

## NAR Analysis

# H.R. 2874, The 21st Century Flood Reform Act (August 3, 2017)

### NAR ANALYSIS: H.R. 2874, THE 21<sup>ST</sup> CENTURY FLOOD REFORM ACT (August 2, 2017)

#### TITLE I--POLICYHOLDER PROTECTIONS AND INFORMATION

##### **Sec. 101.** Annual rate increases for pre-FIRM primary residences

- Reduces the maximum rate increase from 18 to 15 percent.
- Raises the minimum rate increase from 5 percent to 6.5 percent over 4 years.

##### **Sec. 102.** State Affordability Program

- Allows states to create programs to reduce NFIP rates or increases for low-income homeowners.
- Offsets the cost with a surcharge on other NFIP policyholders if a state opts to create a program.

##### **Sec. 103.** Requires that FEMA hold public forums and disclose its NFIP rate setting methodology.

##### **Sec. 104.** Lower NFIP rates for inland properties

- Directs FEMA to determine NFIP rates for coastal and riverine areas, and areas inland.
- According to the Milliman study conducted for NAR, lower-risk, inland properties are over-charged while coastal properties are undercharged because NFIP currently uses a national average to set rates.
- Sec. 204 allows FEMA to better align the rates to risk so those properties located in coastal A-zones but further inland pay less while those closer to the coast and subject to storm surge pay more.

##### **Sec. 105.** Authorizes FEMA to expedite procedures for optional monthly NFIP payments.

##### **Sec. 106.** Requires that FEMA clearly communicate full-risk determinations to subsidized property owners, previous claims to the property, and the impact on NFIP rates of future claims.

##### **Sec. 107.** Requires that FEMA provide any available information on the property (including claims history, flood damage, etc.) to the owner within 30 days of a request.

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### Sec. 108. Property Seller Disclosure Requirement

- Provides for state requirements that property sellers/lessors disclose any actual knowledge of the property's flood history (including claims, etc.) before a buyer/lessee is obligated under contract.
- Gives states 5 years to establish a requirement, which becomes a condition for NFIP participation.

**Sec. 109.** Provides a pilot program for communities to purchase NFIP coverage on behalf of constituents.

**Sec. 110.** Reauthorizes the NFIP for five (5) years.

## TITLE II—INCREASING CONSUMER CHOICE THROUGH PRIVATE MARKET DEVELOPMENT

**Sec. 201.** Eliminates the non-compete clause in the Write-Your-Own program, which prevents insurance companies participating in the NFIP from also selling private market flood insurance.

**Sec. 202.** Requires that FEMA make publicly available all NFIP data, models, assessments, analytical tools and other property and community information at the zip code or census block level.

**Sec. 203.** Provides partial refunds to property owners who obtain private flood insurance and cancel their NFIP policy before it expires, so no one is paying for duplicative coverage.

**Sec. 204.** Clarifies that private flood insurance from a mutual aid society (e.g., the Amish) may satisfy the mandatory purchase of flood insurance requirement.

**Sec. 205.** Requires that GAO study the feasibility of allowing homeowners to establish a flood damage savings account in lieu of flood insurance.

**Sec. 206.** Requires FEMA to establish a demonstration project to allow homeowners to establish a flood damage savings account (in lieu of flood insurance) based on GAO's study.

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### TITLE III—MAPPING FAIRNESS

**Sec. 301.** Requires FEMA, only for purposes of setting NFIP rates, to take into account both the risk from flood insurance rate maps and other risk assessment data and tools, including models and scores.

**Sec. 302.** Appeals of Existing Flood Maps

- Codifies the letter of map revision process for communities and property owners to appeal maps.
- Provides refunds to communities and property owners whose appeal is partially or wholly successful.

**Sec. 303.** Appeals of Projected Special Flood Hazard Areas

- Clarifies that property owners may appeal within 90 days of publication of a preliminary map.
- Stipulates that the preliminary map will become effective if no appeals are received in 90 days.

**Sec. 304.** Clarifies that communities have 30 days to consult with FEMA about its proposal to update a map.

**Sec. 305.** Requires that FEMA coordinate and consult with other federal agencies in order to incorporate the most up-to-date information in the flood maps.

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### TITLE IV—PROTECTING CONSUMERS AND INDIVIDUALS THROUGH IMPROVED MITIGATION

**Sec. 401.** Requires FEMA to provide Community Rating System credits to the maximum number of communities practical.

### TITLE V—PROGRAM INTEGRITY

**Sec. 501.** Requires that FEMA obtain annual independent actuarial reviews of NFIP and report to Congress on the findings and any recommended changes to ensure the program remains financial sound.

