



NATIONAL  
ASSOCIATION *of*  
REALTORS®

William E. Brown  
2017 President

Dale A. Stinton  
Chief Executive Officer

**GOVERNMENT AFFAIRS DIVISION**

Jerry Giovaniello, Senior Vice President  
Gary Weaver, Vice President  
Joe Ventrone, Vice President & Deputy Chief  
for Regulatory Affairs  
Scott Reiter, Vice President  
Jamie Gregory, Deputy Chief Lobbyist

500 New Jersey Ave., NW  
Washington, DC 20001-2020  
Ph. 202-383-1194; Fax 202-383-7580  
WWW.NAR.REALTOR

June 6, 2017

The Honorable Jeb Hensarling  
Chairman  
House Financial Services Committee  
2228 Rayburn House Office Building  
Washington, DC 20515

The Honorable Maxine Waters  
Ranking Member  
House Financial Services Committee  
2221 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

On behalf of the more than 1.2 million members of the National Association of REALTORS® (NAR), thank you for holding this hearing entitled “Flood Insurance Reform: A Taxpayers Perspective” to examine the proposed draft legislation to reform and reauthorize the National Flood Insurance Program (NFIP). The NFIP is set to expire in less than four months and REALTORS® urge Congress to act quickly to avoid any lapse in program authority while continuing to work toward a long-term reauthorization and reform measure. Experience has shown that 1,300 home sales could be delayed or lost each day that the NFIP fails to be reauthorized.

On May 25, 2017, Housing and Insurance Subcommittee Chairman Duffy released six draft bills to reform the NFIP. NAR has reviewed these drafts and our section-by-section analysis can be found attached to this letter. Overall, the bill reflects many NAR member priorities. NAR supports many of the bill provisions including a 5-year reauthorization, \$1 billion investment in pre-flood mitigation, streamlining the processes for community flood map appeals and claim determinations, and opening the door to a more robust private flood insurance market. Specifically, the bill includes a number of provisions requested by NAR, including providing increased-cost-of-compliance grants for pre-flood mitigation, requiring FHA to consider private flood insurance, and requiring that NFIP account for coastal and inland locations when developing NFIP rates.

At the same time, as our analysis outlines, we believe there are several areas where the drafts can be strengthened and clarified. We would like to highlight three main areas of concern here.

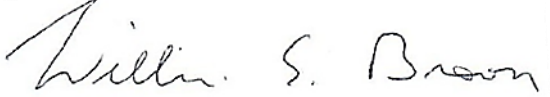
1. NFIP must be directed, and funds authorized, to obtain building elevation data in order to calculate full risk rates and develop property-specific flood maps. NFIP should also provide property owners and prospective buyers, information about their flood risk, cost, premiums, and mitigation options as North Carolina has done through its [Flood Risk Information System \(FRIS\)](#).
2. Grandfathering must be preserved for property owners who have built to flood standards in place at the time of mapping. Elevating a home can easily cost tens of thousands of dollars. Homeowners must have some assurance that their substantial mitigation investments will not be lost when the NFIP updates the flood map a few years later.
3. While NAR welcomes the \$10,000 cap on annual premium rates included in the draft legislation and supports the continued gradual phase-in toward full risk rates, there are various new surcharges and fee increases contained in different parts of the six drafts. NAR members need to know the full cost of flood insurance and respectfully requests additional information to understand the full affordability picture in order to evaluate the bill.



REALTOR® is a registered collective membership mark which may be used only by real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS® and subscribe to its strict Code of Ethics.

REALTORS® appreciate the many concrete steps the committee has taken to put the NFIP on a path to fiscal solvency while also giving property owners more options for flood insurance coverage. The current drafts contain many positive changes that are supported by NAR members and in many instances were recommended by REALTORS® through our experiences working with clients in the field on a daily basis. We stand ready to work with Congress to address the concerns outlined in the following pages, and look forward to seeing an on time, long-term reauthorization of the NFIP before September 30<sup>th</sup> of this year.

