

Summary: H.R.3370 — 113th Congress (2013-2014)

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Public Law (03/21/2014) ▼

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Public Law (03/21/2014)

Homeowner Flood Insurance Affordability Act of 2014 - (Sec. 3) Amends the National Flood Insurance Act of 1968 (NFIA) to repeal the prohibition against any extension by the Administrator of the Federal Emergency Management Agency (FEMA) of flood insurance premium subsidies to prospective insureds for property: (1) not insured as of the date of enactment of the Biggert-Waters Flood Insurance Reform Act of 2012, or (2) purchased after such date.

Directs FEMA to: (1) make available rate tables that implement this repeal, (2) consult with "Write Your Own" companies when developing guidance and rate tables to implement this Act, (3) refund to insureds directly flood any insurance premiums under the National Flood Insurance Program (NFIP) that exceeded the rates required under this Act, and (4) permit the purchaser of any property covered under an existing flood insurance policy upon its purchase date to assume that policy at the chargeable premium rates for the remainder of its term.

(Sec. 4) Removes catastrophic loss years from the calculation of "average historical loss year" obligations incurred by the National Flood Insurance Fund for which chargeable premium rates must be adequate. (Thus restores "grandfathered rates.")

(Sec. 5) Limits to 18% the annual increase for the chargeable risk premium rate for flood insurance. Excludes specified properties from such limitation, including property that: (1) is located in a community downgraded under a certain statutory community rating system program, (2) was misrated, or (3) is covered by a policy where the policyholder has either decreased the amount of the deductible or increased the amount of coverage.

Requires an increase in the chargeable flood insurance risk premium rates for specified properties by an amount that results in an average during any 12-month period of not less than 5% of the average of the risk premium rates for such properties.

Reduces from 20% to 15% of the average of the risk premium rates for properties within the risk classification, upon the commencement of any 12-month period, the limitation on the permissible increase in the chargeable risk premium rates for flood insurance for any properties within any single risk classification.

(Sec. 6) States that, for flood insurance purchased after enactment of this Act for certain properties that have been newly mapped in areas with special flood hazards, the ensuing premium rates shall be the preferred risk premium for the first policy year, calculated upon renewal by using a specified formula until the rate reaches a specified level.

(Sec. 7) Directs FEMA to: (1) strive to minimize the number of policies with annual premiums that exceed 1% of the total policy coverage; (2) report to certain congressional committees premiums that exceed the 1% threshold; (3) impose on newly issued or renewed policies a prescribed annual premium surcharge in addition to existing assessments and surcharges; (4) deposit such additional premium surcharge into the Reserve Fund; and (5) prepare a draft affordability framework that addresses, via programmatic and regulatory changes, flood insurance affordability.

(Sec. 9) Prohibits this Act from being construed as authorizing FEMA to provide assistance to homeowners based

upon affordability that was not available before the enactment of the Biggert-Waters Flood Insurance Reform Act of 2012.

(Sec. 10) Authorizes FEMA to secure reinsurance of flood insurance coverage from private reinsurance and capital markets in an amount sufficient to maintain the claims paying ability of the flood insurance program.

(Sec. 11) Directs FEMA to grant certain policyholders the option of: (1) paying premiums either annually or monthly, and (2) obtaining high-deductible policies for up to \$10,000 on residential properties.

(Sec. 13) Excludes from the flood insurance purchase requirement any structure which is part of a residential property but is detached from the primary residential structure and does not serve as a residence.

Amends the Real Estate Settlement Procedures Act of 1974 to require each home buying information booklet for federally related mortgage loans to include a statement that: (1) a mortgage lender may require a mortgagee to maintain flood insurance on all structures to protect the collateral securing the mortgage, and (2) a mortgagee that chooses not to maintain flood insurance is responsible for all flood losses relating to that structure.

(Sec. 14) Amends the NFIA to require FEMA to carry out studies necessary to estimate risk premium rates based on consideration, in part, of the flood mitigation activities undertaken on a property, including differences in the risk involved due to land use measures, floodproofing, flood forecasting, and similar measures.

(Sec. 15) Prohibits FEMA from estimating risk premium rates for flood insurance on property which, after July 6, 2012, experienced substantial improvement exceeding 50% (currently 30%) of its fair market value.

(Sec. 16) Amends the Biggert-Waters Flood Insurance Reform Act of 2012 to direct FEMA to include in a specified affordability study: (1) options for maintaining affordability if annual flood insurance premiums increase to an amount greater than 2% of the liability coverage amount under the policy, including options for enhanced mitigation assistance and means-tested assistance; (2) the effects that establishment of catastrophe savings accounts would have regarding long-term affordability of flood insurance coverage; and (3) options for modifying a certain surcharge based upon homeowner income, property value, or risk of loss.

Directs FEMA submit the affordability study and report to certain congressional committees.

Increases from \$750,000 to \$2.5 million the funding for such study.

(Sec. 17) Sets as a prerequisite for FEMA implementation of a NFIP flood mapping program a review by the Technical Mapping Advisory Council that, when applied, results in technically credible flood hazard data in all areas where Flood Insurance Rate Maps are prepared or updated.

Requires FEMA to: (1) certify in writing to Congress when such program has been implemented, and (2) provide to Congress the Technical Mapping Advisory Council review report.

(Sec. 18) Amends NFIA to authorize FEMA to: (1) reimburse a community for non-legal expenses incurred in a successful flood elevation appeal resolved by submission of conflicting data to the Scientific Resolution Panel, and (2) use amounts from the National Flood Insurance Fund to make those and other authorized reimbursements.

