

**TESTIMONY OF DONALD L. GRIFFIN  
BEFORE  
HOUSE FINANCIAL SERVICES COMMITTEE  
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY  
CONCERNING  
THE NATIONAL FLOOD INSURANCE PROGRAM  
ON BEHALF OF  
THE PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA**

**APRIL 14, 2005**

My name is Don Griffin and I am Vice President of Personal Lines for the Property Casualty Insurers Association of America. PCI is a trade association representing over 1,000 property/casualty insurers that write almost 40 percent of all the insurance policies in the United States. PCI was founded on the philosophy that consumers are best served by free, fair, and well-regulated insurance markets in which a wide variety of financially healthy companies compete for business on the basis of price, product innovation and quality, and customer service.

Thank you for the opportunity to appear before you today and to present information to the Committee regarding the effectiveness of the National Flood Insurance Program, the claims process, the standards used to settle claims and how this federal program could be improved.

**Introduction**

The committee requested comment on four key issues:

- Understanding the flood insurance policy and making the process of the purchasing and filing claims easier for policyholders to understand.
- The appeals process and adequacy of payments.
- Coordination between private “Write-Your-Own” (WYO) insurers, NFIP and the Federal Emergency Management Agency (FEMA).
- Training for agents and company personnel.

As indicated in the request, many of these issues were raised at a hearing before this committee in March 2004, prior to the passage of the Flood Insurance Reform Act of 2004-P.L. 108-262. (“The Act”). Included in the reform package are several key provisions that we believe, once implemented, will help resolve some of the issues raised during that hearing.

## **Understanding the Flood Insurance Policy**

The flood insurance policy, like any other insurance contract, may be confusing and difficult to understand. The program is complex and generally viewed as more of a hindrance than a help during the sales process. However, we believe that the program is an excellent example of a public/private partnership that works. Since its establishment by Congress in 1968, the program has provided a mechanism for property owners to protect against financial ruin from devastating floods. However, let me be clear: when the policy form was developed it was not then, nor is it now, designed to put a policyholder back to the same condition as before a loss – and therein, lies much of the problem. The policy does not provide coverage for personal property (i.e., contents) unless specifically purchased. And even when purchased, the coverage provided is on an “actual cash value” basis (replacement cost minus depreciation) rather than the cost to replace the item. This is but one example of how the flood policy differs from coverage commonly offered under a homeowners policy. The policy also does not offer coverage for items below ground level (e.g., in a basement) unless used for the maintenance or heating, etc. of the property.

The provisions of Title II provide that the policyholder be provided with a supplemental form, that sets forth, “...in simple terms, the exact coverages being purchased, and any exclusions...that apply to the coverage purchased...” PCI has been working with FEMA/NFIP staff on this and the other requirements of Title II and we believe it will help provide a basic framework for the policy provisions.

Insurance agents find the program complex. In fact, oftentimes merely determining the proper “location” on a flood map and/or the proper premium to charge is a challenge. This becomes a more significant problem when, as a result of a claim, it is determined that the premium charged is incorrect for the coverage purchased. At that point, the policy is “reformed” to provide the coverage that would have been purchased with the premium paid, often resulting in less coverage for the policyholder than they originally thought. Another problem associated with this purchase is the requirement that the coverage be purchased to meet the “federally-backed mortgage”. While this is a valuable requirement of the program, many policyholders do not understand the need, and merely buy whatever is required by the mortgagee, thus leaving them without personal property coverage in many cases.

## **Understanding the Claims and Appeals Process**

The flood claims process in many cases is not significantly different from the claims process for a homeowners policy, although the loss settlement is very different. In most cases, the WYO policyholder contacts his agent or company and files the claim. However, the WYO insurer does not establish the rules for the settlement of those claims. The policy provisions and the rules established to meet the provisions of the contract by FEMA/NFIP dictate the settlement provisions.

