

**Food, Conservation and Energy Act of 2008**  
**Title XII – Crop Insurance**  
**Summary**

**I. Company Financial Provisions:**

- A. Underwriting Gains. Makes no change in RMA’s quota share, which is currently 5 percent. [House Bill set a 12.5 percent minimum that was rejected]
- B. Administrative and Operating (A&O) Expense Payments.
1. Individual, Buy-Up Policies. Reduces payments by 2.3 percentage points. Establishes a “snapback” that reinstates 50 percent of the 2.3 point reduction for a state any year the state’s loss ratio exceeds 1.2.
  2. Area, Buy-Up Policies. Establishes the payment rate at 12 percent. Except, the lower rate of 12 percent does not apply to the Pasture, Rangeland and Forage (PRF) pilot program.
  3. CAT Policies. Establishes the payment rate at 6 percent.
- C. Payment Date Changes.
1. Underwriting Gains. Beginning with the 2011 reinsurance year (the period July 1, 2010 thru June 30, 2011), delay payments until October 1, 2012. For each reinsurance year thereafter, delay payments until October 1 of the following calendar year.
  2. A&O Payments. Beginning with the 2012 reinsurance year (the period July 1, 2011 thru June 30, 2012) delay payments until as soon as practicable after October 1, 2012, but not later than October 30, 2012. For each reinsurance year thereafter, delay payments until as soon as practicable after October 1 of the year following the reinsurance year, but not later than October 30.
- D. SRA Renegotiation. Provides authority for the FCIC to renegotiate the SRA, which contains the contractual obligations and financial terms of the relationship between RMA and the crop insurance companies, once every five years, the first occurring not sooner than for the 2011 reinsurance year.
- Changes in Federal Law that require FCIC to revise the financial terms of the SRA will not be considered to be a renegotiation of the agreement
  - Allows approved insurance providers (AIPs) to confer with each other in the course of the renegotiation process, as well as collectively with RMA.
  - Provides an exception to allow the SRA to be renegotiated more frequently than every 5 years if necessary to address unexpected adverse circumstances experienced by the companies.

- Requires RMA to consider certain alternative mechanisms for compensating companies for delivery expenses, when negotiating the SRA.

## **II. Producer Premium and Fee Provisions:**

- A. Premium Payment Date Change. Requires that beginning with the 2012 reinsurance year, FCIC must establish August 15 as the billing date for crop insurance premiums. [Moves the date earlier by about 6 weeks]
- B. Premium Adjustments. Clarifies the prohibition on paying premiums, offering rebates for premiums, or making other inducements to purchase crop insurance or after crop insurance has been purchased, except for as specifically allowed for administrative fees and performance-based discounts.
  - Grandfathers in entities that have previously been approved by FCIC for making certain payments.
- C. Premium Reduction Authority (Sec. 508(e)). Eliminates the PRP authority.
- D. Administrative Fees.
  1. Catastrophic Risk Protection (CAT).
    - (a) Amount. Establishes fee of \$300 per policy per county. [Current fee is \$100 per policy per county]
      - Repeals an annual appropriations rider barring charging fees based on imputed premium levels.
    - (b) Payment Limitation. Clarifies language that permits cooperative or trade association to pay premiums on behalf of farmer-members to make it clear that the provision applies ONLY to CAT fees.
  2. Noninsured Crop Assistance Program (NAP). Establishes the NAP fee at \$250 per crop per county, or \$750 per producer per county, with a limit of \$1,875 per producer. [Current fee is \$100 per crop per county]
    - o Clarifies that losses from aquacultural activities resulting from drought should be indemnified if the farmer has NAP coverage for that production.
- E. Premium Subsidy for Area Plans. Provides for a reduction of four (4) percentage points ‘across the board’ in premium subsidy.
  1. Area Revenue Plans. Premium subsidy based on (a) the percentage of the recorded county yield indemnified, and (b) the sum of a percentage of the premium established for additional CAT and the amount determined to cover A&O expenses for additional CAT.
  2. Area Yield Plans. Premium subsidy based on (a) the percentage of the recorded county yield indemnified, and (b) the sum of a percentage of premium established for additional CAT and the amount determined to cover A&O expenses for additional CAT.

