

# BACKGROUND AND POLICY OPTIONS FOR NAR'S 2009 NATURAL DISASTER MEETING

Multiple congresses have debated policies to address the impacts of natural disasters on communities, businesses and property owners. Legislative proposals have ranged from federal administration (flood insurance) to tax incentives for mitigation efforts, but the focus of discussions has been one, increasing the availability and affordability of property insurance and two, defining the federal government's role in the debate. The following provides background on NAR's policy, rationale for the policy, and efforts to date, as well as a legislative history and summary of current proposals for a natural disaster policy.

**NAR Policy:** "The primary emphasis of federal disaster programs should be the development of a highly coordinated system for prevention and remedial assistance. The goal of any federal natural disaster program should be the promotion of available and affordable insurance for residential and commercial properties in disaster-prone areas."

**Rationale:** For nearly a decade, NAR has consistently made the case for a federal policy to coordinate, promote, prevent loss and assist property owners in natural disasters. We have argued that property insurance is:

- Not available for mega-catastrophe. Most question whether insurance companies have the capital to pay for next "Big One" exceeding \$60-\$100 billion. There is an "adverse selection" issue, where the number of claimants exceeds the number of persons available to protect their property from a peril. The probability is too low for sufficient numbers to insure, so companies are not always able to pool the resources to cover their expenses and issue insurance policies.
- Not affordable in the private market. Many insurance companies have responded to recent natural disasters by raising premiums by double-digit percentages (e.g., in North Carolina). Others are no longer issuing or renewing policies in some markets.
- Not only a coastal issue. Earthquakes, tornados, hail- and windstorms – all affect the interior U.S., but insurance is often not available for a full range of risks. More than half of Americans live within 50 miles of a coast – not just wealth beach-house owners. In fact, all taxpayers would benefit from a federal natural disaster policy. Today all taxpayers – not just affected property owners – pay each time Congress reacts to the latest crisis with another post-disaster spending bill. By preparing, pre-funding and proactively addressing these risks, the U.S. can reduce cost.
- Not minimizing cost. One estimate puts the cost at \$810 per individual tax return for Katrina alone. Insurance is a key element but not the only one: the U.S. may reduce the exposure by developing a comprehensive public policy that includes mitigating property against future loss. Conversely, mitigation efforts alone will not work. For example, there is no set of structural reinforcements that will protect all property against all peril (e.g., a magnitude 8.0 earthquake).

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**Legislative History:** In addition to weatherization and first responder assistance, Congress has attempted to pass legislation to address property insurance coverage for natural disasters, with NAR's support. Following is a summary by Congress:

- 106<sup>th</sup> (1999-2000): H.R. 21 (Homeowners' Insurance Availability Act) was approved by the House Banking Committee. Note: NAR testified and worked in support of this bill.
- 107<sup>th</sup> (2001-02): In December 2002, the NFIP expired when the Congress failed to act prior to adjournment. NAR led a coalition of real estate and insurance interests that would succeed in reauthorizing and retroactively applying the program.
- 108<sup>th</sup> (2003-04): Signed into law 1/13/03, H.R. 11 (NFIP Reauthorization Act) retroactively reauthorized NFIP back to December of 2002. S. 2238 (the Flood Insurance Reform Act) – renewing NFIP – became law in mid-2004.
- 109<sup>th</sup> (2005-06): H.R. 4973 (Flood Insurance Reform and Modernization Act) passed the House, but was not considered by the full Senate. The Senate companion (S. 3589) was reported by its banking committee.
- 110<sup>th</sup> (2007-08):
  - H.R. 3355 (Homeowners' Defense Act of 2007) was approved by the House – the NAR testified in support. But the Senate failed to act on the bill.
  - H.R. 3121 (Flood Insurance Reform and Modernization Act) as passed by the House, expanded NFIP to include wind damage. The Senate approved its version of H.R. 3121, but the bill died when the House and Senate did not convene a conference committee.
  - H.R. 2638 (Continuing Resolution) which was signed into law last September, extended NFIP (which has since been re-extended until September 30<sup>th</sup> of this year).

**In the 111<sup>th</sup> Congress:** There is a range of federal legislative approaches to address natural disasters that have been introduced. NAR has supported or is supporting many of these concepts. For example, we recently thanked Rep. Ron Klein (D-FL) for introducing his reinsurance proposal (H.R. 2555), which is believed at this time to be the bill with the most support. We have also been working with the various coalitions and congressional offices on other approaches that may gain momentum, including expanding the NFIP to include wind coverage. We will continue to work to position NAR in the broader debate over a natural disaster policy, which may begin as early as this fall. Legislative proposals include:

- Federal Administration. Establishes or amends a program to administer insurance for natural disaster risks. The Federal government would set rates and coverage requirements.

