

# Congressional History

Congressional Record, July 31, 1981 (H5792)

House Report 97-158, Volume 1, (page 100)

The Committee also provided the Secretary with specific guidance to be used in determining whether a coastal barrier is "undeveloped." An undeveloped coastal barrier shall be treated as such only if there are few people-made structures on the barrier and these structures and human activities on the barrier do not significantly impede geomorphic and ecological processes. In interpreting the first aspect of this standard, the Committee notes that the rule of thumb used by the Department of the Interior in its on-going inventory and classification of coastal barriers is that if the area has, on average, less than one structure per five acres, then it is considered to be undeveloped. As additional guidance, the Committee notes that the level of infrastructure (roads, water, sewers, electric lines, etc.) in place and associated with such structures is a useful factor to consider in making this determination. For example, the presence of structures with no associated infrastructure in place suggests that an area is not developed. On the other hand, an area which has a full complement of infrastructure (i.e., some combination of roads, waters, sewers, electric lines, etc.) but not structures suggests that an area is, as a practical matter, already developed. Further, the Committee notes that in designating undeveloped coastal barriers, the Secretary is not limited to considering only those geologic features which are entirely undeveloped. Portions of such geologic features may also be designated as undeveloped coastal barriers for purposes of prohibiting the sale of federal flood insurance.

This provision requires the Secretary of the Interior to designate undeveloped coastal barriers within 90 days of the date of enactment. The Committee notes that the Department of the Interior has, for several years, conducted an on-going inventory and classification of coastal barriers on the Atlantic and Gulf coasts of the United States. This review has stemmed both from an internal evaluation of Federal policies affecting development on coastal barriers, as well as requests from Members of Congress. Thus, the Committee does not view this requirement as an unreasonable demand on the Secretary of the Interior.

#### Crime Insurance and Riot Reinsurance

The Committee bill extends the crime and riot reinsurance programs through September 30, 1982, and would also extend existing crime insurance and riot reinsurance coverage through September 30, 1985.

During its hearings in early April, the Subcommittee on Housing and Community Development heard considerable testimony urging that the crime insurance program be terminated since the number of policies written under the program were only approximately 81,000 nationwide and that some 62 percent of the policies written were in one State. The crime insurance program from its very beginning in 1970 has never been an actuarially sound

insurance program. In fact, it was never anything other than a direct federally-assisted program. A number of witnesses before the Subcommittee testified that the program was not a real insurance program that there was no risk spreading nor actuarial policies are written. In the opinion of the Subcommittee, the crime insurance program is the only federal program that assists victims of crime. It is an insurance program in the sense that policies are written by the Federal Government and payment of loss is made upon proof of loss. The Crime Insurance Program has benefitted middle and small business people and, in the Committee's view, one of the few federal programs that provide protection to people who have been victims of burglary, such types of criminal activities.

The Committee considered, in an earlier proposal, to provide an authorization for a program of claims of crime insurance losses. The insurance industry witnesses objected to the continued funding of the crime insurance program being made from the National Insurance Development Fund. Because of the budget situation, the Committee decided not to provide an authorization for crime insurance losses and in FY 1982, crime insurance losses will continue to be paid from the National Insurance Development Fund. The Committee will be considering alternative ways to provide for crime insurance losses.

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ditions of these debt obligations such as interest payments, principal repayments and maturity would be exactly the same as under the present Bank charter act, except the Bank shall maintain a repayment schedule after 1990 which will assure payment of all Government debt by 2020 and at least 30 percent of revenues from sale of stock to borrowers after date of redemption must be used by the Bank to retire class A notes.

2. No further purchase of Class A stock by the Treasury will be permitted unless and until authorized by a further Act of Congress beyond \$47 million for the Bank and \$14 million for title II.

3. Elected shareholder directors will replace Government board members except that the President shall continue to appoint a representative of small business and two others to the 15-member board.