One of the problems with claims related to Hurricane Isabel (2003) was that allegedly, the agent and the adjuster often provided different answers to the same question, and claims were settled differently depending on the insurer. Certainly some of these allegations are true. Part of the problem stemmed from the fact that the areas affected by Hurricane Isabel had not experienced this type of catastrophe in many years. Thus, policyholders were unfamiliar with the policy provisions and the claims process. In some cases, customers did not purchase the appropriate coverage. Also, agents and claims adjusters were sometimes not familiar with these issues either. As a result, there were conflicts. There were approximately 24,000 claims following this storm. FEMA/NFIP sent letters to every claimant allowing them to have their claim reviewed. Just over eight percent requested that review and only four percent obtained a settlement different than the original amount. That means, no matter how you look at it, ninety-two percent of the claimants were either satisfied or at least understood their settlement. This is not meant to diminish the problems associated with individual claimants as a result of the program/process, it is just meant to put it into perspective.

The industry learned, as it does from any catastrophic event, how to better service its policyholders. Another set of events took place in 2004, when four hurricanes hit Florida and several other states. However, the vast number of those flood claims (approximately 50,000 out of 1.6 million total claims in Florida) were settled without many of the problems experienced in 2003. Part of this is due to the fact that the policyholders and adjusters in the most affected areas had more experience with the program. Also, the industry and FEMA/NFIP consistently applied the settlement provisions of the contract. Again, this does not mean there were not individual claims problems, merely that, overall, the process worked better.

The Act also established an appeals process. It requires that the policyholder be informed of “the number and dollar value of claims filed under a flood insurance policy over the life of the property, and the effect under the National Flood Insurance Act of 1968, of the filing of any further claims under a flood insurance policy with respect to the property...” PCI is again working with FEMA/NFIP through the Institute for Business and Home Safety’s (IBHS) Flood Committee to meet the requirements of this section of the new law. This section also includes a requirement for a claims handbook. The availability of a simple claims handbook, along with the outline of the appeals process should make the process for policyholders and WYO insurers easier to understand and use.

### **Coordination between private WYO insurers, NFIP and FEMA**

This is an area that has been strained in recent years due to political and directional changes. The leadership of Mr. David Maurstad as Director of the program beginning in 2004 has made a significant difference in the interactions with WYO insurers. His belief in the importance of this public/private partnership has been helpful and he, along with the capable and understanding staff, have made significant strides over the past year to renew this partnership relationship. The WYO insurers have worked with the FEMA/NFIP on a variety of issues, including the design and implementation of the Title II provisions and we look forward to making the program even more successful.

It cannot be stressed enough that this program is a success, with the premiums collected offsetting a significant number of claims every year and allowing individuals and businesses to get back to “normal” as soon as possible after a flooding event. It is also important to remember that the WYO insurers write the significant majority of all the flood insurance under the program, so this partnership is extremely important to the policyholders, the WYO insurers and the federal government.

### **Training for agents and company personnel**

The act requires that individual states include a requirement for training of agents on the flood insurance program. The basic outline of the training has been developed; however, at this time, unless a state already required training on the program as part of the licensing process, I do not believe that the states have had the opportunity to implement these requirements. The WYO Flood Insurance Coalition supports the training of both agents and WYO insurer personnel on the rules and coverages within the program and will work with the states to implement this important training.

### **Improvements to the program**

There are several areas of the program that could be improved. We would welcome the opportunity to work with this Committee, Congress and FEMA/NFIP to make any substantive changes that would improve the sales process, compliance and understanding of the program by the policyholders.

One area of particular importance is maintaining the program at the federal level. PCI believes that it is vital that all aspects of this program remain under federal jurisdiction. In recent years, there have been attempts to manipulate the provisions of the program to try court cases involving claims payments to the original sale of the product by the agent/insurer sales representative in state courts rather than federal courts. This, and any other attempts to erode the federal authority of this program, should be avoided, as it will add to the costs of the program through the variances in application throughout the states.

