

Union Calendar No. 315

111TH CONGRESS
2^D SESSION

H. R. 1264

[Report No. 111-551]

To amend the National Flood Insurance Act of 1968 to provide for the national flood insurance program to make available multiperil coverage for damage resulting from windstorms or floods, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2009

Mr. TAYLOR (for himself, Ms. WATERS, Mr. MELANCON, Mr. SCALISE, Mr. CHILDERS, Mr. HASTINGS of Florida, Ms. ROS-LEHTINEN, Ms. JACKSON-LEE of Texas, Mr. BARROW, Mrs. MALONEY, Mrs. CHRISTENSEN, Mr. BERRY, Mr. CLEAVER, Mr. COHEN, and Ms. KILPATRICK of Michigan) introduced the following bill; which was referred to the Committee on Financial Services

JULY 19, 2010

Additional sponsors: Mr. MILLER of Florida, Mr. AL GREEN of Texas, Mr. BISHOP of New York, Mr. DAVIS of Alabama, Mr. BONNER, Mr. HARPER, Mr. GRAYSON, and Mr. JONES

JULY 19, 2010

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

To amend the National Flood Insurance Act of 1968 to provide for the national flood insurance program to make available multiperil coverage for damage resulting from windstorms or floods, 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 “Multiple Peril Insur-
5 ance Act of 2009”.

6 **SEC. 2. COVERAGE FOR WINDSTORMS.**

7 Section 1304 of the National Flood Insurance Act of
8 1968 (42 U.S.C. 4011) is amended—

9 (1) by redesignating subsection (c) as sub-
10 section (d); and

11 (2) by inserting after subsection (b) the fol-
12 lowing new subsection:

13 “(c) MULTIPERIL COVERAGE FOR DAMAGE FROM
14 FLOOD OR WINDSTORM AND SEPARATE COVERAGE FOR
15 WINDSTORM.—

16 “(1) IN GENERAL.—The national flood insur-
17 ance program established pursuant to subsection (a)
18 shall enable the purchase of the following coverages:

19 “(A) MULTIPERIL COVERAGE.—Optional
20 insurance against loss resulting from physical
21 damage to or loss of real property or personal
22 property related thereto located in the United
23 States arising from any flood or windstorm,
24 subject to the limitations in this subsection and
25 section 1306(b); and

1 “(B) SEPARATE WINDSTORM COVERAGE.—
2 Optional insurance against loss resulting from
3 physical damage to or loss of real property or
4 personal property related thereto located in the
5 United States arising from any windstorm, sub-
6 ject to the limitations in this subsection and
7 section 1306(b).

8 “(2) COMMUNITY PARTICIPATION REQUIRE-
9 MENT.—Multiperil coverage pursuant to paragraph
10 (1)(A) and windstorm coverage pursuant to para-
11 graph (1)(B) may not be provided in any area (or
12 subdivision thereof) unless an appropriate public
13 body shall have adopted adequate mitigation meas-
14 ures (with effective enforcement provisions) which
15 the Director finds are consistent with the criteria for
16 construction described in the International Code
17 Council building codes relating to wind mitigation.

18 “(3) RELATIONSHIP TO FLOOD INSURANCE
19 COVERAGE.—

20 “(A) PROHIBITION AGAINST DUPLICATIVE
21 COVERAGE.—Multiperil coverage pursuant to
22 paragraph (1)(A) may not be provided with re-
23 spect to any structure (or the personal property
24 related thereto) for any period during which
25 such structure is covered, at any time, by flood

1 insurance coverage made available under this
2 title.

3 “(B) REQUIREMENT TO MAINTAIN FLOOD
4 INSURANCE COVERAGE.—Windstorm coverage
5 pursuant to paragraph (1)(B) may be provided
6 only with respect to a structure (and the per-
7 sonal property related thereto) that is covered
8 by flood insurance coverage made available
9 under this title and only during the period that
10 such structure (and personal property) are so
11 covered.

12 “(4) NATURE OF COVERAGE.—

13 “(A) MULTIPERIL COVERAGE.—Multiperil
14 coverage pursuant to paragraph (1)(A) shall—

15 “(i) cover losses only from physical
16 damage resulting from flooding or wind-
17 storm; and

18 “(ii) provide for approval and pay-
19 ment of claims under such coverage upon
20 proof that such loss must have resulted
21 from either windstorm or flooding, but
22 shall not require for approval and payment
23 of a claim that the specific cause of the
24 loss, whether windstorm or flooding, be
25 distinguished or identified.

