wind from water damage. There are several reasons to suspect that it will not:

- **Low Flood Insurance Penetration Rates:** Penetration rates for flood coverage, even at subsidized rates, are low. Just 49 percent of homeowners in flood zones purchase flood coverage. Only 1 percent of homeowners outside those zones have coverage [Figure 2]. In coastal Mississippi, for example, an area that had suffered significant flood and wind damage from storms predating Hurricane Katrina, fewer than 20 percent of homeowners in coastal counties had flood insurance when Hurricane Katrina struck [Figure 3]. The biggest single factor that gave rise to coverage disputes in the wake of Hurricane Katrina was the lack of flood coverage.
- **Consumers Generally Skip Optional Coverages:** Because the wind coverage provision in H.R. 920 is optional and because flood insurance for most homeowners is also optional, the take-up rate for the combined product is likely to be even lower than for flood insurance alone. As a general rule, homeowners tend to pass on optional coverages. This is true today with flood insurance offered through the NFIP, despite that fact that it is offered at highly subsidized rates. Another prominent example of low take-up rates for optional coverage is earthquake insurance, which is purchased by just 12 percent of California homeowners.
- **Subsidies Offered by State-Run Insurers Will Price H.R. 920 Windstorm Coverage Out of the Market:** Few property owners will buy windstorm coverage through the NFIP because H.R. 920's requirement to price the coverage on an actuarial basis will result in rates that in many cases will be far

above the heavily subsidized rate many property owners receive through their state's residual market facility. Florida's Citizens Property Insurance Corporation, for example, in 2006 became the state's largest insurer of homes and is growing rapidly today in large part because the state has decided to subsidize every new policy written, putting it in direct competition with the private market. Despite having accrued deficits over the 2004/2005 hurricane seasons totaling $2.3 billion, Governor Charlie Crist early this year ordered that Citizens' rates be rolled back and then frozen through 2008. Florida Citizens currently has 1.3 million policyholders and more than $600 billion in insured exposure. It is receiving 25,000 new applications per week and expects to reach 1.7 million policyholders by December and more than 2 million in 2008.

Summary

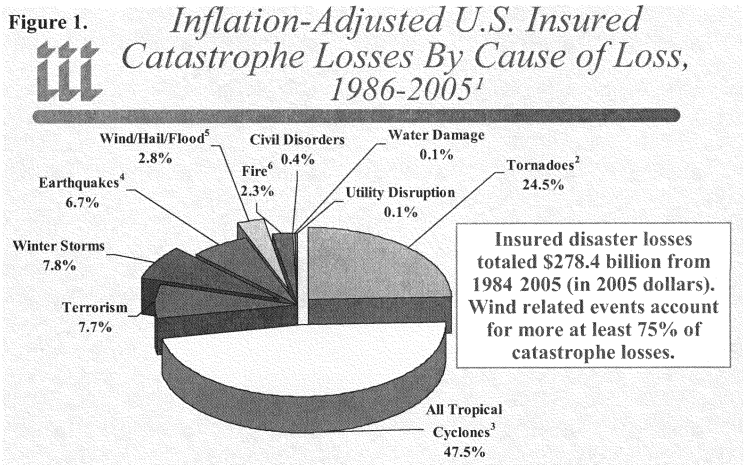
In many parts of the United States, wind is the most frequent and costly cause of catastrophic loss. Consequently, the proposed expansion of the National Flood Insurance Program to provide windstorm coverage as specified under H.R. 920 is a risky and potentially enormous financial undertaking. It is easily the most significant change in the program since its inception in 1968. Though H.R. 920 expressly requires that rates be determined on an "actuarial basis," the history of government operated property insurers is one of chronic deficits. Anything short of rates that fully reflect the true risk of windstorms will produce economic incentives that contribute to excessive and unsound development in environmentally sensitive areas vulnerable to windstorm and flood risk and, ultimately, higher property losses, deficits, assessments and taxes. Yet even if rates are actuarially sound, H.R. 920 may never achieve its objective of providing a multi-peril policy because of the longstanding, fundamental fact that penetration rates for flood insurance remain woefully low in many areas where the twin perils of windstorm and flood are common. Because windstorm coverage under H.R. 920 is optional, experience suggests that few consumers will purchase it. Finally, political decisions by states to subsidize coastal property insurance rates imply that the price of windstorm coverage

offered through the NFIP at actuarially sound rates will be non-competitive from the perspective of most coastal residents. In other words, few property owners who could benefit from a multi-peril policy as envisioned by H.R. 920 would have the economic incentive to purchase such a policy.

To conclude, the insurance industry is committed to working in partnership with public policymakers, consumers and business in developing fact-based solutions to the formidable challenge posed by windstorms and floods and continuing our tradition of helping families, businesses and communities wherever and whenever disaster strikes.

Thank you for the opportunity to address the Committee today. I would be happy to address any questions you might have.

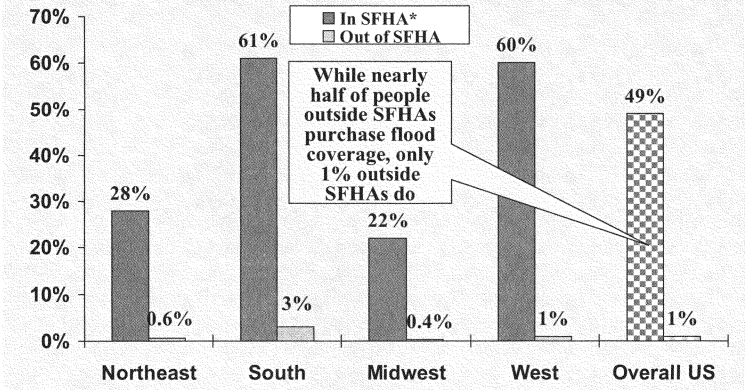
Figure 1.



[1] Catastrophes are all events causing direct insured losses to property of $25 million or more in 2005 dollars. Catastrophe threshold changed from $5 million to $25 million beginning in 1997. Adjusted for inflation by the III. [2] Excludes snow. [3] Includes hurricanes and tropical storms. [4] Includes other geologic events such as volcanic eruptions and other earth movement. [5] Does not include flood damage covered by the federally administered National Flood Insurance Program. [6] Includes wildland fires.

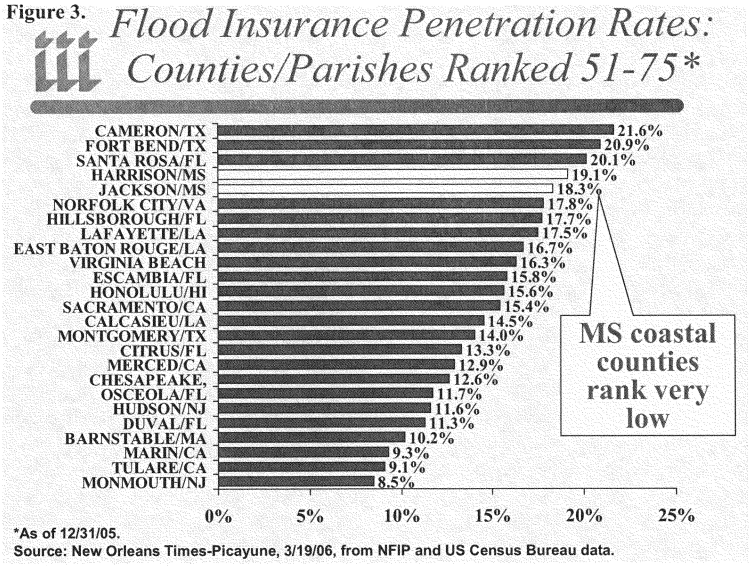
Source: Insurance Services Office (ISO)..

Figure 2.



*Special Flood Hazard Areas.
Source: *The National Flood Insurance Program's Market Penetration Rate: Estimates and Policy Implications*, RAND, 2006.

Figure 3.



*As of 12/31/05.
Source: New Orleans Times-Picayune, 3/19/06, from NFIP and US Census Bureau data.

House Committee on Financial Services: Subcommittee on Housing and Community Opportunity
Hearing on H.R. 920, the Multiple Peril Insurance Act of 2007

Statement of Representative Bobby Jindal
July 17, 2007

Chairwoman Waters, Ranking Member Biggert, and Financial Services Committee members --- Thank you for providing me the opportunity to testify before your Committee.

I sincerely appreciate this hearing on H.R. 920, the Multiple Peril Insurance Act of 2007, a bill I introduced along with my colleague, Rep. Gene Taylor. The bill would modify the National Flood Insurance Program to enable the purchase of insurance covering losses resulting from flood and windstorms without requiring policyholders to distinguish flood damage from wind damage. This is primarily a concern after a hurricane where the worst destruction is caused by a combination of wind and flooding. Homeowners would not have to hire lawyers, engineers, and adjusters to determine in retrospect what damage was caused by wind and what was caused by flooding.

It is now nearly two years since Hurricanes Katrina and Rita devastated the Gulf Coast region of the United States, including large land areas in my home state of Louisiana. Some property owners in Louisiana and the Gulf States continue to battle insurance companies for unpaid wind damage claims that they claim should have been paid by their insurance companies while others are discovering discrepancies in the way wind versus flood damages were paid out by their insurance companies.

For example, Michael Homan, a resident of the Mid-City Section of New Orleans, should have been able to repair his home because he had flood and homeowners insurance. His home suffered damage from hurricane winds that caused it to lean substantially in one direction. His home also took on three feet of water. Despite the fact that he is an eyewitness to the destruction of his home and he can substantiate his claim that the hurricane event caused his home to shift, his insurance company claims that the tilt was a preexisting condition and the company has refused to pay out damage claims to his house.

Today, he is suing his insurance company for not covering wind damage that has made his home a complete loss.

In another case, Chris Karpells, a prospective buyer of a townhouse in Slidell, Louisiana who would be collecting insurance money as part of the real estate transaction, discovered the insurance company had two ways of pricing the damage repair costs, depending, of course, on whether the damage was caused by wind or flooding. If the insurance company attributed the damage to wind or rain, the price of replacing drywall, for instance, was estimated at 76 cents per square foot. If damage was due to flooding, the estimate quadrupled to $3.31 per square foot. Karpells noted other increases in his insurance adjustment and noted, "they're front-loading all the money on the flood policy."

More than fifty-three percent of our country's population lives along the coast in 673 counties and parishes. In areas such as these, many residents are required to purchase at least two insurance policies: required flood insurance in addition to a regular homeowner insurance policy that offers wind coverage. As most of us living in coastal areas know well, the National Flood Insurance Act, allows homeowners to purchase up to $250,000 of National Flood Insurance Program (NFIP) insurance coverage for a residence and an additional $100,000 for personal property. Exclusions under the flood policy include damages caused by wind or a windstorm.

Under our current system, a single company can determine and apportion the damages caused by the wind policy that it insures along with those caused by flooding, which is insured by the NFIP and paid for by the federal treasury. In the aftermath of an event on the scale of Hurricane Katrina, it is difficult to determine whether the source of damage was the wind that toppled a roof and allowed a property to flood or if the damage was caused by rising flood waters caused by failed levees. That's especially important considering that U.S. taxpayers are responsible for paying flood claims. While we appreciated that after Hurricanes Katrina and Rita that NFIP approved expedited claims processing methods for approximately 240,000 anticipated claims, thus appropriately ensuring homeowners were not prevented from rebuilding by red tape, our current process which allows insurers to apportion damages may have inadvertently opened the door to allow insurance companies to

blame floodwater when wind was the source of property damage. H.R. 920 can eliminate this problem by covering wind and flood damage under one program.

While certainly questions remain that should be answered about how H.R. 920 should be implemented and what modifications can and ought to be made to make the proposed program more effective, I believe this legislation is a positive solution toward alleviating the problem of lack of affordable and available insurance in Louisiana. Many Louisianans are still haggling with insurance companies over settlements and payments nearly two years after the storms -- these are problems that are typically resolved within three months after a natural disaster strikes. Since the 2005 hurricanes, many homeowners' policies in the greater New Orleans area have gone up more than fifty percent and insurance costs have gone up an average twelve percent statewide. Obtaining insurance is difficult because only a handful of companies are writing property insurance in the state -- ten of the top twenty-five property insurers do not do business in the state. Many of those companies that remain are working to eliminate or reduce hurricane coverage from their portfolio. In short, Louisianans are paying more for less insurance (if they can get it) which is hampering the state's recovery from the storms. H.R. 920 is a legitimate proposal that will ensure the availability of property insurance which can allow recovery in this region to begin in earnest.

Thank you, I yield back the balance of my time.

TESTIMONY OF TED A. MAJEWSKI
ON BEHALF OF
HARLEYSVILLE INSURANCE COMPANY
BEFORE THE
HOUSE FINANCIAL SERVICES COMMITTEE
SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
COMMITTEE ON FINANCIAL SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES
ON
"THE MULTIPLE PERIL INSURANCE ACT OF 2007," H.R. 920

JULY 17, 2007

Introduction

My name is Ted Majewski and I am Senior Vice President for the Harleysville Insurance Group, a member of the Property Casualty Insurers Association of America. Harleysville writes homeowners, commercial property and other property and casualty insurance and is domiciled in Pennsylvania. Harleysville also participates in the National Flood Insurance Program's (NFIP) "Write-Your-Own" (WYO) Program.

Thank you for the opportunity to appear before you today on behalf of the Harleysville Insurance Group and the following trade associations: the American Insurance Association (AIA), the National Association of Mutual Insurance Companies (NAMIC), and the Property Casualty Insurers Association of America (PCI). I would like to share with you my comments on this important legislation that would establish coverage for both windstorm and flood losses under a policy provided by the NFIP.

Comments

As the events of 2004 and 2005 have shown, the devastation caused by hurricanes and floods can impact millions of lives, businesses and our nation. Even as those hardest hit continue to recover from these events, scientists and meteorologists tell us we will continue to see more frequent and severe storms for another 10 years or more.

The bill being discussed today, "The Multiple Peril Insurance Act of 2007" (H.R. 920) offered by Rep. Gene Taylor (D-Miss.) and others is an admirable effort to resolve, through legislation, issues related to property insurance coverage disputes that are currently being decided in our state and federal courts. However, Harleysville and a significant portion of the property and casualty insurance industry have concerns about the current provisions of this legislation and therefore oppose their being added to "The National Flood Insurance Reform and Modernization Act of 2007" (H.R. 1682), or to any other bill, for the following reasons.

H.R. 920 would dramatically increase the exposure of the NFIP and the federal government to catastrophic losses. The states along the Gulf coast and eastern seaboard

contain more than $19 trillion in insured property values. The majority of these risks are currently insured in the private marketplace or in state residual market programs where the private insurance industry shares in the potential losses. Moving significant numbers of these properties from the private insurance marketplace to the NFIP could significantly increase the exposure of loss to the federal government and, despite the provision that calls for "actuarially sound" rates for the windstorm portion of this coverage, the potential for a significant taxpayer subsidy. For example, following the events of 2005, state windstorm residual market plans, which are statutorily required to use "actuarially sound" rates, exhausted all of their available assets and had to fund these shortfalls by assessing the insurance industry and/or policyholders.

The policyholders most likely to buy this new federal coverage would be those living in areas that are highly exposed to wind damage, creating adverse selection, as happens with state residual market wind pools today. Private insurers limit their exposure by fairly selecting risks and spreading the risk throughout the industry, except in certain areas where private carriers have the option to exclude coverage for wind, and where wind coverage is made available through state-run residual markets. The amount of "multiple-peril" insurance that the NFIP would sell cannot accurately be determined at this time; thus, determining the non-subsidized premium for such coverage would be, even using the best actuarial science, a guess. Although the "pay as you go" (PAY-GO) rules will, in theory, prohibit the costs of the insurance program from being subsidized by taxpayers, there is a real possibility that the program will not be self-sustaining.

Increasing the potential losses of the NFIP under such legislation comes at a time when the NFIP is already more than $17.5 billion in debt and a recent Congressional Budget Office report states that the interest alone on this debt will run more than $900 million a year, without paying back any of the principal.

The private insurance industry responded in 2005, by paying more than three times the amount of the flood program losses (over $60 billion). Our industry is prepared through its infrastructure to address such catastrophic events. The NFIP currently has no such expertise in underwriting and pricing windstorm coverage, which would likely take years to develop – yet another problem for our citizens who would purchase such coverage.

