



# H.R. 3370

## The Homeowner Flood Insurance Affordability Act of 2014

Amendment in the Nature of a Substitute

The economic ramifications surrounding unaffordable flood insurance has the potential to devastate home values, small businesses, and entire communities across the country. Since the U.S. House of Representatives took initial action on June 5, 2013 to delay certain flood insurance rate hikes, FEMA has released its Specific Rate Guidelines; confirming fears of sudden and steep rate increases for many Americans.

### A solution that *truly* balances fiscal solvency with consumer affordability

## CBO's Official Score is **\$0**

"CBO estimates that the changes proposed by H.R. 3370 would have no significant effect on net income to the NFIP over the 2015-2024 period."

#### Section by Section

- Section 1:** Provides short bill title, the Homeowner Flood Insurance Affordability Act of 2014, along with a table of contents.
- Section 2:** Provides for the definition of the FEMA Administrator and the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).
- Section 3:** **Repeal of Certain Rate Increases** – repeals the portions of the Biggert-Waters Flood Insurance Reform Act of 2012 (42 U.S.C. 4014(g)(1)(2)) that removes Pre-Flood Insurance Rate Map (PR-FIRM) subsidies on properties that were (1) not insured by the flood insurance program as of July 6, 2012 or (2) purchased after July 6, 2012. The section also allows a policyholder to retain Pre-FIRM subsidized status if a lapse in flood insurance coverage was the result of the property no longer being required to retain flood insurance coverage. The section also ensures that the repeals described above are retroactive to the enactment of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112-141). The section requires FEMA to promulgate rules to initiate refunds to the policyholders for any rates collected in excess in relation to the repeals of 42 U.S.C. 4014(g)(1) &(2).
- Section 4:** **Restoration of Grandfathered Rates** – repeals Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015). This section ensures that all post-FIRM properties built to code at the time of construction will have protection from rate increases triggered by changes to FEMA Flood Insurance Rate Maps (FIRMS).
- Section 5:** **Requirements Regarding Annual Rate Increases** – prevents FEMA from increasing premiums within a single property class beyond 15 percent a year. Prior to the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112-141), FEMA was unable to increase rates beyond 10 percent a year. Currently (Post Biggert-Waters), FEMA is unable to increase rates beyond 20 percent a year. The rate increase limitations are a composite of average rate increases for properties within a risk classification during any 12-month period. The section codifies existing FEMA practice to minimize the quantity of policyholders that may exceed the average annual rate increase limit of 15% by establishing an 18% per property annual rate increase limit. