

Provide Private Flood Insurance Options

Congressional Action Needed

Senate consideration and passage of H.R. 2901, the “Flood Insurance Market Parity and Modernization Act” sponsored by Reps. Dennis Ross (R-FL) and Patrick Murphy (D-FL).

Congressional Actions To Date

- H.R. 2901 passed the House of Representatives by an overwhelming bipartisan vote of 419–0.
- No action to date in the Senate.

What To Tell Your Representatives and Senators

- Thank your Representative for supporting H.R. 2901.
- Urge your Senator to bring up and pass the House bill.

Issue Background

Federal law requires that property owners with federally related mortgages buy and maintain a minimum amount of flood insurance coverage for properties located in Special Flood Hazard Areas. Currently, property owners may not satisfy this “continuous coverage” requirement with some private market alternatives to the National Flood Insurance Program (NFIP). If a policyholder leaves the NFIP for one of these market options, they could jeopardize their grandfathered status and face substantial rate increases should they later return to the NFIP.

H.R. 2901 would:

- Clarify that property owners may satisfy the mandatory purchase requirement with either an NFIP policy or private market coverage that meets state law.
- Ensure that consumers can move freely between the NFIP and private coverage without penalty.
- Preserve the NFIP as a viable choice, keeping homeowners from becoming stranded should private insurance options contract or become more expensive after major floods.
- Maintain important consumer disclosures, as well as Fannie Mae/Freddie Mac’s ability to examine the financial solvency of private insurers and protect taxpayers.

Current Law Limits the Flood Insurance Options Available to Property Owners

- Right now, NFIP is the only de facto source of the flood insurance coverage required for properties with federally backed mortgages.
- The private market may be able to offer comparable coverage at lower cost than the NFIP.

- Consumers need options and a competitive market for well-priced flood insurance coverage that meets their individual needs.

Expanding Choice is a Good First Step Toward a Comprehensive Reauthorization of the National Flood Insurance Program

- NFIP is up for reauthorization in 2017.
- This bill is an incremental step in the meantime to offer additional options to property owners.
- A strong NFIP coupled with a consumer-friendly private insurance market will provide property owners with the choices they demand.

Opposing Viewpoints

- Some have expressed concern about the private market “cherry picking” and leaving the NFIP with the most risky policies and less revenue to keep the program solvent over the long term.
- Another concern is the non-admitted or surplus line insurers could offer less coverage than an NFIP policy and expose Fannie Mae/Freddie Mac to risk as the market assumes a greater share of policies.

Supporting Viewpoints

- The bill clarifies that property owners may satisfy the federal mandatory purchase requirement with private flood insurance and will not lose their grandfathered status if they later return to the NFIP.
- Neither the private market nor NFIP debt is likely to balloon due to these bill technical corrections.
- There is already a considerable private market for flood insurance, which according to the data, is not targeting the lowest risk NFIP policies but is offering better coverage at lower cost in high risk zones.
- With or without the bill, that market will continue to grow as long as NFIP continues to set rates that do not reflect the true risk in many parts of the country.
- NAR supports strengthening the long term viability of NFIP but the answer is not to keep properties locked in the program so they can keep cross subsidizing others.
- The best way to strengthen NFIP is to attract voluntary participation through rate reforms and bring down the overall risk through mitigation, and the best place to do it is the 2017 reauthorization bill.
- In the interim, this modest bill could offer immediate rate relief for some policyholders who are being charged too much by the NFIP and assess the private market’s ability to offer a competitive product.
- Attached is more detailed point-by-point response to concerns raised.

Fact Checker

“Flood Insurance Market Parity and Modernization Act”

Some consumer and lender groups are re-raising concerns about the Flood Insurance Market Parity and Modernization Act, HR 2901. These concerns were already the subject of extensive hearings and amendments in the House and focused less on the bill itself and more on hypothetical long-term scenarios involving national flood insurance premiums and debt. NAR addresses specific issues below but in general, we can only speculate about the future. What we know for sure right now is that many in the federal insurance program are paying too much and more than their fair share of the risk. The answer is not to keep these property owners locked in the program so they can keep cross subsidizing others. NAR urges the Senate to immediately take up and pass the House bill HR 2901, as is, in order to offer private market options and short-term rate relief. In the longer term, NAR members believe that the best way to keep risk-based rates affordable is to reduce the overall risk in the system. We also urge the Senate to add a substantial mitigation reform title to next year’s reauthorization bill, and NAR stands ready to assist with these efforts in order to reauthorize and strengthen the long-term viability of the program.