The bill purports to eliminate the need to determine whether a hurricane loss is caused by wind or water (flood). However, while the number of wind/water disputes that occurred after Katrina is significant, they are relatively rare compared to the more than three million insurance claims from these events. When flooding does occur, it is rarely a massive tidal surge, as happened in Katrina. Flooding from tidal surge is different from the water damage that typically occurs in conjunction with wind damage, and is usually more severe in its impact.

H.R 920 would increase the amount of coverage available above the current NFIP limits, but even these higher limits would still be inadequate for many properties. Thus, property owners who want to purchase adequate coverage or who are required by a mortgage lender to obtain higher limits will still need to purchase additional coverage from the

private market and integrate two different insurance policies. This coordination of coverage could lead to its own set of difficult adjusting issues. In addition, while the proposed "multiple peril" program covers the perils of windstorm and flood, it does not address the other perils that are covered by homeowners and commercial property policies (e.g., fire, theft, and liability. Fire is the most common cause of a devastating property loss.) In fact, it does not even entirely address the peril of wind losses; thus, property owners seeking broader coverage or required by their mortgage lender to obtain more complete protection will still have to purchase private insurance and integrate two different insurance policies. Also, personal property insurance policies are regulated by state insurance departments, so the NFIP and private insurance policies would need to be seamlessly integrated. If not, numerous operational challenges will arise, including claim disputes.

The bill could cause a major disruption in the private property insurance market. If a private insurer, regulated by the states, is unable to adapt its policy language or rates quickly enough to accommodate customers purchasing NFIP policies, the financial interests of mortgage lenders will be left unprotected. Such integration issues would need to be properly addressed in the bill.

While the NFIP's WYO program has helped mitigate some of the purchasing and adjusting coordination issues, it is not clear whether a "WYO"-type approach is contemplated or even feasible under this bill. If not, it will be necessary to create a whole new infrastructure to underwrite, price, sell, and service these policies.

Windstorm residual markets exist in many Atlantic Coast states and in all Gulf Coast states. These pools typically provide "wind only" coverage to homeowners living in designated coastal areas who are unable to obtain this coverage in the voluntary market. Thus, a private market mechanism for providing "wrap around" policies already exists in these markets. States have designed these residual markets to respond to their unique geographic and insurance market needs. The bill does not address how these programs would operate, or if they will be replaced with a federal program. The proposal seems to be applying a "one-size-fits-all" approach for all states when the need for such a program is limited to coastal areas of coastal states.

As insurers, we understand that the Katrina wind/water disputes that have arisen are a significant problem for homeowners who have suffered the loss of their homes and belongings. However, these issues are being resolved in the courts based on the contracts purchased by individual policyholders. The decisions that will be made by the appellate courts in those cases will guide how future hurricane claims are handled and this will reduce the number of disputes.

There are additional programs that could help address the sponsors' concerns and that can address the various objections that are contained in this testimony. For example, it is possible to put a workable dispute mechanism in place. The current NFIP program can be amended to require the NFIP to participate in state-sponsored mediations to determine the extent of damage caused by wind versus flood (as is currently proposed in H.R. 1682).

Summary

In summary, passage of H.R. 920 would create a new federal program that if not properly structured has the potential to incur enormous deficits following a hurricane of any significance. It would also create a plethora of administrative and implementation issues for insurers, state regulators, the NFIP, and most importantly, consumers that would need to be proactively addressed in bill language. Even given the bill's directive that rates be set based on actuarial principles, it is likely to subject the federal government to a huge and potentially under-funded liability for hurricane wind damage, which is currently underwritten by the private sector and through state residual market programs.

We would appreciate the opportunity to work with Chairperson Waters, Ranking Member Biggert, the author and co-sponsors of this bill, this Subcommittee and Congress on reforms to the National Flood Insurance Program and other potential solutions to the issues raised by these events; however, we oppose this bill, or its inclusion as an amendment to any other legislation, without significant modification.

Again, thank you for the opportunity to present our views on this important legislation and we commend the Chair and the Members of this Subcommittee for holding this hearing.

Testimony of
David I. Maurstad
Federal Insurance Administrator and Assistant Administrator
Mitigation Directorate
Federal Emergency Management Agency
Department of Homeland Security
Before
The United States House of Representatives Committee on Financial Services
Subcommittee on Housing and Community Opportunity
July 17, 2007

Good morning Chairman Waters, Ranking Member Biggert, and Members of the Subcommittee. I am David Maurstad, Federal Insurance Administrator and Assistant Administrator for the Mitigation Directorate within the Department of Homeland Security's Federal Emergency Management Agency (FEMA). I appreciate the opportunity to appear today before the Subcommittee to discuss H.R. 920 – the Multiple Peril Insurance Act of 2007.

FEMA's Position on H.R. 920

FEMA is committed to working with the Congress and others to make the NFIP even better, so that when the next storm strikes, more communities will have reduced their vulnerability to flooding, and more citizens will be protected with the financial backstop flood insurance provides.

However, as we look for ways to further strengthen the Program, it is important to remain focused on the Program's mission – helping communities reduce their vulnerability to flooding and providing citizens with affordable flood insurance. H.R. 920 – The Multiple Peril Insurance Act of 2007 – does not foster this mission, and FEMA opposes the bill for several reasons. First, the private marketplace already deals with wind insurance, and wind only affects portions of some states. Government insurance would displace insurance provided by the private market. Second, developing and implementing a multi-peril NFIP would be costly to the government and taxpayers. A federal program would mean that all taxpayers nationwide would subsidize insurance rates for the benefit of a relatively small group of people in high-risk areas. The general taxpayer would pay for actions over which they have no control. Those who can avoid the risk would be passing the cost on to others, creating a system of distortion and inequity. Third, a federal program would undermine economic incentives to mitigate risks because the program would likely distort rates from their actuarial values. Individuals would be encouraged to take on risks that are inappropriate, specifically putting themselves in harm's way because they do not bear the full expected costs of damages incurred. Finally, a new, multi-peril NFIP would displace State initiatives for addressing wind risk through private markets.

I would like to expand upon each of those points:

The Marketplace Already Offers Windstorm Coverage
Traditionally, the Federal Government has provided insurance only when the marketplace cannot or will not provide coverage that the public must have, which is why the NFIP exists. Wind insurance is available in the States that need it through private property and casualty companies. For the most part, the national property and casualty insurance industry is healthy today. Despite the record $57 billion estimated insured losses incurred as a result of the 2005 hurricane season, industry-wide capital available to cover future losses actually increased during 2005. As a result of lessons learned in 2004 and 2005, insurers have increased their estimates of probable losses from future hurricanes. They have upwardly adjusted the actuarial weights necessary to cover future losses and enhance solvency – which

in turn implies higher rates. Although it is true that Florida, North Carolina and parts of Mississippi, Louisiana and Alabama are experiencing difficulties with insurance availability, much of this can be traced to certain State regulatory actions.

First, some States have used State regulation to suppress prices, which has the effect of making insurance unavailable where it may be most needed. The role of State regulation should be to protect consumers from fraud and inadequate risk management by insurance companies, but States sometimes use their regulatory power to control prices. This discourages insurance companies from voluntarily providing insurance in those high-risk areas where unregulated rates would naturally be highest. Insurers need to charge rates that are high enough to allow them to cover expected losses and purchase reinsurance or maintain surplus to cover catastrophic losses. When premiums are not permitted to rise in tandem with loss forecasts, insurers have a very strong incentive to limit their catastrophe risk exposures by withdrawing from high-risk markets and product lines; to do otherwise would jeopardize their financial soundness.

Second, through regulation some States have created State-sponsored insurance programs, which can further drive out private market participants. For example, in Florida, the State-sponsored Citizens Property Insurance Corporation (Citizens) sells property insurance to cover wind storm losses. Citizens was designed to be the insurer of last resort, but is now the largest insurer in the State. Florida's insurance law passed earlier this year makes it easier for Citizens to compete with private insurers by charging competitive rates and by offering a broader array of coverage. Florida's Office of Insurance Regulation reports that Citizens does not have sufficient funds to cover losses from a severe hurricane, so the next major storm could result in significant taxes or assessments on policyholders in order to cover any shortfalls. A private insurance market that was allowed to appropriately price risk would build up the financial resources necessary to remain solvent even when faced with very large claims.

Developing a Multi-Peril NFIP Would be Costly to the Government and Taxpayers

The wind risks H.R.920 seeks to address exist in portions of just a few states (primarily the eight Gulf Coast States, due to their catastrophic hurricane risks), while flooding occurs nationwide. Adding wind insurance to a Federal program that addresses a national need would result in a majority of States not exposed to wind risk subsidizing the costs of a minority of States that would benefit from NFIP wind coverage. The general taxpayer would pay for actions over which they have no control. Those who can avoid the risk would be passing the cost on to others, creating a system of distortion and inequity.

Adding windstorm coverage to what is already the Nation's largest single-peril insurance entity would make the NFIP one of the largest insurance underwriters in the world. Such a high-risk, multi-peril insurance program would need reinsurance to protect the U.S. Treasury; consequently, FEMA would have to reconfigure the NFIP's entire financial structure, a complex and costly exercise. Creating and operating a new multi-peril NFIP would substantially increase the cost and complexity of operating a program that is already billions of dollars in debt.

Distort Rates and Undermine Economic Incentives

A federal multi-peril program would undermine economic incentives to mitigate risks because the program would likely distort rates from their actuarial values. Individuals would be encouraged to take on risks that are inappropriate, specifically putting themselves in harm's way because they do not bear the full expected costs of damages incurred. Experience with other Federal insurance programs has shown that the Federal Government also is not well positioned to charge adequate premiums to cover the potential risks---this leads to increased costs for all taxpayers.

A Federal Program would displace State priorities
A Federal Program would displace State initiatives aimed at ensuring the sustainability of private markets for addressing wind risk. Insurance is a State-regulated industry, and States have taken various approaches to addressing wind risk. As discussed earlier, some States such as Florida have taken recent action to further tighten their pricing regulations and to expand the size of their State windpools. Some States are already beginning to recognize that their well-intentioned attempts to keep insurance prices low have had the unintended consequence of making insurance less available. In Louisiana, the legislature passed proposals that would disband the State's insurance rating commission and allow insurers to set hurricane deductibles on the basis of risk rather than requiring one deductible for all policy holders state-wide. The Governor of South Carolina has called for market-based solutions to insuring coastal homes against storm damages by imposing the costs of those damages directly on those who build in risky areas. Without evaluating any particular State-based approach, the states and the private market participants are best positioned to address wind risk and an appropriate policy response.

Conclusion
The 2004 and 2005 hurricane seasons presented the NFIP with challenges on a variety of fronts, and the Program responded by quickly and fairly fulfilling the promises made to NFIP policyholders and communities. Katrina, Rita, and Wilma also presented opportunities to improve, and FEMA is committed to working with Congress and our stakeholders to develop and implement the adjustments needed to make the NFIP even stronger.

However, there is no quick solution that will enable the NFIP to absorb catastrophic events like Katrina, and actions such as amending the Program to include windstorm hazards could prove highly detrimental. Just as important, adding windstorm coverage to the NFIP will not reduce the vulnerability of communities susceptible to wind events; it will crowd out the private sector, increase the costs for U.S. taxpayers and undermine incentives for people to change their behavior. Natural hazards must be addressed by the communities threatened by them, and efforts to reduce these risks should revolve around a comprehensive mitigation strategy. The states and the private sector are best positioned to address the availability and price of insurance in high-risk areas.

I look forward to continuing to work with the Subcommittee, our NFIP insurance companies, agent groups, and other partners to implement future improvements to the National Flood Insurance Program, and I will be happy to answer any questions that the Subcommittee might have. Thank You.

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TESTIMONY

Association of State Floodplain Managers, Inc.

before the
Subcommittee on Housing and Community Opportunities
House Committee on Financial Services

Multiple Peril Insurance Act of 2007

H.R. 920

presented by
Pamela Mayer Pogue, CFM, Immediate Past Chair
State of Rhode Island

July 17, 2007

The Association of State Floodplain Managers, Inc. (ASFPM) is pleased to comment on the Multi-Peril Insurance Act of 2007, H.R. 920, proposed by Representative Gene Taylor, and co-sponsored by a number of members of this committee

Many of our members have been directly involved in aiding the recovery from floods and hurricanes across the country and, in particular, the hurricanes of 2005 that devastated the Gulf Coast. We are very much aware of difficulties involved in resolving insurance claims when differentiation is required between damage caused by flood waters and damage caused by wind. We acknowledge the validity of the problem and respect Congressman Taylor's commitment to address the associated issues which led to introduction of H.R. 920.

The Association of State Floodplain Managers has long endorsed reforms of the National Flood Insurance Program (NFIP) that improve efforts to guide and regulate development in ways designed to reduce future flood damage and to strengthen the financial stability of the National Flood Insurance Fund. The NFIP was an ambitious effort to address an insurance need that was not being met by the private sector. The program was created after many years of research and policy discussion.

While H.R. 920 is intended to address one aspect of many current concerns with homeowners' insurance, it could have many unintended effects on the stability of the NFIP itself, on the insurance industry, and on consumers. We strongly recommend that broad analyses of market demand and economic impacts be undertaken, along with specific analysis of operational details before determining that is appropriate to implement a Federal "flood and wind" policy. In addition, while any program can be modified by changes in authorizing statute, improvements through changes in policy interpretation and implementation should not be overlooked in a rush to solve an administrative problem by statutory amendment.

Who We Are

The Association of State Floodplain Managers, Inc. (ASFPM) and its 26 Chapters represent over 11,000 state and local officials and other professionals who are engaged in all aspects of floodplain management and hazard mitigation, including management, mapping, engineering, planning, community development, hydrology, forecasting, emergency response, water resources, and insurance. Many of our members worked with communities impacted by hurricanes Katrina and Rita or work with organizations that continue to support the rebuilding efforts. All ASFPM members are concerned with working to reduce our Nation's flood-related losses. Our state and local officials are the Federal government's partners in implementing flood mitigation programs and working to achieve effectiveness in meeting our shared objectives. Many of our state members are designated by their governors to coordinate the National Flood Insurance Program and many others are involved in the administration of and participation in FEMA's mitigation programs. For more information on the Association, please visit http://www.floods.org.

Summary of Position on H.R. 920 and Recommendations

The ASFPM is concerned that the viability of the National Flood Insurance Program could be negatively affected by the proposal in H.R. 920 to add optional coverage for wind and flood damage to the NFIP. The concept of a Federal program to offer multi-peril insurance may have potential, but the impacts can be huge, leading us to conclude that considerable study is needed before such a program could be implemented.

We also urge that the subcommittee more closely examine the pertinent policies and procedures used by the NFIP and the private insurance industry to adjust claims when both wind and water damage have occurred.

At this time, the House Financial Services Committee is considering H.R. 1682, the National Flood Insurance Program Reform Act of 2007. That bill has a number of key provisions that we and others believe should be acted on promptly. With regard to H.R. 920, we respectfully suggest that the committee act quickly on H.R. 1682 with the following additions:

- Require that FEMA report on policies and procedures used to adjust claims when damage to insured property results from a combination of wind damage and floodwater damage. The report should include recommendations for improvements to prevent the difficulties encountered after Hurricanes Katrina and Rita, and should be prepared in consultation with representatives from the companies that, under contract, write and adjust flood insurance for the NFIP, known as the Write-Your-Own companies.

- Require a study of the premise and implications of the proposal in H.R. 920, including all the questions that will need to be answered before such a new insurance program is undertaken. The study should examine a range of alternatives for both the NFIP and the private insurance industry and related impacts. With the results, the committee would then have the basis on which to determine the appropriate way to address the issue.

ASFPM Questions about H.R. 920

H.R. 920 would significantly affect the stability and functioning of the National Flood Insurance Program. The potential ramifications for over 5.4 million policyholders – and many millions more in the floodplain who should have flood insurance – are unknown, but can easily be assumed to be dramatic. Many questions need to be answered before proceeding.

ASFPM understands that consumers in coastal areas are faced with a growing problem of private insurance availability and affordability. We suggest that this problem needs thoughtful analysis and development of recommendations, perhaps in the context of overall provision for catastrophic losses. However, it is too big a step to simply offer Federal wind and flood coverage without analysis of the effects on consumers, on the insurance industry, and on the National Flood Insurance Fund.

