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Testimony of Jordan N Gray *on behalf of* WNC Insurance Services, Inc.

**House Financial Services Committee, Subcommittee on Housing and Insurance,
Hearing on “Opportunities for a Private and Competitive Sustainable Flood
Insurance Market”**

Chairman and members of the Subcommittee: thank you for the opportunity to testify before you today. My name is Jordan Gray. I am Senior Vice President and General Counsel of WNC Insurance Services, Inc. My testimony today is on behalf of my company, WNC Insurance Services. WNC is an independent Property and Casualty Insurance Agency/Broker, Surplus/Excess Lines Agent/Broker, MGA/MGU, and Lloyd’s of London coverholder.

WHO IS WNC?

Wilshire National Corporation was founded in 1962 as a captive insurance agency owned and operated by Larwin Corporation, a large national homebuilder and community developer.

WNC Insurance Services, Inc. (WNC), the successor to Wilshire National Corporation, was incorporated in California in 1975. Since that time, WNC has operated as an independent managing general agent, managing general underwriter, program administrator, surplus lines broker and property and casualty agent.



In the 1980s WNC began providing flood coverage auditing of loan portfolios for mortgage lenders performed to determine the existence and adequacy of required flood insurance as well as to promote insurance programs designed for commercial lenders.

In 1991, WNC added voluntary flood insurance to its product offerings, specifically excess flood insurance – substantially expanding its business opportunities in the Voluntary and Broker Agency distribution channels.

In 2001, WNC acquired First Guaranty Companies, a leading provider of collateral protection products for community lenders nationwide.

Today, WNC serves nearly 3,000 small and mid-market community banks and credit unions, hundreds of independent agents and brokers, and thousands of homeowners and businesses, providing Lender Placed Insurance; Insurance Outsourcing Services; and Private Flood Insurance.

WNC has relationships with insurance carriers rated “A” or better by A.M. Best such as American Modern Insurance Group, Chubb Group of Insurance Companies, Great American Insurance Company, and Philadelphia Insurance Companies. WNC is one of the larger Flood and Excess Flood Coverholders at Lloyd’s of London.

WHY IS WNC TESTIFYING?

There are two points WNC would like to make regarding its testimony.

First, WNC is grateful for the National Flood Insurance Program. Not just for the obvious reason that WNC, its employees, and its network of insurance agents and brokers support their families by providing insurance products and services in this industry, but because the country would still be struggling with the question of whether flood insurance is a viable product. The National Flood Insurance Program is the



entrepreneurial catalyst that created an important industry, that is now ready for the next phase of its growth and evolution -- privatization.

Second, WNC is grateful for the Biggert-Waters Flood Insurance Reform Act of 2012. The Biggert-Waters Act is evidence that both sides of the aisle can work together to provide constructive solutions to the difficult problems facing our nation. We are pleased with this idea.

WNC is here today to express its support for H.R. 4558 - The Flood Insurance Market Parity and Modernization Act of 2014. It's a simple bill that provides an appropriate fix to an unintended consequence of Biggert-Waters Flood Insurance Reform Act.

WHAT IS THE PROBLEM?

One of the unintended consequences of Reform Act is that it makes it more difficult for lenders to accept private flood insurance in satisfaction of the mandatory purchase of flood insurance requirement, thereby impeding the long established public policy goal behind both the Flood Disaster Protection Act of 1973 and the Biggert-Waters Flood Insurance Reform Act of 2012 -- *private market involvement in flood insurance*.

One of the positive results of Biggert-Waters is that it settles an age-old debate -- can a lender accept a private flood insurance policy in satisfaction of the mandatory purchase obligations under federal law. The answer is yes -- always has been, and now a lender must accept a private policy. Thankfully, Biggert-Waters finally ended this debate.

Unfortunately, the Reform Act has created a new debate -- what is private flood insurance? While we at WNC believe the Legislators were well meaning, language from the FEMA Mandatory Purchase of Flood Insurance Guidelines became the law. Yet, even FEMA has never taken the position that its Guidelines should become the law of the land, or that the Guidelines were ever written to hold that esteemed position.



