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H.R. 1264—Multiple Peril Insurance Act

Key Conservative Concerns

Take-Away Points

- Expands Program that Already Owes Treasury \$19 Billion:** The National Flood Insurance Program (NFIP) currently owes the Treasury \$19 billion. Many conservatives may believe that the program should be reformed before it takes on new functions.
- Insurance Already Available in Private Market.** The legislation risks undermining the existing private market for wind insurance. As stated in the Dissenting Views section of the Committee Report: “Federal government insurance would supplant insurance that is already provided by the private market.”
- Could Increase Cost of Insurance for Consumers.** The legislation could increase the cost of insurance for consumers. The Administration’s SAP notes that the legislation’s actuarial rates requirement means that the insurance offered may be more expensive than what is already available through the private market.

For more details on these concerns, see below.

**H.R. 1264—Multiple Peril Insurance Act
 (Rep. Taylor, D-MS)**

Order of Business: The legislation is scheduled to be considered on July 22, 2010 under a closed rule that provides one hour of debate equally divided and controlled by the chair and ranking member of the Committee on Financial Services, waives all points of order against consideration of the bill except those arising under clause 9 (earmark rule) or 10 (“PAYGO”) of rule XXI.

Summary: H.R. 1264 expands the National Flood Insurance Program (NFIP) by offering government-provided windstorm coverage, and multiple peril coverage, under the program.
 Highlights of H.R. 1264:

Government Wind and Multiple Peril Insurance Coverage: The legislation would require the National Flood Insurance Program (NFIP) to include the following types of coverage:

- **Multiple Peril Coverage:** Insurance against loss resulting from physical damage arising from any *flood* or *windstorm*.
- **Separate Windstorm Coverage:** Insurance coverage against loss resulting from physical damage to or loss of real property or personal property arising from any *windstorm*.

Community Participation Requirement: The insurance coverage made available by H.R. 1264 would only apply to properties in communities that adopt measures consistent with international building codes.

Prohibition Against Duplicative Coverage: The legislation prohibits flood insurance from being provided to any property that is already covered by multiple peril insurance.

Requirement to Hold Flood Insurance: To be eligible for the windstorm coverage under H.R. 1264, a property would have to be covered by flood insurance.

Actuarial Rates: The legislation directs the NFIP to charge actuarial premiums (for the type and class of properties covered) for multiple peril coverage/windstorm coverage made available under the bill. CBO explains the impact of this directive on the federal budget as follows:

The timing and magnitude of future claims payments cannot be forecast with certainty because of the nature of actuarial pricing and the uncertainty about when damages might occur that would result in claims. The NFIP might collect aggregate premiums that are above or below amounts necessary to pay expenses in a given year (particularly if a major event were to occur soon after enactment of the legislation) and over time. In years that the program collects more premiums than necessary to meet ongoing costs, the NFIP would record a surplus (recorded in the budget as a net reduction in direct spending). In years of insufficient premium collection, the program would draw upon its reserves or available borrowing authority from the Treasury (recorded in the budget as an increase in direct spending).

In the Committee Report Dissenting Views, it is argued that only those most at-risk to wind damage would be likely to participate in the program, thus taxpayer exposure in the event of a severe hurricane could be enormous.

The Administration's SAP argues that requiring actuarial rates could mean that government-provided insurance (as made available under H.R. 1264) might have to charge rates in excess of what is currently available in the private-sector.

Policy Limits: The legislation requires the FEMA Director to issue regulations setting policy limits as follows:

- **Residential Policy Limits:** \$500,000 for the property structure, \$150,000 for the contents
- **Nonresidential Policy Limits:** \$1 million for the property structure, \$750,000 for contents and business interruption.

Terms of Coverage: The legislation requires the FEMA Director to issue regulations concerning the general terms and conditions of insurability applicable to properties eligible for multiple peril coverage/windstorm coverage:

- The types, classes, and locations of properties to be eligible for coverage, which shall include residential and nonresidential properties;
- The classification, limitation, and rejection of any risks which may be advisable;
- Appropriate minimum premiums; and
- Appropriate loss deductibles.