Sincerely,

A handwritten signature in black ink that reads "William E. Brown". The signature is fluid and cursive, with the first name "William" being the most prominent.

William E. Brown

2017 President, National Association of REALTORS®

cc: Members of the House Financial Services Committee

Enclosure:

NAR Comments on NFIP Reform Draft Bills Dated June 6, 2017

# NAR COMMENTS ON NFIP REFORM DRAFT BILLS DATED JUNE 6, 2017

## TOPLINE SUMMARY

- *NAR supports many of the bill provisions. These discussion drafts reflect many NAR member priorities, including:*
  - *5-year reauthorization of the National Flood Insurance Program (NFIP);*
  - *\$1 billion investment in mitigating and reducing property risk prior to a flood;*
  - *Streamlines the processes for community flood map appeals and NFIP claim determinations; and*
  - *Includes the Flood Insurance Market Parity and Modernization Act (HR 1422), which would encourage the development of private flood insurance options in addition to NFIP.*
- *The bill also includes language requested by NAR:*
  - *Consideration of Coastal and Inland Locations. Creates a new NFIP rate table for coastal A zones separate from inland A-zones. Milliman Inc., an actuarial consulting firm, found that by using national averages to determine rates, NFIP rates over-price inland risks while underpricing risks closer to the coast. This provision would require FEMA to consider the locational differences in its rating methods, thereby reducing the extreme degree of cross subsidization in the program.*
  - *Increased Cost of Compliance (ICC) Grants. Reforms the ICC mitigation program to double the amount of coverage available and allows property owners to access the ICC funds to reduce risk prior to flooding.*
  - *Streamlining of the Community Flood Map and Appeals Process. This bill includes a number of provisions from the Fairness in Flood Insurance Act (HR 3297 last Congress) in order to help level the playing field between the NFIP and smaller communities when it comes to official map appeals.*
  - *Strengthens the Flood Insurance Market Parity and Modernization Act (HR 1422) in order to clarify that the provisions apply to federal mortgage insurers including FHA.*
- *However, NAR members have some questions and concerns about the following provisions:*
  - *Grandfathering. The bill is unclear whether and to what extent grandfathering would continue after four years, and this provision requires clarification. NAR members believe that homeowners who have built to code in a high risk zone and invested tens of thousands of dollars in elevating or mitigating their structures should have some stability and predictability to their mitigation investments when FEMA updates the maps.*
  - *Building specific flood maps. While the bill does take several steps toward state flood mapping programs like North Carolina's, the Technical Mapping Advisory Council (TMAC) has recommended that the NFIP go further and fully transition to building specific risk frequency maps. NAR recommends strengthening the bill to obtain the elevation data needed in order to calculate full risk rates for pre-flood insurance rate map properties so there is effective and full disclosure prior to property sales. NFIP rating methods should be based on a broader range of modern risk assessment tools, but NAR urges Congress not to create or impose new home flood scores or labels, which could distort real estate markets and stigmatize properties.*
  - *NFIP rate cap and fees. While NAR supports a gradual phase in and cap on full risk premiums in order to avoid sticker shock and surprises, there are a number of new surcharges and fee increases which could increase the total cost of flood insurance. NAR requests an analysis of the total cost for a range of NFIP policyholders in order to better understand the affordability picture under this bill.*
- *NAR has specific language to strengthen or clarify these provisions to ensure stability in real estate markets.*

**NAR SECTION-BY-SECTION COMMENTS**

**SUMMARY OF KEY PROVISIONS OF FLOOD INSURANCE REFORM**

*21<sup>st</sup> Century Flood Reform*

**Reauthorize the National Flood Insurance Program (NFIP) for five (5) years, place the NFIP on sound financial footing, and institute new programmatic reforms that:**

*Support --NAR strongly supports a 5-year reauthorization of the NFIP. Up to 40,000 home sales are at stake each month that NFIP authority lapses.*

