

Flood Insurance Market Parity and Modernization Act (H.R. 2901/S. 1679)

- *The NAIC supports the growth of a state-regulated private flood insurance market to provide consumers an alternative to National Flood Insurance Program (NFIP) coverage, and we were therefore pleased to see H.R. 2901 pass the House in April 2016 and urge Senate action.*
- *Although one of the objectives of the Biggert-Waters Flood Insurance Reform Act of 2012 was to create opportunities for the growth of the private flood insurance market, the definition of and regulatory environment surrounding private flood insurance created by Biggert-Waters is at odds with this objective, so legislative action is needed.*
- *H.R. 2901/S. 1679 helps resolve these issues by providing a clearer definition of private flood insurance and clarifying that the state insurance regulatory authorities that have long protected policyholders and allowed for the growth of other vibrant insurance markets will apply to private flood insurance.*

Background

In 1968, Congress established the National Flood Insurance Program in response to the lack of availability of private insurance and continued increases in federal disaster assistance due to floods. In recent years, more sophisticated risk mapping and modeling have developed, which has generated new interest among private insurers to provide such coverage. Private flood insurance is being developed and offered first by surplus lines insurers, which typically insure unique or otherwise difficult to underwrite risks that the traditional (or “admitted”) market is, at least initially, reluctant to insure. While the surplus lines market is regulated differently than the admitted market, state insurance regulators have significant authorities to ensure consumers are well-protected, including capital, surplus, and eligibility requirements on surplus lines carriers and the ability to hold both the insurer and the broker responsible for any misconduct.

In order to help further facilitate the development of the private flood market, changes must be made to the Biggert-Waters Act. Specifically, Biggert-Waters empowers Federal banking and housing regulators to potentially regulate the solvency of private flood insurance carriers, and duplicate state insurance regulators efforts. This is troubling as banking and housing regulators lack the expertise and experience to regulate insurance and have different regulatory objectives than insurance consumer protection. H.R. 2901/S. 1679 includes important language clarifying that state insurance regulators have the same authority and discretion to regulate private flood insurance as they have to regulate other similar insurance products and markets. It will also provide a clearer definition of private flood insurance which will assist in removing the restrictive and confusing language in current law to help prompt more insurers to enter the market if they are willing.

Key Points

- ✓ State insurance regulators support H.R. 2901/S. 1679. The legislation creates a regulatory environment more conducive for a private flood insurance market. State insurance regulators have 145 years of experience successfully supervising the business of insurance, protecting policyholders, and balancing availability with solvency.
- ✓ State insurance regulators have significant authorities to ensure consumers in the surplus lines market are well-protected. Like any other insurance market, as the private flood insurance market grows, state insurance regulation will continue to evolve to meet the size and breadth of the market as well as the needs of insurance consumers.