Our Primary Question is This: We are very aware that wind versus flood problems have arisen in the settlement of Katrina claims. But if the fundamental problem that prompts H.R. 920 is how the NFIP and private insurers do or do not collaborate to adjust claims to allocate wind and water damage, why is a statutory change required? Shouldn't administrative solutions be exhausted before determining that legislation is necessary?

We note that FEMA has recognized the wind versus water issue since at least the late 1970s and developed the "single adjuster" program to address it. As part of the comprehensive evaluation of the NFIP that was recently released by FEMA, a report titled "A Chronology of Major Events Affecting the National Flood Insurance Program" (December 2005) notes the following pertinent milestones:

> June, 1980: FIA's management explores ways in which the private insurance industry's state windpools can be used to assure prompt claims service in a major post-flood hurricane disaster. The Single Adjuster Program is established. In this voluntary program, individual windpools, or coastal plans, and the NFIP agree in advance on the use of single adjusters to adjust both the wind and water damage from hurricanes and to recommend the claim payments by each insurer for risks that both a coastal plan and the NFIP insure.
>
> June, 1988: The Claims Coordinating Office (CCO) is developed to facilitate the entrance of multiple WYO companies into the Single Adjuster Program. When major storm events occur, a CCO will be established within Integrated Flood Insurance Claim Offices (IFICO) to provide a central clearinghouse for loss adjuster assignments and data sharing, for the use of WYO companies, coastal plans, and certain other property insurers willing to participate in coordinating a claims-oriented response to the catastrophe. Subsequent experience indicates that IFICO handle losses efficiently while coordinating activities with private sector windpool associations, WYO companies, and FEMA's Disaster Field Office and Disaster Assistance Centers.
>
> September, 1989: The first major test of the Claims Coordinating Office (CCO) system occurs when a CCO is established to coordinate the assignment of a single adjuster to handle the wind and flood claims in North and South Carolina. <u>The system works well and proves that cooperation between windpool and WYO companies through the CCO benefits insured individuals by simplifying the claims process with the use of a single adjuster.</u> [emphasis added]

Other Significant Questions: In addition to the primary question above, ASFPM believes there are many other questions that must be answered prior to further consideration of the proposal in H.R. 920, including the following:

1. Congress created the NFIP to fill a gap – the private insurance industry declined to offer flood coverage. While private or state-supported wind coverage may be expensive compared to past pricing, reflecting high risk along the coasts, it is available. HR 920 makes wind coverage available in all of the nation's floodplains, not just coastal floodplains, in direct competition with the private sector. Is that the appropriate role for the Federal government?

2. How big is the potential market for Federal wind and flood insurance? What is the potential new loss exposure? How high would premiums for the wind coverage have to be to be "actuarial"?

3. Sec. 2 includes a section on "Nature of Coverage" that specifies it is to cover losses from flooding or wind. This makes it unclear whether any property owner in the Nation would be able to purchase the new wind coverage – or would it be available only for buildings that are located in floodplains?

4. Would there be a separate fund to collect the premiums for this coverage – or would premiums collected from flood-only policies be tapped to pay wind-only damage?

5. Would the Federal wind and flood program be authorized to borrow from the U.S. Treasury to cover shortfalls?

6. The insurance industry spends millions to develop assessments of risk in order to set rates for wind insurance. Does the bill anticipate that the Federal government would have to undertake similar studies? How will the cost of conducting those assessments be paid?

7. While it seems simple to say that H.R. 920 is revenue neutral because it calls for actuarial rates, in fact, without loss experience with a combined wind and flood policy, how would FEMA develop appropriate rating for the wind coverage? Would FEMA require additional staff for this purpose and to administer the new type of policy?

8. Is the new wind coverage supposed to cover wind damage even if there is no associated flooding (e.g., microbursts, tornadoes, hurricanes, nor'easters, etc.)? Would hail damage be included? If no flooding was involved, would a floodplain home in Tornado Alley that suffers damage from a tornado be covered? Would any floodplain home that has a tree blown onto it or shingles blown off by high wind be covered?

9. Insurance companies pay a lot to cover claims due to rain intrusion into buildings after high winds have damaged roofs and windows. Is it anticipated that this type of damage is "wind damage" that would be covered?

10. Would the private insurance industry be likely to develop a homeowner's policy that covers fire and other liabilities, but excludes wind damage – or would homeowners have to buy two policies, one homeowner's policy with wind and other standard coverage and one to cover wind and flood damage? What assurance is there that the combined coverage would be comprehensive?

11. Flood insurance is mandatory when a mortgage is federally regulated or insured, but the multi-peril coverage is optional. The cost of setting up entirely new coverage seems very high, given no guarantee that property owners will opt for this combined coverage. Who would pay for the up-front investigations and administrative costs? Wouldn't it be unfair to expect the NFIP to pay for it out of policy service fee income charged to current flood insurance policy holders?

12. Under the NFIP, "actuarial rates" are charged on "post-FIRM" buildings (built after adoption of a Flood Insurance Rate Map and floodplain management ordinance). To rate policies for post-FIRM buildings, homeowners provide surveyed elevation data so that the insurance agent can write the policy based on risk. Does the bill anticipate that owners of older buildings will have to provide some form of certification that the home

meets certain wind resistant construction methods in order to determine appropriate, actuarial rates for wind coverage? What would it cost a homeowner or business to have such a certification prepared by a qualified engineer or architect?

13. Isn't it contradictory and confusing that the bill would simply "encourage" adoption of adequate mitigation measures, while requiring "effective enforcement measures" as a condition of community participation? There would be nothing to enforce if mitigation measures were not adopted.

14. Sec. 5 calls for the Director to determine appropriate land use, zoning and damage prevention measures. This would seem to call for a new "Federal building code." Would communities be required to adopt such a new "Federal building code" to require construction to meet certain wind resistant standards? How would a community handle conflicts between such a new Federal building code" and currently adopted State or local building codes?

15. Sec. 2, Limitations of Amount of Coverage, specifies that the liability is the lesser of replacement cost or specified amounts. The NFIP statute does not currently specify "replacement cost." Would the flood coverage be expected to change to match?

16. The bill specifies coverage limits which are different than those specified elsewhere for flood insurance (e.g., $500,000 versus $250,000 for structure coverage for residences). If a house covered by a Federal wind and flood policy sustains just flood damage, do the new limits mean the flood-only claim could exceed the limits specified in statute for flood insurance?

17. The bill specifies business coverage for business interruption based on loss of profits, with a maximum coverage of $750,000. If a business covered by a Federal wind and flood policy sustains just flood damage, does the new coverage mean a business could receive a flood-only claim payment to cover loss of profits?

18. The bill uses the term "windstorm zoning" that is not used by land use planners. Zoning typically identifies allowable uses in different areas of a community. Is it anticipated that local jurisdictions would be required to adopt "windstorm zones" that might limit uses of land exposed to high wind risk, such as open shorelines? Who would undertake the analysis to identify those zones and who would pay for those analyzes?

19. How would the NFIP compliance responsibilities of lenders be affected if a mortgagee initially elects the new Federal wind and flood coverage, and then subsequently drops the wind coverage?

We appreciate the opportunity to comment on H.R. 920, and look forward to continued discussion on ways the NFIP and the private insurance industry can improve adjusting practices while also looking for a ways to reduce future flood damage and strengthen the NFIP.

For any further questions on this testimony contact Larry Larson, ASFPM Executive Director at (608) 274-0123, Rebecca Quinn, ASFPM Legislative Officer at (434) 296-1349, or Meredith Inderfurth, ASFPM Washington Liaison at (703) 448-0245.

Testimony of
The National Association of Insurance Commissioners

Before the
Subcommittee on Housing and Community Opportunity

Regarding:
All-perils Insurance Coverage

July 17, 2007
Room 2128
Rayburn House Office Building

Sandy Praeger
Kansas Insurance Commissioner
President-elect of the National Association of Insurance Commissioners

Chairwoman Waters, Ranking Member Biggert and Members of the House Financial Services Subcommittee on Housing and Community Opportunity: Thank you for the opportunity to testify here today on behalf of the National Association of Insurance Commissioners (NAIC) regarding all-perils insurance coverage. I applaud you for your leadership on this critical issue of national importance.

My name is Sandy Praeger, and I am the Insurance Commissioner for the State of Kansas. I also serve as the president-elect of the National Association of Insurance Commissioners. As a resident and public official of a state that has just now suffered massive flooding and millions of dollars of insured (and uninsured) losses, I commend you for focusing attention on improving insurance coverage.

Although the recent storms and flooding in Kansas pale in comparison to the devastation wrought by hurricane Katrina, there are some alarming parallels as insurance claims are settled. Private insurers have moved in quickly to pay out millions in wind claims, but there are some flooded communities where only a handful of residents had flood insurance, leading to significant uninsured losses. With regard to flood insurance, our state, like so many others, has a massive problem of underinsured and uninsured. The current system of coverage is not good enough. Congressman Taylor has first hand experience with that, and we commend him for raising the issue of how comprehensive coverage is delivered to consumers.

Discrepancy between economic losses and insured losses

There is a growing discrepancy between total economic losses following a catastrophic event, and total insured losses. This discrepancy is exacerbated by a lack of all-perils coverage. For example, insurers paid out a record amount for hurricane Katrina of roughly $40 billion. And yet, the federal government authorized well over $100 billion in additional aid, and roughly $20 billion in additional funding for the flood program. Private insurance covered only one third of the total economic response, with taxpayers covering the remaining seventy percent. When Hurricane Andrew hit, those percentages were effectively reversed, with the majority of losses covered by insurance. Taxpayers across the country are paying an increasing share for the natural catastrophes that hit this country. It's important that as we discuss changes to insurance

coverage, that we find ways to encourage consumer participation. Affordability and availability are clearly one component of that, but consumer education is needed, and consumers must be discouraged from going without coverage and relying on government relief.

The ability of housing markets and local and regional economies to withstand and recover from the next natural catastrophe currently depends critically on what type of peril creates the disaster, where the disaster occurs, and the severity of the disaster event. The varying types of catastrophic natural disasters are managed very differently within our current insurance framework. This, in turn, can lead to highly different outcomes. Wind events, including tornados and hurricanes, are considered a basic covered peril in the vast majority of homeowner's insurance policies. Flood, on the other hand, is written only rarely by the private insurance industry for residential property; since 1968 the National Flood Insurance Program (NFIP) has been the public solution to managing this risk. Finally, seismic events, particularly earthquakes, are not considered a standard covered peril, and aside from the California Earthquake Authority (CEA), there is no public mechanism to underwrite the risk; therefore, coverage is restricted to being an optional coverage, where available, in the private insurance market. It also is worth noting that the coverage provided by the CEA is somewhat limited (the standard policy carries a 15 percent deductible and offers $5,000 for contents coverage and $1,500 for additional living expenses due to loss of use).

If the next natural catastrophe is a significant flood event, the ability of the affected areas to recover is going to depend critically on the degree to which affected properties were insured with the NFIP. Unfortunately, recent evidence from 2004 and 2005 suggests that far too many properties damaged by flood were uninsured; either they were outside of the mandatory flood plains as dictated by antiquated maps, or they were in the mandated flood zones but were uninsured anyway. Unfortunately, some short-sighted communities in flood plains have even opted out of participation in the flood program to save residents money by not having to buy the coverage, expanding the problem of uninsured properties where coverage is most needed. A recent study by the Rand Corporation provides evidence that suggests that the rate of take-up (that is how often the coverage is purchased) outside of the mandated zones is around 5 percent, and the take-up rate in mandated zones is only about 75 percent. Lenders may require the

purchase of flood insurance at the outset, but there is no mechanism to ensure that coverage is maintained.

If the next natural catastrophe is an earthquake, the ability of the affected regional economy to recover will depend on the degree of disaster relief that comes from the federal government. The reason is really quite simple: the majority of residential property in earthquake prone areas is not insured for this very real risk. In California, for example, it is estimated that the take-up rate for optional earthquake insurance has fallen to about 12 percent or less. The same take-up rate is frequently suggested to be true in the earthquake prone areas in the Midwest's New Madrid area and along the eastern seaboard's seismically active areas.

As you can see, our current system lacks a comprehensive approach to managing the devastating effects of catastrophic natural disasters. Our current policy is inefficient and discourages personal responsibility and risk avoidance by relying too heavily on the Federal government. Providing consumers with all-perils coverage would unify these disparate approaches under one policy, shifting the burden off the consumer. Structuring such coverage with federal involvement could help pre-fund the government's involvement when a large disaster occurs, and capitalize on the government's ability to spread the risk over time. Moving towards this approach will raise issues of affordability. Regardless of the role of federal government in addressing that challenge, state catastrophe funds and residual market or pooling mechanisms should be encouraged to participate in any federal action so that comprehensive coverage is affordable for those who want it.

Consumers Expect All-Perils Coverage

There are many lessons to be learned from hurricane Katrina, but perhaps the greatest insurance lesson we can take from that tragic event is that many consumers are confused about what their property insurance policy covers, and what it does not. The NAIC recently conducted a survey of homeowners and found some alarming information about how they perceive their homeowners insurance coverage. Despite extensive media coverage of hurricane Katrina victims whose claims were denied because they lacked flood insurance, 33 percent of U.S. heads of household still incorrectly believe flood damages would be covered by a standard homeowners or property and liability

policy. 35 percent of homeowners believe that damage caused by earthquakes is covered, and 68 percent believe that vehicles damaged on their property (potentially from a storm) are covered by the homeowners policy. The results of the survey are alarming and revealing. Clearly consumers have an expectation of broader coverage than their policies currently allow. The rationale is simple to appreciate: They are paying a premium and want their property to be covered. They don't care what the cause of loss is or what the mechanics of covering that loss is. They simply want to be made whole and begin rebuilding their lives as quickly as possible. The offer of a single policy for a single risk-based premium, where the only natural catastrophe-related exclusions are dictated by the consumer, is in the best interest of consumers, maximizes personal responsibility, and eliminates confusion over what is and is not covered. Disclosing the coverage in a check list, similar to one the NAIC has worked on, would also help the consumer not only obtain the coverage, but better understand what he or she is paying for. Delivering such a policy is going to take a collaborative effort on the part of the insurance industry, state officials, and Congress.

A Broad Approach Is Needed

Congressman Taylor's approach is to allow the national flood insurance program to take on the additional peril of wind. This approach has its advantages and deserves consideration, but we must be careful that in focusing on the challenges illustrated by the last natural that we don't ignore the next natural catastrophe. A debate in Congress on this broad national issue should be structured to develop a national solution. Addressing the private market role and the federal role separately may create an inefficient system with gaps or redundancies, much like we have now. As Congress moves forward on flood reform it should do so in the context of broader natural catastrophe proposals so that solutions to these interlaced problems are not crafted in isolation. Congressman Taylor's effort is an important first step, but a debate over wind or water could just as easily be a debate over earthquake and fire when the next disaster strikes. While we applaud Congressman Taylor for his leadership on the issue, we think there are alternatives that can move toward the common goal of providing comprehensive coverage without expanding the federal government's role in pricing and providing direct insurance. The NAIC continues to work on ways to manage natural catastrophes, and

as we consider the role of the federal government, we think it should be structured to meet a few key principles:

- A national program should promote personal responsibility and preparedness among policyholders;
- A national program should support reasonable building codes, development plans, and other common sense mitigation tools;
- A national program should maximize the benefits and strength of the private markets, and;
- A national plan should enable the government and decision makers with quantifiable risk management.

Developing a broad approach that recognizes the roles of the private market, the states, and the federal government, will result in a comprehensive solution that benefits all consumers.

The Two Problems: Quality of Coverage and Cost of Coverage

Hurricane Katrina revealed two main problems with catastrophic insurance as it is offered today:

Gaps in Coverage: Coverage is provided by multiple programs (private homeowners, state-run wind pools, federal flood, state-run earthquake, etc) that still manage to leave gaps in coverage for some consumers. Separate programs have provided fertile ground for abuses by bad actors, and ultimately result in costly litigation over the proximate cause of loss, as illustrated by the wind vs. water debate following Katrina. A lack of comprehensive insurance coverage leaves consumers underinsured or uninsured, creating a massive economic obligation for taxpayers when a natural disaster strikes and the federal government steps in. Consumers should have access to all-perils insurance coverage if they're willing to pay for it. The NAIC has worked on a checklist to include in a standard policy that spells out clearly what is and is not covered, and should be combined with an offer of all-perils coverage to give consumers more clarity. Only after the quality of coverage is improved can we accurately debate the second issue: the

challenges of availability and affordability. Addressing availability and affordability without first improving the product is not a viable solution.

