

Statement of the
National Association of Professional Insurance Agents

Submitted to the
Committee on Banking, Housing and Urban Affairs
United States Senate

Regarding:
The Future of the National Flood Insurance Program

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The National Association of Professional Insurance Agents represents independent insurance agents in all 50 states, Puerto Rico and the District of Columbia. Our member agents sell and service all kinds of insurance, specializing in personal lines and commercial lines.

Many PIA member insurance agents are active in selling policies backed by the National Flood Insurance Program (NFIP). In addition to PIA's current level of involvement with the NFIP both through the active participation of our members in NFIP programs, PIA has been active in public policy development regarding issues relating to flood insurance since before the inception of the NFIP.

This testimony reflects PIA National's internal expertise developed over the years of its regular participation in the National Flood Insurance Program process and the collective experiences of PIA members who write flood insurance through NFIP.

PIA is also a founding member of the Flood Insurance Producers National Committee (NFIP). FIPNC was organized by the then-Federal Insurance Administration (FIA) for the purpose of providing expert guidance from insurance agents that each day write federal flood insurance business as a regular part of their larger property and casualty insurance agency business.

Further, by asking PIA national and other producer trade associations to appoint the FIPNC member liaison, FIA (now FEMA) and the agent liaison has the support and access of the broad national membership of PIA and their collective and regional experiences with the NFIP, so that FIPNC presents a more holistic reality.

Profile of the PIA Member Agency

PIA National members are the owner-principals of their independent insurance agencies. They employ an average of seven to eleven full-time individuals including themselves, who are licensed as insurance producers. Additionally, they employ two to four

individuals who are not licensed producers. PIA members represent an average of between five and ten property and casualty carriers, and two to three life and health carriers.

PIA & The National Flood Insurance Program – Background

In the 1960's PIA (then known as The National Association of Mutual Insurance Agents) believed that with the proper underwriting, countrywide rate zoning and special treatments for reserves for catastrophic losses, flood and earthquake insurance could be provided to property owners. For many reasons this goal was not possible to achieve through private sector insurance, and therefore PIA led successful efforts to create a federal insurance program providing needed flood coverage for homes and businesses. PIA members in the District of Columbia, Virginia and Maryland wrote the first 100 policies sold under the National Flood Insurance Program following its establishment by Congress in 1968.

The Future of the NFIP

The following is a discussion of the leading issues PIA National believes are critical to a viable and successful NFIP program in the future that achieves the desired outcomes for insureds and communities.

1. NFIP Buy-Back After Flooding

In the aftermath of the recent twin natural catastrophes, Hurricane Katrina and Hurricane Rita, discussion has ensued as to the best way to insure properties against damage from flooding.

PIA strongly supports action by the federal government to help the victims of these catastrophes rebuild their lives. It is also critical that disaster relief efforts address the need to stabilize the economies of our Gulf Coast states, as part of a comprehensive program of community redevelopment. Further, rebuilding is crucial to the economy

of the entire Southeastern section of our country. That is what federal disaster assistance is meant to do. Federal disaster monies used in this effort are an investment by all U.S. taxpayers in the continuing vitality of the entire U.S. economy. Recently, draft legislation (H.R. 3922) was introduced in the House of Representatives that seeks to provide disaster assistance to the victims of flooding, but would do so in a manner that PIA National believes to be problematic.

While we support the objective of providing such assistance embodied in the Hurricane Katrina and Hurricane Rita Flood Insurance Buy-In Act (H.R. 3922) and while we appreciate the goals intended by its principal author Rep. Taylor of Mississippi, we believe such an NFIP after-the-fact insurance coverage buy-back offer from Congress to those that lost or had damage to their property in Katrina and/or Rita is a well intentioned error.

In addition to this being anathema to the entire concept of insurance – defined as covering the potential of possible loss – this legislative proposal directly conflicts with the very specific expressed mandates that Congress has set in place for the NFIP to include property owner and mortgage lender obligations, and provide penalties for failing to meet these obligations. These have been imposed by Congress to provide similar incentives as those established by lenders, and have existed for over 125 years between and among property owners and mortgage lenders in the general private sector property insurance market.

Further, the buy-back penalties that would need to be imposed upon citizens taking advantage of H.R. 3922 would result in many receiving little. This would fail to serve the necessary financial scope of the cost of rebuilding, and unintentionally place a burden few could afford to bear.

