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Amendments to H.R. 5114 – Flood Insurance Reform Priorities Act of 2010

Order of Business: The bill is scheduled to be considered on July 15, 2010 under a structured rule (H.Res. 1517) that provides one hour of debate equally divided between the Chairman and ranking member of the Committee on Financial Services. The rule waives all points of order against consideration of the bill except for clauses 9 (earmark rule) and 10 (PAYGO) of rule XXI. The rule makes in order a total of 11 amendments, analyzed below.

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AMENDMENTS MADE IN ORDER UNDER THE RULE

- 1. Waters (D-CA).** This amendment would phase out subsidized premiums for properties that have been repeatedly severely damaged. It would expand the availability of the installment premium payment program to all policyholders. This amendment would also clarify that the FEMA Director may work directly with property owners to make mitigation grants for certain repetitive loss properties where states or communities are either unable or unwilling to address repetitive loss issues with a property owner. The FEMA Director would also be allowed to use demolition and rebuilding as mitigation techniques. It would allow commercial properties with swimming pools located below the base flood level to enclose those pools with breakaway walls, when not in hurricane season. The amendment would also require FEMA to facilitate the sharing of best-practices with respect to creation and updating of flood-plain maps.

The amendment would require that there be established a national arbitration panel regarding flood map modernization. Panel members would consist of a representative from FEMA, flood insurance experts, and experts in real estate development, structural engineering and elsewhere. The purpose of the panel would be to allow individuals or communities impacted by flood map revision to challenge the revision.

The amendment also permits subsidized flood insurance to be provided to policy holders that have deliberately let the coverage lapse. It would direct the Administrator of FEMA to submit to Congress a report detailing a plan for updating the floodplain areas and flood-risk zones of the National Flood Insurance Act. It would also require that the Director notify each state's senators and members of the House of Representatives when any revision or update of any floodplain area or flood-risk zone is updated in their state. A study would be required on the impact of working waterfronts on storm and flood risk. Another study, and congressional report, would be required to review the impacts of significant flooding events on the financial soundness of the NFIP.

If any state, the Army Corps of Engineers, or any other entity improves any levee system that therefore eliminates the risk of flooding to the protected area, the Director would have to revise and update the floodplain areas and flood risk zones, and the flood insurance maps, and would have to make this updated information available to the affected community. This amendment would be required to be implemented no later than 18 months after the enactment of H.R. 5114.

2. **Putnam (R-FL).** This amendment would require the FEMA Director to submit an annual report to the House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs on the effectiveness of grants awarded under the bill (per the outreach to property owners and renters program created by the bill) to local government agencies, the activities conducted using such grant amounts, and the effect of the activities on the retention or acquisition of flood insurance coverage.
3. **Driehaus (D-OH), Welch (D-VT), Hinchey (D-NY).** According to the sponsors of this amendment: "This amendment corrects a longstanding injustice to the 38,900 property owners, from every state in the Union, who since FY07 have successfully petitioned the removal of their property from a flood zone through an exemption process called Letters of Map Amendment (LOMA). It is unfair that property owners are burdened with both the appeal process and the surveying and engineering fees. This amendment would compel FEMA to reimburse property owners, or their communities acting on their behalf, for any expenses they incurred in order to file for a LOMA if they are successful in petitioning the exclusion of their property from a flood zone."

The amendment does not include any limits on the amounts of such reimbursements, or prescribe a certain period of time of eligibility for the reimbursements.

4. **Flake (R-AZ).** This amendment would prohibit grant funding in the bill to be used for congressional earmarks, as defined in clause 9(e) of Rule XXI of the Rules of the House of Representatives.

5. **Taylor (D-MS).** The amendment would prohibit the Write Your Own (WYO) insurance companies that contract with National Flood Insurance Program (NFIP) from denying coverage of wind damage under their own policies in cases where flooding also caused damage to the property. The amendment would establish certain criteria for adjustment by WYO insurers when there are claims on the same property, from the same event, for flood damage covered by NFIP and for wind damage covered by the WYO insurer.

Potential Conservative Concern: Some conservatives may believe that this amendment would limit competition and leave insurance consumers with fewer options. Some conservatives may also be concerned that the amendment would increase taxpayer liabilities under the NFIP program (while the program is in debt to the Treasury by more than \$18 billion).

6. **Miller (R-MI).** The amendment would direct the Comptroller General to conduct a study on ways that the private insurance market can contribute to insuring against flood damage; the impact of the NFIP if communities decide not to participate in the program; and the feasibility of regionalizing the NFIP and ensuring that there is no cross-subsidization between regions under such program. A report would be required to be sent to Congress not later than one year after the date of enactment.
7. **Boswell (D-IA).** The amendment would add to notice requirements for state and local governments a requirement that local occupants have relevant information on appropriate evacuation routes. The legislation also amends the outreach to property owners and renters program, created by the underlying bill, to require the notification of where to obtain flood insurance coverage.
8. **Hill (D-IN).** The amendment would add “identify ways to assist communities in efforts to fund the accreditation of flood protection systems” as one of the functions of the Flood Insurance Advocate.
9. **Loebsack (D-IA).** The amendment requires notification of a local television and radio station for proposed flood elevation determinations.
10. **McMahon (D-NY).** The amendment amends the outreach to property owners and renters program, created by the underlying bill, to include as an acceptable outreach activity: “educate local real estate agents in communities participating in the national flood insurance program regarding the program and the availability of coverage under the program for owners and renters of properties in such communities, and establish coordination and liaisons with such real estate to facilitate purchase of coverage under this Act and increase awareness of flood risk reduction.”
11. **Murphy (D-NY).** The amendment requires that all funds authorized under this Act or any amendments made by this Act be expended in a manner that is consistent with the manual on Standards of Ethical Conduct for Employees of the Executive Branch.