Availability and Affordability of Coverage: Providing seamless, comprehensive coverage puts the right product in the hands of consumers, but it does not solve the problem of affordability and availability that typically follows large natural disasters. Some might argue that providing all-perils comprehensive coverage even worsens the affordability problem, because taking personal responsibility to be fully insured is more expensive than being underinsured. While true, enabling this dynamic is clearly not good public policy. And for those that have managed to already piece together comprehensive coverage, one could argue that if homeowner's insurance pricing is risk-based, and flood insurance pricing is reformed and made risk-based, then providing that coverage in one policy instead of two or three should have little or no impact on the overall cost and may even result in efficiencies to lower the cost. The problem of affordability and availability derives from insurers' exposure to catastrophic risk. As Congress considers flood reform and all-perils insurance, it should do so in parallel with ways to address affordability and availability.

The burden of developing, implementing, and managing the mechanics of insurance coverage should not be placed on consumers through a system of segregated policies that leave gaps in coverage and provides fertile ground for abuses. That burden should rest with insurers, regulators, and legislators. Seamless all-perils insurance must be an option for those that want it. Reaching this objective requires a fundamental restructuring of the flood program, and therefore, federal action. The following are examples of concepts that can be considered, any of which could be combined with other steps like tax-deferred reserving, mitigation incentives, better building codes, and other efforts to minimize losses and increase capacity:

<u>NFIP as Insurer of Wind and Flood (Congressman Taylor Approach)</u>
Congressman Taylor's bill would enable NFIP to offer wind coverage at actuarial rates. Critics of this approach have questioned whether a government program with ingrained subsidies will ever be able to charge a risk-based rate. If it does not, the private market effectively would be displaced because the coverage does not include profit load or other expenses associated with a private product. With the addition of an extra peril,

particularly one associated with even greater losses than flooding, rates that are not actuarially-sound create an even greater obligation for taxpayers.

This approach would resolve the wind vs. water issue for those that buy the multi-peril coverage, but it does require those policyholders to buy additional homeowners coverage for fire, theft, and liability. Additionally, homeowners may also need to buy excess wind coverage above the limits of the NFIP product. The purchase of multiple policies still leaves problems with consistency of coverage where the line of dispute has been moved, not eliminated. It is not uncommon for flooding to cause widespread fires due to electrical shorts or broken gas lines. One could foresee arguments about whether the fire occurred before or after the house collapsed from the wind or was flooded by storm surge. By focusing on just wind and water, this approach may not fully address all the perils associated with a hurricane and clearly does not address those from other types of natural disasters.

This approach also does not eliminate the possibility for bad actors to shift their obligations from one policy to another. For example, if the NFIP-backed multi-peril coverage is provided on a "write-your-own" basis and adjusted by those companies who are also providing excess wind coverage, bad actors may be inclined to artificially suppress the loss amount so that coverage resides entirely under NFIP and does not puncture the ceiling where their obligations would kick in.

Again, Congressman Taylor is right to address the quality of insurance coverage and eliminate the conflict of interest that allows bad actors to shift obligations from one policy to another, but we think there are other alternatives to realize that goal and not merely move the line of contention, but eliminate it. Any fundamental change to insurance coverage is difficult to encapsulate in a few paragraphs, so the following alternatives are snapshots that would need to be discussed and further explored to ensure appropriate structure and safeguards, but they are meant to stimulate the discussion:

NFIP as a Reinsurer

One possible alternative is to convert the flood program to a reinsurer. Private insurers would write policies directly for both wind and flood, with the flood policy backed up on a first dollar basis by the flood program as a reinsurance mechanism. The wind vs. water

distinction would still exist, but any debate would exist between the insurers and the federal government, not consumers who may be in no position after a loss, economically or emotionally, to debate the technicalities of various insurance products. Consumers would have a seamless product and would be compensated for a loss with one check for the full amount of loss. As the policy is provided to consumers, it would indicate the wind and water amounts, and the water amount would be remitted to the flood program. When a loss occurs, the insurer pays the claim and is reimbursed by the flood program. For smaller events, insurers should be able to manage the payment and seek reimbursement. For larger events, the flood program may need to set up a mechanism to start the flow of money to insurers so that they have the cash on hand to settle a large number of claims quickly. This approach provides a comprehensive product to consumers but preserves the federal government's capacity to spread the timing risk. As structured, this approach would be consistent with Congressman Taylor's approach of addressing wind and water, but it does not address other perils, such as earthquake risk.

A recent article in the Chartered Property Casualty Underwriters (CPCU) Society eJournal addressed the need for such an approach:

> *Finally, serious study should be given to incorporating flood coverage into the homeowners policy, based on actuarially adequate rates, reflecting the location of the property and probability of loss. Homeowners flood coverage must continue to be reinsured through the federal government; therefore, the NFIP would essentially be rolled into the homeowners program with the homeowners policy including the coverage presently provided under the flood policy. Clear guidelines would be required in order to differentiate between the wind and flood damages with federal reinsurance recovery for the flood losses. Including flood coverage in the homeowners policy will dramatically improve the spread of risk for the flood peril, provide comprehensive coverage for hurricane events, and reduce the probability of expensive litigation.*[1]

[1] "Troubled Waters in Mississippi: The Homeowners Market and the Attorney General Lawsuit," Thomas Marshall CPCU, CLC, CIC and Faith Neale Ph.D., November 2006, *CPCU Society eJournal,* http://www.cpcusociety.org/file_depot/0-10000000/010000/3267/conman/CPCUeJournalNov06article.pdf

Private Market All-Perils with Federal Backup

The flood program could be eliminated, along with any conflicts of interest between private companies and the federal government. Insurers could be required to offer all-perils coverage, with any catastrophe exclusions dictated solely by the consumer. In exchange for this system, and as a way to manage affordability, the federal government could provide a backstop or credit line over a certain magnitude event (for example, $75 billion) to cap catastrophic exposure, similar to what TRIA has done for commercial terrorism coverage. The point at which the government involvement activates for any particular company would have to be structured to allow for companies of different sizes to participate. States that have established catastrophe funds, wind pools, or other mechanisms to address availability and affordability could serve as an intermediate layer, backing up companies directly and supported by a federal commitment over a certain size event. This would allow different states to recognize that a "catastrophe" in a smaller state may not reach that threshold in a larger state, and preserve the role of states in helping their citizens manage catastrophic risk.

This leaves the private market and the states as the first and second line of defense for the vast majority of events but uses the power of the federal government to spread the timing risk for mega catastrophes. The approach recognizes that federal government involvement is inevitable when dealing with an event of a certain magnitude, but gives the insurance industry and the states the peace of mind to factor in that involvement to where they offer coverage and at what price. This approach provides comprehensive coverage, eliminating the wind vs. water problem and costly litigation, and should smooth the spike of availability and affordability following a natural disaster.

One challenge with this approach is that if the coverage is merely offered and homeowners can opt out of certain coverages, they may be inclined to make their decision based solely on price rather than on personal financial responsibility. However, this would at least engage the homeowner and require him to actively make a decision and recognize what is and is not covered. The addition of a checklist to the policy would also make it clear to the consumer what he or she has opted for. Alternatively, consideration could be given to making all-perils coverage mandatory under this approach, so that personal responsibility is guaranteed, adverse selection is avoided, and the potential burden for taxpayers is further reduced in the event of a catastrophe.

Private Market All-Perils with Federal Securitization

Another option to consider is a private market all-perils policy supplemented by the purchase of federally-backed catastrophe funds in an open financial market. This would involve a new type of investment where government-backed catastrophe bonds would be provided to the industry with certifiable catastrophe triggers. The idea is that a basket of time-limited bonds (the bonds expire after a set period of time; 6-month, 1-year, 2-year, etc.) that could be sold to the insurance industry based on the amount of risk the government wishes to take on. For example, the federal government wished to create a basket of cat bonds to cover losses up to $250 billion for aggregated certifiable catastrophe losses in 2008. It could make available a series of denominated bonds ($10 million bonds, $1 billion bonds, etc.) to the insurance industry, for example, $0.05 for every $1.00 of coverage. A trading market would be established where insurers, if they determine they want to obtain additional coverage throughout the year, could purchase additional bonds at a market-clearing price from other insurers holding them. The government could monitor the market and add additional bonds to the market if the market price become significantly high, signaling a need for additional coverage capacity. The market could be designed to provide bonds to either primary insurers or reinsurers. Such a program, for the federal government, would potentially provide the government with a source of revenue and preplanning of potential federal expenditures on catastrophes in exchange for stability in the insurance market.

Regardless of the approach, we think any discussion of reforming the flood program should be in the broader context of natural catastrophes. This is not a problem that can be compartmentalized and broken into pieces to be modified separately. A holistic approach is needed so there are no gaps, redundancies, or wasted steps in delivering a better insurance product to consumers. The threat of natural disasters on a massive scale exists in virtually all states. Inland flooding and earthquakes are capable of widespread devastation that can span multiple states, and wild fires and winter storms can cripple states with no coastline to speak of. The problems and solutions we discuss today are in the context of the coast because of the last catastrophe, but they are every bit as relevant for the next catastrophe, regardless of what it is or where it occurs.

A Commission Can Focus The Debate

Congressman Taylor has shed light on the gaps in insurance coverage as it's offered today. We commend him for that and hope that our alternatives will be met with an open mind and recognized as an effort to move toward a common goal. Providing all perils insurance will require a collaborative effort. There are challenges of affordability that while often ignored in an economist's theoretical view of free markets, are serious considerations for public policymakers. Given the variety and complexity of concepts under consideration, the NAIC continues to strongly endorse the concept of a National Commission on Catastrophe Preparation to weigh all the options. Clearly, there are a number of forward thinking ideas that require further consideration, but they should be framed to answer the question, "Will this make insurance for individuals and businesses more available and affordable?" State insurance commissioners look forward to working with this subcommittee to find the right answers to this question.

Thank you for holding this hearing, for inviting the NAIC here today to participate, and for your continued interest and leadership on this crucial issue.

National Flood
Determination Association

Testimony

Before the
House Committee on Financial Services
Subcommittee on Housing and Community Opportunities
on the
Multiple Peril Insurance Act of 2007
H.R. 920

by
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July 17, 2007

Chairwoman Waters, Ranking Member Biggert, and the Members of the Subcommittee, I am pleased to have the opportunity to provide testimony on behalf of the National Flood Determination Association (NFDA) in reference to the Multiple Peril Insurance Act of 2007, H.R. 920. I appreciate the concerns of Congressman Taylor and the bill's co-sponsors regarding the adequacy and the viability of the present natural disaster insurance model given the daunting debt obligation facing the National Flood Insurance Program (NFIP), the aftermath of the wind and flood devastation of Hurricanes Rita and Katrina, and the growing concerns related to climate change.

The NFDA is a professional association of companies that work with federally regulated lenders to facilitate compliance with the mandatory purchase requirements under the National Flood Insurance Program and to ensure that improvements located in the Special Flood Hazard Area (SFHA) are covered by flood insurance. Lending institutions provide the compliance mechanism for the NFIP. Flood determination companies assist in compliance by providing guaranteed determinations as to whether or not a property is located in a flood hazard area. Member companies also provide services to insurance companies and agents for rating flood policies under the NFIP, and to other insurance-related entities for risk management purposes. Depending on the marketplace, our industry completes 20 to 30 million flood hazard determinations per year. Annually, the industry responds to as many as 1,250,000 telephone inquiries from lenders, insurance agents and homeowners by answering questions that arise over flood hazard determinations, FEMA's flood maps, and the NFIP itself and its requirements. I have served three different terms as President of the NFDA and currently act as the Policy Advisor and serve on its Board of Directors. In addition to working in the flood determination industry, I have been involved with the NFIP and the property and casualty insurance industry in various executive and administrative capacities for over 20 years.

Two years ago almost to the day, I provided testimony to this Subcommittee on the future of the NFIP and, specifically, about the importance of the flood map modernization initiative of the Federal Emergency Management Agency. Much has changed in these two years. Two years ago the NFIP was reeling from the 2004 group of hurricanes, but was financially in fair shape and optimistic about its future. Who could have guessed that six weeks later following that hearing, the coast of Louisiana, Mississippi, and Alabama would be washed away by 28 foot storm surges, and New Orleans and the surrounding area would fill up like a

bowl causing the worst natural disaster this nation has seen. Hurricanes Katrina, Rita, and Wilma left the NFIP with close to $20 billion in debt to the federal government.

The NFDA recognizes and appreciates the critical place the NFIP holds bringing together floodplain management, hazard mitigation, mapping, planning and insurance to provide protection against property damage from flooding. We want to see the foundation of the NFIP supported and strengthened by thoughtful action. While we support the motives and the spirit behind the bill, we strongly urge committee members to consider the implications of the creation of a federal multi-peril insurance policy and we suggest that the committee require a study to include a comprehensive assessment of the potential loss exposure due to windstorm, of the potential market for voluntary windstorm insurance, of the effect on the NFIP and the private insurance industry, and of the potential flood compliance implications for federally regulated lenders.

The NFDA's concerns center around the following: (i) the financial and administrative impact that this voluntary windstorm and flood coverage may have on the National Flood Insurance Program; (ii) the potential impact to federally regulated lenders in the form of inconsistent compliance guidelines, gaps in coverage and potential exposure to litigation; and, (iii) the establishment of actuarial rating may not provide sufficient premium income to fund program administration costs and pay flood and windstorm claims in the event of a natural disaster.

Possible Effect on the NFIP

The NFDA suggests that you consider the impact on the NFIP from an administrative and resource perspective. Consider the infrastructure required in order to effectively implement and administer a second program—the windstorm and flood insurance program—within the existing Flood Program. It is not clear under the multi-peril coverage program whether the NFIP will take on this responsibility. If so what could be the extent of the administrative burden to the NFIP? Will FEMA require additional expertise pertaining to underwriting, actuarial science, policy development, program oversight, claims and program management? In the current environment, WYO companies provide a sales channel through independent and captive agent networks, provide agent training, provide policyholder service including issuing policies, and administer claims payments. Would administration be extended to the existing WYO mechanism or through some other mechanism?

Currently, a government contractor maintains the policy database, conducts training and performs the financial and statistical reporting requirements necessary to manage the policies, premiums and claims passed by the WYO Companies to the NFIP. What is the cost in terms of time and money to modify the NFIP policy database to include policy management, rules, program edits, and management reporting? What changes need to be made to the WYO Arrangement and with the government contractor related to management and deployment of this program?

Would the federal multi-peril windstorm and flood program be authorized to borrow from the U.S. Treasury to cover shortfalls? Would premiums from the multi-peril program and the current flood program be pooled?

Additional impact would be felt by stakeholders in the NFIP—communities and consumers. As with the National Flood Insurance Act of 1968, the Multiple Peril Insurance Act proposes a building compliance element which encourages sound construction and design to reduce the potential for damages. However, there is no clarity as to the means of enforcement. Some of the frustrations regarding flood insurance presently surround the requirement for proof of compliance (for example, the Elevation Certificate). The various forms of windstorm hazards that might befall a structure certainly seem to present complex rules for compliance that could result in delays and fees assessed on property owners.

Possible Effect on the Lending Industry

The NFDA works closely with federally regulated lending institutions to assist lenders in fulfilling their obligations under the National Flood Insurance Reform Act of 1994, an amendment to the 1968 Act. Thus, we are familiar with some of the compliance challenges lenders face and are concerned that adoption of this multi-peril coverage program may create new ones.

While it's not clear how and by whom the multi-peril coverage policy will be marketed, it will take time for the lending community to embrace this program. Lenders may be reluctant to accept a voluntary multi-peril policy when flood coverage is required. It is not clear if this program may impact the lenders' compliance obligations under the mandatory purchase guidelines. Flood coverage through the NFIP is fully earned and cancellation is permitted in limited situations. When a lapse in coverage occurs the lender must complete a letter notification cycle to the borrower. When the lender has to place coverage most

likely a gap in coverage will occur leaving them and the homeowner unprotected for a period of time. In certain situations the lender may need to place separate flood and windstorm policies to ensure their collateral is protected. What would be the compliance implications for lenders if a mortgagor whose property is in a Special Flood Hazard Area drops an optional windstorm/flood policy? Lenders will need to have mechanisms put in place to assure purchase of standard NFIP flood insurance in such situations.

