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The Federal Crop Insurance Program: Administration, Structure, and Operation

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Grant Ballard¹

Crop insurance is a widely used risk management tool for American agricultural producers. Currently, over 100 different crops are insurable under the federal crop insurance program.² In its most basic sense, crop insurance can provide farmers with financial protection against natural losses to insured crops.³ Crop insurance quickly becomes more complex, however, as different types of crop insurance policies often have distinct terms and conditions. Moreover, the structure of the federal crop insurance program can be confusing as the program is administered by the federal government, yet sold and serviced by approved private insurance companies.

Crop insurance in this country is certainly not a traditional insurance relationship between a private insurance company and an insured individual. Understanding the basic administration, governmental actors, and structure of crop insurance is necessary for producers and others to properly consider the legal issues involved in crop insurance. This article has been prepared with that aim in mind and is a part of a series of National Agricultural Law Center articles involving federal crop insurance such as *Filing an Insurance Claim: An Overview for Producers*.⁴

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² Risk Management Agency. *Crop Policies and Pilots*, 2011, <http://www.rma.usda.gov/policies/>.

³ 7 U.S.C. § 1508(a)(1) (2006).

⁴ Grant Ballard, *Filing and Insurance Claim: An Overview for Producers*, National Agricultural Law Center, available at http://www.nationalaglawcenter.org/assets/articles/ballard_article.pdf.

Role of the Federal Government in Crop Insurance

The federal government's role in the insurance of privately owned crops was significantly expanded with the enactment of the Federal Crop Insurance Act (FCIA),⁵ in 1980. The goal of the FCIA was "to promote the national welfare by improving the economic stability of agriculture through a sound system of crop insurance and by providing the means for research and experience helpful in devising and establishing such insurance."⁶ The inherent risk involved in production agriculture provided the incentive for Congress to promote crop insurance as a risk management tool for farmers⁷ and led to the creation of the Federal Crop Insurance Corporation as well as a crop insurance system where the federal government exerts significant control over the relationships between insured farmers and their insurance providers.

Today, the United States Department of Agriculture (USDA), with the assistance of the Federal Crop Insurance Corporation (FCIC) and the Risk Management Agency (RMA), provide both subsidization of crop insurance premiums as well as reinsurance to private insurance companies in an effort to ensure that affordable crop insurance is available to American farmers.⁸ The FCIC and RMA also exercise significant oversight of the private sale of crop insurance policies while promulgating regulations and guidelines controlling the sale, implementation, adjustment, and resolution of crop insurance policies.

Who are the Federal Crop Insurance Corporation and Risk Management Agency?

The average producer who purchases a crop insurance policy likely views the policy as a contract between the farmer and private insurance provider, but the FCIC and RMA actually

⁵ 7 U.S.C. §§ 1501-1524 (2006).

⁶ 7 U.S.C. § 1502(a) (2006).

⁷ See Stephen Frerichs, *Crop Insurance: Some Basics*, Agriculturelaw.com, <http://www.agriculturelaw.com/links/cropins/101.htm>.

⁸ See Stephen Frerichs, *Crop Insurance: Some Basics*, Agriculturelaw.com, <http://www.agriculturelaw.com/links/cropins/101.htm>.

mandate basic policy terms. In addition, if there is a dispute between an insured producer and an insurance provider regarding coverage, RMA may have the actual authority to make final determinations as to the responsibilities of both parties and the validity of a producer's crop insurance claim.⁹

The Federal Crop Insurance Corporation (FCIC) works to “carry out the purposes” of the Federal Crop Insurance Act.¹⁰ These “purposes” that the FCIC is authorized to perform include the reinsurance of private insurance providers who sell crop insurance policies to farmers across the United States.¹¹ The FCIC operates under the supervision of the Secretary of the United States Department of Agriculture and is managed by a Board of Directors.¹² The Board of Directors is made up of insurance professionals and individuals experienced in the private crop insurance business as well as USDA officials and policy-holding farmers.¹³ The Federal Crop Insurance Act gives the FCIC and the Secretary of Agriculture the power to issue regulations needed to carry out the Corporation's statutory duties¹⁴ under the Act.

Although the Federal Crop Insurance Corporation is authorized to administer the federal crop insurance program, most duties of the Corporation are actually conducted by the USDA's Risk Management Agency (RMA).¹⁵ The Risk Management Agency was created, in a 1996 USDA reorganization, to handle the administrative responsibilities of the FCIC.¹⁶ As a result, many responsibilities delegated to the FCIC in statutes and regulations are, in fact, handled by RMA. Duties undertaken by RMA include the development of crop insurance policies,

⁹ 7 C.F.R. § 457.8, Section 20 (2011).

