

111TH CONGRESS
2^D SESSION

S. 3672

To clarify and improve the payment of multiperil insurance claims, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 29, 2010

Mr. WICKER introduced the following bill; which was read twice and referred
to the Committee on Banking, Housing, and Urban Affairs

A BILL

To clarify and improve the payment of multiperil insurance
claims, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Coordination of Wind
5 and Flood Perils Act of 2010”.

6 **SEC. 2. PAYMENT OF MULTIPERIL CLAIMS.**

7 The National Flood Insurance Act of 1968 is amend-
8 ed by inserting after section 1312 (42 U.S.C. 4019) the
9 following new section:

1 **“SEC. 1312A. PAYMENT OF MULTIPERIL CLAIMS.**

2 “(a) PURPOSES.—The purposes of this section are—

3 “(1) to allow an insured individual or small
4 business to commence repairs or replacement, or
5 both, of insured property and to recommence busi-
6 ness operations as soon as possible after a natural
7 disaster; and

8 “(2) to remove the burden of determining flood
9 and wind loss allocation for the purpose of insurance
10 claims from the insured and to place such burden on
11 the entities that are responsible for the payment of
12 such claims.

13 “(b) PAYMENT OF MULTIPERIL CLAIMS.—

14 “(1) IN GENERAL.—In the event of an occur-
15 rence of loss resulting from physical damage to or
16 loss of real property or personal property related
17 thereto located in the United States arising from the
18 combined perils of flood and wind, the Administrator
19 and any insurer (including a State-run windpool)
20 that insures the wind peril shall enter into good
21 faith negotiations regarding—

22 “(A) the general method or methods by
23 which proven claims for such multiperil losses
24 shall be adjusted and paid; and

1 “(B) the allocation of such payments be-
2 tween the insurer, the Administrator, and the
3 insured.

4 “(2) LIMITATION.—

5 “(A) IN GENERAL.—In the event that the
6 Administrator and an insurer (including a
7 State-run windpool) that insures the wind peril
8 cannot agree as to the specific distribution of
9 perils that resulted in a loss described under
10 paragraph (1), the Administrator shall pay 50
11 percent of the disputed claim until the claim
12 can be settled.

13 “(B) FAIR SHARE.—The terms of any
14 agreement or negotiations entered into pursu-
15 ant to paragraph (1) shall require that, in order
16 to fully compensate the insured for his, her, or
17 its loss as soon as practicable after the occur-
18 rence of such loss, an insurer (including a
19 State-run windpool) that insures the wind peril
20 pay 50 percent of any disputed claim until the
21 claim can be settled.

22 “(C) NO OVERCOMPENSATION.—The Ad-
23 ministrator and an insurer (including a State-
24 run windpool) that insures the wind peril shall
25 work collaboratively to ensure that an insured

1 policyholder does not receive payments under
2 this section in excess of the amount of the in-
3 sured's actual loss.

4 “(D) RULE OF CONSTRUCTION.—Nothing
5 in this section shall be construed to negate, set
6 aside, or void any policy limit, including any
7 loss limitation, set forth in a standard flood in-
8 surance policy.

9 “(c) FAILURE TO REACH AGREEMENT ON LOSS AL-
10 LOCATION.—The terms of any agreement or negotiations
11 entered into pursuant to subsection (b)(1) shall require
12 that if an insurer (including a State-run windpool) that
13 insures the wind peril and the Administrator fail to reach
14 an agreement regarding multiperil losses pursuant to sub-
15 section (b), including as to the cause or allocation of a
16 multiperil loss, then each such entity shall agree to have
17 any dispute relating to multiperil losses resolved by the
18 arbitration panel established under subsection (d).

19 “(d) ARBITRATION PANEL.—

20 “(1) ESTABLISHMENT.—As allowed under sec-
21 tion 1307(e) of the National Flood Insurance Act of
22 1968 (42 U.S.C. 4104), and notwithstanding any
23 other provision of law, not later than 90 days after
24 the date of enactment of this Act, the Administrator
25 of the Federal Emergency Management Agency shall

1 establish an arbitration panel to efficiently and
2 clearly resolve disputes relating to multiperil losses
3 between the Administrator and an insurer (including
4 a State-run windpool) that insures the wind peril.

5 “(2) MEMBERSHIP.—The arbitration panel es-
6 tablished under paragraph (1) shall be comprised of
7 5 members.

8 “(3) REQUIRED QUALIFICATIONS.—

9 “(A) ADMINISTRATIVE LAW EXPERTISE.—
10 At least 1 member of the arbitration panel es-
11 tablished under paragraph (1) shall have exper-
12 tise in administrative law.

13 “(B) WATER RESOURCES EXPERTISE.—At
14 least 1 member of the arbitration panel estab-
15 lished under paragraph (1) shall have expertise
16 in water resources.

17 “(C) HURRICANE MODELING EXPER-
18 TISE.—At least 1 member of the arbitration
19 panel established under paragraph (1) shall
20 have expertise in hurricane modeling.

21 “(4) NO FEMA EMPLOYEES.—No member of
22 the arbitration panel established under paragraph
23 (1) may be a current or former employee of the Fed-
24 eral Emergency Management Agency.

1 “(5) INDEPENDENCE.—Each member of the ar-
2 bitration panel established under paragraph (1) shall
3 be independent and neutral.”.

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