House Committee Adds 5 More Bills to Its Flood Insurance Reform Package

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The House Financial Services Committee advanced five flood insurance proposals on Wednesday, adding to the two bills it passed last week. The House measures seek to reform and reauthorize the National Flood Insurance Program (NFIP), which is set to expire on September 30, for five years. The latest bills seek to address claims issues and questions about oversight of the Write Your Own Program (WYO) that arose after Hurricane Sandy; limit claim payments on repetitive flood properties; require the use of replacement cost value in determining premium rates; clarify that private insurance policies satisfy the mandatory insurance requirement and repeal the mandatory flood coverage requirement for commercial and multi-family properties located in flood hazard areas. They are in addition to two bills approved last week that encourage more private insurance, move the program toward actuarial-based rates, enhance premium credits for mitigation efforts and seek to improve underwriting of urban properties. The seven bills must still be packaged together and scheduled for a vote by the full House. Package of Reforms The seven bills combined would touch on almost every facet of the flood insurance program including financing, privatization, mitigation and mapping. They seek to encourage more private insurer participation by eliminating the non-compete provision that keeps WYO carriers from selling private policies, directing the Federal Emergency Management Agency (FEMA) to give private insurers access to its historical loss data, exempting certain properties from the mandatory purchase requirement, and clarifying that private policies satisfy the purchase requirement. In the area of mitigation, they call for stricter land regulations in high risk areas, credits and coverages that reflect rebuilding efforts, and more community-based flood mitigation plans. For homeowners, certain provisions limit how much rates can rise every year and set a ceiling on the maximum a property owner would have to pay. Other bills address the high cost of repetitive loss properties, strengthen FEMA's oversight of the WYO claims process, lower the reimbursement WYO carriers receive, and encourage the NFIP to use reinsurance to limit its exposure to future losses. "While we have a responsibility to provide certainty to the homeowners and small business owners who rely on the NFIP for protection, we must also ensure that the program protects the interests of hardworking taxpayers," said Financial Services Committee Chairman Jeb Hensarling (R-Tex.). "These reform bills will benefit all Americans because they will invite private sector competition and lead to a sustainable flood insurance program – sustainable for homeowners, small business owners, residential and commercial real estate markets, and sustainable for hardworking taxpayers." Industry Support Insurance industry lobbyists, some of whom had qualms about expense reductions for WYO carriers included in last week's legislative package, issued statements supporting the renewal of the NFIP and generally endorsing the House bills. However, the agents' group, the Independent Insurance Agents & Brokers of America (Big "I"), has stopped short of a full endorsement and is maintaining a "neutral" stance towards the package largely due to its opposition to lowering WYO carrier reimbursements, according to Charles Symington, senior vice president of external and government affairs for the Big "I". While the cut in the reimbursement (from 30 percent down to about 28 percent of premium) is not as steep as originally proposed (25 percent), the Big "I" opposes any cut. Nat Wienecke, senior vice president, federal government relations at the Property Casualty Insurers Association of America (PCI), said her group "applauds" the passage of NFIP reauthorization and reform legislation and "strongly supports" the reforms that encourage the growth of a private insurance market. PCI also "appreciates" the additional reforms to reduce unnecessary burdens in the program and that reforms will be phased in over time to allow the market time to adjust to changes. Jimi Grande, senior vice president of government affairs for the National Association of Mutual Insurers (NAMIC), called yesterday's committee action vote "a positive step in the evolution" of the flood program. "The legislation allows property owners and communities to continue to mitigate their risk of flooding, while at the same time maintaining the availability of affordable flood insurance coverage for those who need it," he said. He called the reforms "the first steps necessary to putting the NFIP on a path to solvency and ensuring the continued protection of millions of homeowners and their communities." According to Big "I" lobbyist Symington, reauthorizing the program in a timely manner is the number one priority for his members. "The NFIP is critical to providing vital protection for nearly five million property owners across the country. IIABA looks forward to continuing to work with Congress, in a bipartisan fashion to ensure timely reauthorization of the program," he said. Meanwhile, the Senate has also been working on flood insurance. One of the Senate proposals, sponsored by Senators Bill Cassidy (R-La.) and Kristen Gillibrand (D-N.Y.), would renew the program for 10 years. However a measure being worked on but not yet released by the chairs of the Senate Banking Committee is expected to be the main vehicle in the Senate. This committee is chaired by Sen. Mike Crapo (R- Idaho) while Sen. Sherrod Brown (D-Ohio) is the ranking Democrat. The committee held hearings in March and in May on reauthorizing the NFIP at which lawmakers heard from Roy E. Wright, FEMA deputy associate administrator for insurance; Steve Ellis, Taxpayers for Common Sense; Michael Hecht, the Coalition for Sustainable Flood Insurance; and Larry Larson, the Association for State Floodplain Managers. Here's What Passed Here are summaries of the five bills that the House Financial Services