

H.R. ____, the “National Flood Insurance Program Administrative Reform Act of
2017”
Section-by-Section Summary
June 14, 2017

Sec. 1. Short Title

This Act may be cited as the “National Flood Insurance Program Administrative Reform Act of 2017”.

Sec. 2. Increased Cost of Compliance Coverage.

Authorize the FEMA Administrator to supplement its existing Increase Cost of Compliance (ICC) program (which is typically 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. Like the existing ICC coverage, this enhanced ICC coverage would be used to comply with local and State floodplain management requirements by covering the cost of mitigating a building that has been substantially or repetitively damaged by floods. Additionally, 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.

Sec. 3. Pilot Program for Properties With Pre-Existing Conditions.

Authorize the FEMA Administrator to create a pilot NFIP program to authorize Write Your Own (WYO) insurance companies to inspect pre-existing structural conditions of insured and pre-insured properties that could result in a denial of a flood insurance claim. A report covering any such conditions would be filed with the FEMA Administrator to create a pre-disaster baseline of the conditions that might affect the resolution of future NFIP claims. The NFIP is required to conduct a rigorous study and evaluation and report to Congress no later than December 31, 2021 prior to the pilot sunset on December 31, 2022.

Sec. 4. Penalties for Fraud and False Statements in the National Flood Insurance Program.

Require the FEMA Administrator to prohibit false or fraudulent statements connected to the preparation, production, or submission of claims adjustment or

engineering reports. Authorize the FEMA Administrator to develop penalties for such violations, including disbarment from participation in the NFIP.

Sec. 5. Enhanced Policyholder Appeals Process.

Codify the due process protections for policyholders established after Superstorm Sandy by FEMA for individuals wishing to appeal a full or partial denial of their NFIP claim by their insurance company, and require FEMA to provide policyholders with a written appeal decision that upholds or overturns the decision of the insurer.

Sec. 6. Deadline for Approval of Claims.

Require the FEMA Administrator to make final determinations regarding the approval of a claim for payment or disapproval of the claim within 90 days of the claim being made. Authorize the FEMA Administrator to extend the 90-day deadline by an additional 15 days when extraordinary circumstances warrant more time.

Sec. 7. Litigation Process Oversight and Reform.

Provide the FEMA Administrator with additional authorities and responsibilities for overseeing litigation conducted by WYO insurance companies acting on behalf of the NFIP. Require the FEMA Administrator to ensure WYO litigation expenses are reasonable, appropriate, and cost-effective, with the authority to deny any expenses that are contrary to those terms. Give the FEMA Administrator the authority to direct litigation strategy as necessary.

Sec. 8. Prohibition on Hiring Disbarred Attorneys.

Prohibit the FEMA Administrator from hiring any attorney in connection with the program who has been suspended or disbarred.

Sec. 9. Underpayment of Claims by Write Your Own (WYO) Companies.

Require the FEMA Administrator to align penalties for WYO insurance companies that knowingly underpay claims for losses covered to be commensurate with the NFIP's penalties applicable to overpayment of such claims.

Sec. 10. Use of Technical Assistance Reports.

Require the FEMA Administrator to restrict the use of outside technical reports by WYO insurance companies' and the NFIP direct servicing agent's as part of specific NFIP claims investigations only to such reports that are final and are prepared in compliance with applicable state and federal laws regarding professional licensure and conduct. Defines "technical assistance report" to mean reports created for the purpose of furnishing technical assistance to an insurance claims adjuster assigned by NFIP, including those by engineers, surveyors, salvors, architects, and certified public accounts.

Sec. 11. Improved Disclosure Requirement for Standard Flood Insurance Policies.

Require the FEMA Administrator to create a coverage disclosure sheet for policyholders, which outlines the coverage afforded by the NFIP's standard flood insurance policy, including a description of the type of loss that would be covered, a summary of costs associated with the policy, clear communications of the policy's full flood risk determinations. Require the disclosure to include an acknowledgement of the disclosure by the policyholder and the insurer selling the policy on behalf of the NFIP.

Sec. 12. Reserve Fund Amounts.

Authorize FEMA to transfer money from the Reserve Fund into the NFIP for the purposes of paying future claims.

Sec. 13. Sufficient Staffing for Office of Flood Insurance Advocate.

Require the FEMA Administrator to ensure the Office of the Flood Insurance Advocate has sufficient staffing within 180 days after enactment.

Sec. 14. Federal Flood Insurance Advisory Committee.

Create a new Technical Insurance Advisory Council consisting of federal, state, and local experts to review the NFIP's insurance practices and propose new standards to FEMA.

Sec. 15. Interagency Guidance on Compliance.

Twelve months after enactment and every two years thereafter, require that federal banking agencies update the document entitled "Interagency Questions and Answers Regarding Flood Insurance," which address many flood insurance compliance questions in order to understand any conflicts with FEMA requirements or other industry practices and limitations.

Sec. 16. GAO Study of Claims Adjustment Practices.

Require the Comptroller General of the United States to conduct a study assessing the policies and practices for adjustment of claims for losses under the NFIP to determine whether the current system impacts the quality of the claims and adversely impacts policyholders.

Sec. 17. GAO Study of Flood Insurance Coverage Treatment of Earth Movement.

Require the Comptroller General of the United States to conduct a study assessing the treatment of “earth movement and subsidence caused by flooding” on the NFIP and policyholders.