

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
Tel 202.429.3000
Fax 202.429.3902
steptoe.com

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TO: The Commercial Mortgage Securities Association

FROM: Scott A. Sinder
John P. Fielding

RE: House Financial Services Committee Adopts NFIP Expansion

Yesterday, the House Financial Services Committee adopted H.R. 3121, the Flood Insurance Reform and Modernization Act of 2007. The bill passed by a vote of 38-29 along party lines. Reps. Steven LaTourette (OH) and Walter Jones (NC) were the only Republicans to join the Democrats in supporting the bill. The bill now moves to the full House for consideration.

Most important among the bill's provisions, H.R. 3121 extends the National Flood Insurance Program (NFIP) for five years (from September 2008 to September 2013); provides for multiperil coverage, adding wind coverage to the flood coverage currently offered; and phases-in actuarially sound rates for nonresidential properties and non-primary residences. A brief summary of the bill is attached.

Republicans offered a number of amendments to the bill as introduced. The majority of the amendments were non-controversial, and were adopted by voice vote. These amendments, many of which amounted to technical fixes, addressed issues such as:

- Requiring a study on actuarially sound rates in pre-FIRM properties;
- Changing the membership of technical mapping advisory council;
- Ensuring that rental property used as primary residence is covered by NFIP;
- Requiring that flood maps be updated upon request of local community;
- Preventing delay of development/update of 100-year maps;
- Requiring a report on including building codes in floodplain management criteria;
- Requiring FEMA to report how and when it will repay the federal government when it borrows under its expanded borrowing authority; and

- Preventing FEMA from renewing or offering new policies covering wind loss when wind program is in deficit (ie, when it owes money under its borrowing authority).

Four amendments offered by Republicans were more contentious, and all failed on party-line votes.

Rep. Judy Biggert (IL) offered an amendment that would have substituted the 2006 NFIP bill for H.R. 3121. The effect would have been to delete the wind program. This failed by a vote of 30-37.

Rep. Ginny Brown-Waite (FL) offered an amendment that would have required GAO to study the addition of wind coverage to the NFIP. This amendment failed by a vote of 31-37.

Rep. Geoff Davis (KY) offered an amendment delaying the implementation of the bill's multiperil/wind provisions until the first round of mapping has been completed. This amendment failed by a vote of 30-37.

Rep. Tom Price (GA) offered an amendment that would have shortened the policyholder claim period from 180 days to 60 days. This amendment failed by a vote of 24-43. Rep. Walter Jones was the only Republican to vote against each of these amendments. Reps. LaTourette, Gerlach and Marchant joined Jones in voting against the Price amendment.

H.R. 3121, The Flood Insurance Reform and Modernization Act of 2007

Sponsor: Rep. Maxine Waters (D-CA); co-sponsors: Reps. Gene Taylor, Bobby Jindal, Al Green, Barney Frank.

Extends National Flood Insurance Program (NFIP) until September 30, 2013.

Increases NFIP borrowing authority to \$21.5 billion (from \$20.775 billion). FEMA required to develop a plan to repay any amounts borrowed pursuant to the increased borrowing authority and report to Congress on the plan.

Wind Coverage:

Requires the NFIP to make available multiperil coverage for damage resulting from windstorms or floods (any hurricane, tornado, cyclone, typhoon, or other wind event).

Multiperil coverage restricted to jurisdictions that have adopted adequate land use and control measures, including effective enforcement provisions, as determined by the Federal Emergency Management Agency (FEMA).

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

Prohibits policyholders from having both flood coverage and multiperil coverage (which covers both flood and wind) at the same time.

Requires proof that loss from wind or flood, but does not require policyholder to prove which caused the loss.

Coverage Limits/Premium Rates:

Residential: the lower of the replacement cost of the residence or \$500,000 for a single family home and for each unit in a multi-family residence; \$150,000 for contents and loss of use.

Nonresidential properties: \$1,000,000 for structure and \$750,000 for contents and business interruption.

Phases in actuarial rates for nonresidential properties and non-primary residents by January 1, 2011.

Flood Map Modernization:

Establishes a program to review, update and maintain NFIP maps, including mapping the 500 year floodplain and flooding caused by failures of levees and dams.

Studies/Reports:

GAO required to prepare a study addressing: (1) coverage of pre-FIRM properties; (2) mandatory purchase requirements for natural 100 year floodplains, including areas such as New Orleans that have structural flood protection systems in place; and (3) extending mandatory purchase requirements for non-federally related loans. A separate GAO study is required to address methods to increase program participation by low-income families.

FEMA required to submit annual report to Congress (rather than the President as under current law) explaining NFIP activities, including information as to the financial status of the Program and a report of the Technical Mapping Advisory Counsel.

FEMA required to study land management and use, zoning, and damage prevention with respect to wind coverage/losses.

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