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- H.R. 1264: Multiple Peril Insurance Act by Rep. Gene Taylor (D-MS)
  - Expands the National Flood Insurance Program to offer insurance for windstorms as well as flooding.
- Reinsurance. Creates a national catastrophe fund which kicks in when private insurance and state funds have been exhausted. When a fund kicks in could be determined by the frequency of the event (e.g., 1 in 200 years). Such a program would be funded by property owner in the eligible states.
  - H.R. 83: Homeowners Insurance Protection Act by Rep. Ginny Brown-Waite (R-FL)
    - Establishes a program to provide reinsurance to state insurance programs.
  - H.R. 2555: Homeowners' Defense Act by Reps. Ron Klein (D-FL) and Brown-Waite (R-FL)
    - Establishes a consortium for state reinsurance programs to voluntarily pool and spread the risk through issuance of catastrophe bonds.
    - Creates a program to guarantee debt issued by state reinsurance programs.
    - Establishes a program to provide reinsurance to state insurance programs.
    - Provides mitigation funding for building codes and first responder preparedness.
  - S. 505: Homeowners' Defense Act by Sen. Bill Nelson (D-FL)
    - Establishes a consortium for state reinsurance programs to voluntarily pool and spread the risk through issuance of catastrophe bonds.
    - Provides loans for state reinsurance programs for post-disaster liquidity shortages or where the losses significantly exceed premiums.
- "All-Perils" Insurance. Establishes or reforms a federal program for private insurance companies to offer insurance for all natural disaster risks, including flooding, earthquakes, and hurricanes. Under an NAIC proposal which has not yet been translated into legislation, all (including flood) premiums would be "risk-based" (not subsidized by the U.S. government).
- Guarantees or loans for state insurance programs. Create a program to guarantee the debt from bonds issued by state funds or offer a loan in the aftermath of a natural disaster.
  - S. 505: Homeowners Defense Act by Sen. Bill Nelson (D-FL)
    - Provides loans for state reinsurance programs for post-disaster liquidity shortages or where the losses significantly exceed premiums.

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- Also establishes a consortium for state reinsurance programs to voluntarily pool and spread the risk through issuance of catastrophe bonds.
  - S. 886: Catastrophe Obligation Guarantee Act by Sen. Bill Nelson (D-FL)
    - Creates a program to guarantee debt issued by state reinsurance programs.
- Tax incentives. Provides deduction/credit for paying into a fund for claims or mitigation efforts.
  - H.R. 308: Hurricane and Tornado Mitigation Investment Act by Rep. Gus Bilirakis (R-FL)
    - Provides a tax credit for hurricane and tornado mitigation spending.
  - H.R. 998: Policy Disaster Protection Act by Rep. Tom Rooney (R-FL)
    - Allows insurers to make tax deductible contributions to the bill's disaster protection fund for payment of natural disaster-related claims.
- Pre-Mitigation. Strengthens building codes, infrastructure, first responder efforts, and land use planning in order to mitigate against future property damage. While the Klein bill (H.R. 2555, above) also includes mitigation funding, these alternatives would provide for mitigation only.
  - H.R. 1239: Property Mitigation Assistance Act by Rep. Bennie Thompson (D-MS)
    - Provides funding for state programs to offer mitigation grants or loans.
  - H.R. 3026: Hazard Mitigation for All Act – Rep. Bennie Thompson (D-MS)
    - Expands a program to provide grants for hurricane resistant retrofitting of Section 8 housing.
  - H.R. 3027: Predisaster Hazard Mitigation Act by Rep. Bennie Thompson (D-MS)
    - Provides funding for state grant programs for hurricane resistant retrofitting.
  - H.R. 3028: First Responder Innovation & Support Act by Rep. Bennie Thompson (D-MS)
    - Establishes a grant program for innovative first responder programs.

**NAR Resources, Tools and Information:** Over the years, NAR has developed a number of resources and tools to raise awareness, bring visibility to the issue and educate Congress, including:

## NAR Staff White Paper

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- Congressional staff briefings materials
- A two-day stakeholder symposium background
- Economic research
  - Baker and Daniels Consulting (premium research)
  - Grace and Klein (studies the effects of natural disasters on home insurance.)
- National opinion polling
  - Public Opinion Strategies (Polled Realtor and voter attitudes of disaster insurance issue.)
- Letters to Congress
- Testimony
- Congressional talking points
- Fact sheets on legislation