

114TH CONGRESS
2D SESSION

H. R. 6434

To provide for more transparent and appropriate reimbursement of insurers participating in the Write Your Own program under the National Flood Insurance Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 5, 2016

Mr. PALLONE (for himself, Mr. PASCRELL, and Mr. PAYNE) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To provide for more transparent and appropriate reimbursement of insurers participating in the Write Your Own program under the National Flood Insurance Program, 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 “Flood Insurance Reim-
5 bursement Standards Transparency Cap Profits Act of
6 2016” or the “FIRST Cap Profits Act of 2016”.

1 **SEC. 2. IMPLEMENTATION OF OVERSIGHT AND EXPENSE**
2 **REIMBURSEMENT PROVISIONS FOR WRITE**
3 **YOUR OWN INSURERS.**

4 (a) **METHODOLOGY AND RULEMAKING.**—Not later
5 than the expiration of the 12-month period beginning on
6 the date of the enactment of this Act, the Administrator
7 of the Federal Emergency Management Agency (in this
8 Act referred to as the “Administrator”) and each property
9 and casualty insurance company participating in the Write
10 Your Own program (as such term is defined in section
11 100202 of the Biggert-Waters Flood Insurance Reform
12 Act of 2012 (42 U.S.C. 4004)), as applicable, shall comply
13 with and complete all requirements under subsections (a)
14 through (e) of section 100224 of the Biggert-Waters
15 Flood Insurance Reform Act of 2012 (42 U.S.C. 4081
16 note), as amended by section 3(a) of this Act, including
17 issuing a final rule under subsection (d) of such section
18 100224, notwithstanding any period of time specified in
19 such section 100224. The Administrator shall take such
20 actions as may be necessary to ensure such compliance.

21 (b) **GAO REPORT.**—Paragraph (1) of section
22 100224(f) of the Biggert-Waters Flood Insurance Reform
23 Act of 2012 (42 U.S.C. 4081 note) is amended by insert-
24 ing “of this section and section 2(a) of the Flood Insur-
25 ance Reimbursement Standards Transparency Cap Profits
26 Act of 2016” before the first comma.

1 **SEC. 3. WYO REIMBURSEMENT METHODOLOGY.**

2 (a) LIMITATION ON REIMBURSEMENTS.—Subsection
3 (b) of section 100204 of the Biggert-Waters Flood Insur-
4 ance Reform Act of 2012 (42 U.S.C. 4081 note) is amend-
5 ed by adding after and below paragraph (3) the following:
6 “Any such methodology developed shall provide that such
7 reimbursements for any property and casualty insurer for
8 selling, writing, and servicing flood insurance policies, and
9 adjusting flood insurance claims, including any allowances
10 for profit, shall not in any case exceed 110 percent of the
11 aggregate amount of such actual expenses of the insurer.”.

12 (b) SUBMISSION OF METHODOLOGY TO CONGRESS.—
13 Not later than the expiration of the 90-day period begin-
14 ning on the date of the enactment of this Act, the Admin-
15 istrator shall submit to the Congress the methodology re-
16 quired to be developed under section 100224(b) of the
17 Biggert-Waters Flood Insurance Reform Act of 2012 (42
18 U.S.C. 4081 note), as amended by subsection (a) of this
19 subsection, or, if such methodology has not been com-
20 pleted as of the time of such submission, the methodology
21 to the extent so completed and all information in the pos-
22 session of the Administrator regarding the development of
23 such methodology.

24 **SEC. 4. NONCOMPLIANCE.**

25 (a) TIMING FOR COMPLIANCE.—If—

1 (1) upon the expiration of the 12-month period
2 referred to section 2(a) of this Act, the Adminis-
3 trator has not issued the final rule required under
4 such section 2(a), or

5 (2) upon the expiration of the 90-day period re-
6 ferred to in section 3(b) of this Act, the Adminis-
7 trator has not submitted to the Congress the meth-
8 odology required under such section 3(b),
9 subsection (b) of this section shall take effect and shall
10 apply until such final rule has been issued or such method-
11 ology has been submitted, as the case may be.

12 (b) LIMITATIONS.—During any period that this sub-
13 section is in effect—

14 (1) the Administrator may not reimburse, or
15 otherwise provide any allowance, payment, or com-
16 pensation for selling, writing, or servicing flood in-
17 surance policies, or adjusting flood insurance claims,
18 including any allowance for profit, to any property
19 and casualty insurance company participating in the
20 Write Your Own program and shall withhold all
21 amounts for such reimbursements, allowance, pay-
22 ments, and compensation; and

23 (2) any claim under a flood insurance policy
24 serviced by an insurance company participating in
25 the Write Your Own program shall be adjusted and

1 serviced only by a direct servicing agent of the Fed-
2 eral Emergency Management Agency.

3 **SEC. 5. AWARD OF COSTS OF LITIGATION IN CASES OF WYO**
4 **FRAUD.**

5 Section 1345 of the National Flood Insurance Act of
6 1968 (42 U.S.C. 4083) is amended by adding at the end
7 the following new subsection:

8 “(f) AWARD OF COSTS OF LITIGATION IN CASES OF
9 WYO FRAUD.—If the plaintiff prevails in any civil action
10 for fraud or misrepresentation by any insurance company
11 occurring in the course of its participation in the Write
12 Your Own program (as such term is defined in section
13 100202 of the Biggert-Waters Flood Insurance Reform
14 Act of 2012 (42 U.S.C. 4004)), the court shall award costs
15 of litigation (including reasonable attorney and expert wit-
16 ness fees) to the plaintiff.”.

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