

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

April 29, 2021

Memorandum

To: Members, Committee on Financial Services
From: FSC Majority Staff
Subject: May 4, 2021, HCI Hearing entitled, “Built to Last: Examining Housing Resilience in the Face of Climate Change”

The Committee on Financial Services will hold a virtual hearing entitled, “Built to Last: Examining Housing Resilience in the Face of Climate Change” on Tuesday, May 4, 2021, at 12:00 pm, on the virtual meeting platform Cisco WebEx. There will be one panel with the following witnesses:

- **Rodney Ellis**, Commissioner, Harris County, Texas
- **Ariadna M. Godreau-Aubert**, Executive Director, Ayuda Legal Puerto Rico
- **Andrew N. Mais**, Commissioner, Connecticut Department of Insurance, on behalf of the National Association of Insurance Commissioners
- **Shelley Poticha**, Chief Climate Strategist, Natural Resources Defense Council
- **Stephen Ellis**, President, Taxpayers for Common Sense

Overview

America’s housing infrastructure is vulnerable to the growing costs of climate and weather disasters, which may accelerate the need for maintenance and repair, or render units of housing infrastructure uninhabitable. According to the U.S. Environmental Protection Agency, increases in global average temperature are linked to “widespread changes in weather patterns,” and scientific studies have shown that climate change caused by humans will likely lead to more frequent and intense extreme weather events.¹ The U.S. National Oceanic and Atmospheric Administration’s (NOAA) Centers for Environmental Information reported that 2020 set a new annual record with 22 weather/climate disaster events that caused over \$1 billion in damage, the sixth year in a row the U.S. has experienced ten or more such events.² While a comprehensive federal data set specific to the number of units of housing lost to climate and weather events does not exist, the destructive impacts on the nation’s housing stock have been profound both in terms of financial and human costs.³ Between 2016 and 2020, weather and climate disasters have cost \$615.9 billion in damages⁴ and have displaced tens of thousands of people from their homes.⁵

¹ Environmental Protection Agency, [Climate Change Indicators: Weather and Climate](#) (accessed Apr. 27, 2021).

² NOAA National Centers for Environmental Information, [Billion-Dollar Weather and Climate Disasters: Overview](#) (2021).

³ Joint Center for Housing Studies of Harvard University, [The State of the Nation’s Housing 2019](#) (2019).

⁴ *Supra*, note 1.

⁵ In one case, following Hurricane Harvey, which made landfall in Texas in August 2017, an estimated 30,000 people were displaced in the aftermath of the storm, United Way, [Hurricane Harvey Recovery](#) (last visited Apr. 27, 2021).

Climate Change and Environmental Injustice

Prior to the passage of the Fair Housing Act in 1968, housing policies, such as redlining and zoning, were used to overtly segregate low-income people and people of color into less desirable areas that were susceptible to flooding, located in close proximity to industrial districts, lacked adequate infrastructure, and were systemically disinvested in.⁶ Due to historic and ongoing socioeconomic segregation, the current effects of climate change and weather events are concentrated among low-income communities and communities of color.

At present, formerly redlined areas suffer from hotter temperatures⁷ and their homes are 25% more likely to experience damage due to flooding compared to non-redlined areas.⁸ Meanwhile, some formerly redlined communities face displacement as a result of climate gentrification.⁹ In Florida's Miami-Dade County, for example, rising sea levels are driving wealthier White residents to leave their beach-front properties in search of homes in higher elevation areas, like Little Haiti, which is a historically Black, formerly redlined community, from which families are now being priced out of due to the influx of wealthier White residents.¹⁰

Many homes in disaster-stricken areas are lost due to a lack of resilient design and poor structural siting. Leading up to the COVID-19 pandemic, an estimated 800,000 homes in Puerto Rico had been damaged by Hurricane Maria.¹¹ Last year, in the middle of the pandemic, Georgia and Tennessee experienced deadly tornados that damaged and demolished more than 2,000 homes.¹² In the wake of California's 2018 wildfires—the deadliest in the state's history—51% of homes that were built to higher standard codes established in 2008 went undamaged compared to only 18% of homes built to pre-2008 standards.¹³

