H. R. 4948

To amend the Federal Crop Insurance Act to extend certain supplemental agricultural disaster assistance programs through fiscal year 2017, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2012

Mrs. NOEM introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Federal Crop Insurance Act to extend certain supplemental agricultural disaster assistance programs through fiscal year 2017, and for other purposes.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Livestock Disaster Protection Act”.

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SEC. 2. EXTENSION OF CERTAIN SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE PROGRAMS WITH NEW FUNDING MECHANISM.

Section 531 of the Federal Crop Insurance Act (7 U.S.C. 1531) is amended to read as follows:

“SEC. 531. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.

“(a) DEFINITIONS.—In this section:

“(1) ELIGIBLE PRODUCER ON A FARM.—

“(A) IN GENERAL.—The term ‘eligible producer on a farm’ means an individual or entity described in subparagraph (B) that, as determined by the Secretary, assumes the production and market risks associated with the agricultural production of crops or livestock.

“(B) DESCRIPTION.—An individual or entity referred to in subparagraph (A) is—

“(i) a citizen of the United States;

“(ii) a resident alien;

“(iii) a partnership of citizens of the United States; or

“(iv) a corporation, limited liability corporation, or other farm organizational structure organized under State law.

“(2) FARM.—
“(A) IN GENERAL.—The term ‘farm’ means, in relation to an eligible producer on a farm, the crop acreage in all counties that is planted or intended to be planted for harvest for sale or on-farm livestock feeding (including native grassland intended for haying) by the eligible producer.

“(B) AQUACULTURE.—In the case of aquaculture, the term ‘farm’ means, in relation to an eligible producer on a farm, all fish being produced in all counties that are intended to be harvested for sale by the eligible producer.

“(C) HONEY.—In the case of honey, the term ‘farm’ means, in relation to an eligible producer on a farm, all bees and beehives in all counties that are intended to be harvested for a honey crop for sale by the eligible producer.

“(3) FARM-RAISED FISH.—The term ‘farm-raised fish’ means any aquatic species that is propagated and reared in a controlled environment.

“(4) LIVESTOCK.—The term ‘livestock’ includes—

“(A) cattle (including dairy cattle);

“(B) bison;

“(C) poultry;
“(D) sheep;
“(E) swine;
“(F) horses; and
“(G) other livestock, as determined by the Secretary.

“(b) LIVESTOCK INDEMNITY PAYMENTS.—

“(1) PAYMENTS.—For each of the fiscal years 2012 through 2017, the Secretary shall use such sums as are necessary of the funds of the Commodity Credit Corporation to make livestock indemnity payments to eligible producers on farms that have incurred livestock death losses in excess of the normal mortality, as determined by the Secretary, due to—

“(A) attacks by animals reintroduced into the wild by the Federal Government or protected by Federal law, including wolves and avian predators; or

“(B) adverse weather, as determined by the Secretary, during the calendar year, including losses due to hurricanes, floods, blizzards, disease, wildfires, extreme heat, and extreme cold.

“(2) PAYMENT RATES.—Indemnity payments to an eligible producer on a farm under paragraph (1)
shall be made at a rate of 75 percent of the market value of the applicable livestock on the day before the date of death of the livestock, as determined by the Secretary.

“(3) Special rule for payments made due to disease.—The Secretary shall ensure that payments made to an eligible producer under paragraph (1) are not made for the same livestock losses for which compensation is provided pursuant to section 10407(d) of the Animal Health Protection Act (7 U.S.C. 8306(d)).

“(c) Livestock Forage Disaster Program.—

“(1) Definitions.—In this subsection:

“(A) Covered livestock.—

“(i) In general.—Except as provided in clause (ii), the term ‘covered livestock’ means livestock of an eligible livestock producer that, during the 60 days prior to the beginning date of a qualifying drought or fire condition, as determined by the Secretary, the eligible livestock producer—

“(I) owned;

“(II) leased;

“(III) purchased;
“(IV) entered into a contract to purchase;

“(V) is a contract grower; or

“(VI) sold or otherwise disposed of due to qualifying drought conditions during—

“(aa) the current production year; or

“(bb) subject to paragraph (3)(B)(ii), 1 or both of the 2 production years immediately preceding the current production year.

