

**H.R. XXXX, the “21<sup>st</sup> Century Flood Reform Act”**  
**Section-by-Section Summary**  
**June 14, 2017**

**Title I—Policyholder Protections and Information**

**Sec. 101. Limit Annual Premium Increases.**

Decrease the cap on annual rate increases from 18 to 15 percent; and increase the minimum average chargeable risk premium, within a single risk classification, from 5 percent to 8 percent.

**Sec. 102. Flood Insurance Affordability Program.**

Authorize states to voluntarily create a state flood insurance affordability program that identify and validate eligible owner-occupants of single family 1-4 unit residences who are unable to pay their chargeable risk premium due to family income. Eligibility, validated using existing Federal income eligibility programs as a guideline, is limited to policyholders with incomes below the threshold of the greater of 150 percent of the state poverty level or 60 percent of the state area median income. At a date certain, as defined by FEMA, the state would forward its validated list to FEMA consisting of all eligible policyholders for whom the state is seeking assistance, along with the recommended type of assistance for each policy. Assistance can be in the form of either (1) capping the amount of chargeable risk premium paid, or (2) limiting the amount of premium increase on an annualized basis. FEMA would calculate the value of the aggregate subsidy cost for eligible policyholders within the state, the cost of which would be recouped through an equally distributed surcharge on all other policyholders within that state.

**Sec. 103. Disclosure Of Premium Methodology.**

Require the FEMA Administrator to develop a transparent public process to explain and engage with the public on its methodology to determine annual risk premium rates for NFIP coverage. Annual public forums in each of FEMA’s Federal regions are required.

**Sec. 104. Consideration of Coastal and Inland Locations in Premium Rates.**

Require the FEMA Administrator, when calculating annual chargeable premium rates, to consider the differences in properties located in local coastal and inland areas.

**Sec. 105. Monthly Installment Payment of Premiums.**

Authorize the FEMA Administrator to adopt policies and procedures to finalize implementation of the monthly installment payment of premiums provision, initially required by the Homeowner Flood Insurance Affordability Act of 2014.

**Sec. 106. Enhanced Clear Communication of Flood Risks.**

Require the FEMA Administrator to clearly communicate to all policyholders their full flood risks of their property, the number and dollar value of claims that have been filed over the life of a property, and the effect that filing any future claims would have on the cost of insurance for that property.

**Sec. 107. Availability of Flood Insurance Information Upon Request.**

Require the FEMA Administrator to make available, upon request of a policyholder, specific data and information related to the policyholder's property or structure, which includes any historical information, claims payments, flood damages, and whether the property may be required to purchase flood insurance due to previous receipt of federal disaster assistance.

**Title II—Increasing Consumer Choice Through Private Market Development**

**Sec. 201. Elimination of Non-Compete Requirement.**

Eliminate the regulatory restriction that currently prevents insurers participating in the NFIP's Write Your Own (WYO) Program from selling both NFIP and private flood insurance policies.

**Sec. 202. Public Availability of Program Information.**

Require FEMA to develop an open-source data system to allow public access of all information related to assessing flood risk or identifying and establishing flood elevations and premiums, including, where available, data relating to risk on individual properties and loss ratio information and other information identifying losses under the program. Personally identifiable information shall not be made available; the information provided shall be based on data that identifies properties at the zip code or census block level, and shall include the name of the community and state in which the property is located.

**Sec. 203. Refund of Premiums Upon Cancellation of Policy Because of Replacement with Private Flood Insurance.**

Require FEMA to allow policyholders who cancel their NFIP policies during the middle of the policy term to receive a pro-rata refund on their premiums if the policy is replaced with private flood insurance (excluding properties that have received any taxpayer-funded mitigation assistance through the NFIP's Increased Cost of Compliance program or if a claim has been paid or is pending under the policy term for which the refund is sought).

**Sec. 204. GAO Study of Flood Damage Savings Accounts.**

Require the Comptroller General of the United States to conduct a study assessing the feasibility and effectiveness of establishing voluntary flood damage savings accounts to reduce flood insurance premiums and eliminate the need for purchase of flood insurance coverage.