Similarly, homes in historically disinvested communities, including in Native communities and the territories, are also more likely to be demolished in the aftermath of disasters.¹⁴ Accordingly, advocates have urged policymakers to “be diligent in building more resilient and prepared communities” nationwide, while targeting efforts in low-income areas and communities of color that face disproportionate climate risk and often lack the institutional capacity and monetary resources needed to prepare for and recover from disaster.¹⁵

⁶ National Fair Housing Alliance, [Fair Housing Trends Report](#) (2020).

⁷ Meg Anderson, [Racist Housing Practices From The 1930s Linked To Hotter Neighborhoods Today](#), NPR (Jan. 14, 2020).

⁸ Chauncey Alcorn, [Redlined US homes face higher flood risks from climate change, new study finds](#), CNN (Mar. 15, 2021).

⁹ *Supra*, note 11.

¹⁰ Elizabeth Leape, [Climate Gentrification: Inequality in the Shifting Miami Housing Market](#), Cornell University Roosevelt Institute, (Apr. 30, 2018).

¹¹ Dánica Coto, [Thousands in Puerto Rico still without housing since Maria](#), AP News (Jul. 24, 2020).

¹² Fox 5 Atlanta, [More than 1,700 homes damaged, 70 destroyed in Coweta County by EF-4 tornado](#) (Apr. 5, 2021); *See also* Kaylin Jorge, [Nashville Devastation: 575+ homes, businesses majorly damaged or destroyed in tornado](#), Fox 17 Nashville (Mar. 5, 2020).

¹³ Dale Kasler and Phillip Reese, [‘The weakest link’: Why your house may burn while your neighbor’s survives the next wildfire](#), The Sacramento Bee (Nov. 5, 2019).

¹⁴ John C. Weicher, [The Long-Term Dynamics of Affordable Rental Housing](#), Hudson Institute (Sep. 15, 2017).

¹⁵ *Supra*, note 19.

Biden Administration and Executive Actions on Climate Change

On his first day in office, President Biden re-joined the Paris agreement, re-committing the United States to the goal of limiting global temperature increases to 1.5 degrees Celsius above pre-industrial averages. President Biden also issued an executive order on climate, which includes the restoration of the Federal Flood Risk Management Standard, requiring affordable housing and other public infrastructure to be built with consideration to sea level rise and other climate risks.¹⁶ In order to fulfill the objectives of the Paris agreement, President Biden has established goals to create a “carbon pollution-free power sector by 2035 and net zero emissions economy by no later than 2050.”¹⁷ To achieve these targets, the Biden administration has made climate resilience a centerpiece of its infrastructure package, proposing a broad set of infrastructure and clean energy technology investments.¹⁸ On April 19, Treasury Secretary Janet Yellen announced the appointment of climate counselor John Morton to lead the Treasury Climate Hub,¹⁹ who will coordinate the Biden administration’s actions on climate change in the areas of taxes, regulation, and more, particularly with regard to climate financial risk, which the Federal Reserve has identified as a risk to financial stability.²⁰

Federal Responses Supporting Housing and Community Needs Related to Flooding and Disaster

Community Development Block Grant Disaster Recovery Program (CDBG-DR)

Congress provides funding for states and localities in the aftermath of presidentially declared disasters through the Community Development Block Grant Disaster Recovery (CDBG-DR) program, which is administered by the Department of Housing and Urban Development (HUD). Eligible uses of CDBG-DR funds generally fall into the categories of housing, economic revitalization, and infrastructure, and include, but are not limited to, construction or rehabilitation projects; future disaster mitigation activities; interim financial assistance to homeowners; and recovery planning and administration. Importantly, there is no automatic trigger for when and how much CDBG-DR funding is available in response to a disaster. Congress passes each supplemental CDBG-DR appropriation on a case-by-case basis. To date, Congress has appropriated almost \$90 billion in CDBG-DR assistance.²¹

CDBG-DR grants are governed by the underlying CDBG statute²² and rules and the language of the relevant supplemental appropriation act. The supplemental appropriation act typically identifies the amount appropriated, the period covered, the eligible uses of funds, and the certifications required for assistance. Congress generally affords the HUD Secretary broad

¹⁶ The White House, [Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis](#) (Jan. 20, 2021).