The disparity in coverages and coverage limits may place the lender in a precarious position when coverage is mandated to the homeowner by the lender. We urge the Subcommittee to thoroughly explore the implications of introducing a voluntary, higher-limit, multi-peril policy into an existing and established administrative scheme. Specifically, pertaining to the lenders, consider the additional administrative burden, the gaps in coverage, and any potential changes to the mandatory purchase requirement.

Actuarial Rates and Costs

Charging actuarial rates is a sound concept, however, it is no guarantee that there will be sufficient funds to pay all flood-windstorm claims in the event of another catastrophe. It is not known what the market will be for this product, but it is not unreasonable to assume that interest may be highest in coastal, high exposure, regions particularly among property owners who can afford the higher premiums. What is the impact to the program if the number of high-risk, high-value properties disproportionately compose the risk pool? In the event of a catastrophe, how would claims obligations be met if funds are exhausted? Will claims in excess of the ability to pay be backed up by the ability to borrow from the U.S. Treasury?

Summary

The NFDA is grateful to the Subcommittee for holding a hearing on these critical issues. There is a problem when, as noted by the GAO, there is the possibility of, or incentive to, improperly shift wind-related damages to the NFIP to be paid as flood damages in the event of a hurricane. There is a problem in claims adjustment of windstorm and flood losses.

It is important that the Subcommittee recognizes these problems. H.R. 920 offers one response. NFDA is concerned that there are too many unanswered questions

associated with it. We urge the Subcommittee to, at the very least, address the questions raised in this hearing before implementing a new windstorm and flood policy. We also hope that others will come forward with suggestions so that a fuller exploration of means to address the problems can take place.

We are in favor of prudent action which considers the impact on all of the various stakeholder groups—the NFIP, the property & casualty industry, the lending industry, community and state governments, property owners, and taxpayers. We hope the Subcommittee continues the dialogue among these groups to develop a course of action which addresses the problems but does not, inadvertently, create new ones.

U.S. TREASURY DEPARTMENT OFFICE OF PUBLIC AFFAIRS

EMBARGOED UNTIL 2p.m. (EDT), July 17, 2007
CONTACT Eileen Gilligan, (202) 622-2960

TESTIMONY OF TREASURY ASSISTANT SECRETARY FOR ECONOMIC POLICY PHILLIP SWAGEL BEFORE THE HOUSE COMMITTEE ON FINANCIAL SERVICES SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

WASHINGTON, DC -- Good afternoon Chairwoman Waters, Ranking Member Biggert, and Members of the Subcommittee. The effects of Hurricanes Katrina, Rita, and Wilma, with combined insured losses of $57 billion, are reminders of the potential scale and scope of the destructive forces of nature. Insurance for economic losses cannot undo the costs in human terms, but it can provide financial security and put families and businesses on a course to recovery. We all share the goal that families and businesses should have access to insurance coverage against natural catastrophes so that they can avoid devastating financial losses from future events. Some government actions, however, pose the risk of unintended consequences such as interfering with private insurance markets that would otherwise provide the desired coverage.

H.R. 920: The "Multiple Peril Insurance Act of 2007"
H.R. 920 proposes to have the National Flood Insurance Program (NFIP) offer optional coverage for wind damage in addition to the coverage it already writes for flood risk. The Administration opposes H.R. 920. A Federal insurance program for wind damage will displace the active private market and could give rise to a large new burden on Federal taxpayers. The Administration supports leaving wind coverage to the well-developed private market for such insurance and not creating a Federal program for wind losses.

The Private Insurance Market Provides Coverage for Wind Events
Competitive private insurance markets set appropriate prices for insurance based on the level of risk. The private sector is effective at providing insurance (and reinsurance) for damage from wind events. Private market coverage can be expensive in areas facing substantial risk of wind events. This is a reflection of the risk, not a defect of the market. For example, to limit rate increases and ensure availability, some states have established state-run insurers of last resort for high-risk properties or a state hurricane reinsurance facility. These efforts have, in some cases, resulted in the state-sponsored insurer becoming the largest insurer in the state—private insurers cannot compete with subsidized state policies. In one case this has resulted in a doubling of state exposure with limited capital in reserve. Although such government involvement may result in short-term savings for policyholders, such actions greatly increase the odds of future large tax increases or assessments on policyholders to cover shortfall from subsequent storms.

Federal involvement in wind insurance would further displace private coverage, lead to costly inefficiencies, and retard innovation in a private sector that is generally functioning well overall. A Federal program will face pressures to set aside risk-based pricing and offer subsidized government insurance. By lowering insurance prices below the actuarially-fair value, a Federal program would encourage people to take on more risk than if they faced the full expected costs of damages. Such a subsidy would encourage development in high-risk areas, potentially increasing future liabilities. A Federal role in bearing risk would have taxpayers nationwide subsidizing insurance rates for the benefit of a smaller population.

The experience of the NFIP illustrates some of the concerns about an expanded Federal role. For example, the program charges less than full actuarial rates for properties in high-risk areas as well as older, risk-prone properties that have experienced repeated flood losses.

If the use of the private market in the provision of wind coverage is abandoned, the same forces would be at work to move the Federal government—that is, all American taxpayers—in the direction of providing subsidized rates to at-risk communities. Supporting private market solutions avoids displacing an active private market and the creation of costly new Federal liabilities.
Requiring the NFIP to offer optional wind coverage in competition with private wind coverage further opens up the opportunity for private sector insurers to elect to cover only low-risk properties. In this case, the NFIP would turn into a de facto "market of last resort" where the riskiest properties will be turned away by private insurers and end up with the NFIP.

Conclusion
Allowing private insurance and capital markets to fulfill their role as risk bearers will contribute to the long-term financial soundness of our government and best maintain the economic sustainability of communities at risk of wind catastrophes. Federal government interference in the wind insurance market will displace private markets, promote riskier behavior, be unfair to taxpayers, and be economically costly. For these reasons, the Administration opposes H.R. 920. The Administration looks forward to working with the Committee as it considers other reforms of the NFIP.

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Statement of

U.S. Representative Gene Taylor
Fourth District, Mississippi

Committee on Financial Services
Subcommittee on Housing and Community Opportunity

H.R. 920, the Multiple Peril Insurance Act

July 17, 2007

Thank you, Chairwoman Waters, for conducting this hearing on H.R. 920, the Multiple Peril Insurance Act.

I am personally grateful for all the time and effort that you have devoted to the Katrina recovery. You have conducted several subcommittee hearings on Katrina concerns here in Washington, but you also brought the Housing Subcommittee to Mississippi and Louisiana so that the Members could see the challenges for themselves.

Under Chairman Frank's leadership, the Financial Services Committee has translated the housing concerns into legislative solutions. We have another opportunity to continue that record by approving H.R. 920, the Multiple Peril Insurance Act, and H.R. 1682, the Flood Insurance Reform and Modernization Act.

H.R. 920 will create an option within the National Flood Insurance Program to cover both wind and flood risk in one policy. Property owners would be able to purchase insurance and know that it would cover their damages from a major hurricane.

Hurricane Katrina caused massive destruction where it made landfall in Southeast Louisiana and the Mississippi Gulf Coast. The worst destruction in Katrina, as in any major hurricane, was caused by the combination of the highest winds and the storm surge near the eye and in the right front quadrant of the hurricane. Most property owners had evacuated, as demanded by the government, so they were not there to witness and document the damage caused by the four or five hours of hurricane winds that preceded the storm surge.

Katrina's high winds caused damage in six states. Insurance companies paid claims in every county in Mississippi, in almost every parish in Louisiana, in most of Alabama, in South Florida and the Florida panhandle, and even in Georgia and Tennessee. Hundreds of thousands of insurance claims were paid in inland communities where there was no flooding. It is good that companies paid those wind damage claims without lawsuits, but it is irrelevant to the question of how they handled claims where homes were destroyed by the combination of wind and water.

Thousands of homeowners who had purchased all the insurance that was available to them – homeowners, windstorm, and flood coverage – were left with large uncovered losses because several insurance companies blamed all the damage on flooding.

Two weeks after Katrina, State Farm issued a *Wind/Water Claim Handling Protocol* that instructed its adjusters that "Where wind acts concurrently with flooding to cause damage to the insured property, coverage for the loss exists only under flood coverage, if available."

State Farm took the position that covered wind damage became uncovered flood damage once the water reached the property. From court testimony and depositions, we know that State Farm instructed its adjusters to pay the full federal flood claim immediately without conducting a detailed damage assessment. Adjusters have testified that State Farm trained them that the homeowner had the burden to prove that damage was caused by winds, despite the fact that case law and precedents in all state and federal courts place the

burden on the insurance company to prove that the damage is excluded in order to deny claims.

On September 7, 2005, one week after Katrina, hundreds of insurance representatives met in Atlanta with Louisiana Insurance Commissioner Robert Wooley and other government officials, including David Maurstad, Director of the National Flood Insurance Program. Some Members of the Financial Services Committee may recall that at a hearing in this room on February 28, 2007, Robert Hartwig assured Chairwoman Waters that insurance companies had not met to collaborate on how to handle claims from Katrina:

WATERS: Are you aware or do you know or is it common practice for insurance companies to talk with each other, and in particular in the case of Katrina and Rita, Were there conversations? Were there any meetings? Did people get together? Did they talk about how they were going to handle this?

HARTWIG: Absolutely not.

Now we know that there was a meeting in Atlanta right after the storm. A recording of the meeting is on the website of the Louisiana Department of Insurance. In that recording, NFIP Director Maurstad says he already had several conference calls with the larger insurance companies about waiving the requirement for detailed flood adjustments. Maurstad suggested that FEMA might simply look at satellite photos, determine the areas where flooding occurred, and allow insurers to pay those claims without an investigation.

Maurstad did in fact implement that expedited claims procedure on September 21, 2005. The memo from David Maurstad to the Write Your Own insurance companies also includes the statement that "FEMA will not seek reimbursement from the company when a subsequent review identifies overpayments resulting from the company's proper use of the FEMA depth data and a reasonable method of developing square foot value in concluding claims."

In a recent article in the New Orleans *Times Picayune.* The American Insurance Association claimed credit for writing the expedited procedures.

> "We came up with the idea of doing it," said Eric Goldberg, assistant general counsel at the trade group. "We thought there ought to be some sort of policy in place that would enable the (insurance) companies to get money into the hands of consumers when it was absolutely clear that there was damage caused by flooding."[1]

The problem with that procedure is that the existence of flooding does not mean that all of the damage was caused by flooding. It also was absolutely clear that there was damage caused by hurricane winds, but AIA was not in a hurry to get the private insurance checks into the hands of consumers, only the checks from federal taxpayers.

Not only did insurance companies collaborate with one another about how to handle claims, but a lobbyist representing the industry claims credit for writing the government policy that enabled the companies to avoid their obligation to prove how much damage was caused by flooding. To make matters worse, the policy declared that FEMA would not make insurance companies repay federal taxpayers when it is later discovered that they overpaid flood claims using the expedited procedure.

At the September 7, 2005 meeting in Atlanta, Maurstad expressed regret that the NFIP policy limits would not be enough for many people to rebuild their homes. That statement implies that he already believed that the owners of many homes in the surge zone would receive no wind payments.

Under questioning from Ms. Waters at the February 28, 2007 hearing, Maurstad made it clear that he believes NFIP is obligated to pay for wind damage that occurs concurrently with flood damage.

WATERS: ... [A]s I understand it, you could have damage that had occurred by both, some by water, some by wind. Are you telling me you do the assessment, you have the information, you just pay the water, you don't pay the wind or you don't take any of that into consideration? If you have some coverage there, you pay everything?

MAURSTAD: If there is damage that's caused by both flood and wind we are obligated to pay for that damage.

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[1] Rebecca Mowbray, "*Memo called blank check,*" Times Picayune, June 15, 2007

That means that as a matter of policy, NFIP has agreed to pay for some wind damage for which it has received no premiums. There is substantial evidence that NFIP overpaid and insurance companies underpaid in many cases.

A series of articles in the *Times Picayune* reported the following examples of wind claims shifted to taxpayers:

- Public adjusters who allege that NFIP paid for homes that had no flooding and for roof repairs to homes with minimal flooding;[2]

- Cases in which insurers estimated that identical building materials were more expensive when figuring the amount of the flood payment than when figuring the amount of the wind payment;[3]

- A case in which Allstate added contents that should have been in the upstairs wind claim to the ground floor flood claim that the homeowners had filed.[4]

In both Mississippi and Louisiana, engineering firms rewrote the observations and conclusions of on-site engineering assessments that had concluded that some damage was caused by winds. In many cases, the engineer who rewrote the report had never seen the property. Internal emails from one engineering firm document pressure from State Farm to rig its reports to blame all damage on flooding.

The Multiple Peril Insurance Act will protect homeowners from these tactics by ensuring that their hurricane losses will be covered without needing to hire lawyers, engineers, and public adjusters. The bill also will protect federal taxpayers by preventing insurance companies from shifting their liabilities to the National Flood Insurance Program.

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[2] Mowbray, "Insurers bilked flood program, suit says, " Times Picayune, May 31, 2007
[3] Mowbray, "Same house. Same repairs. Same insurer. Why different prices?" Times Picayune, May 20, 2007
[4] Mowbray, "Inflated flood claim turns up at trial," Times Picayune, May 20, 2007.

H.R. 920 also will stabilize the insurance markets in coastal areas where insurance companies have stopped writing new policies. In every coastal state from Maine to Texas, insurers are dumping customers into state-sponsored wind pools or other insurers of last resort.

The multiple peril insurance program would enable insurance companies to return to coastal communities without taking on the catastrophic risk they are avoiding. Local insurance agents would sell private homeowners policies covering fire, theft, and liability. They would collect a commission for selling the federal multiple peril coverage, and they would sell private excess coverage above the policy limits of the federal program. Insurance companies should be eager to return to the market to sell homeowners policies without windstorm coverage and offer excess coverage with the equivalent of a $500,000 deductible.

Thank you again for holding this hearing to consider the Multiple Peril Insurance Act. I look forward to working with the committee to address the insurance crisis facing the residents of coastal communities.

Frequently Asked Questions about the Multiple Peril Insurance Act

Rep. Gene Taylor, 4th District of Mississippi

How would the new multiple peril coverage fit into the insurance market?

The new multiple peril insurance program will be available only in communities that participate in the National Flood Insurance Program (NFIP), comply with its flood plain management obligations, and agree to adopt and enforce the windstorm building code obligations that will be created by the bill. Windstorm coverage will be available only as part of the multiple peril package with flood coverage. While any local government theoretically could opt into the program, only coastal communities that face both flood and wind risk have an incentive to do so.

Private insurers have stopped offering windstorm coverage in coastal hurricane-risk areas, but have not abandoned inland markets. Disputes about the cause of hurricane damage arise in coastal areas subject to both the highest hurricane winds and the storm surge. Although many inland communities may face both flood and wind risk, there is no dispute that river or creek flooding is a flood and a tornado and hail damage are caused by windstorms. Those communities have no reason to disrupt their current markets where federal flood coverage and private windstorm coverage are available separately.

Another reason that an unintended expansion of the program is unlikely is that almost all multiple peril policies will be sold by private insurance agents. The multiple peril insurance bill does not create a sales force of federal insurance agents. In coastal areas, local agents whose companies have stopped covering wind risk will sell homeowners policies covering fire, theft, and liability, and earn commissions for the selling the federal policy as they do now with NFIP coverage. Once the multiple peril program is in place, a private market should develop for excess coverage above the policy limits of the multiple peril coverage. Some parts of coastal communities are far enough inland to have little or no flood risk, yet may not have access to private windstorm coverage. State-sponsored wind pools probably will continue to serve those homeowners.

If the program is for coastal areas, why should taxpayers from other regions support the bill?

When a natural disaster causes massive destruction, the property losses either are covered by insurance, absorbed by the property owners themselves, or compensated by taxpayers through direct assistance, tax deductions, and other programs. Federal programs also pay increased costs to compensate for the effects of an economic decline caused by a delayed recovery from a disaster. Taxpayers all across America will benefit when more hurricane damage is covered by insurance premiums rather than by federal disaster assistance.