4. The Farm Credit Administration and GAO shall be responsible for the examination, audit, and supervision of the National Consumer Cooperative Bank. All salaries, administrative and other Bank costs shall be borne by the Bank from its own income on loans.

5. Privatization would take place no later than December 31, 1981 and after all stock purchases required by fiscal years 1981 and 1982 appropriations acts. After that date, the United States shall not be responsible for any obligation of the Bank.

6. The Bank would be treated as a cooperative for Federal tax purposes and the Office of Self-Help Development and Technical Assistance (low-income co-ops) would be treated as a charitable organization for purposes of section 501(c)(3) of the Internal Revenue Code with powers limited to their existing powers under sections 203, 208 and 210. Any additional activities by the Bank must meet the requirements prescribed by section 501(c)(3). The Bank would continue to be exempt from state and local taxes except real estate taxes.

7. The Bank would be authorized to make a portion of its income available to assist low-income co-ops under title II (self-help) which would become a separate non-profit entity under D.C. law.

8. Cooperatives eligible to receive loans from the Bank shall be amended so that any housing cooperative existing on March 21, 1980 would be eligible.

9. The of the Class A notes shall be treated as paid in capital of the Bank and the remainder shall remain first priority debt which cannot be subordinated to any new debt or equity instrument.

10. The Bank will not be authorized to issue tax exempt bonds.

11. Language will be developed by staff—if not, we go back to House language plus matter listed in item 8 above.

Mr. EVANS of Delaware. Mr. Speaker, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Speaker, I congratulate the managers of the conference, especially the chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Rhode Island (Mr. ST GERMAIN), and our ranking member, the gentleman from Ohio (Mr. STANTON).

Mr. Speaker, I want to commend the managers from the Committee on Banking, Finance and Urban Affairs for their leadership in this process.

the position of the House with respect to the Omnibus Budget Reconciliation Act of 1981. Both the distinguished chairman of the Banking Committee, Mr. ST GERMAIN, and the distinguished ranking member, Mr. STANTON of Ohio, have skillfully represented the House in prolonged discussions with the other body, and I fully support the product of their efforts.

I would specifically like to address the provision in the Budget Act pertaining to the national flood insurance program and undeveloped coastal barriers on the Atlantic and Gulf of Mexico coasts of the United States. As a conferee from the Banking Committee, and a coauthor of this language along with the distinguished chairman, Mr. ST GERMAIN, it is important to firmly establish the legislative intent of the sponsors of the provision. My comments have been cleared with the chairman and ranking member and represent our joint interpretation of the flood insurance provision.

Section 1321 of title III, chapter 4 of the House-passed version of the Omnibus Budget Reconciliation Act of 1981 prohibited the sale of Federal flood insurance for new construction or substantial improvements of structures located on undeveloped coastal barriers on the Atlantic and gulf coasts. The Secretary of the Interior was given 90 days to designate the affected areas pursuant to several criteria contained in the statute, and the prohibition of Federal flood insurance would have been effective immediately thereafter. The Senate had no comparable language in their version of the Budget Act.

In conference, members of the House and Senate Banking Committees adopted a compromise which established October 1, 1983, as the effective date of the prohibition on flood insurance. The Secretary of the Interior will have 1 year, rather than 90 days, to designate undeveloped coastal barriers. I believe this is a fair compromise. It establishes a date certain to end Federal involvement and taxpayers' subsidies in coastal barrier flood insurance, yet it allows a transition period of 2 years for those who have purchased coastal barrier properties with the expectation of receiving Federal flood insurance. In the following remarks I set forth a more detailed explanation of the provision adopted by the conferees.

Section 1321(a) provides that as of October 1, 1983, there will be a prohibition on the sale of Federal flood insurance for new construction or substantial improvements of structures on undeveloped coastal barriers on the Atlantic and gulf coasts as designated by the Secretary of the Interior. The terms new construction and substantial improvements are standard terms defined in regulations issued by the Federal Emergency Management Agency (44

CFR 59.1). Prior to October 1, 1983, any structures which may be erected in an area designated as an undeveloped coastal barrier will still be eligible for Federal flood insurance.

