



# NAFSMA NFIP Update:

## Current Status and What's Next

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# I. NFIP History and Committees of Jurisdiction

# NFIP History

In 1968, Congress created the NFIP to help provide a means for property owners to financially protect themselves. The NFIP offers flood insurance to homeowners, renters, and business owners if their community participates in the NFIP. Participating communities agree to adopt and enforce ordinances that meet or exceed Federal Emergency Management Agency (FEMA) requirements to reduce the risk of flooding. *Source: FEMA*



# NFIP History

- 2012:** President Obama signed into law the Biggert-Waters Flood Insurance Reform Act of 2012 (P.L. 112-141). The law reauthorized the NFIP through September 30, 2017.
- 2014:** The Homeowner Flood Insurance Affordability Act of 2014 modified certain provisions of Biggert-Waters.
- 2017:** Congress is working to have a long-term reauthorization in place before the September 30 expiration date. The major players are the Senate Banking Committee and the House Financial Services Committee.

# Committees of Jurisdiction

- **Senate Banking Committee:** Chairman Mike Crapo (R-ID) and Ranking Member Sherrod Brown (D-OH)
  - **Subcommittee on Economic Policy (handles flood insurance):** Chairman Tom Cotton (R-AR) and Ranking Member Heidi Heitkamp (D-ND)
- Senators Kirsten Gillibrand (D-NY) and Bill Cassidy (R-LA) have introduced a bill to reauthorize the NFIP for 10 years, and another group has introduced a bill to reauthorize the NFIP for 6 years

# Committees of Jurisdiction

- **House Financial Services Committee:** Chairman Jeb Hensarling (R-TX) and Ranking Member Maxine Waters (D-CA)
  - **Housing and Insurance Subcommittee** (handles flood insurance): Chairman Sean Duffy (R-WI) and Ranking Member Emanuel Cleaver (D-MO)
- They marked up several NFIP bills on June 15 and June 21, which we discuss later in this presentation

## **II. Congressional Hearings**

# NFIP Congressional Hearings

## House Financial Services:

- The House Financial Services Committee has held three NFIP hearings this year: March 9, March 16, and June 7
- Frequent topics have been:
  - affordability
  - the NFIP's debt
  - actuarial pricing
  - problems with the NFIP claims process
  - potential FEMA budget cuts by the Administration
  - increased private sector involvement and potential risk of cherry picking
  - increased incentives for mitigation
  - dealing with several repetitive loss properties
  - improved mapping
  - optimal length of reauthorization
  - addressing climate change and increased flooding
  - risk transfer

# NFIP Issues

## Actuarial pricing:

- In 2012, Biggert-Waters phased in elimination of premium subsidies, including those for properties with severe repetitive losses, as well as grandfathering, in order to move toward actuarially sound rates; it also required an affordability study prior to implementation
- In 2014, the Homeowners Flood Insurance Affordability Act moderated the effect of Biggert-Waters by re-establishing grandfathering and allowing properties to retain subsidized rates
- The bills marked up in the Financial Services Committee work to begin the phase out of grandfathering

# NFIP Issues

## Residual Risk:

- “Residual risk” is basically the risk that remains for a property protected by a levee in the event that the levee fails or is overwhelmed
- The concern is a Congressional mandate that would force people and businesses in residual risk areas to buy flood insurance as if there were no levee at all, thus penalizing those communities that tried to be proactive by investing in flood control structures
- However, this issue has not arisen in a major way at this point during the reauthorization effort

# NFIP Congressional Hearings

## Senate Banking Committee:

- The Senate Banking Committee has held two NFIP hearings this year: March 14 and May 4
- Topics arising in these hearings mirrored those from the House hearings
- Although Senators Gillibrand and Cassidy have introduced the bill discussed below, we can expect the Banking Committee to either introduce its own bill or take up some or all of the bills marked up by the Financial Services Committee if they pass the House; Another group of Senators also introduced the SAFE NFIP Act, which we also discuss below

## **III. House Legislation and Markup**

# Financial Services NFIP Markup

- House Financial Services marked up and reported 7 bills favorably in two days of markups this month
- The bills would then have to be voted on by the entire House
- Similar issues arose during the markup as had arisen during the previous hearings as the Committee is attempting to phase out grandfathering; involve the private sector; move toward actuarial premiums; increase reinsurance requirements for the NFIP; improve mitigation efforts; and make the program more fiscally sound

