

Statement of Ranking Republican Gary G. Miller
Joint Hearing
Financial Services Subcommittee on Oversight and Investigations
Homeland Security Subcommittee on Management, Investigations, and
Oversight

Hearing On:
“National Flood Insurance Program: Issues Exposed by the 2005
Hurricanes.”

June 12, 2007

I commend Chairman Watt for convening the second in a series of hearings on the question of how our insurance system performed in fulfilling its obligations in the aftermath of the 2005 hurricanes. These hearings are critical as the Committee considers changes or improvements to our current insurance system, both for the National Flood Insurance Program and for the regulation of private insurance. I welcome our colleagues from the Homeland Security Subcommittee on Management, Investigations, and Oversight who have joined us for this important hearing.

The focus of today’s hearing is on the flood insurance payments made by the National Flood Insurance Program (NFIP) following the 2005 hurricanes. I am pleased to welcome Mr. Jadacki of the Department of Homeland Security Inspector General’s Office and Ms. Orice Williams from the U.S. Government Accountability Office to discuss with us their preliminary findings about how appropriate the National Flood Insurance Program payments were for the flood losses incurred during the 2005 hurricanes and to assess the ability of FEMA to ensure claims paid by the NFIP are handled appropriately.

Unprecedented NFIP Payments Made After 2005 Hurricanes

There is no question that the 2005 hurricane season resulted in significant strains on the NFIP. The claims resulting from the losses from these catastrophic hurricanes are unprecedented in the history of the program.

To put this into perspective, since the NFIP’s inception in 1968 and until the 2005 hurricane season, the program paid out \$15 billion in claims. In contrast, the NFIP incurred liabilities estimated to total at least \$23 billion as a result of the 2005 Gulf Coast hurricanes. This significantly exceeds the \$2.2 billion in premiums earned annually and surpasses claims paid in the entire history of the NFIP by \$8 billion.

In the past, when losses exceed premiums, the NFIP has been allowed to borrow from the U.S. Treasury to repay claims. Such loans have traditionally been paid back rather quickly, with interest. In order to pay claims for 2005 hurricanes, the NFIP was forced to borrow \$17.6 billion from the Treasury, an amount it estimates it will never be able to repay.

Strong Oversight of NFIP Payments Necessary to Protect Taxpayers

Obviously, with almost \$18 billion in flood claims being paid by the Treasury rather than the flood program itself, we must ensure that taxpayers are not footing the bill for inappropriate claims adjustments.

Some have alleged that insurers shifted wind claims to the flood program so that they could pay less for the wind portion of the hurricane loss.

If this is true, it is an outrage that should be rectified immediately. And those engaged in such fraud should be strongly punished.

Particularly in cases where a property is damaged by both flooding and wind, strong oversight must be in place for the National Flood Insurance Program to ensure it does not pay out more than it should.

This is a difficult prospect - Flood and wind damage are supposed to be assessed separately, but in some cases they occur simultaneously.

At our first hearing on this subject, we heard from the Mitigation Division Director and Federal Insurance Administrator for the Federal Emergency Management Agency, David Maurstad, who testified that the NFIP only paid for the damage associated with flood and only up to the coverage limit.

According to Maurstad, there is a rigorous program of oversight in place to ensure the NFIP program only pays for damages caused by flooding.

Maurstad testified that no claims from the 2005 hurricanes have come to his attention that should not have been paid at the level they were paid.

According to Maurstad, the NFIP does not determine damage caused by perils other than flood or storm surge.

He said the NFIP does not differentiate damage that could be covered elsewhere – if damage is caused by flooding, then it is compensated as such under the NFIP.

This raises two questions that we as policymakers must answer:

- 1.) If the NFIP is not looking at damage from other perils, can we be sure the flood claim is accurate?
- 2.) Should the NFIP still pay for damage that is found to be also covered by a separate private insurance claim?

Looking Back and Moving Forward – The Importance of Strong Oversight

Looking Back

I look forward to hearing from the witnesses today, who have been given the difficult task of assessing whether FEMA has taken adequate steps to ensure the NFIP's flood claims payments are accurate and appropriate.

As I said previously, this subcommittee was assured by FEMA at the last hearing that controls are in place to be sure the NFIP does not pay out more than is required under the terms of a flood policy.

Today, we have the opportunity to hear the opinions of two independent sources about whether they agree with FEMA's assessment about its oversight processes and its ability to ensure the accurate payment of claims.

If the NFIP paid more than it should have after the 2005 hurricanes because insurance companies pushed wind losses to the flood program rather than paying for them under homeowners policies, then we must hold those companies accountable.

But let me just say, that there is a difference between the potential for wrongdoing and a finding of actual wrongdoing.

This is an important distinction as we proceed today.

I have reviewed the written statements of the witnesses today and understand that misbehavior on the part of the insurance companies that write both flood and wind policies for their customers can not be ruled out at this point in either investigation.

They just haven't completed their review yet.

Let us not prejudge the findings of this important investigation or vilify the entire insurance industry for claims shifting without concrete evidence to prove such allegations of widespread wrongdoing.

Moving Forward

This hearing is very timely, as just this morning the Housing Subcommittee held a legislative hearing on H.R. 1682, the Flood Insurance Reform and Modernization Act of 2007, legislation to make improvements to the NFIP.

Obviously, if we learn from the witnesses today that the oversight controls that are in place are not adequate, then we have the opportunity through H.R. 1682 to make changes to these processes.

This will help protect taxpayers moving forward.

We must eliminate potential conflicts of interest so that the NFIP operates in the most efficient and effective manner.

I do not believe anyone would argue against the importance of strong oversight.

Conclusion

In conclusion, I think we need to proceed cautiously today.

We have all seen the anecdotal news reports and heard stories from our colleagues from the region about practices by some insurance companies that, if true, are very disturbing and must be addressed.

I am also aware of examples of companies that used two separate adjusters for handling wind claims and water claims to avoid any potential for conflict as has been alleged. Such adjusters were kept separate – they did not communicate with one another and they utilized completely different claims systems.

Did insurance companies abuse the NFIP to protect their bottom lines?

Was such abuse widespread?

At this point we do not have the evidence to make a determination either way. We just don't know and need to allow GAO and the DHS-IG to complete their important work before rushing to judgment.

We need to take the preliminary findings of these reports at face value and for the purpose of moving forward with NFIP reform legislation.

We should use this hearing to ask important questions about ways to avoid potentials for abuse in the future.

For example, we should consider:

- How do we ensure “Write Your Own” (WYO) insurance companies do not have the ability to defraud the NFIP when a structure endures wind and flood damage?
- Is it best to require more coordination between flood and wind adjustments or is it best to require absolute separation between the claims, including requiring different claims adjusters?
- Should the existing NFIP claims adjustment procedures be revisited so as to ensure any potential conflicts of interest are eliminated?

Once the GAO and DHS-IG complete their important studies we will have a better sense whether and to what extent damages from the 2005 hurricanes were improperly attributed to flooding rather than wind.