“(ii) EXCLUSION.—The term ‘covered livestock’ does not include livestock that were or would have been in a feedlot, on the beginning date of the qualifying drought or fire condition, as a part of the normal business operation of the eligible livestock producer, as determined by the Secretary.

“(B) DROUGHT MONITOR.—The term ‘drought monitor’ means a system for classifying drought severity according to a
range of abnormally dry to exceptional drought, as defined by the Secretary.

“(C) ELIGIBLE LIVESTOCK PRODUCER.—

“(i) IN GENERAL.—The term ‘eligible livestock producer’ means an eligible producer on a farm that—

“(I) is an owner, cash or share lessee, or contract grower of covered livestock that provides the pastureland or grazing land, including cash-leased pastureland or grazing land, for the livestock;

“(II) provides the pastureland or grazing land for covered livestock, including cash-leased pastureland or grazing land that is physically located in a county affected by drought;

“(III) certifies grazing loss; and

“(IV) meets all other eligibility requirements established under this subsection.

“(ii) EXCLUSION.—The term ‘eligible livestock producer’ does not include an owner, cash or share lessee, or contract grower of livestock that rents or leases
pastureland or grazing land owned by another person on a rate-of-gain basis.

“(D) NORMAL CARRYING CAPACITY.—The term ‘normal carrying capacity’, with respect to each type of grazing land or pastureland in a county, means the normal carrying capacity, as determined under paragraph (3)(D)(i), that would be expected from the grazing land or pastureland for livestock during the normal grazing period, in the absence of a drought or fire that diminishes the production of the grazing land or pastureland.

“(E) NORMAL GRAZING PERIOD.—The term ‘normal grazing period’, with respect to a county, means the normal grazing period during the calendar year for the county, as determined under paragraph (3)(D)(i).

“(2) PROGRAM.—For each of the fiscal years 2012 through 2017, the Secretary shall use such sums as are necessary of the funds of the Commodity Credit Corporation to provide compensation for losses to eligible livestock producers due to grazing losses for covered livestock due to—

“(A) a drought condition, as described in paragraph (3); or
“(B) fire, as described in paragraph (4).

“(3) ASSISTANCE FOR LOSSES DUE TO DROUGHT CONDITIONS.—

“(A) Eligible losses.—

“(i) In general.—An eligible livestock producer may receive assistance under this subsection only for grazing losses for covered livestock that occur on land that—

“(I) is native or improved pastureland with permanent vegetative cover; or

“(II) is planted to a crop planted specifically for the purpose of providing grazing for covered livestock.

“(ii) Exclusions.—An eligible livestock producer may not receive assistance under this subsection for grazing losses that occur on land used for haying or grazing under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

“(B) Monthly payment rate.—
“(i) In general.—Except as provided in clause (ii), the payment rate for assistance under this paragraph for 1 month shall, in the case of drought, be equal to 60 percent of the lesser of—

“(I) the monthly feed cost for all covered livestock owned or leased by the eligible livestock producer, as determined under subparagraph (C); or

“(II) the monthly feed cost calculated by using the normal carrying capacity of the eligible grazing land of the eligible livestock producer.

“(ii) Partial compensation.—In the case of an eligible livestock producer that sold or otherwise disposed of covered livestock due to drought conditions in 1 or both of the 2 production years immediately preceding the current production year, as determined by the Secretary, the payment rate shall be 80 percent of the payment rate otherwise calculated in accordance with clause (i).

“(C) Monthly feed cost.—
“(i) IN GENERAL.—The monthly feed cost shall equal the product obtained by multiplying—

“(I) 30 days;

“(II) a payment quantity that is equal to the feed grain equivalent, as determined under clause (ii); and

“(III) a payment rate that is equal to the corn price per pound, as determined under clause (iii).

“(ii) FEED GRAIN EQUIVALENT.—For purposes of clause (i)(II), the feed grain equivalent shall equal—

“(I) in the case of an adult beef cow, 15.7 pounds of corn per day; or

“(II) in the case of any other type of weight of livestock, an amount determined by the Secretary that represents the average number of pounds of corn per day necessary to feed the livestock.