However, we believe it may be worth considering using the facilities and in-place process of the NFIP to “deliver” through it the already earmarked federal disaster relief monies that would be going to these affected property owners for the purpose of rebuilding.

In this way, the federal government has an established vehicle to deliver this aid. FEMA can then track such building locations and make as an obligation of these relief payments that the rebuilt structures secure and continue to maintain NFIP insurance, ensuring that all such rebuilt structures are maintained to flood mitigation standards.

Should owners elect not to rebuild, NFIP could then track those “plots” to assure any future owner secures and maintains continuous NFIP coverage, and complies with flood mitigation requirements.

In this way Congress achieves both goals: immediate aid relief and future flood coverage protection, without sacrificing the integrity of the insurance aspects of the NFIP, ensuring current insurance premium reserves created by those that did buy coverage before events, and expand compliance and mitigation in the future.

2. NFIP Authorization

PIA National firmly believes that the NFIP must continue to have multi-year authorization by Congress for its various authorities in order to operate a balanced, orderly program with continuity.

A five-year authorization is attainable and desirable for the program’s sake and fully responsive to Congress’ evaluation obligations.

This position is unanimously adopted by all member-organizations of FIPNC, and one supported by PIA national policy.

Congressional and NFIP Monies

Administration/Operating Costs: Monies earmarked for NFIP administration by Congress should be exclusively secured and retained for NFIP’s direct expenses and maintenance. Monies for these purposes will be a combination of a portion of the

insurance premiums costs paid by policyholders – and – Congressional budget appropriations.

NFIP should not have its entire year-to-year “agency” operating/administrative costs born by the NFIP policyholders, because as a federal program, there are unique costs that are the pure and particular costs of running the Federal Government. No other class of “benefits” recipients of any federal government program for any agency bears that full “agency administrative costs load” in their program – nor should they.

Additionally, monies to support FEMA/FIMA and their agency role in the Department of Homeland Security should not come from NFIP monies secured, authorized or collected for purposes to direct NFIP programs, especially when they are monies from the reserve accounts. These should be included in the portion of FEMA/NFIP annually appropriated administrative monies.

PIA National appreciates that Congress must be prudent, but realistic as to the costs of both running and supporting the NFIP. Therefore, the extraordinary expenses that FEMA for NFIP is currently bearing for an extraordinary event, the scope of which could not be realistically imagined, should come from the federal disaster relief monies being provided FEMA in future events.

Secured Premium Reserves: Further, the NFIP insurance premiums paid by property owners to insure for flooding should be paid into and *secured* in reserve *to include* the interest income earned on those premium monies, and *only* used for purposes directly related to NFIP flood loss events. Congress or non-direct NFIP FEMA operations and/or Department of Homeland Security should not bleed off *any* of these funds (to include interest) for use as offsets to the annual federal budget appropriations deficit in the portion of NFIP operation dollars, or other uses. This unfortunately has been an issue over the years, leaving NFIP premium reserves appearing insufficient in the face of “normal” major flooding events.

At those times when Congress has “tapped the NFIP reserve till,” it viewed NFIP premium account monies as “over-reserved.” When created, Congress understood that the NFIP was designed to operate more than not as a traditional insurance program, collecting and reserving monies for flood events. As such, it is a given that some years will result in the cost of flood claims exceeding the premium collected that year, and perhaps the reserves at hand. However, there will be other years where flood losses will be low, giving the premium reserve and interest income account time to grow. Unlike private sector insurers, NFIP has no “other “ insurance premium reserves from which to draw from when claims events exceed the specific coverage line reserves collected.

Current deficiencies in NFIP premium reserves-to-covered flood events payouts would be far less dramatic had NFIP former reserves not been tapped to offset basic agency-program operating costs. Congress significantly decreased FIMA’s ongoing regular administrative costs. The unambiguous inference/suggestion to FIMA was that the NFIP “over-reserved” premiums could be diverted as the source for agency administrative funds shortfall.

All members and their respective organizations of FIPNC also support these positions.

Lessons Learned Must be Acted Upon

Private Sector Property Policy vs. NFIP: If there is one general area that must be reviewed, it is: How different from private sector insurance property coverages (to include their meaning and practice) should the NFIP insurance policies, coverages, meanings and practices be? While there are many items PIA National would suggest – the following are a few of the major considerations at this time:

(1) NFIP building property insurance limits maximums for all classes of property able to be insured must be increased. Current limits are increasingly

inadequate and with today's values and adjusting for inflation since 1968, provide less real dollar coverage.