- 1. Address Consumer Cost and Affordability**
- 2. Provide Greater Private Market Access, Competition, and Consumer Choice**
- 3. Encourage Flood Mapping Reforms and Fairness**
- 4. Enhance Mitigation Efforts for Properties that Flood Frequently**
- 5. Strengthen Taxpayer Protections**
- 6. Incorporate NFIP Claims Processing and Superstorm Sandy Reforms**

**Affordability and Consumer Costs – Current and future policyholders must be protected from sticker shock and unpredictable rate increases.**

➤ **Limit Annual Premium Increases.**

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

*Support –NAR supports gradual NFIP rate increases to full risk actuarial rates for properties built before the first flood insurance rate map (pre-FIRM).*

Limit the chargeable risk premium of any single family residential property to \$10,000 per year, adjusted for inflation every five years; and

*Support with modification -- NAR supports a limit on the chargeable risk premium rate to avoid sticker shock and surprises. However, as currently drafted, homeowners would not qualify for this limitation unless a valid NFIP elevation certificate has been filed within the proceeding calendar year. According to GAO, 97 percent of the nearly 1 million pre-FIRM homeowners do not have one of these certificates and each one costs \$500-\$2000.<sup>1</sup> It is unclear how many of the rest (roughly 3.5 million) have obtained a certificate within the last year. Further, the critical piece of information on each certificate is the recorded elevation of the structure; there are more cost effective ways to obtain this data than requiring as many as 5 million new land surveys paid for by policyholders.*

*For example, states including North Carolina and Minnesota obtain structural elevation data using light detection and ranging (LiDAR) technology from airplanes. These states collect this data for entire neighborhoods at one time rather than going property by property. Going property by property is time consuming, more expensive and often less accurate. NAR would support expanding the \$10,000 limit to include any structure with elevation data, whether from an elevation certificate (not just those obtained within 1 year), LiDAR data collected by a federal, state or local authority, or any other source as specified by NFIP. NAR would further like to work with Congress to provide NFIP with the authority and funding necessary to obtain the elevation data needed to fill in the gaps so all pre-FIRM homeowners would be able to take advantage of this provision.*

---

<sup>1</sup> GAO. “Flood Insurance: Comprehensive Reform Could Improve Solvency” dated April 2017, page 18.

➤ **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.

*Support with requested information – NAR supports reasonable approaches to keep NFIP premiums affordable for lower-income households. However, NAR notes that additional new fees and surcharges are introduced or increased by other parts of the bill. An evaluation of the total cost of flood insurance including the fees for a range of typical policyholders is needed to help evaluate these and other provisions.*

➤ **Opt-Out of Mandatory Coverage Requirement for Commercial Properties.**

Eliminate the NFIP's mandatory purchase requirement for all commercial properties, while preserving the eligibility of commercial properties voluntarily to purchase NFIP coverage if they so choose.

*Questions –NAR members agree that NFIP's one-policy-per-building program does not make sense for larger commercial loan portfolios consisting of dozens if not hundreds of buildings typically covered by a single private flood insurance policy. However, what is the current take up rate of flood insurance among small-to-mid-sized commercial property owners? What is that rate likely to be without a purchase requirement in high-risk flood zones? NAR members would support setting an asset value threshold above which the opt-out would apply based on that analysis and the inclusion of a definition of what is considered a "commercial" property so that multi-family residential properties are not inadvertently included in the opt-out.*

➤ **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.

*Support – NAR supports similar language in the FY17 Appropriations Bill Report.*

➤ **Use of Replacement Cost in Determining Premium Rates.**

Require the FEMA Administrator to incorporate up-to-date replacement cost, by structure, when calculating annual chargeable premium rates, as opposed to the current practice that relied upon a national average, with a phase-in of geographic areas over a 1-3 year period.

