



ASSOCIATION OF STATE FLOODPLAIN MANAGERS, INC.

2809 Fish Hatchery Road, Suite 204, Madison, Wisconsin 53713 www.floods.org
Phone: 608-274-0123 Fax: 608-274-0696 Email: asfpm@floods.org

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. 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. [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.