Section 1321(b) establishes three standards to guide the Secretary in designating undeveloped coastal barriers. Before describing those standards, it is important to note that the Department of the Interior has, for several years, conducted an ongoing inventory and classification of coastal barriers on the Atlantic and gulf coasts of the United States. In 1981, in response to a request from the Congress, the Department developed a list of undeveloped coastal barriers which met criteria identical to those specified in section 1321(b). It is the intent of the authors of section 1321 that this inventory, which is presently being reviewed by State and local government officials and other interested parties, will provide the basis for designations by the Secretary. It is expected, of course, that the Secretary will refine the existing inventory after having reviewed this section.

Section 1321(b)(1): the House adopted, and the Senate agreed to, a provision stipulating a definition of the term coastal barrier which only includes true barrier islands, as well as closely related geologic features such as bay barriers, spits, and tombolos. A coastal barrier is defined as a geologic feature that consists of unconsolidated sedimentary materials, is subject to wave, tidal, and wind energies, and protects landward aquatic habitats from direct wave attack. Consistent with the Department's ongoing inventory, including the list developed in 1981, it is not the intent of the authors that this definition include areas such as the interiors of large embayments such as the Chesapeake Bay.

Regarding the determination of which coastal barriers are undeveloped, the House adopted, and the Senate agreed to, section 1321(b)(2) which requires that an undeveloped coastal barrier shall be treated as such only if there are few people-made structures on the barrier, or portion of a barrier, so that these structures and human activities on the barrier do not significantly impede geomorphic and ecological processes. In interpreting the first aspect of this standard, the authors intend that the Department use the same standard which they have used in their ongoing inventory of coastal barriers. That is, an area which averages less than one structure per 5 acres should be considered undeveloped. We also expect, and this was noted in the report from the Banking Committee, that the Department will take into account the level of infrastructure—roads, water, sewers, electric lines, jetties, and so forth—in making this determination.

For example, the presence of scattered structures with no associated infrastructure suggests that an area is not developed. On the other hand, an area which has a full complement of infrastructure; that is, some combination of the above-mentioned items, but no structures, should be considered as being already developed. Consistent with the Department's ongoing inventory, we expect that in designating undeveloped portions of coastal barriers that such units will be at least one-quarter mile in length.

The last of the three criteria guiding the Secretary's designations is contained in section 1321(b)(3). This paragraph provides that a coastal barrier which is included within the boundaries of an area established under Federal, State, or local law, or held by a qualified nonprofit organization, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes shall not be designated as an undeveloped coastal barrier for purposes of denying Federal flood insurance. As is noted in the conference report, our intention is that a qualified nonprofit organization is one which has the intent and capability to maintain the natural character of coastal barrier ecosystems.

Section 1321(c) codifies an opinion of the General Counsel of the Federal Emergency Management Agency that a federally related lending institution, such as a bank or a savings and loan association, may make loans secured by structures which are not eligible for flood insurance by reason of subsection (a) of this section. In other words, this provision severs the linkage between Federal flood insurance and the availability of mortgage money where flood insurance has been denied on undeveloped coastal barriers.

Finally, section 1321(d) requires that the Secretary conduct a study for the purpose of designating undeveloped coastal barriers and, not later than 1 year from the date of enactment, transmit to the Congress a report of the findings and conclusions of such study together with any recommendations regarding the definition of the term coastal barrier as used in this section. Although the Secretary is required to report to the Congress on these matters, the Secretary's designations of undeveloped coastal barriers shall be effective unless altered by act of Congress. Since the prohibition on flood insurance does not take effect until October 1, 1983, it is the intent of the authors that structures which are erected after an area has been designated as an undeveloped coastal barrier—but before October 1, 1983—will be eligible for Federal flood insurance.

