

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
TAYLOR, GENE OF MISSISSIPPI OR HIS DESIGNEE, DEBATABLE
FOR 10 MINUTES

**AMENDMENT TO H.R. 5114, AS REPORTED
OFFERED BY MR. TAYLOR OF MISSISSIPPI**

Page 35, after line 16, insert the following new section:

1 **SEC. ____ . REQUIREMENTS RELATING TO WINDSTORM AND**
2 **FLOOD.**

3 Section 1345 of the National Flood Insurance Act of
4 1968 (42 U.S.C. 4081) is amended by adding at the end
5 the following new subsections:

6 **“(d) REQUIREMENTS FOR WRITE-YOUR-OWN INSUR-**
7 **ERS RELATING TO WINDSTORM AND FLOOD.—**

8 **“(1) WRITTEN AGREEMENT.—**The Director
9 may not utilize the facilities or services of any insurance
10 company or other insurer or entity to offer
11 flood insurance coverage under this title unless such
12 company, insurer, or entity enters into a written
13 agreement with the Director that provides as follows:
14

15 **“(A) PROHIBITION ON EXCLUSION OF**
16 **WIND DAMAGE COVERAGE.—**The agreement
17 shall prohibit the company, insurer, or entity
18 from including, in any policy provided by the
19 company or insurer for homeowners’ insurance

1 coverage or coverage for damage from wind-
2 storms, any provision that excludes coverage for
3 wind or other damage solely because flooding
4 also contributed to damage to the insured prop-
5 erty.

6 “(B) FIDUCIARY RESPONSIBILITY.—The
7 agreement shall provide that the company, in-
8 surer, or entity—

9 “(i) has a fiduciary duty with respect
10 to the Federal taxpayers;

11 “(ii) in selling and servicing policies
12 for flood insurance coverage under this
13 title and adjusting claims under such cov-
14 erage, will act in the best interests the na-
15 tional flood insurance program rather than
16 in the interests of the company, insurer, or
17 entity; and

18 “(iii) will provide written guidance to
19 each insurance agent and claims adjuster
20 for the company, insurer, or entity that
21 sets forth the terms of the agreement pur-
22 suant to subparagraph (A) and this sub-
23 paragraph.

24 “(2) REQUIREMENTS FOR ADJUSTMENT OF
25 CLAIMS.—The Director shall, in utilizing the facili-

1 ties of any insurance company or other insurer or
2 entity pursuant to this section to offer flood insur-
3 ance coverage under this title, the Director shall
4 provide as follows:

5 “(A) APPROVAL OF ADJUSTMENT PROCE-
6 DURES.—No such insurance company, other in-
7 surer, or entity may offer flood insurance cov-
8 erage under this title unless the Director has
9 approved, as meeting standards as the Director
10 shall establish, the procedures, protocols, guide-
11 lines, standards, or instructions used by the
12 company, insurer, or entity in adjusting claims
13 for identifying, apportioning, quantifying, and
14 differentiating damage caused by flooding and
15 damage caused by wind.

16 “(B) TREATMENT OF WIND AND FLOOD
17 CLAIMS FROM SAME EVENT.—The Director
18 shall require any insurance company or other
19 insurer or entity that, pursuant to this section,
20 provides flood insurance coverage under this
21 title for a property and that also provides insur-
22 ance coverage for the same property for losses
23 resulting from wind, when claims are made both
24 for damage resulting from flood and for damage

1 resulting from wind involved in a single event,
2 to comply with the following requirements:

3 “(i) CONTEMPORANEOUS ADJUST-
4 MENT.—The claims for damage to the
5 property under the coverage under this
6 title for losses from flood and under the
7 coverage for losses from wind shall be ad-
8 justed contemporaneously.

9 “(ii) INCLUSIONS IN FLOOD CLAIM
10 FILE.—The insurance company, other in-
11 surer, or entity shall obtain and include in
12 the file maintained with respect to any
13 claim under the flood insurance coverage
14 under this title, and make available to the
15 Director upon request, the following infor-
16 mation relating to the wind claim:

17 “(I) The amount paid on the
18 claim and the date of such payment..

19 “(II) An explanation of rationale
20 used by the company, insurer, or enti-
21 ty in determining which damage re-
22 sulted from flood and which damage
23 resulted from wind.

24 “(III) Copies of any photographs,
25 witness statements, and other evi-

1 dence related to the wind or flood
2 claim.

3 “(iii) REVIEW.—The Director shall re-
4 view the information obtained pursuant to
5 clause (ii) to ensure that—

6 “(I) claims are paid under cov-
7 erage under this title only for losses
8 resulting from flood; and

9 “(II) in the adjusting the claims,
10 the insurance company or other in-
11 surer or entity complied with proce-
12 dures, protocols, guidelines, stand-
13 ards, or instructions for identifying,
14 apportioning, quantifying, and dif-
15 ferentiating damage caused by flood-
16 ing and damage caused by wind that
17 have been approved by the Director as
18 meeting the standards established by
19 the Director pursuant to subpara-
20 graph (A).

21 “(iv) PAYMENT UNDER FLOOD COV-
22 ERAGE WHEN CAUSE OF LOSS CANNOT BE
23 DETERMINED.—If the insurance company
24 or other insurer or entity determines that
25 the loss claimed was caused by flooding or

1 wind, but that the evidence is insufficient
2 to differentiate the losses caused by flood-
3 ing from those caused by wind, the com-
4 pany, insurer, or entity shall pay the claim
5 under the flood insurance coverage for the
6 property as if the entire loss were caused
7 by flooding, and shall submit all informa-
8 tion regarding the claim to the Director.

9 “(v) FEMA DETERMINATION AND RE-
10 COVERY.—In the case of any claim paid
11 pursuant to clause (iv), the Director shall
12 review the information related to the claim
13 and determine, in accordance with proce-
14 dures for making such a determination re-
15 garding such claims as the Director shall
16 establish, the losses caused by wind. The
17 Director shall seek to recover any portion
18 of the losses that the Director determines
19 were caused by wind from the insurance
20 company or other insurer or entity that,
21 pursuant to clause (iv), paid such losses as
22 flood losses”.

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