¹⁷ The White House, [Fact Sheet: President Biden Sets 2030 Greenhouse Gas Pollution Reduction Target Aimed at Creating Good-Paying Union Jobs and Securing U.S. Leadership on Clean Energy Technologies](#) (Apr. 22, 2021).

¹⁸ *Id.*

¹⁹ Department of Treasury, [Treasury Announces Coordinated Climate Policy Strategy with New Treasury Climate Hub and Climate Counselor](#) (Apr. 19, 2021).

²⁰ Board of Governors of the Federal Reserve System, [Financial Stability Report](#) (Nov. 2020).

²¹ HUD Office of Community Planning, [CDBG Disaster Recovery Grant History 1992-2021](#) (Apr. 13, 2021).

²² Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383, as amended (42 U.S.C. 5301 et seq).

discretion to allocate funds to states or local governments using information from the Federal Emergency Management Agency (FEMA) to calculate allocations to the most affected areas. The CDBG-DR program is intentionally flexible to allow grantees to address a broad range of challenges in disaster-impacted areas. The HUD Secretary is authorized to waive program requirements, except for those related to fair housing, nondiscrimination, labor standards, and the environment.²³ For each supplemental appropriation, HUD publishes a corresponding *Federal Register* notice establishing the allocation of funds to eligible grantees and describing the rules, statutes, waivers, and alternative requirements that apply to allocations under the notice.

As of April 13, 2021, there are 62 grantees with 130 active CDBG-DR grants totaling \$67 billion.²⁴ These funds are operating under requirements contained in nearly 80 different *Federal Register* notices.²⁵ In July 2018, the HUD Office of Inspector General (HUD OIG) found HUD's use of multiple *Federal Register* notices to administer assistance created challenges for grantees. Specifically, HUD OIG found, among other challenges, that grantees had to navigate confusing and sometimes duplicative requirements contained in multiple notices.²⁶ HUD OIG recommended codifying the program to: "(1) ensure that a permanent framework is in place for future disasters, (2) reduce the existing volume of *Federal Register* notices; (3) standardize of the rules for all grantees; and (4) ensure grants are closed in a timely manner."²⁷ HUD has not acted on this recommendation in part because Congress has not directed HUD to conduct rulemaking through legislation. Last Congress, the House passed the bipartisan *Reforming Disaster Recovery Act of 2019* (H.R. 3702) to codify and reform the CDBG-DR program. In April 2021, HUD OIG reiterated its recommendation to codify the program in a report on its investigation of the Trump Administration for delaying the disbursement of recovery and mitigation funds appropriated for Puerto Rico following Hurricanes Irma and Maria.²⁸

National Flood Insurance Program

Congress established the National Flood Insurance Program (NFIP) through passage of the National Flood Insurance Act of 1968 after private insurers began excluding flood insurance from homeowners insurance policies and stand-alone flood insurance coverage became unaffordable and unavailable to many.²⁹ The NFIP, which has been reauthorized on a short-term basis 16 times since FY 2017, was most recently reauthorized through September 30, 2021.³⁰ The NFIP is managed by FEMA and provides federally backed flood insurance for homeowners and businesses. FEMA underwrites the policies, but most policies are serviced by participating private insurance companies as part of the Write-Your-Own program.³¹ Flood insurance is required for

²³ [P.L. No. 115-56](#), (Sept. 8, 2017).

²⁴ *Supra*, note 22.