What was intended to liberate both borrower and lender alike has now placed them in a straight-jacket of regulatory compliance, mandating that bankers become insurance professionals and that insurance professionals become bankers. Meanwhile, banking regulators and insurance regulators have begun their struggle with the unenviable job of sorting out insurance requirements from banking requirements, leaving these industries in confusion.

So, what does this confusion look like -- here's an example?

When a loan is about to close, there is a mandatory purchase obligation if the property is located in a Special Flood Hazard Area. The borrower is told to purchase flood insurance. The borrower approaches an insurance agent or broker to obtain the policy. But the problem is that the federal flood policy only provides \$500,000 of coverage for the \$5,000,000 building at risk. So the borrower purchases a private flood policy. The carrier and broker are certain that this private policy is exactly what the borrower needs.

The borrower takes the policy to the lender to close the loan, but the compliance department tells the borrower that it cannot accept this private policy if it doesn't follow the National Flood Insurance Program, General Property Insurance Form, exactly as written. In fact, if the policy is an addendum to a multi-million dollar hazard insurance policy covering this borrower's other properties, none of which are located in a special flood hazard area, it's definitely not acceptable, the compliance department says.

Although the policy provides better coverage with more policy benefits, it doesn't have a matching cancellation clause. Thus, real or imagined, the lender's compliance department insists that the policy doesn't comply with the new law. Now the borrower must purchase three policies instead of one, just for this one property and the goal of the law is frustrated -- where is the private market involvement? Frustrated.



The lender is frustrated because it knows that it must comply with the regulations or face potential fines and penalties, but doesn't really have the expertise to tell if the policy truly is a good one. The borrower is frustrated because it cannot purchase the product it wants and cannot close the loan on time. The carrier and agent are frustrated because they have a perfectly good product that fails to meet a perceived or actual technical definition of private flood insurance, but yet the policy will perform as good as or better than the federal policy when a loss occurs.

Moreover, the reputation of the carrier and the agent are questioned -- "I thought you said this policy is exactly what I need, yells the borrower?" The broker and carrier write urgent letters explaining that the policy is good, the carrier is sound, and the coverage is compliant. The pleas are to no avail because the cancellation clause doesn't match FEMA's Standard Flood Insurance Policy, General Property Form, as required by the Reform Act.

We at WNC cannot believe that this was the intended consequence of the Reform Act.

WHAT IS THE SOLUTION?

The solution is simple – give private insurance carriers and brokers, state insurance regulators, federal banking regulators, lenders and borrowers, the same discretion to evaluate flood insurance as they have to evaluate all other insurance. H.R. 4558 - The Flood Insurance Market Parity and Modernization Act of 2014 does this.

The proposed bill will encourage greater private market participation in the business of flood insurance and it will likely help facilitate the transfer of a greater portion of overall flood risk from an overburdened government program to private carriers.

The private insurance industry is in the business of providing critical insurance protection to consumers and businesses across the country. Why should flood



insurance be treated any differently than other types of insurance? Is it because of the catastrophic nature of flood losses? What about wind insurance covering tornado and hurricane losses -- are not these catastrophic losses? What about earth quake coverage, which generally isn't even a coverage required by lenders? It is a good thing to require flood insurance, but let the private insurance industry do its job managing it.

Private insurance companies are interested in this risk and will provide valuable private flood insurance coverage to a willing market if regulatory oversight is brought into a balanced perspective on this issue. The insurance industry has a long history of offering vital coverage to policy holders in their time of need. HR 4558 provides a balanced market and regulatory perspective by removing a regulatory straight jacket that serves no real purpose. Flood is not unique; it is one of many perils that private insurers are well equipped to handle.

In fact, many large commercial businesses, resorts, hotels, and other properties have purchased private flood insurance under multi-peril policies offered by private insurance carriers for years – often in amounts far in excess of what would be available from the National Flood Insurance Program.

CONCLUSION

There is a vital private market waiting to provide flood insurance. There is a hopeful lending market looking for some regulatory relief. There are capable insurance regulators and banking regulators that would be greatly benefited if they were guided back into their areas of expertise. There are eager policy holders looking forward to quality coverage becoming widely available in the private market. HR 4558 -- Flood Insurance Market Parity and Modernization Act of 2014 is the next step.

Thank you again for the opportunity to testify on this important issue. I look forward to your questions.