# Financial Services NFIP Markups

- The Financial Services Committee has marked up and reported favorably the following bills:
  - National Flood Insurance Program Policyholder Protection Act of 2017 (H.R. 2868)
  - 21st Century Flood Reform Act (H.R. 2874)
  - Flood Insurance Market Parity and Modernization Act (H.R. 1422)
  - Repeatedly Flooded Communities Preparation Act (H.R. 1558)
  - Taxpayer Exposure Mitigation Act of 2017 (H.R. 2246)
  - H.R. 2565 (To require the use of replacement cost value in determining the premium rates for flood insurance coverage under the National Flood Insurance Act, and for other purposes)
  - National Flood Insurance Program Administrative Reform Act of 2017 (H.R. 2875)

# National Flood Insurance Program Policyholder Protection Act of 2017 (H.R. 2868)

- Limits the premium of any single family residential property to \$10,000 per year, adjusted for inflation every 5 years (Democrats failed in pushing amendment for a lower cap)
- Authorizes FEMA to provide policyholders with credits to reduce their risk premium rates through approved mitigation, including mitigation techniques for urban structures and elevation of mechanical systems

# 21st Century Flood Reform Act (H.R. 2874)

- Reauthorizes the NFIP for 5 years through September 2022 (an amendment for a 6 year reauthorization by Ranking Member Waters failed)
- Authorizes appropriations of \$225 million per year for mitigation grants
- Eliminates new grandfathering after 4 years
- Decreases cap on annual rate increases from 18% to 15% and increases the minimum increase from 5% to 8%

# 21st Century Flood Reform Act (H.R. 2874) (continued)

- Elimination the non-compete requirement for the Write Your Own program, which currently prevents them from selling both NFIP and private flood insurance policies
- Drops NFIP coverage for properties with lifetime claims exceeding twice the replacement cost of the property, and eliminates NFIP eligibility for new properties built in designated flood zones
- Doubles non-compliance penalties for lenders on mandatory purchase requirements

# 21st Century Flood Reform Act (H.R. 2874) (continued)

- Restructures the surcharge created by the Homeowner Flood Insurance Affordability Act of 2014 to: (1) increase annual surcharges from \$25 to \$40 for all primary residences; (2) reduce annual surcharge from \$250 to \$125 for non-owner occupied residential properties subject to Preferred Risk Policy premium rates; and, (3) increase the annual surcharge from \$250 to \$275 for all other non-primary residences
- Amendment by Rep. Gwen Moore (D-WI) authorizes FEMA to conduct a community purchase pilot program

# Flood Insurance Market Parity and Modernization Act (H.R. 1422)

- Clarifies that flood insurance policies written by private carriers satisfy the mandatory purchase requirement
- Gives private insurers and state regulators more flexibility in what private policies satisfy the requirement that properties in flood zones have insurance
- Clarifies that FEMA shall consider any period a property was continuously covered by private insurance to be a period of continuous coverage

# Repeatedly Flooded Communities Preparation Act (H.R. 1558)

- Requires communities to map repeatedly flooded properties to determine the areas that should be priorities for voluntary buyouts, drainage improvements, or other mitigation efforts; implement plans for mitigating flood risk in these areas; and submit plans and reports on progress to FEMA
- FEMA may, as a last resort, suspend non-complying communities from the NFIP

# Repeatedly Flooded Communities Preparation Act (H.R. 1558) (continued)

- “Covered community” is one that has either:
  - 50 or more repetitive loss structures for each of which, during any 10-year period, two or more claims for payment have been made with a cumulative amount exceeding \$1,000
  - 5 or more severe repetitive loss properties for which specified mitigation activities have not been conducted
  - A public facility or private nonprofit facility receiving certain federal assistance for repair, restoration, reconstruction, or replacement in connection with more than one flooding event in the most recent 10-year period

# Taxpayer Exposure Mitigation Act of 2017 (H.R. 2246)

- Repeals the mandatory flood insurance coverage requirement for commercial and multi-family properties located in flood hazard areas and provides for greater transfer of risk to private markets
- Calls for community involvement in mapping; requires FEMA to purchase reinsurance or some capital market alternative to cover future losses; and allows commercial properties to opt-out of the mandatory purchase requirement so they can more easily purchase private flood coverage