Studies and Investigations: The legislation requires the Director to conduct “investigations to determine appropriate measures in wind events as to wind hazard prevention, and may enter into contracts, agreements, and other appropriate arrangements to carry out such activities...”

Additional Background: The National Flood Insurance Program (NFIP) was created by Congress in 1968 to provide insurance as an alternative to direct federal disaster assistance for individuals living in flood-prone areas. According to CBO: “As of January 2010, the NFIP had approximately 5.6 million policies in force, with a total insured exposure of \$1.2 trillion.” NFIP coverage only applies in cases of mass weather-induced flooding, not in individual instances of, for example, a pipe bursting in one’s home. For more information on the NFIP, visit this website: <http://www.floodsmart.gov/floodsmart/pages/index.jsp>.

H.R. 1264 expands the National Flood Insurance Program (NFIP) by offering government-provided windstorm coverage, and multiple peril coverage, under the program.

The Committee summarizes the legislative history of H.R. 1264 as follows:

In the aftermath of and in light of his personal experiences following Hurricane Katrina, Representative Gene Taylor of Mississippi originally introduced the Multiple Peril Insurance Act in the 110th Congress as H.R. 920. The text of the Multiple Peril Insurance Act passed the House on September 27, 2007 as part of larger flood insurance program reform legislation, the Flood Insurance Reform and Modernization Act of 2007 (H.R. 3121). Legislative text substantially similar to the provisions of H.R. 920 was introduced in the Senate by Senator Roger Wicker as an amendment to S. 2284, the Flood Insurance Reform and Modernization Act of 2007. The amendment failed by a vote of 19 to 74 during consideration of S. 2284. Rep. Taylor reintroduced a substantially similar bill on March 3, 2009 as H.R. 1264. Both the Bush and Obama Administrations have expressed opposition to the Multiple Peril Insurance Act throughout its legislative history.

Committee Action: H.R. 1264 was introduced on March 3, 2010 and referred to the House Committee on Financial Services, which held a mark-up and ordered the bill to be reported (as amended) by vote of 40-25 on April 27, 2010.

Possible Conservative Concerns:

Could Increase Cost of Insurance: The legislation could increase the cost of insurance for consumers. The Administration’s SAP notes that the legislation’s actuarial rates requirement

means that the insurance offered by may be more expensive than what is already available through the private market.

Insurance Already Available in Private Market: The legislation risks undermining the existing private market that already provides this coverage. As stated in the Dissenting Views section of the Committee Report: “Federal government insurance would supplant insurance that is already provided by the private market.”

Expands Program that Already Owes Treasury \$19 Billion: The legislation expands taxpayer exposure, by adding new types of government-provided insurance (windstorm and multiple peril) at a time when the NFIP already owes \$19 billion to the Treasury. Many conservatives may believe that the program should be reformed before it takes on new functions. Under current law, the liability that this legislation would place on the taxpayer is instead held by the private sector.

Administration Position: The Statement of Administration Policy (SAP) comes out against the legislation. Among other things the SAP argues that: **1)** The government-provided insurance made available by H.R. 1264 is already available through the private-sector and state insurance plans; **2)** The bill might lead to insurance coverage that is more expensive than what is currently already available in the private market; and **3)** The legislation could “crowd out” the existing private-sector market.

Cost to Taxpayers: CBO estimates that the legislation would “have no significant impact on the federal budget for each year and no effect over the next 10 years.” CBO’s explanation of this score: “For this estimate, CBO assumes that actuarially based premiums calculated by the NFIP would generate a sufficient amount to cover future costs. As such, increased claims payments made by the program would be roughly offset by additional premiums, resulting in no net change to direct spending.”

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The legislation expands the National Flood Insurance Program (NFIP) by adding wind and multi-peril insurance coverage, thereby distorting a functioning private market.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: According to CBO, the legislation “contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.”

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The House Financial Services Committee, in House Report [111-551](#), asserts: “H.R. 1264 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.”

Constitutional Authority: The House Financial Services Committee, in House Report [111-551](#), cites constitutional authority as follows: “Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress

to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).” Some conservatives may question this citation as the power to regulate interstate commerce does not include the power to participate in it.

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