*Support – NAR supports better aligning NFIP rates with property risk. NFIP currently*



## NAR COMMENTS ON NFIP REFORM DRAFT BILLS DATED JUNE 6, 2017

*uses a national average to determine rates so lower value properties are overcharged while higher value properties are undercharged. This provision would reduce cross subsidization in the NFIP.*

### ➤ **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.

*Support – NAR requested this provision based on a Milliman actuarial study showing how NFIP policyholders over-pay due to their location. Breaking the A-zone rate table into two tables, i.e., one for coastal A-zones and a separate one for inland A-zones, could improve fairness in the NFIP. NAR notes this provision was included in the NAR-supported Fairness in Flood Insurance Act (H.R. 3297) introduced by Rep. Griffith (R-VA) in the last Congress.*

### ➤ **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.

*Support with clarification -- NAR supports reasonable approaches to increase the affordability of NFIP premiums but it is unclear how this provision would interact with the escrowing of premiums.*

### ➤ **Enhanced Clear Communication of Flood Risks.**

Require the FEMA Administrator to clearly communicate to all policyholders 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.

*Support with modification -- NAR supports requiring NFIP to disclose the current full risk rate as well as claims information to pre-FIRM property owners, but as noted above, NFIP lacks the elevation data needed for 97 percent of pre-FIRM structures. Without this data, the NFIP cannot calculate the full risk rates that are to be disclosed under this provision. NAR supports providing NFIP with the authority and funding needed to obtain this data, through LiDAR or other sources, in order to implement this provision effectively and fully.*

### ➤ **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.

*Support with modification – NAR supports requiring the NFIP to disclose property flood risk information to owners but believes this information should be made available also to buyers, and both should have more timely access than 30 days. NAR supports requiring the NFIP to adopt and expand North Carolina's Flood Risk Information System (FRIS) to include comprehensive flood risk and cost information for every building in the NFIP.*

### ➤ **Premium Rates for Certain Mitigated Properties.**

Authorize the FEMA Administrator to provide policyholders who are not eligible for preferred risk rate method premiums with credits on how they can reduce their risk premium rates through approved actions to mitigate the flood risk of their property, including innovative mitigation techniques for buildings in dense urban environments and the elevation of mechanical systems.

*Support – NAR supports providing NFIP rate discounts as well as incentives (grants, loans,*

*etc.) for property owners who reduce or mitigate their properties' risks of flooding.*

➤ **Study of Flood Insurance Coverage for Units in Cooperative Housing.**

Require the FEMA Administrator to conduct a study on the feasibility of offering NFIP coverage of individual dwelling units in cooperative housing developments.

*Support – NAR supports expanding coverage based on a study of the feasibility of offering coverage to individual co-op units.*

**Private Market Development and Consumer Choice** – *Consumers need real choices on private market alternatives to the NFIP so they have the option to take their business elsewhere or stay in the government's program.*

➤ **Establish Private Market for Flood Insurance.**

Using the text of the Ross-Castor Flood Insurance Market Parity and Modernization Act [H.R. 1422], provide greater private market access, competition and consumer choice. Amend the Flood Disaster Protection Act of 1973 to clarify that flood insurance offered by a private carrier outside of the NFIP can satisfy that Act's mandatory purchase requirement. Define acceptable private flood insurance as a policy providing flood insurance coverage that is issued by an insurance company that is licensed, admitted, or otherwise approved to engage in the business of insurance in the state or jurisdiction in which the insured property is located, or an insurance company that is eligible as a non-admitted insurer to provide insurance in the state or jurisdiction where the property to be insured is located.

*Support --NAR has endorsed HR 1422 and strongly supports including it in the bill. Most importantly, this section would clarify that the NFIP continuous coverage requirement can be met with private flood insurance so property owners can move back and forth freely without losing NFIP grandfathering. NAR also notes that the bill has been strengthened based on NAR member feedback to close a loophole in current law so federal mortgage insurers including FHA must comply. NAR also believes it is reasonable to limit these provisions to the 22,000 NFIP communities where flood insurance is required for a mortgage.*

➤ **Equivalency Fee for Private Flood Insurance.**

Apply to private flood insurance policies a fee equivalent to the current federal policy fee already in place on NFIP policies for the purpose of carrying out NFIP flood mapping activities

*Support – NAR supports continued funding essential for accurate flood maps.*

➤ **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.

*Neutral – NAR has no expertise or opinion on which private insurers should be allowed to enter the market for flood insurance.*

➤ **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.