Private insurers paid $17.5 billion in homeowners insurance claims from Hurricane Katrina, and $20 billion in business and commercial claims. NFIP estimates that it will pay approximately $19.5 billion in Katrina flood claims and adjustment expenses.

The federal government has allocated more than $30 billion for direct housing assistance, including $16.7 in Community Development Block Grants for housing repairs, $7.5 billion for FEMA trailers and mobile homes, and $6 billion for FEMA rental assistance and home repair grants. The Small Business Administration has approved $10 billion in disaster assistance loans to home and business owners. Congress also approved $8 billion in Katrina tax relief, with much of it targeted to deductions for property losses and tax incentives for rebuilding.

Where the private insurance industry has been unwilling or unable to offer insurance for certain risks, the federal government has stepped in to create insurance programs to try to manage risks and collect premiums. Every state participates in the National Flood Insurance Program. The federal government also provides multiple peril crop insurance to protect farmers from disaster losses that private insurers will not cover.

Multiple peril insurance will ensure that homeowners will be able to buy insurance and know that their hurricane damage will be covered. Many Mississippi and Louisiana homeowners built their homes to high standards and bought all the insurance that was available to them - homeowners, windstorm, and flood insurance – yet were left with large uncovered losses because the insurers blamed all the damage on flooding. The maximum NFIP policy is $250,000 for a residential structure. H.R. 920 will permit homeowners to purchase up to $500,000 in multiple peril coverage at risk-based rates.

How would the multiple peril program set actuarially sound premiums?

H.R. 920, the Multiple Peril Insurance Act, does not micromanage the program, but anticipates that NFIP would establish windstorm risks and set premiums in precisely the same manner as insurance companies and state-sponsored wind pools and FAIR plans. NFIP would contract for risk models and loss data in order to estimate potential losses in specific geographic locations. From that community risk profile, premiums for specific properties would be set using existing industry products that adjust for location, construction methods, foundation, wall, and roof types, and other building characteristics.

The bill requires that premiums for multiple peril coverage be based on risks as determined by accepted actuarial principles. The premiums also must include administrative expenses and other operating costs. The bill instructs NFIP to establish regulations detailing the terms and conditions of the program, including risks, premiums, eligibility, and coverage. The bill also instructs NFIP to conduct studies and investigations, enter into contracts and agreements as needed, and coordinate with state and local governments.

How would the new windstorm coverage avoid the financial problems of the existing flood insurance program?

The bill requires the new coverage to be priced at actuarially sound rates. The flood program has intentional subsidies for properties that were grandfathered in because they were built before the flood maps were implemented. The new windstorm coverage does not include any subsidies. Furthermore, it is much easier to determine accurate windstorm risk than to compile accurate flood risk maps for several reasons:

- Thousands of insurance companies and most states offer windstorm coverage, so detailed loss data and risk models are available;
- Wind risk data does not have to be plotted on an ever-changing topographical map;
- Flood risk is much more sensitive than wind risk to changes in land use and development;
- Flood risk in many communities is contingent on levees, dams, pumps, sewer systems, and stormwater infrastructure.

H.R. 1682, the Flood Insurance Reform and Modernization Act, would address some of the problems plaguing the flood insurance program. It would accelerate the Map Modernization program, and study ways to improve and expedite more accurate flood mapping. The bill also would phase out the subsidies for some properties.

It should be pointed out that at least $7 billion in NFIP payments (and many billions more in federal relief funds) would have been saved if the New Orleans levee system had functioned to its design requirements. In Mississippi, the flood maps badly underestimated the storm surge risks. If the Mississippi Coast maps had been accurate, properties would have been built to higher elevations and wave-load standards or would have been subject to higher premiums.

Why should the federal government get involved when the states already have wind pools and FAIR plans?

One federal wind and flood pool can spread coastal risk much more efficiently than dozens of isolated state risk pools. The federal multiple peril insurance pool has several economic advantages that avoid the precarious fiscal condition of state risk pools. A federal pool can spread the risk geographically so that even if one or two states are hit hard in a year, the pool as a whole would be stable.

ISO, the insurance industry's own analyst, explains the economic advantage of a geographically dispersed pool rather than a pool concentrated in one location:

> An insurer with policies spread over many areas has a relatively high chance of suffering hurricane losses in any given year. Wherever a hurricane comes ashore, it's likely to hit some of the properties on which the insurer has written policies. But, in any one year, the insurer faces a

> relatively low likelihood of suffering losses on a substantial proportion of its geographically dispersed policies.
>
> An insurer with policies concentrated in one geographic area has a relatively low chance of experiencing any hurricane losses at all in a given year. The chance of a hurricane hitting any one place is low. But if a storm *does* strike the area where the insurer has concentrated exposures, the insurer faces a higher chance of suffering losses on a substantial proportion of its book of business than does an insurer with more geographically dispersed exposures.[5]

Mississippi has three counties on the Gulf of Mexico and 79 inland counties. Alabama has two counties on the Gulf. South Carolina and Georgia each have only six counties on the Atlantic. State by state wind pools or FAIR plans are not economically or politically capable of spreading their risk or of building up sufficient reserves to handle the claims from major hurricanes.

Insurance companies are dumping more and more policies into state-sponsored insurers of last resort, forcing those plans to go out and buy more and more reinsurance. Last year, the Mississippi wind pool paid $44 million for $350 million in reinsurance. Since Katrina, the risk in the Mississippi wind pool has risen from $1.6 billion to $6 billion. The state has used $80 million in federal CDBG funds to subsidize the wind pool for two years so that premiums doubled rather than quadrupling. Those federal tax dollars passed through the state and the wind pool to pay reinsurance premiums.

Other state-sponsored insurers of last resort are in a similar dilemma – increasing premiums to pay increasing reinsurance costs without building up their reserves. The Texas wind pool recently agreed to pay $170 million for $1 billion in reinsurance. Last year, the Massachusetts FAIR Plan bought reinsurance for the first time, paying $38.4 million for $455 million in coverage. The insurers of last resort in Texas, Massachusetts, and every coastal state between them have had to take on more and more risk.

The federal government would not have to pay for overpriced reinsurance as the state plans and private insurers have been forced to do. The federal government does not have the timing risk that insurers and state plans face. The multiple peril plan would not have to immediately build up the enough reserves or buy enough reinsurance to pay for a 100-year event. The plan would charge actuarially sound premiums based on annual loss estimates and administrative expenses. If a year has above average losses, the program would need to borrow from the Treasury, but would be able to repay the loan with future premiums.

---

[5] *Managing Catastrophe Risk,* ISO Properties, 1996.

Michael J. McCabe
Senior Vice President
and Chief Legal Officer

July 12, 2007

Honorable Maxine Waters
Chairwoman, Financial Services Subcommittee on Housing and Community Opportunity
United States House of Representatives
2344 Rayburn House Office Building
Washington, DC 20515

Honorable Judy Biggert
Ranking Member, Financial Services Subcommittee on Housing and Community and Opportunity
United States House or Representatives
1034 Longworth House Office Building
Washington, DC 20515

Re: H.R. 920—Multiple Peril Insurance Act of 2007—Hearing before the Financial Services Subcommittee on Housing and Community and Opportunity, July 17, 2007

Dear Chairwoman Waters and Ranking Member Biggert:

Hurricane Katrina was a horrific reminder of the threat we all face from natural catastrophes, and action is needed to better prepare and protect Americans before the next major hurricane hits our coast. Thank you for your leadership as Congress considers how to best accomplish this.

H.R. 920, the Multiple Peril Insurance Act of 2007, is intended to help prevent issues that coastal homeowners face when their homes are damaged by both wind and flood, and sufficient private or public insurance coverage is not available to cover both losses. This bill would add a new component to the National Flood Insurance Program, enabling consumers to purchase coverage for losses resulting from windstorm in addition to flood.

Rep. Gene Taylor has introduced this bill in recognition of the growing coastal homeowners insurance affordability and availability problem. Allstate agrees that the federal government certainly has a role in helping to solve this problem. We support the concepts contained in H.R. 920, if properly constructed and implemented, and respectfully offer some thoughts on how the bill might be revised in the attached document.

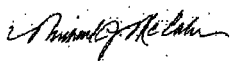
The private insurance mechanism is not well-suited to low frequency, high severity events. We need a better system in our country to deal with major events, one that would leverage a stronger public-private partnership as part of an integrated and comprehensive solution. Actuarially based and properly implemented solutions must be brought to bear to provide wind coverage in coastal areas. An important first step towards the right solution is acknowledging the federal government's critical role in either providing such coverage directly or through a backstop to the private

Allstate Insurance Company
2775 Sanders Road, Suite F8, Northbrook, IL 60062 847 402-6363 mmc01@allstate.com

market for high severity natural catastrophes that are otherwise beyond the ability of the private insurance market to handle.

Thank you for your attention. Should you have any questions or should you or your staff wish to discuss further, please do not hesitate to contact me or our Washington representatives, Chuck Bruse (202.449.9268, cbruse@allstate.com) or Dean Pappas (202.449.9265, dean.pappas@allstate.com).

Sincerely yours,



Michael J. McCabe

Cc. Honorable Nydia M. Velazquez
Honorable Julia M. Carson
Honorable Stephen F. Lynch
Honorable Emanuel Cleaver
Honorable Al Green
Honorable Wm. Lacy Clay
Honorable Timothy Maloney
Honorable Gwen S. Moore
Honorable Albio Sires
Honorable Keith M. Ellison
Honorable Charlie Wilson
Honorable Christopher S. Murphy
Honorable Joe Donnelly
Honorable Steve Pearce
Honorable Peter King
Honorable Paul E. Gillmor
Honorable Christopher Shays
Honorable Gary G. Miller
Honorable Shelley Moore Capito
Honorable Scott Garrett
Honorable Randy Neugebauer
Honorable Goeff Davis
Honorable John Campbell
Honorable Thaddeus McCotter
Honorable Gene Taylor
Honorable Bobby Jindal
Honorable Richard Baker
Honorable Charlie Melancon

HR 920 – Making Multi-Peril Coverage Available Under the National Flood Insurance Program

Helping Those Facing Hurricanes – There Is a Place for the Federal Government to Step In

HR 920 CAN HELP MAKE HOMEOWNERS COVERAGE MORE AVAILABLE IN COASTAL COMMUNITIES

- **Representative Gene Taylor Introduced the Multiple Peril Insurance Act of 2007.** The Act is intended to help prevent issues some consumers face when their homes are damaged by both wind and flood and sufficient private or public insurance coverage is not available to cover both losses. HR 920 adds a new component to the National Flood Insurance Program, enabling consumers to purchase coverage for losses resulting from flood and/or windstorm.

- **The Insurance Information Institute's June 2007 Report on State Residual Market Property Plans Indicates Availability and Affordability of Property Insurance in the Voluntary Market Is Increasingly an Issue in Many Coastal Areas of the Country.** The report quantifies the shift of high risk exposure away from the private insurance market to state residual plans.

- **Trying to Solve Coastal Insurance Availability Problems On a State-By-State Basis Is Enormously Difficult, and HR 920, Representative Taylor Contends, "Takes a Better Approach."** Representative Taylor has stated that "there is a place for the [federal] government to step in, just like government stepped in the late '60s under the same circumstance because the private sector didn't want to cover floods anymore."

- **Allstate Agrees There Is a Role for the Federal Government to Play in Making Homeowners Insurance Coverage Affordable and Available to Consumers Along the Coast.** The private insurance mechanism is not well-suited to low frequency, high severity events. Expanding the flood program to provide wind coverage in areas where local governments have adopted building standards to reduce wind damage, as HR 920 does, certainly contains concepts that may help consumers manage their risks. There are other proposals before Congress, such as HR 91, which establishes a public private partnership to provide consumers more homeowners protection at a lower cost.

HR 920 NEEDS YOUR HELP TO ENSURE THE RESULTING PROGRAM EFFECTIVELY MEETS CONSUMERS NEEDS

- **Allstate Supports the Concepts Contained in HR 920, If Properly Implemented, and Offers the Following Comments to Assist in Improving the Bill:**

  - HR 920 creates a more complex transaction, with significant operational, practical, and legal issues that will create additional agent errors and omissions exposure and exposures with Write Your Own companies. The legislation creating this new program therefore needs to contain clear, effective jurisdictional language establishing that federal law governs disputes involving all aspects of participation or attempted participation in the program including, but not limited to coverage, claims, sales, policy servicing, etc. matters for both the flood policies and the new multi-peril policies.

  - The program will provide coverage for two perils; windstorm (as defined) and flood, but will not provide coverage for fire, theft, liability, or other risks. Consumers must have coverage for *all* these perils to obtain a mortgage loan on a home or commercial property. While the program should provide all wind-related coverage to avoid claim adjustment disputes, private coverage for these other coverages will still need to be able to "wrap around" the program, and current policy forms and rates must be revised and filed in each state where carriers wish to provide such "wrap around" coverage.

- Procedures must be crafted so carriers may obtain expedited state approval of the forms and rates of the revised policies so timely coverage can be provided to consumers.

- If a uniform, national regulatory structure for insurance were to be put in place, carriers could implement this "wrap around" coverage on an expedited basis, without the need to submit filings in 51 jurisdictions. This complex filing process is one example of why an optional federal charter for personal property casualty lines makes good sense for consumers.

- Coverage under the program is capped at $500,000 for any single residential structure. Many dwellings have a replacement cost exceeding $500,000, and excess coverage will be needed by owners of such properties if they hope to obtain a mortgage loan. The program should offer excess coverage.

- Allstate is not aware of windstorm coverage availability problems in non-coastal (interior) areas or for smaller windstorms, but the company does see the need for the program in coastal areas. The program should begin with coverage for winds in coastal areas, and suspend any implementation in interior areas and states until it is determined that coverage availability is an issue in these locations. It may even be possible to limit the coverage to larger storms. In addition, Allstate recommends the wind coverage be packaged with flood coverage for storm surge only in order to create a separate and actuarially supported hurricane program.

STATE OF MISSISSIPPI
OFFICE OF THE GOVERNOR

HALEY BARBOUR
GOVERNOR

July 16, 2007

Honorable Maxine Waters
Chairwoman, Financial Services Subcommittee on Housing and Community Opportunity
United States House of Representatives
2344 Rayburn House Office Building
Washington, DC 20515

Honorable Judy Biggert
Ranking Member, Financial Services Subcommittee on Housing and Community and Opportunity
United States House or Representatives
1034 Longworth House Office Building
Washington, DC 20515

Dear Chairwoman Waters and Ranking Member Biggert:

I am writing to you regarding Representative Gene Taylor's Multiple Peril Insurance Act, H.R. 920. I understand that you will be holding a hearing on Tuesday, July 17, to consider this legislation and the property insurance problems facing our nation from natural catastrophes. Hurricane Katrina demonstrated holes in the private insurance market and the National Flood Insurance Program, and I support Congress considering legislation which would create a new program in the National Flood Insurance Program to enable the purchase of wind and flood risk in one policy.

Since the immediate days after Hurricane Katrina, I have said that insurance will be a major factor in Mississippi's recovery from the worst natural disaster in American history. Homeowners and business owners who cannot get property insurance, or who cannot afford unrealistic rates, cannot contribute to the rebuilding effort of the Gulf Coast. Today there are approximately 40,000 policies in the Mississippi Windstorm Underwriting Association, the insurer of last resort, up from 16,000 policies at the time of Hurricane Katrina, proof that there is a lack of availability of private insurance.

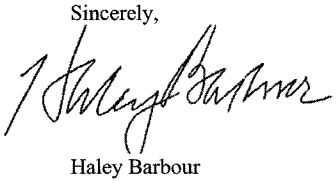
In Mississippi, we are working to address this failed system, and in March of this year, I signed into law the Mississippi Growth and Redevelopment Act of 2007 to more broadly mitigate the

increase of insurance premiums across the state. However, action is needed at the federal level to ensure the long-term stability of our insurance market.

I am pleased to learn that Representative Taylor and your subcommittee are reviewing the growing coastal homeowners' insurance affordability and availability problem, and I appreciate your willingness to consider options for an all perils program.

We must work together: federal, state, and private to create a financially sound and taxpayer friendly solution. I appreciate your attention to this matter.