(2) For non-commercial properties, PIA National strongly suggests that NFIP consider including automatic coverage for contents per some percentage of the building amount insured for flood. Currently, building/residence contents are not covered in an NFIP policy unless the insured specifically decides to include that coverage and cost in their NFIP policy. Most all in the NFIP program have building coverage, but fewer than should have contents coverage, electing instead to “save their money.” However when a loss ensues, people forget and confuse the manner in which private sector homeowners insurance responds to a loss (building value covered automatically sets 50% of that for contents, 10% for outer structures and 20% for additional living expenses) with how NFIP insurance really works. Consumers' claims settlement expectation is that contents will be covered as a percentage of the building value covered. And when that does not happen, issues may arise from their disappointment.

(3) NFIP should consider adding or coordinating flood coverage for commercial policies in the area of business interruption insurance. BII coverage is now only available in the private sector property market on a covered peril basis. Flood is not a covered peril in the private sector, and thus in Katrina/Rita businesses, especially small-to-mid-size owners who purchased the coverage as a part of their Business Owner Policy in the private sector were not able to have the coverage apply to their ongoing business cost needs in the flooding aftermath.

(4) Separating Insurance from Government Assistance: PIA National never forgets that NFIP is a federal program, and as such may be subject to and need to consider federal government assistance for specific limited areas with buildings and property owners that require NFIP coverage, but may have mitigation and/or true needs-affordability issues. Congress will, as always, decide who, what, where and when. However, when those are identified and Congress decides to make these rare accommodations that should be understood clearly as exceptions, this should not drive changes in the overall NFIP program/operations, but be dealt and managed as NFIP

matters would regularly – and then have the government assistance applied to those exceptions cases – nothing their uniqueness.

In a comprehensive NFIP program, where the rules are consistently applied, there will be some property owners that will fall into federal government needs testing when the regular NFIP premium is calculated for their properties. In these circumstances, the NFIP premiums should stand, but these individuals should receive the government assistance decided by Congress to help offset their NFIP costs.

Similarly, there may be certain long-term critical housing or historic properties that have long-stood in flood designated areas, and in Congress' view be permitted to have special exceptions granted. Again, these would be designated as such in NFIP so that Congress does not confuse their special treatments with the balance of the regular NFIP program.

Such are the exceptions one must reasonably expect and provide for in a government program. However, these neither are nor ever should be the exceptions that drive the final nature of program-wide changes to NFIP.

NFIP- States and Municipal Governments

State and municipal governments must:

1. Work with the NFIP (FEMA/FIMA) to more thoroughly assure their understanding of and support for the technical needs of NFIP risk management.
2. Work with the federal government to update mutual property/zone mapping responsibilities and results. State and local governments have just as much invested in the accuracy and access to such maps – traditional to the duty and control of local authorities.
3. Work with survey employees, independent firms and independent contractors to be up to date on what the elements on the elevation certificate mean, how they need to be secured, why their professional signed opinion is necessary,

and determine causes of the extraordinary spike in elevation certificate expenses being passed on to consumers.

4. In addition, PIA believes that the flood requirements of the NFIP Elevation Certificate should become a normal and regular part of the official property recordings for plot/pre-building/final site public filing. With this, communities should also forge an increased working partnership with flood plain managers to more completely follow their guidance on building issues as they relate to flood. These would combine to make moot the current NFIP elevation certificate as a unique and separate process. Instead, communities would be imposing flood compliance in their regular property activities from the first step, requiring all land use and projects to meet or exceed Base Flood Elevation. These were the original goals of the NFIP process.
5. Identify the infrastructure improvements required in their state for flood prevention structures such as – levy, dikes, canals, over-spills and others, and work with federal agencies to secure joint-funding.
6. Work on evolved, improved flood plain management emerging issues such as the alarming increase in the number of LOMRs, LOMAs and such that are being approved. An increasing number of these may pass local “landfill” requirements. However, many of those requirements were set for sanitation/pollution/contamination concerns and do not sufficiently address flood-worthiness standards. Additionally, some of these exceptions are secured based upon vacant land use that does not conceive the future use to which the land may be placed.
7. Work out a more successful approach to the use, protection and flood-recovery for certain lands/properties that pre-date and/or are by other means grandfathered by the NFIP program and its terms.