*Support with modification— NAR supports providing the public with the risk information needed to make informed decisions. However, North Carolina has created an effective digital display environment prompted by dynamic query of a spatial, relational database. Rather than re-inventing the wheel, NAR would recommend adopting NC's approach and expanding it nationwide. NAR has language to achieve this.*

➤ **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).

*Support – NAR would support a reasonable provision, including some version of this one, to reduce regulatory barriers to private flood insurance options in addition to NFIP.*

➤ **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.

*Support – NAR supports a pilot to explore reasonable alternatives to NFIP flood insurance.*

➤ **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.

*Support – NAR supports a study to explore reasonable alternatives to NFIP flood insurance.*

**Reform the Flood Mapping Process** – *Communities need increased accuracy and fairness of flood mapping.*

➤ **Allow for the Acceptance of Community Flood Maps.**

Using the text of the Luetkemeyer Taxpayer Exposure Mitigation Act [H.R. 2246], allow localities to elect to use their own resources to develop their own alternatives to NFIP flood maps. Require the FEMA Administrator and the Technical Mapping Advisory Council to develop minimum standards for flood maps developed by communities for those areas, subject to certification and approval by FEMA.

*Support with addition -- NAR supports encouraging state flood mapping programs like North Carolina's, but it is unclear whether and to what extent any additional states would have the resources or technical expertise to take advantage of this provision. The Technical*



## NAR COMMENTS ON NFIP REFORM DRAFT BILLS DATED JUNE 6, 2017

*Mapping Advisory Council (TMAC) has recommended that NFIP go further and transition to building-specific risk assessments. NAR would support strengthening this provision to include TMAC's recommendations and provide the authority, funding and flexibility to enable more states and communities to implement more accurate and cost effective mapping strategies.*

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

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

*Modification required – NAR agrees with the intent of this provision to authorize and encourage NFIP to adopt a broader range of risk rating tools like the private sector uses. However, the provision specifically refers to “risk assessment scores” and requires the issuance of regulations for their use. NAR members are concerned that this language could be misconstrued by the NFIP to create and impose flood scores or labels on homes. NAR has extensive experience and research on home scoring in the energy efficiency context and these scores often distort and stigmatize the market. NAR shares the goal of modernizing NFIP's rating methods and would like to work with Congress to strengthen this provision, but at a minimum, would recommend striking the term “risk assessment scores” from the provision due to the potential for unintended consequences.*

### ➤ **Streamlining of Flood Map Process.**

Require the FEMA Administrator to consult with the Technical Mapping Advisory Council to (1) optimize NFIP mapping through a more efficient process; (2) minimize any cost, data, and paperwork requirements; and, (3) assist communities, particularly small communities, in locating resources to appeal flood elevations and flood hazard designations. The FEMA Administrator is to report to Congress within one year of enactment regarding the streamlining efforts outlined in this provision.

*Support – NAR supports streamlining the flood mapping process so smaller communities and property owners can spend less on map appeals. NAR notes that this provision was included in the NAR-supported “Fairness in Flood Insurance Act” introduced by Rep. Morgan Griffith (R-VA) last Congress.*

### ➤ **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.

*Support – NAR supports streamlining the flood mapping process so smaller communities and property owners can spend less on map appeals. NAR notes that a similar version of this provision was included in the NAR-supported “Fairness in Flood Insurance Act” introduced by Rep. Griffith (R-VA) last Congress.*

➤ **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.

*Questions and Concerns – Based on NAR member experience, it often takes more than 90 days for a community to conduct the data analysis needed to appeal the technical or scientific integrity of the flood maps. Further, this data analysis, which is paid for entirely by the community, generally improves the accuracy of the flood map. Why impose an arbitrary 90-day limit if communities are willing to pay for the data analysis necessary to ensure map accuracy? It is also not clear if this limitation would apply to letters of map change, which can be brought at any time and are necessary to remove low-risk structures from the high-risk floodplain due to the low resolution of NFIP maps.*

*NAR would support clarifying that these provisions do not apply to letters of map change. NAR also supports replacing this provision with one that directs NFIP to prioritize flood map updates for those communities which provide better mapping data. Right now, it can take years before FEMA will consider data provided by a community, which does not recognize these contributions or incentivize other communities to share in the mapping cost. NAR believes that those communities should jump to the front of the line if they decide to make investments in accurate flood mapping.*

➤ **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.