Committee passed this week. By a vote of 58-0, the panel approved a measure sponsored by Rep. Nydia Velazquez (D-N.Y.) designed to remedy problems that arose in the handling of Superstorm Sandy claims. HR 2875, the National Flood Insurance Program Administrative Reform Act of 2017, would strengthen FEMA's oversight of the WYO program under which private insurers write and service NFIP's standard flood policies. Velázquez's legislation seeks to improve disclosure and transparency for policyholders so they have a better sense of what is covered under NFIP policies and would boost penalties for fraudulent statements related to claims. It would also initiate a pilot program to authorize WYOs to inspect pre-existing structural conditions of insured and pre-insured properties that could result in a denial of a flood insurance claim. "Multiple studies and investigations have found that FEMA hasn't conducted the appropriate oversight over the Write Your Own program," Velázquez said. "Unfortunately, some bad actors participating in this program have gamed the system to avoid paying policyholders' claims after flood disasters." She said the legislation is meant to address complaints by homeowners who saw their Sandy claims denied, delayed or underpaid. "This bipartisan legislation would address these shortcomings and protect policyholders from fraud and abuse," she said. By a voice vote, the committee passed another bipartisan bill sponsored by Reps. Ed Royce (R-Calif.) and Earl Blumenauer (D-Ore.). HR 1558, the Repeatedly Flooded Communities Preparation Act, aims to limit the funds that NFIP spends on claims for properties that have flooded multiple times. "A tiny number of properties that are flooded and rebuilt over-and-over again are responsible for a massive chunk of the indebted NFIP's spending," said Royce. The sponsors said that as of January 2016, there were more than 150,000 structures around the country classified as repetitive loss properties by FEMA and that FEMA estimates that while these properties comprise just one percent of those insured by the NFIP, they represent 25 to 30 percent of all flood claims. Also, according to a 2009 report by FEMA, the number of these properties increases by nearly 5,000 each year. The bill would require communities to map repeatedly flooded properties and public infrastructure to determine the specific areas that should be priorities for voluntary buyouts, drainage improvements, or other mitigation efforts; implement plans for mitigating flood risk in these problem areas; and submit these plans as well as reports on progress to FEMA. A third bill that passed the committee, also 58-0, would clarify that flood insurance policies written by private carriers satisfy the mandatory purchase requirement. HR 1422, the Flood Insurance Market Parity and Modernization Act, sponsored by Reps. Dennis Ross (R-Fla.) and Kathy Castor (D-Fla.), would give private insurers and state regulators more flexibility in what private policies satisfy the requirement that properties in flood zones have insurance. "Currently, many homeowners in Florida and across the country face unaffordable flood insurance premiums and a lack of coverage options, largely due to burdensome federal regulatory barriers that give the National Flood Insurance Program (NFIP) a harmful monopoly over flood insurance policies," said Ross. The fourth and fifth bills, both sponsored by Rep. Blaine Luetkemeyer (R-Mo.), passed the Republican-controlled committee more along partisan lines. The fourth measure would repeal the mandatory flood insurance coverage requirement for commercial and multi-family properties located in flood hazard areas and provide for greater transfer of risk under the NFIP to private capital and reinsurance markets. The bill (HR 2246, the Taxpayer Exposure Mitigation Act of 2017) passed the committee by a vote of 36-24. It calls for community involvement in mapping; requires FEMA to purchase reinsurance or some capital market alternative to cover future losses; and allows commercial properties to opt-out of the mandatory purchase requirement so they can more easily purchase private flood coverage. "Homeowners and businesses across the country depend on the accuracy of flood maps in making decisions about flood insurance and flooding risks. It's time to make sure the program is on sounder financial footing, that taxpayers are protected from footing the bill for future losses, and it's time to shift power from bureaucrats in Washington to states, local communities and policyholders," Luetkemeyer said in filing this bill. The fifth bill (HR 2565, Use of Replacement Cost in Determining Premium Rates) passed by a vote of 34-25. This would require the use of replacement cost value in determining premium rates for flood coverage. It calls for FEMA to conduct a study of insurance industry best practices for risk rating and classification, including practices related to replacement cost value in premium rate estimations and to develop a "feasible implementation plan and projected timeline" for including replacement costs value in the estimates of risk premium rates for flood insurance. It also calls for FEMA to incorporate up-to-date replacement cost values, by structure, when calculating annual chargeable premium rates, as opposed to the current practice that relied upon a national average, over a one to three year period. "The current National Flood Insurance Program (NFIP) fails to do what private insurance policies do: price for risk," according to Luetkemeyer. "Instead, the NFIP relies on a pricing system in which policyholders in less expensive homes subsidize those in more expensive ones. Insurance policies from private carriers take into account for pricing and underwriting purposes the cost to completely replace a structure. The Federal Emergency Management Agency (FEMA) uses an average replacement cost calculation instead of a property-specific one." He said his legislation would ensure that FEMA would use a property-by-property approach when it comes to pricing for premiums, helping to end the subsidization of wealthier homeowners.