**Sec. 502.** Homeowner Flood Insurance Affordability Surcharge

- Increases from \$25 to \$40 per NFIP policy for primary residences.
- Decreases from \$250 to \$125 for non-primary residences with a preferred (low) risk policy.
- Increase from \$250 to \$275 for all other non-primary residences.

**Sec. 503.** Requires that the 15-percent reserve fund assessment increase by 1 percent per year until FEMA is collecting \$1 billion per year (expected in 2-3 years according to FEMA).

**Sec. 504.** Repeatedly flooding properties (1 percent of NFIP policies but 30 percent of the claims)

- Phases out subsidies (including grandfathering) for properties that have flooded at least twice but take no action to reduce their risk after the bill becomes law.
- Requires that FEMA notify the owners that, if they make another claim after the date of enactment but have not mitigated, their rates will begin to go up at least 15 percent a year until reaching full risk.
- Provides \$1 billion over 5 years for these owners to mitigate and “resets” the status of their property so no prior claims can be counted in determining their NFIP rates.

**Sec. 505.** Eighteen months after the bill’s enactment, prohibits FEMA from providing NFIP coverage to a repeatedly flooded property if the total amount of claim payments, made after enactment, exceeds twice the replacement cost value of the building alone (i.e., not including the value of land).

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**Sec. 506.** Four years after enactment, prohibits FEMA from providing NFIP coverage for a building with a value of \$1 million or more.

**Sec. 507.** Reduces the Write-Your-Own commission from 31 percent to 27.9 percent of premium

**Sec. 508.** Increases civil money penalties on federally regulated lenders for failure to enforce mandatory purchase requirement and requires an annual report on compliance.

**Sec. 509.** Provides for state-regulated all-perils insurance to meet the mandatory purchase requirement.

**Sec. 510.** Updates the short-term, small-dollar loan exemption from the mandatory purchase requirement.

**Sec. 511.** Provides a 120-day deadline for approval of NFIP claims.

**Sec. 512.** Requires GAO to study ways to simplify the NFIP.

### **OTHER SIX FLOOD BILLS (TO BE INCORPORATED INTO THE 21<sup>ST</sup> CENTURY ACT)**

[H.R. 1422](#), FLOOD INSURANCE MARKET PARITY AND MODERNIZATION ACT  
(Ross-Castor)

**Sec. 2(a).** Requires lenders to accept private flood insurance meeting the federal law for a minimum amount of flood insurance coverage and the state law for other provisions (including deductibles, exclusions, etc.).

**Sec. 2(b).** Clarifies that such private flood insurance also meets NFIP's continuous coverage requirement so policyholders can move to and from the private market without jeopardizing their NFIP grandfathered rate.

[H.R. 2875](#), THE NFIP ADMINISTRATIVE REFORM ACT

**Sec. 2.** NFIP Increased Cost of Compliance (ICC) Coverage.

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- Doubles ICC coverage to \$60,000 per policy to elevate, relocate, flood proof or mitigate a property.
- Expands coverage to include the pre-flood mitigation of properties at a high future risk of flooding.

**Secs. 3-12.** Codifies improvements to the NFIP claims process established after Superstorm Sandy.

**Sec. 13.** Requires that FEMA ensure that the Office of Flood Insurance Advocate has sufficient staffing.

**Sec. 14-17.** Provides for GAO studies, a federal lender Q&A, and a new NFIP insurance advisory group.

### [H.R. 1558](#), REPEATEDLY FLOODED COMMUNITIES ACT

**Sec. 2.** Requires that communities with 50 or more repeatedly flooded properties implement a publicly available, community-specific plan for reducing/mitigating the continuing flood risks.

### [H.R. 2565](#), USE OF REPLACEMENT COST FOR NFIP RATES

**Sec. 1.** Requires that FEMA use up-to-date replacement cost values, by structure, rather than relying on a national average, which over-charges lower value properties while undercharging higher value properties.

### [H.R. 2246](#), TAXPAYER EXPOSURE MITIGATION ACT

**Sec. 2.** Provides for commercial property owners to opt-out of the mandatory purchase requirement.

**Sec. 3.** Requires that FEMA transfer some of NFIP's risk to the traditional reinsurance or capital markets.

**Sec. 4.** Provides for FEMA to approve community alternatives to FEMA's rate maps considering the standards and procedures to be recommended/developed by the Technical Mapping Advisory Council.

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### [H.R. 2868](#), THE NFIP POLICYHOLDER PROTECTION ACT

**Sec. 2.** Limits NFIP rates to \$10,000 per year for residential properties.

**Sec. 3.** Authorizes FEMA to reduce rates for properties that mitigate risk using FEMA approved methods.

**Sec. 4.** Requires FEMA to study the feasibility of offering NFIP coverage for cooperative housing units.