Sincerely,



Haley Barbour

HRB:mt

TRENT LOTT
MISSISSIPPI

FINANCE

COMMERCE, SCIENCE, AND TRANSPORTATION

RULES

SELECT COMMITTEE ON INTELLIGENCE

United States Senate

SUITE 487, RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-2403

July 11, 2007

245 East Capitol Street
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Suite 127
Oxford, MS 38655

200 E. Washington Street
Suite 145
Greenwood, MS 38930

The Honorable Maxine Waters
Chairman
Housing and Community Opportunity Subcommittee
U.S. House of Representatives
Washington, D.C. 20515

Dear Maxine:

I understand that the Subcommittee on Housing and Community Opportunity will soon hold a hearing on Representative Gene Taylor's Multiple Peril Insurance Act, H.R.920. I would like to thank you for your attention to the property insurance problems facing the Mississippi Gulf Coast and other coastal areas. While individual states are attempting to address the increasing cost and decreasing availability of windstorm insurance in coastal areas, it is appropriate that the Congress consider ways to address this problem on a nation-wide basis.

Clearly, the mechanisms governing the National Flood Insurance Program and private windstorm property insurance system failed in response to Hurricane Katrina. I encourage you to explore whether proposals such as H.R.920 or other concepts would provide residents of coastal areas with effective options to obtain insurance coverage for their homes and businesses against all perils while protecting taxpayers from paying for claims for damages covered by private insurance.

Thank you again for your willingness to work on this issue. With kind regards and best wishes, I remain

Sincerely yours,

Trent Lott

Trent Lott

TL:jas

Copy: The Honorable Gene Taylor

Steve Rasmussen, CPCU
President and Chief Operating Officer
Property Casualty Insurance Operations
Nationwide, Allied, and Farmland Insurance Companies

On Your Side™

July 10, 2007

The Honorable Maxine Waters
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Judy Biggert
1034 Longworth House Office Building
Washington, DC 20515

Re: H.R. 920

Dear Chairwoman Waters and Ranking Member Biggert:

I am writing to make you aware of Nationwide's continued efforts to provide the highest level of protection to our policyholders in the Gulf Coast and throughout the entire country. As a provider of traditional homeowners insurance, as well as a Write-Your-Own company through the National Flood Insurance Program, we welcome constructive dialogue on how best to provide all of our customers with the knowledge of being protected from future events.

We are very pleased that you have scheduled a hearing on Congressman Taylor's "Multiple Peril Insurance Act of 2007." We share Mr. Taylor's concern that appropriate coverages be available for all residents ... his constituents are, after all, our customers.

Nationwide believes H.R. 920 has served a valuable purpose in furthering discussion and dialogue about meaningful and practical alternative approaches to the "wind vs. water" debate. We appreciate this and other related issues being foremost on the agenda of many Members, their constituents, and our customers. While questions regarding process and implementation need to be addressed, we encourage you and your Subcommittee to continue to hold critical hearings.

In addition to the option of adding other perils to flood policies, we continue to be a strong advocate for reforming the entire National Flood Program, as well as exploring other areas aimed at establishing available and affordable property insurance for all Americans. I have attached a Nationwide document outlining our specific flood reform recommendations, as well as a document summarizing our broad views on managing coastal risks. We applaud Chairman Frank's decision to appoint Congressmen Mahoney and Klein as the key drafters of other meaningful legislation involving the interaction of federal and state governments with the insurance industry. Nationwide's CEO, Mr. Jerry Jurgensen, and I have met with the Congressmen, while also continuing our outreach to other Members of both parties, and begun what we believe is a constructive dialogue.

Nationwide stands ready to work with you, Congressman Taylor, and other members in finding sound solutions to natural catastrophic insurance needs and look forward to playing a pivotal role in any public/private partnership.

Thank you for your attention.

Sincerely,

Steve Rasmussen
President and COO
Nationwide Property Casualty Insurance Operations

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Columbus, OH 43215

Tel 614-249-4409
Fax 614-249-6848
rasmuss@nationwide.com

Nationwide Insurance
Nationwide Financial

cc:

The Honorable Barney Frank
The Honorable Gene Taylor
The Honorable Paul Kanjorski
The Honorable Tim Mahoney
The Honorable Ron Klein
The Honorable Charlie Wilson
The Honorable Spencer Bachus
The Honorable Deborah Pryce
The Honorable Ginny Brown-Waite
The Honorable Paul Gillmor
The Honorable Steve LaTourette

Exhibit I—All Recorded Atlantic Hurricanes

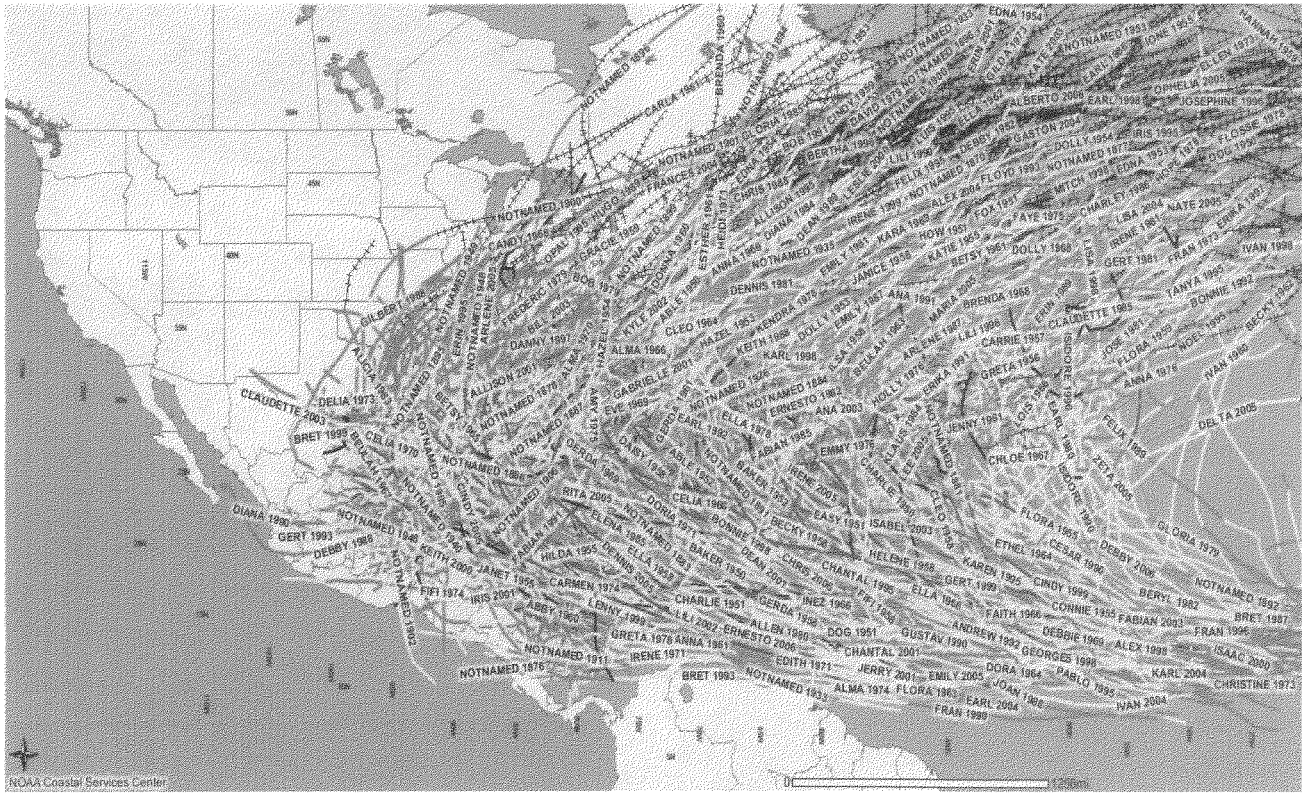
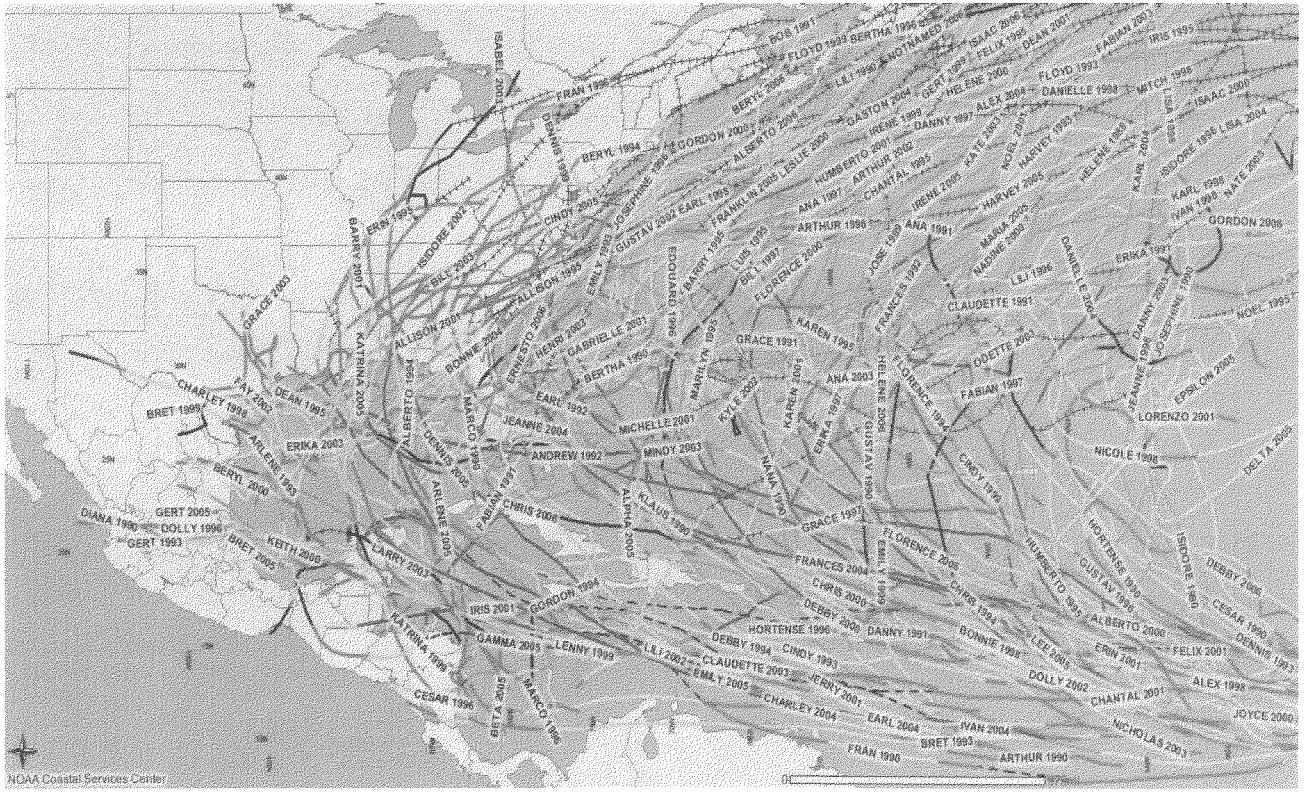


Exhibit II: Named Atlantic Ocean Hurricanes, 1990 to 2006



Consumer Federation of America
1620 I Street, N.W., Suite 200 * Washington, DC 20006

July 17, 2002

The Honorable Maxine Waters
Chair, Subcommittee on Housing and Community Development
House Financial Services Committee
Washington, DC 20515

The Honorable Judy Biggert
Ranking Member, Subcommittee on Housing and Community Development
House Financial Services Committee
Washington, DC 20515

Dear Chair Waters and Ranking Member Biggert:

RE: URGE OPPOSITION TO MULTIPLE PERIL INSURANCE ACT OF 2007

This afternoon, the Subcommittee on Housing and Community Development is holding a hearing on the Multiple Peril Insurance Act of 2007 (H.R. 920), which would significantly expand the National Flood Insurance Program (NFIP) to require it to make coverage for both flood and wind losses available to homeowners at non-subsidized rates. The legislation is, unfortunately, the wrong solution to the very significant problems that homeowners in coastal areas have had in recent years in obtaining and keeping wind coverage and settling wind claims.

H.R. 920 would vest the monumental task of developing and administering a system of multi-peril home insurance with a government program that is wholly mismanaged and is already subsidizing unwise construction in flood plains despite instructions from Congress to make the program actuarially sound. There is currently no plan in place to reduce possible wind damage on homes that the government would insure. This means that, despite requirements in the bill that attempt to assure proper land use planning, further subsidization of unwise construction is likely. Moreover, requiring one of the most incompetent federal agencies in recent history -- the Federal Emergency Management Agency (FEMA) -- to supervise the adjustment of both flood and wind claims — could be a recipe for disaster for many homeowners and taxpayers.

Instead of expanding the NFIP to cover wind peril, CFA urges you to refer to the many recommendations we have made to Congress and state lawmakers to ensure that wind coverage is widely available in coastal areas at affordable rates, that wind claims are fairly adjudicated and that homeowners do not have to pay unnecessary expenses or face unreasonable delays in order to receive payment on a wind claim. These measures include:

- Congress should prohibit private write-your-own (WYO) insurers that offer flood insurance from using anti-concurrent causation (ACC) clauses in wind coverage. ACC clauses negate wind coverage for homeowners if flood damage occurs during the same general period of time. The use of ACC clauses is a serious conflict-of-interest for

insurers, encouraging them to unjustifiably refuse to pay legitimate wind claims and to shift the cost for these claims to the NFIP. If insurers were prohibited from using ACC clauses, they would have to fully adjust each wind loss to determine how much of the damage was caused by wind and pay for that damage, subject to audit by the federal government.

- Congress should also require WYO companies to pay policyholders for all legitimate wind and flood losses, and to submit a bill to FEMA to be reimbursed immediately for flood payments, subject to later audit and adjustment.

- States should exercise much greater oversight of the wind insurance marketplace, by prohibiting private insurers from unjustifiably pulling out of coastal areas or raising rates in these regions and requiring them to use fair claims practices. Congress should encourage states to use anti-cherry picking measures to assure that insurers who write home insurance in the nation as part of an overall portfolio of coverage take their fair share of risks in high-risk areas as well. The financial capacity of the property-casualty industry to handle such coverage is unprecedented. It has earned historic – and excessive – profits of $157.4 billion in over the last three years (which averages over $500 in profits for every man, woman and child in America) and is currently overcapitalized, with retained earnings (surplus) of $494.8 billion.

- Congress should authorize states to come together, through an interstate compact, to create multi-state insurance pools to reinsure wind losses. This would allow states to follow Florida's lead in replacing private reinsurance with a state backed reinsurance plan that charges full actuarial rates, with savings passed on to citizens of these states. Florida estimates that their plan will lead to a 10 to 20 percent reduction in homeowner's insurance rates.

- Congress should also encourage states to follow Florida's example in setting up state-supported insurance pools that are fully competitive with the private market and that cover property in low, as well as high, risk zones. This prevents the highest risks from being socialized (covered only by state pools) and the lowest risks privatized (covered by private insurers.) If state pools are to provide coverage because of market failures in the private sector, they need to spread their risks just as private insurers do.

Congress Should Not Expand the National Flood Insurance Program to Include Wind Coverage If It is Near Collapse

Calling for NFIP involvement in wind insurance is simply not a good idea, given the significant problems that the NFIP is currently experiencing. The NFIP was brilliantly conceived. Taxpayers would subsidize existing construction but new construction would not be allowed to occur in the highest-risk areas, such as high velocity "V" zones. In lower risk areas that would still experience serious wind damage and flooding, all new construction would have to be elevated according to local building codes.

However, poor management by FEMA and lax enforcement of building requirements by local governments has made the program insolvent. Flood maps that FEMA was originally supposed to update every three years are antiquated. Some are over 20 years old. As a result, flood levels that were predicted before Hurricane Katrina were more than ten feet too low in areas like Hancock County, Mississippi. Moreover, the areas of predicted high-risk were much too small. Many who appeared to be "outside" the flood plain were actually in it and should have been required to buy flood insurance coverage. Since rates and mitigation requirements are based on these maps, taxpayers are subsidizing unwise construction as a result.

Problems with the National Flood Insurance Program are so dire that in an Op Ed in the *New York Times* (attached) and in testimony before the Senate Banking Committee,[1] CFA raised the frightening possibility that it might have to be ended. If the program encourages unwise construction in flood plains, it is a danger to the nation rather than a blessing. If the program lures people into these risky areas and can't stop communities that defy the program's mitigation requirements or it falsely assures people that they are in a low-risk area that does not need flood insurance, then either it must be reformed to keep the promises of safer construction made to the taxpayers when the program was begun or it must be abolished.

