



Consumer Federation of America

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CONSUMER FEDERATION OF AMERICA CALLS ON HOUSE LEADERS TO STOP INSURANCE COMPANIES FROM ABUSING FLOOD INSURANCE PROGRAM

As the House Financial Services Committee prepares legislation to restructure the National Flood Insurance Program (NFIP), the Consumer Federation of America (CFA) today called on Chairman Barney Frank and Ranking Member Spencer Bachus to prevent insurance companies from shifting the cost of homeowners' claims for wind damage that they should be paying to the taxpayer-backed flood program. In a letter earlier this month, CFA urged Frank and Bachus to forbid "write your own" (WYO) insurance companies that offer flood coverage from using egregious "anti-concurrent causation" (ACC) clauses in their homeowners' policies to refuse to pay legitimate wind claims in the first place.

At a hearing held by the House Financial Services Oversight Subcommittee on February 28th, Mississippi Attorney General Jim Hood testified that a number of insurance companies operating on the Gulf Coast had tried to escape paying legitimate homeowners' claims after Hurricane Katrina through the use of ACC clauses. Although the ACC clauses were invalidated by a Mississippi judge, insurers intended to refuse to pay wind damage caused by the hurricane if flooding occurred at about the same time, even if the flood hit hours after a home was damaged by wind. The court ruling only affected insurers in Mississippi, so insurers may still be using ACC clauses in other states in the region.

In some cases, particularly those involving the complete destruction of a home down to a slab, insurers did not even seriously study or "adjust" the claim, declaring the wind coverage to be trumped by the flood. Such cases often lead to the payment of full flood coverage, even if all or some of the losses paid by the NFIP were really caused by wind damage that should have been paid by insurers under a homeowner's policy.

"Write your own insurers are paid handsomely to provide taxpayer backed flood insurance, but they have a conflict-of-interest when they also sell wind coverage," said J. Robert Hunter, CFA's Director of Insurance and former Texas Insurance Commissioner who also ran the NFIP in the 1970s. "Consider a \$200,000 home that is covered fully by both a WYO company's homeowner's policy and by a flood policy. Let's say that hurricane winds strike the home for several hours, causing \$150,000 worth of damage. Two hours later a flood hits, causing an additional \$25,000 in damage for a total damage of \$175,000. If the WYO insurer has an ACC in the policy, the wind claim would be denied and taxpayers would likely pay \$175,000 when they should only pay \$25,000. Further, flood insurance rates charged to all consumers near the coasts would likely rise to cover this new and unexpected risk."

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“The solution to this problem that is both fair to taxpayers and humane to homeowners is to eliminate the conflict-of-interest that WYO insurers have,” said Travis Plunkett, CFA’s Legislative Director. “The federal government should declare that, in order to be a WYO company, an insurer must not place any requirements in private policies that would cause taxpayers to pay any part of a claim that should have been paid by the private policy,” he said. “WYO companies should readily accept this law. They make a good income, with no risk, servicing the NFIP. They should not be shifting illegitimate costs to the NFIP.”

“Should these companies balk at such a requirement,” said Hunter, “the program has a direct servicing entity in place that could handle NFIP policies.” Hunter noted that the direct servicing is a tested alternative to the WYO coverage because the NFIP used only direct placement from 1976 to 1984. According to Hunter, the direct program costs about one-half as much per policy to administer as with WYO insurers.

CFA’s letter to Chairman Frank and Ranking Member Bachus can be found at: http://www.consumerfed.org/pdfs/Insurance_WYO_House_Letter031207.pdf CFA is a non-profit association of 300 organizations that, since 1968, has sought to advance the consumer interest through research, advocacy and education.