1 “(B) SEPARATE WINDSTORM COVERAGE.—

2 Windstorm coverage pursuant to paragraph

3 (1)(B) shall—

4 “(i) cover losses only from physical
5 damage resulting from windstorm; and

6 “(ii) provide for approval and pay-
7 ment of claims under such coverage or
8 under the flood insurance coverage re-
9 quired to be maintained under paragraph
10 (3)(B) upon a determination that such loss
11 from windstorm or flooding, respectively,
12 but shall not require for approval and pay-
13 ment of a claim that the insured distin-
14 guish or identify the specific cause of the
15 loss, whether windstorm or flooding.

16 “(5) ACTUARIAL RATES.—Multiperil coverage
17 pursuant to paragraph (1)(A) and windstorm cov-
18 erage pursuant to paragraph (1)(B) shall be made
19 available for purchase for a property only at charge-
20 able risk premium rates that, based on consideration
21 of the risks involved and accepted actuarial prin-
22 ciples, and including operating costs and allowance
23 and administrative expenses, are required in order to
24 make such coverage available on an actuarial basis
25 for the type and class of properties covered.

1 “(6) TERMS OF COVERAGE.—The Director
2 shall, after consultation with persons and entities re-
3 ferred to in section 1306(a), provide by regulation
4 for the general terms and conditions of insurability
5 applicable to properties eligible for multiperil cov-
6 erage pursuant to paragraph (1)(A) and such terms
7 and conditions applicable to properties eligible for
8 windstorm coverage pursuant to paragraph (1)(B),
9 subject to the provisions of this subsection, includ-
10 ing—

11 “(A) the types, classes, and locations of
12 any such properties which shall be eligible for
13 such coverages, which shall include residential
14 and nonresidential properties;

15 “(B) subject to paragraph (7), the nature
16 and limits of loss or damage in any areas (or
17 subdivisions thereof) which may be covered by
18 such coverages;

19 “(C) the classification, limitation, and re-
20 jection of any risks which may be advisable;

21 “(D) appropriate minimum premiums;

22 “(E) appropriate loss deductibles; and

23 “(F) any other terms and conditions relat-
24 ing to insurance coverage or exclusion that may
25 be necessary to carry out this subsection.

1 “(7) LIMITATIONS ON AMOUNT OF COV-
2 ERAGE.—

3 “(A) MULTIPERIL COVERAGE.—The regu-
4 lations issued pursuant to paragraph (6) shall
5 provide that the aggregate liability under
6 multiperil coverage made available under this
7 subsection shall not exceed the lesser of the re-
8 placement cost for covered losses or the fol-
9 lowing amounts, as applicable:

10 “(i) RESIDENTIAL STRUCTURES.—In
11 the case of residential properties, which
12 shall include structures containing multiple
13 dwelling units that are made available for
14 occupancy by rental (notwithstanding any
15 treatment or classification of such prop-
16 erties for purposes of section 1306(b))—

17 “(I) for any single-family dwell-
18 ing, \$500,000;

19 “(II) for any structure containing
20 more than one dwelling unit,
21 \$500,000 for each separate dwelling
22 unit in the structure, which limit, in
23 the case of such a structure con-
24 taining multiple dwelling units that
25 are made available for occupancy by

1 rental, shall be applied so as to enable
2 any insured or applicant for insurance
3 to receive coverage for the structure
4 up to a total amount that is equal to
5 the product of the total number of
6 such rental dwelling units in such
7 property and the maximum coverage
8 limit per dwelling unit specified in
9 this clause; and

10 “(III) \$150,000 per dwelling unit
11 for—

12 “(aa) any contents related
13 to such unit; and

14 “(bb) any necessary in-
15 creases in living expenses in-
16 curred by the insured when losses
17 from flooding or windstorm make
18 the residence unfit to live in.