Will HR 2901 phase out the National Flood Insurance Program (NFIP)?

- There is no provision in the bill to end the NFIP.
- Under the bill, consumers would be free to purchase private flood coverage without risking their grandfathered status in the NFIP.
- HR 2901 preserves the NFIP as a viable option for those who decide to leave the program for comparable, lower cost coverage in the private market.
- The bill clarifies that private flood insurance satisfies federal purchase requirements if it covers at least the amount of the mortgage loan and complies with state insurance laws.
- It creates a safe harbor for lenders who accept private flood insurance meeting both conditions.
- Lenders would have the confidence to accept one of these private plans without being second guessed by federal bureaucrats for duplicative red tape and paperwork.

Why support legislation that allows homeowners to leave the NFIP?

- The goal of the legislation is to give homeowners more choices to find the coverage that is right for them, not to undermine the NFIP.
- We can work on separate legislation to reauthorize and strengthen the long-term viability of the NFIP by including adequate mitigation assistance to those who remain in the program.
- HR 2901 is modest legislation compared with other proposals that do-away with the program entirely.
- The bill is a good down payment toward a more comprehensive set of NFIP reforms but also offers a reasonable alternative to more substantial privatization efforts.
- Because NFIP charges only national average rates, many properties with below average risk are being overcharged across the country.
- Private flood insurance offers a lower cost option for many of these property owners.
- Nothing in federal law now prevents insurance companies from writing private flood insurance, and nothing in the bill would change this.
- More market competition could also spur NFIP to align rates to risk, keeping more property owners within the NFIP and adding policies in low-risk areas.

Will the bill enable “cherry picking” and leave the NFIP in further debt?

- Not according to data from the insurance companies already writing private flood insurance.
- In fact, these companies are targeting high-risk zones, not low-risk zones and offering better coverage at lower cost than NFIP.
- It is true that:
 - These companies wouldn’t be writing unless they can charge less than NFIP but enough to cover their costs, including a normal rate of return; and
 - As the private market’s share of flood insurance grows, there could be less revenue for NFIP to pay claims from the less than 2% of properties that repeatedly flood.
- It is also true that with or without this bill, the private market’s share of flood policies will continue to grow as NFIP subsidies phase out and NFIP rates increase.
- While we must reduce the NFIP’s debt, NFIP’s debt is not factored into its insurance pricing.

Will the bill allow under-insurance and expose Government Sponsored Enterprises (GSEs)?

- Current law and HR 2901 require lenders to accept private insurance that covers at least the outstanding balance of the mortgage loan – even though that may not be enough to rebuild.
- The bill specifically states:

“Nothing in this subsection shall be construed to supersede or limit the authority of [GSEs, federal lenders or regulators] to establish requirements relating to the financial strength of private insurance companies ... provided that such requirements shall not affect or conflict with any State law, regulation, or procedure concerning the regulation of the business of insurance.”
- The bill does streamline the definition of private flood insurance for mandatory purchase compliance; it would no longer reference deductibles or mortgage interest contract clauses.
- The bill does not however amend banking laws or otherwise prohibit GSEs from requiring lenders to be named co-payees on claim payments under those laws.
- Lenders must still comply with all of these banking laws in addition to flood laws.
- All this bill does is change the first law (flood insurance), not the second (banking).
- The flood law is only amended so that it is silent on banking provisions but the banking laws continue to provide broad federal regulatory authority and discretion over GSEs and lenders.
- HR 2901 would not create a conflict between these laws.
- The American Bankers Association supports the House bill as is.

Will the bill weaken consumer insurance protections?

- HR 2901 would require that private flood insurance meet state insurance laws.
- In addition to state regulatory safety net, the bill was amended to include consumer disclosures and allows policyholders to return to the NFIP if there’s any issue with a private insurer.
- NAR members believe that property owners can and should make their own decisions about flood insurance.
- States have been regulating insurance for decades, and are in a better position than banks or federal bureaucrats to protect consumers.
- The National Association of Insurance Commissioners has endorsed the bill and testified that current state laws are adequate to protect private flood insurance consumers.