**Sec. 205. Flood Damage Savings Account Demonstration Program.**

Require the FEMA Administrator to submit to Congress a plan for the implantation of a demonstration program to establish voluntary flood damage savings accounts that takes into consideration the analysis, conclusions, and recommendations developed by the Comptroller General of the United States.

### **Title III—Mapping Fairness**

#### **Sec. 301. Use of Other Risk Assessment Tools in Determining Premium Rates.**

Require the FEMA Administrator to use other risk assessment data and tools, including risk assessment models and scores from appropriate sources, in addition to applicable flood rate maps when determining annual chargeable premium rates.

#### **Sec. 302. Appeals Regarding Existing Flood Maps.**

Create a new appeals process for States, local governments, or the owners or lessees of real property for whom FEMA has denied a request to update their FEMA-created map to appeal that decision based on new information regarding base flood elevation levels or other flood mitigating factors. The initial appeals process would be through an agency administrative process, with the possibility of a further appeal to the Scientific Resolution Panel. In cases where the appeal is wholly or partially successful, affected policyholders can cancel an impacted policy and are entitled to a refund on their premiums. Moreover, the appellant is entitled to recover reasonable costs for the successful appeal, not to include legal or contingency fees.

#### **Sec. 303. Appeals and Publication of Projected Special Flood Hazard Areas.**

Clarify that the owner or lessee of real estate adversely affected by the FEMA Administrator's determination of flood elevations and special hazard areas may appeal such determination no later than 90 days after the date of the second publication of a flood insurance rate map. Moreover, this provision clarifies that the FEMA Administrator's determination will become final if there are no appeals during the 90 day period following that second publication.

#### **Sec. 304. Communication and Outreach Regarding Map Changes.**

Give FEMA the ability to expedite the required community notification layover period for communities that wish to accelerate their mapping approval process.

### **Title IV- Protecting Consumers and Individuals Through Improved Mitigation**

#### **Sec. 401. Provides CRS Credits to the Maximum Number of Communities Practicable.**

Require FEMA to provide communities that have joined its Community Rating System program with appropriate credits in calculating their annual chargeable premium rates

when those communities implement or benefit from measures that protect natural and beneficial floodplain functions.

## **Title V- Program Integrity.**

### **Sec. 501. Independent Actuarial Review.**

Assign the FEMA Administrator the statutory responsibility to ensure that the NFIP remains financially sound. Require the FEMA Administrator to provide for an annual independent actuarial study of the NFIP to analyze the financial position of the program based on its long-term estimated losses. Require the FEMA Administrator to transmit the results of that report to Congress, along with the FEMA Administrator's determination of whether there exists an actuarial budget deficit for the NFIP for the year covered in the report and any recommended changes to the program to ensure that the program remains financially sound. Additionally, require the FEMA Administrator to submit quarterly reports to Congress on the changing policyholder composition and risk profile of the NFIP.

### **Sec. 502. Adjustments to the Grimm-Waters Act Affordability Surcharge.**

Restructure the surcharge originally 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 that are currently subject to Preferred Risk Policy premium rates; and, (3) increase the annual surcharge from \$250 to \$275 for all other non-primary residences.

### **Sec. 503. National Flood Insurance Reserve Fund Compliance.**

Require the FEMA Administrator to increase the current National Flood Insurance Reserve Fund assessment rate by 1 percent each year until the NFIP achieves its statutorily mandated reserve ratio phase-in requirement of not less than 7.5 percent.