### **III. Other Program Provisions:**

- A. **Funding for reimbursement, contracting, risk management education, and information technology.**
1. **Research and Development of New Crop Insurance Products.** Reduces mandatory funding from \$15 million to \$7.5 million.
  2. **Contracting and Partnerships.** Reduces mandatory funding from \$25 million to \$12.5 million.
  3. **Compliance and Oversight Activities.** Permits FCIC to use up to \$5 million of otherwise unused funds available to reimbursement, contracting, or partnership payments to strengthen crop insurance compliance and oversight activities, including information technology and data mining.
- B. **Reimbursement of Research and Development Costs Related to New Crop Insurance Products.** Provides an opportunity for applicants with approved **concept papers** to receive up to 50 percent of their estimated expenses in advance.
- Proposed projects that are approved are reimbursed for remainder of expenses.
  - Proposed projects that are rejected are not reimbursed for remainder of expenses, but advance funds don't have to be repaid.
  - Applicants failing to submit a completed proposal must refund all advance funds.
- C. **Coverage Improvements and New Policies.**
- Mandates FCIC to contract for coverage or improvements in coverage of the following enterprises:
1. **Organically grown crops.** Document loss experience between organic non-organic production. Document potential for eliminating or reducing premium surcharge for coverage of organic production. Examine opportunity for additional price elections. Requires annual report to Congress. Defines organic crop for the purposes of the crop insurance program.
  2. **Dedicated energy crops.**
  3. **Aquaculture.** Language gives details about what species should be considered.
  4. **Skip row cropping practices.** To capture actual productive capability of skip row planting patterns.
  5. **Poultry.**
  6. **Bee-keepers.**
  7. **AGR policies for beginning farmers.** Interest is in making them more useful to beginning farmers.
  8. **Nursery policies.** Concern is current policies are not well-tailored to the unique horticultural practices across the country. Interest is in ensuring that issues documented in the aftermath of recent natural disasters, especially in the Southeast, are not repeated in the future.

- D. Targeting Risk Management Education. Requires special emphasis in utilizing funds reserved for underserved states to target beginning, immigrant, and socially disadvantaged farmers and ranchers; farmers and ranchers preparing to retire; and established farmers and ranchers seeking to shift production and marketing practices.
- E. Crop Insurance Ineligibility related to crop production on noncropland. Provides that the Governor of a State in the Prairie Pothole Region National Priority Area will determine whether native sod acreage that is tilled for the production of an annual crop will be ineligible for crop insurance and noninsured crop disaster assistance benefits during the first 5 crop years of planting.
- The Secretary may exempt conversions of 5 acres or less from the terms of this provision.
  - Congress intends for the Secretary to undertake a study on the influence of the crop insurance program on the conversion of native sod to crop production.
- F. Funds for Data Mining. Beginning in 2009 and for each subsequent fiscal year, provides for FCIC to use not more than \$4 million annually for crop insurance program compliance and integrity, including data mining, except not to exceed \$36 million in total outlays over ten years.
- G. Funds for Computers. Provides \$60 million over 4 years for RMA to upgrade computer technology.
- H. Pilot Programs. Requires the Secretary to establish pilot programs for:
1. Sesame
  2. Grass Seed
  3. Camelina
  4. Enterprise and Whole Farm Unit. Allows farmers to convert the value of their crop insurance coverage under optional and basic units to higher levels of coverage for enterprise or whole farm units.
- I. Determination of Sweet Potato Production. Prohibits FSA from utilizing yield data collected from a pilot program to determine losses for the crop disaster assistance program recently enacted for the 2005 and 2006 crop years.
- J. Law Suits.
1. General Powers. Clarifies that farmers may sue FCIC over a denied claim only in the U.S. District Court for the district where the insured farm is located.
  2. Denial of Claims. Clarifies that approved insurance providers are only liable for lawsuits in Federal District courts for denial of claims if that claim is denied as the behest of the FCIC, but not if they deny such claims themselves.
- K. Reduction in Loss Ratio. Reduces the statutory national loss ratio for the Federal crop insurance program to 1.0 from 1.075.
- L. Controlled Business. On a calendar year basis, prohibits individuals from collecting commissions and other payments on policies in which they or members of their immediate family have a substantial beneficial interest if more than 30 percent of their total commission and other payments are derived

from policies sold on operations that they or their immediate family have beneficial interest in.

- Congress expects RMA to enforce this section through an effective system of statistical sampling and spot checks rather than through the imposition of blanket new reporting requirements on agents, subagents, or approved insurance providers.
- M. Measurement of Farm-Stored Commodities. Allows farmers the option to elect to have the FSA measure the quantity of crop stored on farms for the purpose of providing evidence on their level of losses, at their own expense.
- In this case, farmers may defer settlement of that claim for up to 4 months to allow stored grain to settle in the bin.
- N. Malting Barley. Allows RMA to modify the quality endorsement for malting barley to take into account changing market conditions.
- O. Crop Insurance Mediation. Allows producers involved in a dispute over a crop insurance claim to utilize both informal agency review and mediation to reach a resolution, so the producer would not necessarily have to choose between the two paths.
- P. Crop Report. Requires the Secretary to report in 180 days on issues relating to declining yields in producers' actual production histories and declining and variable yields for perennial crops, including pecans.
- Q. Definition of Basic Unit. Maintains definition of basic unit in crop insurance for producers of tobacco.