(Sec. 19) Makes any community that has made adequate progress on the construction (as under current law) or reconstruction (new) of a flood protection system which will afford flood protection for the one-hundred year frequency flood eligible for flood insurance at premium rates not exceeding those which would apply if such flood protection system had been completed.

Applies to a finding of adequate progress on reconstruction of a flood protection system the same cost, expenditure, and completion percentages that pertain to adequate progress on construction of a system.

Requires FEMA, in determining whether a community has made adequate progress on the construction, reconstruction, or improvement of a flood protection system, to consider all sources of funding, including federal, state, and local funds.

Applies flood insurance availability guidelines specifically to riverine and coastal levees located in communities determined by FEMA to be in the process of restoring flood protection by a discredited system previously accredited on a Flood Insurance Rate Map as providing 100-year frequency flood protection, but that no longer does so. Applies such guidelines without regard to the level of federal funding of or participation in the construction, reconstruction, or improvement of the flood protection system.

(Sec. 20) Directs FEMA to: (1) report to Congress on a calendar quarterly basis if it finds that the reserve ratio for the Reserve Fund cannot be achieved, and (2) extend exceptions and variances for flood-proofed basements consistent with specified regulations.

(Sec. 22) Exempts from a review or processing fee any requests for a flood insurance rate map change based on a habitat restoration project funded in whole or in part with federal or state funds, including dam removal, culvert redesign or installation, or the installation of fish passage.

(Sec. 23) Directs FEMA to study options, methods, and strategies for making voluntary community-based flood insurance policies available through the NFIP.

Require the Comptroller General (GAO), within six months after FEMA reports study findings to specified congressional committees, to submit an analysis of them to the same congressional committees.

(Sec. 24) Requires FEMA to designate a Flood Insurance Advocate to advocate for the fair treatment of policy holders under the National Flood Insurance Program and property owners in the mapping of flood hazards, the identification of risks from flood, and the implementation of measures to minimize the risk of flood.

(Sec. 25) Amends the Flood Disaster Protection Act of 1973 to revise exceptions to escrow requirements for flood insurance payments to except, in addition, any loan that is: (1) in a junior or subordinate position to a senior lien secured by the same residential improved real estate or mobile home for which flood insurance is being provided at the time of the loan origination; (2) is secured by residential improved real estate or a mobile home that is part of a condominium, cooperative, or other project development, if the residential improved real estate or mobile home is covered by a flood insurance policy meeting certain criteria; (3) secured by residential improved real estate or a mobile home used as collateral for a business purpose; (4) a home equity line of credit; (5) a nonperforming loan; or (6) with a term of not longer than 12 months.

Requires federal lending regulators to direct each regulated lending institution or servicer of an outstanding loan to offer and make available to a borrower the option to have flood insurance premiums and fees, including any escrow of them, to be treated in a specified manner.

Amends the Biggert-Waters Flood Insurance Reform Act of 2012 to repeal the two-year delay in the application of specified flood insurance premium and fee payment escrow requirements and the exceptions to them.

(Sec. 26) Amends the NFIA to require FEMA to: (1) issue guidelines for property owners that provide alternative methods of mitigation efforts (other than building elevation), to reduce flood risk to residential buildings that cannot be elevated due to their structural characteristics; (2) inform property owners how implementation of these methods may affect NFIP risk premium rates; and (3) take into account, when calculating the risk premium rate, the implementation of any mitigation method identified in the FEMA guidelines.

(27) Amends the Biggert-Waters Flood Insurance Reform Act of 2012 to require FEMA to: (1) identify, review, update, maintain, and publish national flood rate maps with respect to areas protected by non-structural flood mitigation features; and (2) work with states, local communities, and property owners to identify such areas and features.

(Sec. 28) Amends the NFIA to require FEMA to communicate clearly full flood risk determinations to individual property owners regardless of whether their premium rates are full actuarial rates.

(Sec. 29) Directs FEMA to monitor and report to certain congressional committees on the impact of certain mandatory rate increases and surcharges upon the affordability of flood insurance for: (1) small businesses with less than 100 employees; (2) non-profit entities; (3) houses of worship; and (4) residences whose value is equal to or less than 25% of the median home value of properties within the state in which the property is located.

(Sec. 30) Amends the Biggert-Waters Flood Insurance Reform Act of 2012 to require FEMA to: (1) notify each affected community of the models that FEMA plans to use in any mapping or map updating process before commencing it; (2) provide each affected community a 30-day period to consult with FEMA about the appropriateness of the mapping model or models to be used; and (3) transmit to the affected community a copy of the first Independent Data Submission and give it a 30-day period to give FEMA data that can be used to supplement or modify the existing data, and incorporate any data consistent with prevailing engineering principles.

Requires FEMA also to notify the Senators of each state and the Representatives of each congressional district affected by the preliminary map in writing of the estimated schedule for community meetings and the estimated number of homes and businesses that will be affected by map changes, including how many structures not previously located in a special flood hazard area will be located within such an area under the preliminary map.

(Sec. 31) Requires FEMA, six months before implementing changes in flood insurance risk premium rates, to make publicly available the rate tables and underwriting guidelines that provide the basis for the change.

Requires FEMA to report to Congress on the feasibility of: (1) releasing property-level policy and claims data for flood insurance coverage under the NFIP, and (2) establishing guidelines for releasing property-level policy and claims data for such coverage in accordance with the Privacy Act of 1974.