Congress should stick to trying to repair this program and to proving to taxpayers it can actually end subsidies of unwise construction. It should bring the program into fiscal soundness before thinking about expansion into the wind insurance field.

The Federal Government has no Mitigation Program for Wind Losses in Place

FEMA has been unable to keep the NFIP from creating huge taxpayer subsidies even when the method for mitigating flood risk is well developed. FEMA has mismanaged that mitigation effort by having out-of-date maps and by not taking firm action to make sure that communities strictly enforce the land use measures that they have adopted. For example, Congress wisely adopted a rule requiring that if a home was 50 percent or more damaged by any cause, the home would become a non-conforming use and be required to be elevated to the level of a large "100-year" storm. After Hurricane Katrina, engineers in New Orleans found many homes that were 50 percent or more damaged. After they realized the consequence of their findings, officials in New Orleans offered many homeowners 49 percent certificates instead, with no engineering review required. FEMA, while aware of this flagrant violation of its rules, has done nothing to make New Orleans correct it.

With wind, there is no mitigation program in place. H.R. 920 would create one in the future, while allowing multi-peril policies with wind coverage to be written today. This is a clear opportunity for developers to build unsafe structures while FEMA tries to develop a mitigation plan, get the communities to adopt it and make sure that the plan, once in place, is actually enforced. Even if they had a plan, FEMA would almost surely mismanage it as it has the flood mitigation effort, resulting in even greater taxpayer subsidies.

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[1] Hunter, Robert J., Testimony before the Senate Committee on Banking Housing and Urban Affairs, "Oversight of the National Flood Insurance Program," October 18, 2005 (available at http://www.consumerfed.org/pdfs/Flood_Insurance_Senate_oversight_testimony_101805.pdf).

Conclusion

It would not be wise for the federal government to get into another program covering insurance risk, particularly with higher policy limits for the coverage that would be allowed under the bill. However, if such a role is contemplated, a number of important minimal conditions should be met first. As we have already mentioned, the NFIP should be put back on firm financial footing. Significant measures must also be taken to ensure that loss of property is clearly and demonstrably reduced. All at-risk properties should be insured for all risks covered by the program and rates should be actuarially sound, with no cross subsidies. The role of the private sector must be maximized and closely regulated. Insurers must not be allowed to adversely select against the program by selecting the lowest risks and leaving the highest risks to taxpayers. Government at the local and state level should also assume financial risk, as a way to provide financial assistance to federal taxpayers and as an incentive for these governments to ensure that home builders and developers abide by building restrictions. Finally, federal financial involvement should be clearly defined and strictly limited. (Please see the attached, "Principles for Protecting Consumers and Taxpayers under a Federal Catastrophe Insurance Program.")

Sincerely,

Travis B. Plunkett
Legislative Director
Consumer Federation of America

J. Robert Hunter
Director of Insurance
Consumer Federation of America

Consumer Federation of America

PRINCIPLES FOR PROTECTING CONSUMERS AND TAXPAYERS UNDER A FEDERAL CATASTROPHE INSURANCE PROGRAM

The Consumer Federation of America (CFA) has previously opposed proposals to provide federal reinsurance with taxpayer funds for natural catastrophes. This is because these plans have either directly subsidized insurance companies or have provided below-cost insurance to high-risk areas, which would likely spur an increase in unwise construction. Congress should not expand the federal role in providing catastrophe insurance assistance until the federal government fixes the significant flaws that already exist.

a) **The National Flood Insurance Program (NFIP) must be repaired and functioning smoothly before proposals to expand federal back up to cover other disasters can be taken seriously**. Mitigation is clearly not working under the NFIP. Too many new structures in high-risk areas are being built. Significant insurance subsidies are available to these structures because of problems like antiquated maps indicating much lower flood risk than is currently likely. Insurance rates are based on these erroneous maps, creating a subsidy for new construction and misleading homeowners and business owners into thinking their property is safe. The penetration of flood insurance in at-risk areas under the NFIP is also very low. Too many Americans who live in flood plains are not insured for the flood risk. Moreover, the NFIP allows insurers to charge too much for servicing insurance policies without assuming any financial risk. Some insurers even get windfall payments for commissions when no agent is involved.

CFA is very concerned about any federal catastrophe insurance proposal that would duplicate the kinds of serious problems that exist in these programs. In order to be fair to consumers and taxpayers, any proposal that is offered must conform to the following principles:

Loss of life and property must be clearly and demonstrably reduced.

- Mitigation measures must strictly prohibit construction in extreme risk zones and control construction in all other risk zones.
- Actuarial rates should be charged for each property.
- GAO should monitor compliance on an ongoing basis.
- The federal government should invest in loss prevention instead of spending money after a catastrophic event occurs. It should provide grants and loans to state and local

governments to carry out mandatory loss prevention activities and should provide loans to consumers and businesses for loss prevention investments and retrofits.

All at-risk properties in the nation should be insured for all risks.

- Insurance must be required on all properties to achieve maximum spread of risk and to ensure that uninsured properties do not exist after a catastrophic event.

- Insurance companies writing property coverage in the nation must be required to take all homeowners and small business property risks that meet national mitigation standards for disaster risk.

- All risk coverage on new construction should be initially provided for five years on a policy purchased by the builder and sold along with the structure.

- Reasonable deductibles and limits should be standardized under policy terms set nationally. Persons seeking lower premiums through higher deductibles and other changes to the base policy should be able to do so by signing an agreement that no disaster assistance will be sought for losses in amounts below the higher coverage levels.

Rates should be actuarially sound. There should be no subsidies or cross subsidies.

- Rates on insurance for new construction must be fully actuarial so that new construction that is higher risk will pay its own way and unwise construction will be deterred.

- Rates on insurance for existing construction must be fully actuarial and disclosed at the time of sale so that people buying unsafe structures have fair warning.

- Rates should be adjusted over a reasonable period of time to repay any monies contributed by local, state or federal taxpayers after a catastrophic event.

The role of private sector insurers should be maximized.

- Insurers must make insurance available and be responsible for losses up to a specified insurer deductible. Insurers should be instructed to set up pooling arrangements where they can reinsure business at the insurers' option by sending the loss portion of the premium to the pool. The pool should be monitored to verify that state approved actuarial rates were properly applied to the property.

- The initial insurer deductible for the first year of this program should be $100 billion, indexed to inflation in home prices nationwide on a year-to-year basis. To ensure that all regions of the country will have reinsurance protection and that small insurers benefit from the program, it should require the establishment of a national pool to reinsure all homes and small business properties in the nation over retentions of 15 percent of premiums in the impacted line by insurer group. Each insurer would be required to forward the appropriate part of the premium to cover the claims sent to the pool. These

premiums would be earmarked for disaster payments only and held as reserves for such an event. These reserves would not be subject to federal income taxes.

Government at all levels should carefully regulate the program.

- Local governments have the key role of enforcing land-use requirements.

- State governments should regulate both policy forms and prices. This will assure consumers that models and other methods used to rate the business are fair and do not result in excessive charges. It will also assure taxpayers that there are no subsidies in the rates. Regulation should follow the detailed methods in use in California under Proposition 103 regulations. State regulation should be monitored by the GAO to assure that it is competently and efficiently performing this important oversight role.

- The federal government should determine the best, most efficient mitigation standards. Local governments should enact and enforce these strict mitigation standards, subject to state audit of compliance and GAO review of the effectiveness of the implementation of these mitigation standards in high-risk areas.

Federal, state and local governments should assume financial risk.

- Local governments should agree to pay 5 percent of costs over the insurer deductible on damage to new construction, as an incentive to encourage rigorous enforcement of land use standards. Bonds could be used for this purpose.

- State governments should contribute a 10 percent layer over insurer and local deductibles. Bonds could also be used for this purpose.

- The federal government should back up the system over the insurer, local and state layers.

- This plan must be designed so that long-term costs to local, state and federal taxpayers will be equal to or less than zero. This means that, as stated above, rates should be actuarially sound to insure that the program is profitable to taxpayers in the long run, or at the very least, does not cost the taxpayers anything.

- No disaster relief should be given to those homes or businesses that should have been insured for coverage but were not, or were inadequately insured. Disaster relief should no longer cover deductibles of insurance policies.

All stakeholders must give up something to make this type of plan work.

- Insurers give up the right to choose to underwrite if mitigation standards are met (i.e., to make sure that insured homes meet construction and loss prevention standards). They must be subject to high quality regulation of price, product, underwriting and claims service.

- Property owners in high-risk areas give up the right to unfettered use of their land unless strong mitigation standards are met.

- Developers give up the right to loosely regulated construction. They must be required to build wisely in risk zones and to arrange for the initial insurance coverage for the first five years.

- Consumers give up their right to take a chance on being uninsured for low frequency/high severity events. Consumers must pay actuarial prices for the coverage, prices that can be very high.

- Government must take on mapping of risk and monitoring to assure compliance with mitigation and actuarial soundness standards. Government must have the ability to obtain funds for the catastrophic back up of the private insurance market.

A fair process and affordable insurance must be ensured.

- One way to ensure that lobbying by private interests does not result in taxpayers shouldering an unjustifiably large portion of the risk in such a program would be to set up a Congressional commission modeled after the base closure commission, which would present Congress with a plan that it could either vote for or against.

- Requiring insurers to offer actuarially sound rates will make it difficult for some low and moderate-income households to afford catastrophe insurance. It will likely be necessary to establish a transitional program to help these consumers afford insurance payments.

New York Times

OP-ED CONTRIBUTOR

False Claims

By J. ROBERT HUNTER

Published: May 4, 2006

Washington

IN mid-April, the Federal Emergency Management Agency released its long-awaited guidelines for rebuilding homes and businesses in New Orleans. Americans throughout the country should pay attention, because although these requirements were devised with the best of intentions to spur the reconstruction of a devastated city, they will have negative repercussions far beyond Louisiana.

The new guidelines will cripple FEMA's National Flood Insurance Program, which is the only assistance available to most Americans trying to protect themselves from flooding caused by natural disasters. They will also cause taxpayers to subsidize dangerous and improper rebuilding in New Orleans, putting many residents in harm's way.

QuickTime™ and a
TIFF (Uncompressed) decompressor
are needed to see this picture.

The National Flood Insurance Program, which I administered from 1974 to 1978, was introduced in 1968 as a way to assist families devastated by flooding and to encourage safe construction in flood plains. Communities on flood plains receive taxpayer-financed insurance subsidies on existing buildings, in exchange for which they must use their land and construct new buildings in ways that reduce the risk of flood damage.

The program discouraged such communities from building in areas vulnerable to hurricane storm surges, for example, or where water rushes at high velocity when rivers overflow. New buildings in safer parts of flood plains were to be elevated to at least the level of a flood that had a 1 percent chance of happening in a year — the so-called 100-year flood. The program also requires that homes and businesses be raised to the 100-year flood level after suffering damage of 50 percent or more of their structural value.

Taxpayers will subsidize more than $20 billion in flood insurance claims for the victims of Hurricane Katrina. This is as it should be; residents purchased policies for exactly this purpose. But now it seems that the National Flood Insurance Program is not living up to its promise to reduce flood damage.

Significantly, FEMA's flood risk maps are old — in some cases two decades old — and grossly underestimate the hazards. My research on Hancock County in Mississippi shows that the 100-year flood levels predicted on the old maps are about 10 feet below what new maps forecast.

By allowing the maps to get so out of date, FEMA has misled people into building houses at levels that appear to be safe but are not. In some cases, the low projected flood levels also mislead people into thinking that they live outside the flood zones. As a result, they fail to purchase the flood insurance they need.

FEMA's new guidance for the area bounded by the New Orleans levees will allow rebuilding even though, as the agency has stated, "the flood control system will not meet the standards necessary for providing protection" against a 100-year flood. People whose houses sustained less than 50 percent damage can rebuild where they were. Those with more than 50 percent damage have lined up at City Hall to talk inspectors into altering damage assessments and thus avoid elevating their homes.

Those whose certificates still state that their homes were more than 50 percent damaged — many had water over their roofs — will be allowed to rebuild at elevations dictated by the old maps or lifted a mere three feet higher than they were before the flooding, whichever is greater. New maps for New Orleans won't be released for six more months. Some parish officials have indicated that they may not enforce even this inadequate interim standard.

The desire to help the displaced residents of New Orleans return is understandable, but to do so at the expense of the National Flood Insurance Program's principles of safe construction is shortsighted, dangerous and costly. In order to protect the lives and livelihoods of the city's residents and not saddle taxpayers with avoidable insurance claims, houses in New Orleans must be built above the new 100-year level.

There is a way to maintain National Flood Insurance Program standards and help New Orleans rebuild quickly. First, Congress should require FEMA to enforce all of the standards. Second, Congress should provide the generous financial assistance necessary to help the people of New Orleans raise their homes or move to higher, safer ground. We do nobody in New Orleans a favor if residents are allowed to rebuild in a way that puts their property — or lives — at risk.

If FEMA does not enforce the standards, Congress should end the National Flood Insurance Program. No flood insurance is better than continuing to have taxpayers subsidize unsafe construction in the nation's flood plains.

J. Robert Hunter, the director of insurance for the Consumer Federation of America, is the former federal insurance administrator and Texas insurance commissioner.

July 16, 2007

The Honorable Maxine Waters
Chairwoman
Housing Subcommittee
U.S. House of Representatives
Washington, DC 20515

The Honorable Judy Biggert
Ranking Member
Housing Subcommittee
U.S. House of Representatives
Washington, DC 20515

Dear Madam Chairwoman and Representative Biggert:

On behalf of the undersigned associations, we are writing to express our strong concern with "The Multiple Peril Insurance Act of 2007" (H.R. 920), offered by Rep. Gene Taylor (D-Miss.), that would add the peril of windstorm to the National Flood Insurance Program (NFIP).

Absent significant modifications, H.R. 920 has the potential to dramatically increase the exposure of the NFIP and the federal government to catastrophic losses. The states along the Gulf coast and eastern seaboard contain more than $19 trillion in insured property values. The majority of these risks are currently insured in the private marketplace or in state residual market programs where the private insurance industry shares in the potential losses. Moving significant numbers of these properties from the private insurance marketplace to the NFIP could markedly increase the exposure of loss to the federal government and, despite the provision that calls for "actuarially sound" rates for the windstorm portion of this coverage, the potential for a significant tax-payer subsidy. For example, following the events of 2005, state windstorm residual market plans, which are statutorily required to use "actuarially sound" rates, exhausted all of their available assets and had to fund these shortfalls by assessing the insurance industry and/or policyholders.

The policyholders most likely to buy this new federal coverage would be those living in areas that are highly exposed to wind damage, creating adverse selection, as happens with state residual market wind pools today. Private insurers limit their exposure by fairly selecting risks and spreading the risk, except in specific areas where wind coverage is excluded by private carriers. The amount of "multiple-peril" insurance that the NFIP would sell cannot accurately be determined at this time; thus, determining the un-subsidized premium for such coverage would be, even using the best actuarial science, a guess. Although the "pay as you go" (PAY-GO) rules will require that the costs of the insurance program be unsubsidized by taxpayers, there is a real possibility that the program will not be self-sustaining.

Increasing the potential losses of the NFIP under such legislation comes at a time when the NFIP is already more than $17.5 billion in debt and a recent Congressional Budget Office report states that the interest alone on this debt will run more than $900 million a year, without paying back any of the principal.

In summary, passage of H.R. 920 would create a massive and unnecessary new federal program that would likely incur enormous deficits following a hurricane of any significance. Nationalizing wind coverage under the NFIP as proposed by this bill, will not resolve "wind versus water" disputes following a hurricane, and would do little to facilitate the resolution of these claims. It also would subject the federal government to a huge and potentially under-funded liability for hurricane wind damage.

We look forward to continuing to work with you and other members of the Committee on market-based solutions to address the availability of insurance in high-risk communities.

Respectfully,

American Insurance Association
National Association of Mutual Insurance Companies
Property Casualty Insurers Association of America
The Financial Services Roundtable

cc:
The Honorable Barney Frank
The Honorable Spencer Bachus
The Honorable Paul Kanjorski
The Honorable Deborah Pryce

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