“(iii) CORN PRICE PER POUND.—For purposes of clause (i)(III), the corn price per pound shall equal the quotient obtained by dividing—
“(I) the higher of—

“(aa) the national average corn price per bushel for the 12-month period immediately preceding March 1 of the year for which the disaster assistance is calculated; or

“(bb) the national average corn price per bushel for the 24-month period immediately preceding that March 1; by

“(II) 56.

“(D) Normal Grazing Period and Drought Monitor Intensity.—

“(i) FSA County Committee Determinations.—

“(I) In General.—The Secretary shall determine the normal carrying capacity and normal grazing period for each type of grazing land or pastureland in the county served by the applicable committee.

“(II) Changes.—No change to the normal carrying capacity or normal grazing period established for a
county under subclause (I) shall be made unless the change is requested by the appropriate State and county Farm Service Agency committees.

“(ii) DROUGHT INTENSITY.—

“(I) D2.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having a D2 (severe drought) intensity in any area of the county for at least 8 consecutive weeks during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph in an amount equal to 1 monthly payment using the monthly payment rate determined under subparagraph (B).

“(II) D3.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having
at least a D3 (extreme drought) intensity in any area of the county at any time during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph—

“(aa) in an amount equal to 2 monthly payments using the monthly payment rate determined under subparagraph (B); or

“(bb) if the county is rated as having a D3 (extreme drought) intensity in any area of the county for at least 4 weeks during the normal grazing period for the county, or is rated as having a D4 (exceptional drought) intensity in any area of the county at any time during the normal grazing period, in an amount equal to 3 monthly payments using the monthly pay-
ment rate determined under sub-
paragraph (B).

“(4) ASSISTANCE FOR LOSSES DUE TO FIRE ON
PUBLIC MANAGED LAND.—

“(A) IN GENERAL.—An eligible livestock
producer may receive assistance under this
paragraph only if—

“(i) the grazing losses occur on range-
land that is managed by a Federal agency;
and

“(ii) the eligible livestock producer is
prohibited by the Federal agency from
grazing the normal permitted livestock on
the managed rangeland due to a fire.

“(B) PAYMENT RATE.—The payment rate
for assistance under this paragraph shall be
equal to 50 percent of the monthly feed cost for
the total number of livestock covered by the
Federal lease of the eligible livestock producer,
as determined under paragraph (3)(C).

“(C) PAYMENT DURATION.—

“(i) IN GENERAL.—Subject to clause
(ii), an eligible livestock producer shall be
eligible to receive assistance under this
paragraph for the period—
“(I) beginning on the date on which the Federal agency excludes the eligible livestock producer from using the managed rangeland for grazing; and

“(II) ending on the last day of the Federal lease of the eligible livestock producer.

“(ii) LIMITATION.—An eligible livestock producer may only receive assistance under this paragraph for losses that occur on not more than 180 days per year.

“(5) NO DUPLICATIVE PAYMENTS.—

“(A) IN GENERAL.—An eligible livestock producer may elect to receive assistance for grazing or pasture feed losses due to drought conditions under paragraph (3) or fire under paragraph (4), but not both for the same loss, as determined by the Secretary.

“(B) RELATIONSHIP TO OTHER ASSISTANCE.—An eligible livestock producer that receives assistance under this subsection may not also receive assistance for losses to crops on the same land with the same intended use.
“(d) Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish.—

“(1) In general.—For each of the fiscal years 2012 through 2017, the Secretary shall use not more than $20,000,000 of the funds of the Commodity Credit Corporation to provide emergency relief to eligible producers of livestock, honey bees, and farm-raised fish to aid in the reduction of losses due to disease, adverse weather, or other conditions, such as blizzards and wildfires, as determined by the Secretary, that are not covered under subsection (b) or (c).

“(2) Use of funds.—Funds made available under this subsection shall be used to reduce losses caused by feed or water shortages, disease, or other factors as determined by the Secretary.

“(3) Availability of funds.—Any funds made available under this subsection shall remain available until expended.

“(e) Payment Limitations.—

“(1) Definitions of legal entity and person.—In this subsection, the terms ‘legal entity’ and ‘person’ have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7
U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

“(2) AMOUNT.—The total amount of disaster assistance payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this section may not exceed $100,000 for any crop year.

“(3) DIRECT ATTRIBUTION.—Subsections (e) and (f) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) or any successor provisions relating to direct attribution shall apply with respect to assistance provided under this section.”.