Mr. Speaker, this concludes the interpretation of the authors of the provision in the Budget for retaining the flood insurance on undeveloped coastal

barriers. As the coauthor of this provision with my distinguished colleague from Rhode Island, Mr. ST GERMAIN, I am pleased at the compromise which has been agreed to by the conferees and it has my full support.

Mr. BREAU. Mr. Speaker, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Louisiana.

Mr. BREAU. Mr. Speaker, I would like to say a word about the undeveloped coastal barriers provisions of the conference report. Initially the House bill provided that no new flood insurance coverage could be provided for any new construction or substantial improvement of structures on undeveloped coastal barriers designated by the Secretary of the Interior. The Senate bill contained no such provision.

Further, the House bill contained a provision defining a coastal barrier and requiring the Secretary of the Interior to designate coastal barriers within 90 days of the enactment of this bill.

I understand there was serious opposition to the House proposal on undeveloped coastal barriers which was compromised as follows:

First, the prohibition on new flood insurance on undeveloped barrier islands will not become effective until October 1, 1983.

Second, there was a fundamental difference of opinion over the definition of a coastal barrier and the meaning of the word undeveloped. The matter was resolved by accepting for the time being the House definition until the Secretary has an opportunity during the next year to study the problem and make recommendations to the Congress regarding the appropriate definition of the term coastal barrier.

The Secretary must also develop a principled definition of what is undeveloped in order to implement the act's vague standard of few manmade structures.

I understand in defining undeveloped coastal barriers, only coastal barriers which are truly undeveloped, unstable and environmentally fragile, either islands or coastal barriers which are connected to the mainland, but which serve in any event to protect the mainland from the effects of ocean wind, wave and tidal energies, are the subject of this legislation.

I further understand the 90-day period within which the Secretary of the Interior was to designate undeveloped coastal barriers was deleted and the designation period was extended in the compromise by providing that the study to be conducted by the Secretary of the Interior be submitted to Congress within 1 year of enactment. The report of the managers took notice of some maps that were prepared on the staff of the Fish and

Wildlife Service earlier this year. I note also that the National Park Service also prepared studies and inventories of barriers in previous years. I understand it was not the intent of the conferees to endorse any of these maps. Rather, it was the expectation that the findings and conclusions of the Secretary's study mandated in this compromise would be used as a basis for the designation process.

Mr. ST GERMAIN. Mr. Speaker, in response to the gentleman from Louisiana, let me state that I would reply in the affirmative to the issues that he has just raised regarding the provision in title III which would prohibit new flood insurance on undeveloped barrier islands.

In response to the last question raised by the gentleman with regard to the list of undeveloped coastal barriers that have been developed by the Department of the Interior, the gentleman states that his impression was that it was not the intent of the conferees to endorse any of these maps. Let me say that it was the conferees' expectation that these maps would be used as a basis for the designation.

Mr. Speaker, I would not want to leave the impression that the conferees did endorse or did not endorse any particular maps that have been developed by the Department of the Interior. Let me direct the gentleman's attention to the statement of managers which from our part clearly outlines our intentions with regard to this matter. The statement of managers states:

The conferees note that in 1981 in response to a request from the Congress, the Department of the Interior developed a list of undeveloped coastal barriers which may meet the criteria in this section. The conferees expect that this inventory may provide a basis for the designation by the Secretary. However, the conferees expect the Secretary to review carefully the definition contained in section 321 in preparing the report of findings and proposed designations of areas covered in this section.

The point that I am trying to make to my colleague is that these maps will serve as a basis upon which the Secretary of the Interior will be reporting back to us in 1 year as to what these barrier islands are. They are not the final list. Certainly there will be changes, revisions, deletions, and additions, but they should serve as a basis upon which the Secretary will be reporting to us.

Mr. GONZALEZ. Mr. Speaker, the Committee on Banking, Finance and Urban Affairs had the difficult and onerous task of making the biggest budget cuts of all. In turn, my Subcommittee on Housing and Community Development was assigned the greatest budget cuts of any in the House.

Gramm-Latta II forced my subcommittee to cut out almost all programs that