The existing program is extremely complex, and PCI and the IBHS Flood Committee would be very willing to work with FEMA/NFIP to look for ways to simplify administration. Simplifying the sales process for the agent, streamlining the processing for the WYO insurers and increasing the understanding of the program and claims process for the policyholder will benefit everyone. Such program improvements could increase purchases of the product (e.g., less federal subsidy of the NFIP), lower costs for the WYO insurers and thus for the program itself, and reduce problems when claims arise.

For example, one of the new provisions of the Act (Sec. 203) requires the purchaser sign an acknowledgement form. This requirement, due in many cases to how the flood policy is purchased and distributed, will be costly and will not produce the desired result of an informed policyholder. The flood insurance purchase includes a waiting period (other

than in certain circumstances for a real estate closing) and thus the policy is not issued and delivered at the time of purchase. Thus, this acknowledgement form must be sent out later, with the hope it is signed and returned. Many policyholders will likely not return this form and the cost to follow-up, along with the liability for obtaining acknowledgement is problematic for both the WYO insurers as well as FEMA/NFIP. This has been, and continues to be, the subject of significant discussion within the industry.

### **Additional comments**

The provisions of the Act establish a pilot program for mitigation of severe repetitive loss properties and revises the existing flood mitigation assistance program. PCI encourages Congress to fully appropriate the funds called for by these sections of the law. Rebuilding or substantially repairing repetitive loss properties poses significant problems for both policyholders, insurers and the federal government. It needlessly encourages improper land use, puts people and property in dangerous situations and is costly to private industry as well as the federal government. Insurers, even if there is not a flood loss, insure the property for other events (e.g., windstorm) and thus, if the repetitive loss property is rebuilt in an area subject to these coastal exposures, the insurance industry is called upon to provide coverage. This is a situation that does not benefit anyone and, again, we support the appropriation of the funds needed to implement the provisions of the law.

It was mentioned before, but it should be reinforced, that the National Flood Insurance Program works. There may be ways to improve it, some of which were discussed above, but overall; it is a program that provides important catastrophic protection for our nation's property owners. The insurance industry is already working with FEMA/NFIP to address areas of concern and we are willing to work with this Committee and Congress on further improvements to the program.

Donald L. Griffin, CPCU, ARC, ARe, ARM, AU  
Professional Information/Experience

Don Griffin is vice president, personal lines for the Property Casualty Insurers Association of America (PCI). PCI is a national property and casualty trade association with more than 1,000 member companies that write almost 40 percent of the nation's automobile, homeowners, business and workers compensation insurance.

Don's current responsibilities include policy development and issue identification as member liaison for the personal and commercial property, catastrophe and service contract reimbursement areas. He is PCI's point person in Des Plaines on terrorism insurance and flood insurance issues. He has over 20 years of experience in the property and casualty insurance business including management responsibilities at both agency and company levels.

In 2004, he helped form the "WYO Flood Insurance Coalition". This coalition includes more than 80 of the WYO companies writing about 95 percent of the flood insurance premiums through the WYO program. The coalition includes representation from the national property and casualty trade associations, their members, independent national companies and the Institute for Business and Home Safety. He is the coordinating leader of this coalition.

Prior to joining PCI, he worked for the attorney-in-fact of a reciprocal exchange, the California Casualty Indemnity Exchange group based in San Mateo, California. As Assistant Vice President in the product development area, he drafted policy language, coordinated company-wide compliance projects (such as compliance with Proposition 103) and filed both forms and rates with various state insurance departments. He served as risk manager and purchased the corporate property and casualty insurance as well as the reinsurance for the group.

His past experience also includes profit and loss responsibility for personal lines at Hall's Insurance Agency, Inc., a mid-sized independent insurance agency in southeast Texas with more than 6,000 personal lines clients. This agency was also the largest agency writer of flood insurance in the state.

He is a member of the Society of Chartered Property Casualty Underwriters, and holds the Associate in Regulation and Compliance, Associate in Reinsurance, Associate in Risk Management, and Associate in Underwriting designations.