## **H.R. 2565 (To require the use of replacement cost value in determining the premium rates for flood insurance coverage under the National Flood Insurance Act, and for other purposes)**

- Calls for FEMA to conduct a study of insurance best practices for risk rating and classification, including those related to replacement cost value in premium rate estimations, and to develop a “feasible implementation plan and projected timeline” for including replacement costs value in the estimates of premium rates
- Calls for FEMA to incorporate up-to-date replacement cost values, by structure, when calculating annual premium rates, as opposed to the current practice that relies upon a national average, over a one to three year period

# National Flood Insurance Program Administrative Reform Act of 2017 (H.R. 2875)

- Authorizes FEMA to supplement its existing Increase Cost of Compliance program (which is mandatory for many policyholders) coverage of up to \$30,000 with the option of allowing policyholders to purchase additional enhanced ICC coverage of up to \$60,000, as priced accordingly by NFIP
- The allowable uses of ICC coverage would be expanded to cover certain pre-disaster mitigation costs for certain at-risk properties identified by State or local governments

## National Flood Insurance Program Administrative Reform Act of 2017 (H.R. 2875) (continued)

- Strengthens FEMA's oversight of the Write-Your-Own program
- Increased disclosures and transparency for NFIP policyholders
- Makes changes to the claims process to deal with issues that arose after Sandy

# IV. Senate Legislation

# Senate Legislation

- We do not yet have a Senate Banking Committee NFIP reauthorization draft.
- The Committee has three options: (1) they could work with the bills marked up by House Financial Services if they ultimately pass the House; (2) they could draft their own legislation; or (3) they could work from one of the other Senate bills, which we will now discuss

# Gillibrand/Cassidy Bill

- Recently, Senators Bill Cassidy (R-LA) and Kirsten Gillibrand (D-NY) introduced the Flood Insurance Affordability and Sustainability Act of 2017, which would reauthorize the NFIP for 10 years until 2027
- The bill would reallocate certain surcharges to better finance mitigation activities and also instructs FEMA to develop meaningful cost reductions in premiums for mitigation activities undertaken by owners

# Gillibrand/Cassidy Bill

- The bill increases coverage limits from \$250,000 to \$500,000 for residential structures and from \$500,000 to \$1,000,000 for multifamily and business structures
- It facilitates gradual entry into the market by the private sector in a number of ways, such as allowing NFIP policyholders to purchase a private policy and switch back to NFIP coverage without losing continuous coverage or grandfather status

# Gillibrand/Cassidy Bill

- The bill calls for creation of a pilot risk-sharing program with Write Your Own companies
- Provides for affordability vouchers for certain owner-occupied households where insurance premiums and fees result in housing costs exceeding 40 percent of household income
- Takes steps to address the NFIP's solvency by, for example, requiring a portion of the program's risk to be transferred to private reinsurance markets

# Bipartisan Op-Ed and SAFE NFIP Act

- Sens. Bob Menendez (D-NJ), John Kennedy (R-LA), Chris Van Hollen (D-MD), Marco Rubio (R-FL), Elizabeth Warren (D-MA) and Thad Cochran (R-MS) wrote a Wall Street Journal Op-ed on NFIP reauthorization
- They then introduced the Sustainable, Affordable, Fair, and Efficient National Flood Insurance Program Reauthorization (SAFE NFIP) Act (S.1368)

# Bipartisan Op-Ed and SAFE NFIP Act

- Reauthorizes the NFIP for 6 years
- Caps annual premium increases to 10% for 6 years
- Excludes catastrophic loss years in the average historical loss year calculation
- Freezes interest payments and establishes new controls for private insurance company compensation in order to reinvest in proactive mitigation efforts and affordability measures, including low-interest loans for homeowners' mitigation projects and affordability vouchers

# Bipartisan Op-Ed and SAFE NFIP Act

- Preserves grandfathering
- Provides robust funding levels for large-scale, community-wide mitigation efforts, and mitigation assistance programs
- Authorizes funding for LiDAR technology for more accurate mapping of flood risk and creates a new appeals process regarding FEMA-created flood maps for states, local governments, or property owners

# QUESTIONS?

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**Thank you**

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