19 “(ii) NONRESIDENTIAL PROP-
20 erties.—In the case of nonresidential
21 properties (including church properties)—

22 “(I) \$1,000,000 for any single
23 structure; and

24 “(II) \$750,000 for—

1 “(aa) any contents related
2 to such structure; and

3 “(bb) in the case of any
4 nonresidential property that is a
5 business property, any losses re-
6 sulting from any partial or total
7 interruption of the insured’s
8 business caused by damage to, or
9 loss of, such property from flood-
10 ing or windstorm, except that for
11 purposes of such coverage, losses
12 shall be determined based on the
13 profits the covered business
14 would have earned, based on pre-
15 vious financial records, had the
16 flood or windstorm not occurred.

17 “(B) SEPARATE WINDSTORM COVERAGE.—

18 The regulations issued pursuant to paragraph
19 (6) shall provide that windstorm coverage pur-
20 suant to paragraph (1)(B) for a property shall
21 not exceed the amount such that the aggregate
22 liability under flood insurance coverage required
23 to be maintained under paragraph (3)(B) for
24 the property and such windstorm coverage for
25 the property does not exceed the applicable cov-

1 erage limit for the property set forth in sub-
2 paragraph (A) of this paragraph.

3 “(8) EFFECTIVE DATE.—This subsection shall
4 take effect on, and shall apply beginning on, the ex-
5 piration of the 6-month period that begins on the
6 date of the enactment of the Multiple Peril Insur-
7 ance Act of 2009.”.

8 **SEC. 3. PROHIBITION AGAINST DUPLICATIVE COVERAGE.**

9 The National Flood Insurance Act of 1968 is amend-
10 ed by inserting after section 1313 (42 U.S.C. 4020) the
11 following new section:

12 “PROHIBITION AGAINST DUPLICATIVE COVERAGE

13 “SEC. 1314. Flood insurance under this title may not
14 be provided with respect to any structure (or the personal
15 property related thereto) for any period during which such
16 structure is covered, at any time, by multiperil insurance
17 coverage made available pursuant to section
18 1304(c)(1)(A).”.

19 **SEC. 4. COMPLIANCE WITH STATE AND LOCAL LAW.**

20 Section 1316 of the National Flood Insurance Act of
21 1968 (42 U.S.C. 4023) is amended—

22 (1) by inserting “(a) FLOOD PROTECTION
23 MEASURES.—” before “No new”; and

24 (2) by adding at the end the following new sub-
25 section:

1 “(b) WINDSTORM PROTECTION MEASURES.—No new
 2 multiperil coverage shall be provided under section
 3 1304(c) for any property that the Director finds has been
 4 declared by a duly constituted State or local zoning au-
 5 thority, or other authorized public body to be in violation
 6 of State or local laws, regulations, or ordinances, which
 7 are intended to reduce damage caused by windstorms.”.

8 **SEC. 5. CRITERIA FOR LAND MANAGEMENT AND USE.**

9 Section 1361 of the National Flood Insurance Act of
 10 1968 (42 U.S.C. 4102) is amended by adding at the end
 11 the following new subsection:

12 “(d) WINDSTORMS.—

13 “(1) STUDIES AND INVESTIGATIONS.—The Di-
 14 rector shall carry out studies and investigations
 15 under this section to determine appropriate meas-
 16 ures in wind events as to wind hazard prevention,
 17 and may enter into contracts, agreements, and other
 18 appropriate arrangements to carry out such activi-
 19 ties. Such studies and investigations shall include
 20 laws, regulations, and ordinance relating to the or-
 21 derly development and use of areas subject to dam-
 22 age from windstorm risks, and zoning building
 23 codes, building permits, and subdivision and other
 24 building restrictions for such areas.

1 “(2) COORDINATION WITH STATE AND LOCAL
2 GOVERNMENTS.—The Director shall work closely
3 with and provide any necessary technical assistance
4 to State, interstate, and local governmental agencies,
5 to encourage the application of measures identified
6 pursuant to paragraph (1) and the adoption and en-
7 forcement of such measures.”.

8 **SEC. 6. DEFINITIONS.**

9 Section 1370 of the National Flood Insurance Act of
10 1968 (42 U.S.C. 4121) is amended—

11 (1) in paragraph (14), by striking “and” at the
12 end;

13 (2) in paragraph (15) by striking the period at
14 the end and inserting “; and”; and

15 (3) by adding at the end the following new
16 paragraph:

17 “(16) the term ‘windstorm’ means any hurri-
18 cane, tornado, cyclone, typhoon, or other wind
19 event.”.

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