*Support – This clarifies that communities have 30 days to consult with FEMA upon notification of a flood mapping update.*

**Updates and Reforms to the NFIP's Mitigation of Properties that Flood Frequently –**  
*Expanded mitigation efforts should focus on high-risk homes, especially pre-disaster to prevent problems before they occur.*

➤ **Community Accountability for Repetitively Flooded Areas.**

Using the text of the Royce-Blumenauer Repeatedly Flooded Communities Preparation Act [H.R. 1558], require covered flood prone areas to develop a community-specific plan for mitigating continuing flood risks if they have 50 or more repetitive loss structures or 5 or more severe or extreme repetitive loss structures. Such communities: (1) must map and identify repeatedly flooded properties and infrastructure to determine the specific areas that should be priorities for voluntary buyouts, drainage improvements, or other mitigation efforts; and, (2) develop a community plan to address those identified areas, along with submitting a plan to the FEMA Administrator. Communities that fail to develop or make sufficient progress in executing their plan would be subject to certain sanctions, as determined by FEMA.

*Support – NAR supports HR 1558 and this provision as a reasonable approach to address repeatedly flooding properties, which represent 1 percent of NFIP policies but 30 percent of the claims according to the GAO.*

➤ **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.

*Support – NAR supports strengthening CRS to provide flood insurance discounts to more communities based on communitywide efforts to reduce and mitigate flood risk.*

➤ **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.

*Support – NAR supports doubling the amount of ICC available and expanding access for pre-flood mitigation. NAR notes that this provision is similar to NAR-supported language provided by Rep. Tom MacArthur (R-NJ).*

➤ **Create Pilot Program For the Voluntary Removal of Flood-Prone Properties.**

Authorize the FEMA Administrator to establish a pilot program to provide financial assistance for States and local communities to purchase and acquire properties located in participating communities from eligible low-income owners that have incurred substantial damage from a flood event. The pilot program limits FEMA to providing such assistance only when it determines that doing so would be cost-effective and in the best interests of the National Flood Insurance Fund. A property cannot be acquired unless it is currently participating in the NFIP, subject to a binding agreement with FEMA regarding the acquisition, and is the primary residence of its owner who has an income no greater than 120 percent of the median family income for the area. Communities are eligible to participate if they are participating in the NFIP and have: (1) a high concentration of multiple-loss properties; (2) a significant number of older Pre-FIRM properties; (3) identified locations where acquisitions should be a priority mitigation action; (4) a large number of policyholders facing annual increases on their existing NFIP insurance; or, (5) areas susceptible to flooding due to changing future conditions. States must also have a state or local agency in place with the capacity to implement the acquisition process, take ownership of acquired properties, and limit the property's future uses to conservation or recreation. The NFIP would be 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.

*Support – NAR supports a voluntary pilot for states/communities to offer additional incentives and voluntary buyouts at fair market prices to low income owners of substantially damaged properties.*

➤ **Creates Pilot Program for Investigation of Preexisting Structural 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.

*Modification requested –NAR worked with Rep. Nydia Velasquez (D-NY) to modify this provision so it is purely voluntary on the part of the property owner. NAR supports the compromise language as reflected in Sec. 4 of the Congresswoman’s “NFIP Reauthorization and Improvement Act” (HR 1423). However, the bill would add a new paragraph 4 that would “sunset” NFIP coverage after 2022 for property owners who volunteer for one of these inspections. This sunset provision is punitive and should be deleted.*

**Strengthen Taxpayer Protections** – *Taxpayers deserve an NFIP that operates in an actuarial sound manner to cover its long-term expected losses.*

➤ **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.