### **Sec. 504. Designation and Treatment of Multiple Loss Properties.**

Enhance and consolidate the NFIP's ability to manage and track properties with a history of multiple claims by defining a new "multiple-loss property" term to cover all at-risk properties. Multiple-loss property would encompass three types of properties: (1) a revised definition of repetitive-loss property, meaning a property with two more claims of any amount; (2) a revised definition of severe repetitive loss property, meaning a property with 4 or more separate claims payments at \$5,000 each and the cumulative amount of such claims payments exceeding \$20,000, or at least 2 separate claims payments with the cumulative amount of such claims payments exceeding the value of the structure; and, (3) a new definition of "extreme repetitive-loss property," meaning a property that has incurred flood damage for which at least 2 separate claims have been made with the cumulative amount of such claims payments exceeding 150 percent of the maximum coverage amount

available for the structure. As part of the continued availability of NFIP coverage, multiple-loss properties would be required to submit additional data required by the FEMA Administrator to better ascertain the property's specific risk, and, for any multiple-loss properties not currently paying full risk rates, be subject to a subsidy phase-out at an annual rate of 15 percent per year. Severe repetitive-loss and extreme repetitive loss properties would be subject to a minimum deductible of \$5,000. Multiple-loss properties would also be eligible for prioritized mitigation assistance through the Flood Mitigation Assistance program, with up to a 100 percent cost share subject to the availability of funds. Owners of a designated extreme-repetitive loss property that refuse offers of mitigation following future losses would be ineligible to purchase future NFIP insurance until the property has been mitigated. Additionally, FEMA must validate the reasonable accuracy of claim history data for any multiple-loss properties.

**Sec. 505. Elimination of Coverage for Properties with Excessive Lifetime Claims.**

Prospectively prohibit the availability of NFIP coverage of any multiple-loss property with lifetime losses so excessive that the aggregate amount in claims payments, made after enactment of this Act, exceeds twice the amount of the replacement value of the structure.

**Sec. 506. Addressing Tomorrow's High-Risk Structures Today.**

Pursuant to his fiduciary duty and responsibility to ensure that the NFIP remain financially sound, require the FEMA Administrator to no longer make available NFIP coverage for certain high-risk properties after January 1, 2021, that have other available private flood insurance options. The high-risk properties covered by this prohibition include any new structures added to today's high-risk special flood hazard areas, as well 1-4 unit residential structures where the replacement cost of the building (exclusive of the real estate upon which the structure is located) exceeds \$1 million. To ensure the availability of coverage, the FEMA Administrator has the authority to make insurance coverage via the NFIP for such properties upon a determination that there exists a counter-cyclical market condition where the private flood insurance market is either not available or affordable in a certain geographic area, subject to a 10 percent surcharge. Such determinations shall be made by the state insurance regulator, subject to certain conditions, and be effective for no longer than 12 months or when such counter-cyclical market conditions no longer exist. The state insurance regulator may make multiple or back-to-back determinations depending on the local conditions of the insurance market. Additionally, once a policyholder is paying full risk actuarial rates for their property on or after January 1, 2021, the FEMA Administrator is prohibited from taking actions that create hidden risks for the NFIP by lowering rates for that property below their full risk actuarial rates in the future.

**Sec. 507. Allowance for Write-Your-Own (WYO) Companies.**

Establish that the allowance paid to companies participating in WYO Program, with respect to a policy for flood insurance coverage made available under the NFIP, shall not be greater than 25 percent of the chargeable premium for such coverage.

**Sec. 508. Enforcement of Mandatory Purchase Requirements.**

Increase the civil money penalties on federally regulated lenders for failure to comply with the NFIP's mandatory purchase requirements from \$2,000 to \$5,000, and require an annual report from federal banking regulators and the GSEs on the compliance of covered lenders with existing mandatory purchase requirements.

**Sec. 509. Satisfaction Of Mandatory Purchase Requirement In States Requiring Flood Coverage In All-Perils Policies.**

Provide for the satisfaction of the NFIP's mandatory purchase requirement for those properties located in a state that adopts a state-based requirement for mandatory "all-perils" coverage that includes flood insurance.

**Sec. 510. Flood Insurance Purchase Requirements.**

Update the existing exception from the NFIP's mandatory purchase requirement under the Flood Disaster Protection Act of 1973 for small dollar loans with a repayment term of 1 year or less from an original outstanding principal balance of \$5,000 or less to an inflation-adjusted \$25,000 or less. Additionally, reiterate that nothing in the law prohibits states, localities, and private lenders from requiring the purchase of flood insurance coverage for a structure that is located outside of an area designated by FEMA as a special flood hazard area.