¹⁰ 7 U.S.C. § 1503 (2006).

¹¹ 7 U.S.C. § 1508(a)(1) (2006).

¹² 7 U.S.C. § 1505(a)(1) (2006).

¹³ 7 U.S.C. § 1505(a)(2) (2006).

¹⁴ 7 U.S.C. § 1506 (o) (2006).

¹⁵ Risk Management Agency, *About the Risk Management Agency*, November 2010, <http://www.rma.usda.gov/pubs/rme/aboutrma.pdf>.

¹⁶ United States Department of Agriculture, *A History of the Crop Insurance Program*, 2011, <http://www.rma.usda.gov/aboutrma/what/history.html>.

administration of subsidization, approval of crop insurance products, and the reinsurance of private insurance providers.¹⁷ The FCIC retains control of the price, terms, and conditions for federal crop insurance contracts while overseeing the delivery of crop insurance policies to farmers. It is important to note that crop insurance policies are proposed and finalized by the FCIC, before being codified in the Code of Federal Regulations.¹⁸ To ensure compliance with controlling statutes and regulations, the RMA publishes “handbooks,”¹⁹ which outline guidelines and procedures for the administration of crop insurance policies.

Examples of FCIC Responsibilities

The Federal Crop Insurance Corporation is responsible for the implementation of a set of basic provisions, applicable to all crop insurance policies, and referred to as the “Common Crop Insurance Policy,” (CCIP) which is also codified in the Code of Federal Regulations.²⁰ The common crop insurance policy provides the basic terms and conditions applicable for coverage under private insurance policies.²¹ Private insurance companies that sell reinsured crop insurance policies cannot modify these terms and conditions, found in the CCIP.²²

As stated earlier, the work of the FCIC is partially devoted to the reinsurance of approved private crop insurance providers. Reinsurance is insurance for the private providers who offer and service crop insurance policies. Essentially, reinsurance allows private insurers to transfer some of the risk underwritten by that private insurer to the FCIC, through a contractual

¹⁷ Risk Management Agency, *About the Risk Management Agency*, November 2010, <http://www.rma.usda.gov/pubs/rme/aboutrma.pdf>.

¹⁸ United States Department of Agriculture, *A History of the Crop Insurance Program*, 2011, <http://www.rma.usda.gov/aboutrma/what/history.html>.

¹⁹ See <http://www.rma.usda.gov/handbooks/>.

²⁰ 7 C.F.R. § 457.8 (2011).

²¹ 7 U.S.C. § 1501 et seq. (2006).

²² 7 C.F.R. § 457.8 (2011).

reinsurance agreement.²³ In the context of crop insurance, this contractual reinsurance agreement is the Standard Reinsurance Agreement (SRA), which is a “cooperative financial assistance agreement between the FCIC and an insurance company.”²⁴ Pursuant to the SRA, the FCIC is obligated to pay certain percentages of policy premiums along with a percentage of the company’s insurance costs.²⁵ This arrangement serves to benefit private insurers by reducing costs and increasing the profitability of their crop insurance sales and service business. Approved insurance providers are also bound by the SRA and obligated sell and service crop insurance policies within the boundaries of applicable FCIC regulations and procedures.²⁶ The SRA can be found on the Risk Management Agency website, at <http://www.rma.usda.gov/pubs/ra/>.

Conclusion

The federal government’s involvement in the sale and administration of crop insurance in the United States may very well contradict traditional notions of the relationships between insured individuals and private insurance companies. Federally reinsured crop insurance is not a simple two party arrangement. As described above, a basic understanding of the federal crop insurance program requires an understanding of the role played by the FCIC and RMA, governmental actors that maintain a high degree of control over this program. And, this basic understanding of crop insurance is important for producers and others in recognizing broader legal issues in crop insurance. Hopefully, this article has clarified the role and responsibilities of

²³ See Ostrager, Barry & Thomas R. Newman, *Overview of Reinsurance*, 454 *Prac. L. Inst./Lit.* 339, 342 (1993).

²⁴ Risk Management Agency, *Reinsurance Agreements Overview*, 2011, <http://www.rma.usda.gov/pubs/ra/>.

²⁵ Scott Fancher, *FCIC’s Standard Reinsurance Agreement*, National AgLaw Center, 2002, http://www.nationalaglawcenter.org/assets/articles/fancher_reinsurance.pdf.

²⁶ Scott Fancher, *FCIC’s Standard Reinsurance Agreement*, National AgLaw Center, 2002, http://www.nationalaglawcenter.org/assets/articles/fancher_reinsurance.pdf.

both the FCIC and the RMA, while providing a general overview of the structure of American crop insurance system.