*Support – NAR supports reasonable measures including an actuarial review of NFIP solvency.*

➤ **Risk Transfer Requirement.**

Using the text of the Luetkemeyer Taxpayer Exposure Mitigation Act [H.R. 2246], require the FEMA Administrator to use risk transfer tools, such as reinsurance, catastrophe bonds, collateralized reinsurance, resilience bonds, and other insurance-linked securities, to reduce direct taxpayer exposure to insurance losses.

*Support with clarification – NAR supports use of risk transfer tools including reinsurance, provided that NFIP rates do not increase exponentially to cover the cost. NAR notes that this provision was adopted from the Taxpayer Exposure Mitigation Act and the intent there was to not raise NFIP rates in order to pay for the use of risk transfer tools.*

➤ **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.

*Additional information requested – NAR again notes the other surcharges and fees introduced or increased in other parts of this bill. NAR members are concerned about the potential sticker shock or surprises when adding all the fees on top of the base rate. It would*



*be helpful to have an evaluation of the total cost of flood insurance including the fees for a range of typical policyholders in order to help evaluate these and other provisions prior to committee mark up.*

➤ **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.

*Additional information requested – This is one of the fee increases referenced in the previous comment. Our understanding is that NFIP is already collecting nearly 7.5 percent each year and counting the revenue from the affordability surcharges, it would take only 2-3 years for NFIP to meet this new requirement. Again, it would be helpful to have examples for a range of typical policyholders of what the total cost of flood insurance would be under this bill including this and the other fees.*

➤ **Simplify FEMA’s 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, be subject to a minimum deductible of \$5,000, 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. 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.

*Support – NAR supports reasonable efforts to address repeatedly flooding properties, which represent 1 percent of NFIP policies but 30 percent of the claims according to the GAO.*

➤ **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.

*Support – NAR supports reasonable approaches to address the risks posed by repeatedly flooding properties.*



➤ **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.

**Clarifications requested –**

1. **Currently grandfathered properties.** *As currently drafted, it is unclear if this provision would apply to all grandfathering after year four or any new grandfathering. NAR understands that it was not the intent to include all grandfathering with this provision. It would also not be consistent with recent statements by Chairman Duffy that “If you’re grandfathered today or in the next four years, you’ll stay grandfathered.”<sup>2</sup> Nevertheless, NAR recommends removing this provision from the other four-year provisions, and clarifying how existing grandfathering is to be addressed under the bill. NAR also notes that there are significant challenges as to how FEMA would implement and enforce compliance with this provision. NAR would welcome the opportunity to work with the Committee on further clarification.*
2. **Future grandfathering after four years.** *NAR members are concerned that existing homeowners who have built and maintained to code in an A zone would no longer be eligible for grandfathering after the four years if the area is later remapped into the V zone or the base flood elevation increases. A structural elevation project can easily cost tens of thousands of dollars. Homeowners should have some assurance that if they make significant investments in reducing or mitigating their property’s risk of flooding, those investments would not be sunk if the map is updated a few short years later. NAR notes that Congress recently added a newly-mapped procedure, which in effect grandfathers X zone properties that are re-mapped into an A or V zone. In year 1, these properties pay the Preferred Risk Rate and each year, FEMA raises the rate by a multiplier until property is paying full risk rates. It is unclear why Congress could not expand this practice to properties that were built to code in an A or V zone before the date of enactment of this bill.*

---

<sup>2</sup> Warmbrodt, Zachary. “Republicans tackle flood insurance bills with clashes looming over affordability, debt,” Politico dated May 25, 2017.