²⁵ HUD Exchange, [CDBG-DR Laws, Regulations, and Federal Register Notices](#) (last visited Apr. 27, 2021).

²⁶ HUD Office of Inspector General, [HUD's Office of Block Grant Assistance Had Not Codified the Community Development Block Grant Disaster Recovery Program](#), Audit Report 2018-FW-0002 (July 23, 2018).

²⁷ *Id.*

²⁸ HUD Office of Inspector General, [Review of HUD's Disbursement of Grant Funds Appropriated for Disaster Recovery and Mitigation Activities in Puerto Rico](#) (Apr. 20, 2021).

²⁹ Congressional Research Services, [Introduction to the National Flood Insurance Program](#), (Jan. 5, 2021).

³⁰ CRS, [What Happens If the National Flood Insurance Program \(NFIP\) Lapses?](#) (Oct. 2, 2020) (IN10835).

³¹ FEMA, [Flood Insurance](#) (last updated Jan. 8, 2021).

homes and businesses in Special Flood Hazard Areas if they have mortgages from government-backed lenders.

In addition to providing flood insurance coverage, the NFIP encourages and funds mitigation, helping to avoid an estimated \$1.87 billion in flood losses annually.³² The NFIP achieves this in several different ways. First, “... Community participation in NFIP is voluntary, but communities must join NFIP for their residents to purchase flood insurance through the program.”³³ Communities have to meet certain requirements to participate and make NFIP policies available to its residents, including, “FEMA-approved building standards, floodplain management strategies, and floodplain management regulations ...” to minimize flooding concerns.³⁴ In addition, premiums collected from the sale of insurance in the NFIP finance a Flood Mitigation Assistance grant program. Throughout most of its existence, the NFIP was solvent, taking in sufficient premiums to cover payouts, but this has changed as the growing costs of climate disasters imposed new burdens on the program. Since Hurricane Katrina in 2005, numerous record storms and active hurricane seasons have forced Congress to forgive a portion of NFIP’s debt and increase the program’s borrowing limit; the program currently faces \$20.5 billion in debt.³⁵

FEMA announced a new risk rating methodology known as Risk Rating 2.0 (RR2), which will take a broader range of flood risks and factors like a property’s structural variables into account. RR2’s new rates are scheduled to begin for new policyholders on October 1, 2021, and for existing policyholders in April 2022.³⁶ FEMA estimates that RR2 will result in modest premium increases for the vast majority of policyholders, with some policyholders seeing sharp premium increases.³⁷ Statutory limits imposed by Congress currently cap annual increases at 18%.³⁸

Legislation

- **H.R. _____, the “Reforming Disaster Recovery Act” (Green)** is a discussion draft to permanently authorize and reform the CDBG-Disaster Recovery Program.
- **H.R. _____, the “National Flood Program Reauthorization Act of 2021” (Waters)** is a discussion draft to reauthorize the National Flood Insurance Program (NFIP) for five years, enacting a number of reforms to place the NFIP on sound financial footing and make the program more resilient, institute a cap on premium increases of 9% per year, and forgive over \$20 billion in NFIP debt.
- **H.R. _____, the “Green Neighborhoods Act” (Perlmutter)** is a discussion draft to encourage energy efficiency, conservation, and development of renewable energy sources for housing, and to create sustainable communities.

³² Government Accountability Office, [Flood Insurance: Comprehensive Reform Could Improve Solvency and Enhance Resilience](#) (Apr. 2017) (GAO-17-425).

³³ Government Accountability Office, [National Flood Insurance Program: FEMA Can Improve Community Oversight and Data Sharing](#) (May 2020) (GAO-20-396).

³⁴ *Id.*

³⁵ Government Accountability Office, [National Flood Insurance Program](#) (last visited Apr. 27, 2021).

³⁶ FEMA, [Risk Rating 2.0: Equity in Action](#), (Apr. 1, 2021).

³⁷ *Id.*

³⁸ *Supra*, note 38.