

111TH CONGRESS
1ST SESSION

H. R. 1264

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

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”.

1 **SEC. 2. COVERAGE FOR WINDSTORMS.**

2 Section 1304 of the National Flood Insurance Act of
3 1968 (42 U.S.C. 4011) is amended—

4 (1) by redesignating subsection (c) as sub-
5 section (d); and

6 (2) by inserting after subsection (b) the fol-
7 lowing new subsection:

8 “(c) MULTIPERIL COVERAGE FOR DAMAGE FROM
9 FLOOD OR WINDSTORM AND SEPARATE COVERAGE FOR
10 WINDSTORM.—

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

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

21 “(B) SEPARATE WINDSTORM COVERAGE.—
22 Optional insurance against loss resulting from
23 physical damage to or loss of real property or
24 personal property related thereto located in the
25 United States arising from any windstorm, sub-

1 ject to the limitations in this subsection and
2 section 1306(b).

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

13 “(3) RELATIONSHIP TO FLOOD INSURANCE
14 COVERAGE.—

15 “(A) PROHIBITION AGAINST DUPLICATIVE
16 COVERAGE.—Multiperil coverage pursuant to
17 paragraph (1)(A) may not be provided with re-
18 spect to any structure (or the personal property
19 related thereto) for any period during which
20 such structure is covered, at any time, by flood
21 insurance coverage made available under this
22 title.

23 “(B) REQUIREMENT TO MAINTAIN FLOOD
24 INSURANCE COVERAGE.—Windstorm coverage
25 pursuant to paragraph (1)(B) may be provided

1 only with respect to a structure (and the per-
2 sonal property related thereto) that is covered
3 by flood insurance coverage made available
4 under this title and only during the period that
5 such structure (and personal property) are so
6 covered.

7 “(4) NATURE OF COVERAGE.—

8 “(A) MULTIPERIL COVERAGE.—Multiperil
9 coverage pursuant to paragraph (1)(A) shall—

10 “(i) cover losses only from physical
11 damage resulting from flooding or wind-
12 storm; and

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

21 “(B) SEPARATE WINDSTORM COVERAGE.—
22 Windstorm coverage pursuant to paragraph
23 (1)(B) shall—

24 “(i) cover losses only from physical
25 damage resulting from windstorm; and

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

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

21 “(6) TERMS OF COVERAGE.—The Director
22 shall, after consultation with persons and entities re-
23 ferred to in section 1306(a), provide by regulation
24 for the general terms and conditions of insurability
25 applicable to properties eligible for multiperil cov-

1 erage pursuant to paragraph (1)(A) and such terms
 2 and conditions applicable to properties eligible for
 3 windstorm coverage pursuant to paragraph (1)(B),
 4 subject to the provisions of this subsection, includ-
 5 ing—

6 “(A) the types, classes, and locations of
 7 any such properties which shall be eligible for
 8 such coverages, which shall include residential
 9 and nonresidential properties;

10 “(B) subject to paragraph (7), the nature
 11 and limits of loss or damage in any areas (or
 12 subdivisions thereof) which may be covered by
 13 such coverages;

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

16 “(D) appropriate minimum premiums;

17 “(E) appropriate loss deductibles; and

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

21 “(7) LIMITATIONS ON AMOUNT OF COV-
 22 ERAGE.—

23 “(A) MULTIPERIL COVERAGE.—The regu-
 24 lations issued pursuant to paragraph (6) shall
 25 provide that the aggregate liability under

1 multiperil coverage made available under this
2 subsection shall not exceed the lesser of the re-
3 placement cost for covered losses or the fol-
4 lowing amounts, as applicable:

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

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

14 “(II) for any structure containing
15 more than one dwelling unit,
16 \$500,000 for each separate dwelling
17 unit in the structure, which limit, in
18 the case of such a structure con-
19 taining multiple dwelling units that
20 are made available for occupancy by
21 rental, shall be applied so as to enable
22 any insured or applicant for insurance
23 to receive coverage for the structure
24 up to a total amount that is equal to
25 the product of the total number of

such rental dwelling units in such property and the maximum coverage limit per dwelling unit specified in this clause; and

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

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

“(bb) any necessary increases in living expenses incurred by the insured when losses from flooding or windstorm make the residence unfit to live in.

“(ii) NONRESIDENTIAL PROPERTIES.—In the case of nonresidential properties (including church properties)—

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

“(II) \$750,000 for—

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

“(bb) in the case of any nonresidential property that is a business property, any losses resulting from any partial or total

1 interruption of the insured's
2 business caused by damage to, or
3 loss of, such property from flood-
4 ing or windstorm, except that for
5 purposes of such coverage, losses
6 shall be determined based on the
7 profits the covered business
8 would have earned, based on pre-
9 vious financial records, had the
10 flood or windstorm not occurred.

11 “(B) SEPARATE WINDSTORM COVERAGE.—
12 The regulations issued pursuant to paragraph
13 (6) shall provide that windstorm coverage pur-
14 suant to paragraph (1)(B) for a property shall
15 not exceed the amount such that the aggregate
16 liability under flood insurance coverage required
17 to be maintained under paragraph (3)(B) for
18 the property and such windstorm coverage for
19 the property does not exceed the applicable cov-
20 erage limit for the property set forth in sub-
21 paragraph (A) of this paragraph.

22 “(8) EFFECTIVE DATE.—This subsection shall
23 take effect on, and shall apply beginning on, the ex-
24 piration of the 6-month period that begins on the

1 date of the enactment of the Multiple Peril Insur-
 2 ance Act of 2009.”.

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

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

7 “PROHIBITION AGAINST DUPLICATIVE COVERAGE

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

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

15 Section 1316 of the National Flood Insurance Act of
 16 1968 (42 U.S.C. 4023) is amended—

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

19 (2) by adding at the end the following new sub-
 20 section:

21 “(b) WINDSTORM PROTECTION MEASURES.—No new
 22 multiperil coverage shall be provided under section
 23 1304(c) for any property that the Director finds has been
 24 declared by a duly constituted State or local zoning au-
 25 thority, or other authorized public body to be in violation

1 of State or local laws, regulations, or ordinances, which
2 are intended to reduce damage caused by windstorms.”.

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

4 Section 1361 of the National Flood Insurance Act of
5 1968 (42 U.S.C. 4102) is amended by adding at the end
6 the following new subsection:

7 “(d) WINDSTORMS.—

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

20 “(2) COORDINATION WITH STATE AND LOCAL
21 GOVERNMENTS.—The Director shall work closely
22 with and provide any necessary technical assistance
23 to State, interstate, and local governmental agencies,
24 to encourage the application of measures identified

1 pursuant to paragraph (1) and the adoption and en-
2 forcement of such measures.”.

3 **SEC. 6. DEFINITIONS.**

4 Section 1370 of the National Flood Insurance Act of
5 1968 (42 U.S.C. 4121) is amended—

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

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

10 (3) by adding at the end the following new
11 paragraph:

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

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