STATEMENT BEFORE THE

COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON HOUSING AND INSURANCE

UNITED STATES HOUSE OF REPRESENTATIVES

November 19, 2014

The Big "I" is the nation's oldest and largest trade association of independent insurance agents and brokers. We represent a nationwide network of more than a quarter of a million agents, brokers and employees. IIABA represents independent insurance agents and brokers who present consumers with a choice of policy options from a variety of different insurance companies. These small, medium and large businesses offer all lines of insurance – property/casualty, life, health, employee benefit plans and retirement products. In fact, our members sell 80% of the commercial property/casualty market and a sizeable portion of the homeowner's market. It is from this unique vantage point that we understand the capabilities and challenges of the insurance market when it comes to insuring against flood risks.

Background

The Big "I" believes that the National Flood Insurance Program (NFIP) provides a vital service to people and places that have been hit by a natural disaster. The private insurance industry has been, and continues to be, largely unable to underwrite flood insurance because of the catastrophic nature of these losses. Therefore, the NFIP is virtually the only way for people to protect against the loss of their home or business due to flood damage. Prior to the introduction of the program in 1968, the federal government spent increasing sums of money on disaster assistance to flood victims. Since then, the NFIP has saved disaster assistance money and provided a more reliable system of payments for people whose properties have suffered flood damage. It is also important to note that for almost two decades, up until the 2005 hurricane season, no taxpayer money had been used to support the NFIP; rather, the NFIP was able to support itself using the funds from the premiums it collected every year.

Under the NFIP, independent agents play a vital role in the delivery of the product through the Write Your Own (WYO) system. Independent agents serve as the sales force of the NFIP and the conduits between the NFIP, the WYO companies and consumers. This relationship provides independent agents with a unique perspective on the issues surrounding flood insurance, yet also makes the role of the insurance agent in the delivery process of flood insurance considerably more complex than that of many traditional property/casualty lines. Agents must possess a higher degree of training and expertise than their non-NFIP participating counterparts, which requires updating their continuing education credits through flood conferences and seminars. This is done regularly and often involves traveling to different regions of the country, costing personal time and money. Every agent assumes these responsibilities voluntarily and does so as part of being a professional representative of the NFIP.

Private Market Alternatives and H.R. 4558

Since the start of the NFIP, private flood insurance has been understood to satisfy requirements and mandates to purchase flood insurance. In 2010 Congress passed the Biggert-Waters "Flood Insurance Reform Act" (FIRM). Included in this legislation was section 100239, which the Big "I" strongly supported because it reaffirmed the intent that private primary flood insurance should satisfy the requirements of mandatory purchase.

Unfortunately, there was a lack of clarity in the legislative language as to what constituted acceptable private flood insurance. Consequently, there has largely been a rejection of private primary flood insurance by lenders who are rightly concerned about the validity of privately issued flood insurance.

In order to provide clarification and eliminate this uncertainty among consumers, agents/brokers and lenders, H.R. 4558, the "Flood Insurance Market Parity and Modernization Act of 2014" by Rep. Dennis Ross (R-Florida) and Patrick Murphy (D-Florida), provides a simple and clear definition of what is acceptable private flood insurance. H.R. 4558 would define acceptable private flood insurance as a policy that provides flood insurance coverage issued by an insurance company that is licensed, admitted or otherwise approved to engage in the business of insurance in the state or jurisdiction in which the insured building is located, by the insurance regulator of the state or jurisdiction.

It is important to note that under the Ross-Murphy proposal, private market policies would be fully regulated by the State Insurance Commissioners. Private insurers are already subject to statutes and regulations in each and every state. State insurance commissioners are the most appropriate regulators to allow and disallow any policy they deem improper and they have significant ability to assure fair and equitable settlement of claims.

The Big “I” supports the intent of this legislation, as we would strongly support additional options for consumers and more markets for agent/brokers. Furthermore, this legislation is consistent with our strong support for state regulation of insurance.

Issue with “Continuous Coverage”

Despite our overall support of the intent of this legislation, the Big “I” does have one particular concern with the language as it is currently written. Under the current rules of the NFIP, if a policyholder were to leave the NFIP for any reason that policyholder would, should they choose in the future to return to the NFIP, likely lose any subsidy and/or grandfathered status that the policyholder had previously had with the NFIP. The NFIP policyholder must maintain “continuous coverage” with the NFIP in order to maintain subsidy and/or grandfather status. The premise behind this makes sense on a public policy basis, as consumers should be encouraged to maintain their policies in order to have financial protection in the event of a flood.

Unfortunately, as currently written this loss of subsidy and/or grandfather would also occur in the case of a policyholder who chose to leave the NFIP and experiment with a private market option. If an NFIP policyholder who either had a subsidy or a grandfathered rate elected to leave the NFIP and got a private market policy, that consumer would lose that subsidy and/or grandfather rate should they be displeased with the private market and decide to return to the NFIP. This loss would be permanent. It should be noted that in some circumstances a grandfathered status could be restored, but it would require extensive paperwork and proof that the structure or building was in compliance with the codes at the time.

The situation regarding what qualifies as “continuous coverage” would strongly disincentive consumers from ever experimenting with a private market alternative. Additionally, the current language would also strongly disincentive agents and brokers from recommending to their clients that they even try a private market alternative. The fear, from an agent and broker perspective, is that a client would try the private market, not be happy with it, attempt to rejoin the NFIP, find out they have lost their subsidy and/or grandfather status forever, and decide their only recourse would be legal action against the agent/broker for not cautioning them of this possibility. In fact, the Florida Association of Insurance Agents (FAIA) has already drafted a disclosure and encourages agents to have clients sign the disclosure to point out the risk they are taking when they move to a private policy.

Finally, it should be pointed out that in all other lines of property/casualty insurance “continuous coverage” does not mean coverage from one particular source.

The solution to this situation is simple, and one that we are asking Reps. Ross and Murphy and the Committee to make as this bill makes its way through the legislative process. We would simply request that, as much as the bill states that a private flood policy approved by a state insurance regulator count as an “acceptable” policy by a lender, that a private flood policy approved by a state insurance regulator also count as “continuous coverage” by the NFIP. The purpose of the Ross-Murphy legislation is to make private flood policies more widely available to consumers across the country, but without fixing the “continuous coverage” language consumers will likely choose the safe route by keeping their NFIP coverage and not even giving the private market a chance.

Conclusion

The Big “I” is pleased to offer the Subcommittee our views on the NFIP and private market alternatives at today’s hearing. We support the intent of the legislation and especially support the goal of providing additional options for consumers and markets for agents and brokers. We’d particularly like to thank Reps. Ross and Murphy for their work on this legislation and look forward to working with them further to address our concern over what constitutes “continuous coverage.” It is our sincere hope that agreement can be reached soon on language, and we thank the Subcommittee for conducting today’s hearing.