

## MEMORANDUM

**To:** Members of the Committee on Financial Services

**From:** FSC Majority Staff

**Date:** November 14, 2013

**Subject:** November 19, 2013, Housing and Insurance Subcommittee Hearing Entitled “Implementation of the Biggert-Waters Flood Insurance Reform Act of 2012: Protecting Taxpayers and Homeowners”

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On Tuesday, November 19, 2013, at 1:30 p.m. in Room 2128 of the Rayburn House Office Building, the Housing and Insurance Subcommittee will hold a hearing entitled “Implementation of the Biggert-Waters Flood Insurance Reform Act of 2012: Protecting Taxpayers and Homeowners.” This hearing will examine the National Flood Insurance Program, specifically the ongoing implementation of the Biggert-Waters Flood Insurance Reform Act of 2012.

This will be a two-panel hearing with the following witnesses:

### Panel 1

- The Honorable Craig Fugate, Administrator, Federal Emergency Management Agency

### Panel 2

- Josh Saks, Legislative Director, National Wildlife Federation
- Michael Hecht, President and Chief Executive Officer, Greater New Orleans, Inc.
- Maurice "Moe" Veissi, Immediate Past President, National Association of Realtors
- Barry Rutenberg, Immediate Past Chairman of the Board, National Association of Home Builders
- Chad Berginnis, Executive Director, Association of State Floodplain Managers
- Dr. Douglass Holtz-Eakin, President, American Action Forum

## **Background on the National Flood Insurance Program**

In 1968, Congress created the National Flood Insurance Program (NFIP), which is administered by the Federal Emergency Management Authority (FEMA) and provides flood insurance to approximately 5.6 million policyholders across the country. Residents and business owners in over 20,000 participating communities across the United States and its territories are able to buy flood insurance through insurance agents and companies that participate as third-party administrators in the Write Your Own program (WYO).

Property owners can purchase flood insurance through the NFIP only if their communities participate in the NFIP. To participate in the NFIP, communities must agree to abide by provisions intended to mitigate flood risks. For example, participating communities must adopt building codes that require new structures built in floodplains (high-risk areas) to be protected against flooding or to be elevated above the 100-year floodplain. FEMA calculates flood insurance premiums according to average expected annual losses resulting from a natural disaster event with a probability of occurring once every 100 years.

## **Financial Challenges Facing the NFIP**

As of September 30, 2013, the NFIP owed the U.S. Treasury \$24 billion. The NFIP's debt results primarily from its borrowing to pay claims relating to the Gulf Coast hurricanes in 2005 and Superstorm Sandy in October 2012. In response to the insurance program's cash shortfall, the 113<sup>th</sup> Congress passed H.R. 41, a bill to increase the NFIP's borrowing authority by \$9.7 billion, from \$20.725 billion to \$30.425 billion, which was signed into law on January 6, 2013 (P.L. 113-1).

The NFIP has been identified as a high-risk government program by the Government Accountability Office (GAO) since 2006. The GAO found that the NFIP does not charge rates high enough to cover its obligations and its projected losses, resulting in significant Federal expenditures and potentially large future liabilities. One contributing factor to the "high risk" designation has been grandfathering into the program of certain properties with subsidized premiums, many of which are now being phased-out (*see next section*).

## **Recent Legislative Action**

Between September 2008 and December 2011, the NFIP was extended on a short-term basis sixteen times; over that period, the program also lapsed four times. On July 12, 2011, the House passed H.R. 1309, a comprehensive NFIP reform and long-term authorization bill by a vote of 406 to 22. On May 31, 2012, Congress passed and the President subsequently signed into law H.R. 5740, the National Flood Insurance Program Extension Act, to extend the NFIP for 60 days and eliminate NFIP premium subsidies for non-owner occupied residential properties and second homes or

vacation homes. The Congressional Budget Office projected that the bill would produce \$2-2.5 billion in savings over the period 2012 through 2021.

Shortly after passage of H.R. 5740, Congress passed and the President subsequently signed into law the Biggert-Waters Flood Insurance Reform Act of 2012 (“Biggert-Waters Act”) as part of H.R. 4348 (P.L. 112-141). The Biggert-Waters Act reauthorizes the NFIP for five years--through September 30, 2017--and amends the National Flood Insurance Act to encourage broader participation in the program, increase financial accountability, eliminate unnecessary rate subsidies, and update the NFIP’s administrative capabilities.

A primary goal of the Biggert-Waters Act was to require the NFIP to charge rates that more accurately reflect the actuarial risk of flooding that properties face. Those changes are enacted in sections 100205 (“section 205”) and 100207 (“section 207”) of the Biggert-Waters Act. Each section affects a different category of NFIP policyholders and sets its own schedule for how the new rates will be applied. In general, section 205 pertains to formerly subsidized properties that are losing their grandfathered status and other properties facing new rates that have *not* been re-mapped. Section 207 applies only to those properties currently in the NFIP that are facing new rates because they *have* been re-mapped.

This hearing will explore the implementation of the Biggert-Waters Act and the rate making process for those policies affected by sections 205 and 207.