PIA appreciates that such locations are believed to have significant value or meaning to the history, the economy or homestead needs of an area and its populations. However, the number of lands and properties in these classes must remain limited by their very nature. Their treatment under NFIP/federal disaster needs must be addressed from the perspective of a government benefit program.

PIA asks that Congress no longer place FEMA/FIMA, NFIP and/or the insurance participants in a “no-win” position.

Currently, the difficulties are that on the one hand, Congress expects NFIP to treat such exceptions as “regular insuring prospects” to be underwritten, rated and serviced as all other properties under NFIP. PIA does not believe that they can ever be treated as such, and many times should not be treated as such. On the other hand, Congress responds with confusion and anger when such properties are identified and treated as the significant flood-exposed uninsurable properties they are under the traditional application of NFIP standards. This is at the same time that Congress laments the number of repetitive flood-loss payouts.

Insurance Sector and FEMA/FIMA - Recommendations

1. Having worked with FEMA on the development of NFIP Continuing Education guidelines, PIA National with Rita Hollada, our national NFIP representative, we are completing a series of educational offerings with and for PIA members in conjunction with our PIA affiliates. In addition to insurance producers, PIA National believes many more persons involved with the NFIP program (to include FEMA employees) should participate in the CE offerings that meet FEMA guidelines, because knowledge about the NFIP is all of our collective responsibility.

2. Continue to resolve needed improvements in the areas of policy form language, underwriting procedures, rating and claims services.
3. Increase coordination and compatibility between/among NFIP, insurance and lender evaluations of properties.
4. Continue to work on finding solutions to a growing number of conflicts between federal legal views and framework of the NFIP verses related specific areas under state law.
5. Respond to the reasonable level of carrier reimbursement for the usual and required expenses of the NFIP. These levels should, as they are, be subject to pre-set standards and periodic review and when needed adjustment. However, limiting or decreasing these reimbursements as federal cost-saving mechanisms cannot be allowed.

Insurance Agents and Carriers – Recommendations

PIA encourages its members to actively write flood insurance coverage for their clients or know through their carriers or association programs quality agencies that write this business and to which they can refer their clients.

1. In doing so, agents should exercise their internal Errors & Omissions procedures to document the discussions about flood insurance, the fact that coverage was offered or a referral was made, and with the consumer/client document the client's acceptance or decline of this offer.
2. Carriers and agents should write a lot of this business or know a qualified local agent that does to direct their customers to.

3. PIA supports Departments of Insurance granting continuing education credits (CE) for both in-classroom, long-distance, and qualified self-study courses for flood insurance.
4. Carriers and vendors that write NFIP business through and with insurance producers must take (as many do but not all) an active role in providing quality underwriting, rating, processing and claims service, as well as coverage/practice education to their producers on flood insurance.
5. These education programs must be directed by qualified instructors that understand both the NFIP program *and* the traditional private sector insurance property coverage and legal environment in which flood insurance coverage, producers, carriers, lenders, determination companies, surveyors, flood plan managers and others find themselves.

Coordination with Related Programs

PIA National believes that the NFIP is the appropriate structure for insuring flood losses. Going forward, Congress may consider a comprehensive, coordinated natural disaster catastrophe program. The widespread devastation caused by Hurricane Katrina serves as an awesome reminder that neither one state nor a regional grouping of states can fund or support a catastrophe reserve fund. In September 2005 PIA National again outlined the elements of such a proposal and urged Congress to enact it. We point out here that such a catastrophe funding mechanism should neither encompass nor subsume the NFIP.

Additionally, PIA National is on record strongly supporting extension of the Terrorism Risk Insurance Act (TRIA). We believe TRIA must be extended, but that it must be treated as it is now – a specific, distinct program that cannot be paired with a natural disaster catastrophe program or the NFIP.

Conclusion

PIA hopes that by working together with the many private sector groups, public interest entities, together with local, state and federal government agencies and Congress, our

suggestions for NFIP's improvements will continue to support and improve this vital, needed federal program.

Certainly, the outline developed for the internal review/study of the NFIP provides all of us with a starting point for these ongoing discussions. Our comments here connect PIA's knowledge to the related areas in the suggested NFIP study outline that Congress has requested.

PIA looks forward to expanding our continuing working efforts with NFIP parties at interest, to Congress and the vendors for the NFIP study.