3. **New Construction.** *NAR understands that the intent of this provision is to address any new foundations laid four years from now, and not existing structures that have been substantially damaged, improved or rebuilt. However, the provision is unclear as drafted, and NAR would suggest adding a definition that clarifies this. It is also unclear if this provision would apply to all new construction in high-risk flood zones or just V zones to start. Clarification is needed on these points.*
  4. **Countercyclical determination.** *NAR supports a provision allowing NFIP coverage to continue in geographic areas where the State Insurance Commissioner determines that private flood insurance is either unaffordable or not available. NAR generally believes that state insurance commissioners are best positioned to evaluate local insurance market conditions and protect consumers. However, NAR questions whether state insurance commissioners would be able to meet the provision's requirement as currently drafted and recommends streamlining this provision so states can make the determination as needed.*
- **Limitations on the 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.  
*Neutral - NAR does not have any expertise or opinion on adequate compensation for insurance companies that partner with the NFIP.*
- **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.  
*Support – NAR supports reasonable approaches to mandatory purchase enforcement.*
- **Use of All-Perils Policies for the Satisfaction of Mandatory Purchase Requirements.**  
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.  
*Support – NAR supports the use of state-based "all perils" insurance alternatives to the NFIP for purposes of enforcement of mandatory flood insurance requirements.*
- **Short Term, Small Dollar Loan Exception from Mandatory 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.  
*Support – NAR supports reasonable approaches to mandatory purchases requirements.*

**Implement NFIP Claims Processing and Superstorm Sandy Reforms** – *FEMA must find and fix fraudulent practices in the claims process, and ensure that every policyholder gets the full benefit of the insurance coverage that they purchased.*

➤ **Penalties for Fraud and False Statements.**

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.

*Support – NAR supports the reasonable consumer protections. NAR notes that this and other provisions below were taken from the “NFIP Reauthorization and Improvement Act” sponsored by Rep. Nydia Velazquez (D-NY).*

➤ **Enhanced Policyholder Appeals Rights.**

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.

*Support – NAR supports codifying NFIP improvements to the claims process made in light of underpayments following Superstorm Sandy*

➤ **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.

*Support – NAR supports reasonable consumer protections.*

➤ **Strengthen Write Your Own (WYO) Company Litigation Oversight.**

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.

*Support – NAR supports the addition of reasonable consumer protections. NAR notes that subsection (b) refers to Section 1352(d) of the National Flood Insurance Act, but there does not appear to be a sub (d) under Section 1352 (Disbarred Attorneys) as added by this discussion draft.*

➤ **Prohibition on Hiring Disbarred Attorneys.**

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

*Support – NAR supports reasonable consumer protections.*

➤ **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.

## NAR COMMENTS ON NFIP REFORM DRAFT BILLS DATED JUNE 6, 2017

*Support – NAR supports reasonable consumer protections.*

### ➤ **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.

*Support – NAR supports reasonable consumer protections.*

### ➤ **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.

*Support with modification – NAR supports strengthening NFIP's disclosure of coverages under the standard policy. However, the 'required signatures' paragraph should be struck. If either the policyholder or the insurer fails to sign two separate forms (i.e., the disclosure sheet and the acknowledgement), the NFIP policy will not take effect and any claim would be denied. This is the kind of paperwork violation that offers limited if any benefit to policyholders or taxpayers but could cost the policyholder everything in the event of a flood.*

### ➤ **Reserve Fund Amounts.**

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

*Support – NAR supports using the reserve fund for current claim payments.*

### ➤ **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.

*Support – NAR supports strengthening the Office of the Flood Insurance Advocate, which has effectively advocated for the fair treatment of policyholders and property owners under the NFIP since the office's creation under the Affordability Act. NAR notes this provision was adopted from NAR-supported Fairness in Flood Insurance Act sponsored by Rep. Griffith (R-VA) last Congress.*

### ➤ **Technical Insurance Advisory Council.**

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.

*Support – NAR supports creation of a council to advise NFIP on technical insurance matters.*

### ➤ **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,"

## ***NAR COMMENTS ON NFIP REFORM DRAFT BILLS DATED JUNE 6, 2017***

which address many flood insurance compliance questions in order to understand any conflicts with FEMA requirements or other industry practices and limitations.

***Support – NAR supports reasonable approaches the enforcement of the mandatory purchase requirement.***

➤ **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.

***Support – NAR supports a study to recommend improvements to NFIP claims adjustment practices.***

➤ **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.

***Support – NAR supports a GAO study on the earth movement exclusion in the standard NFIP policy.***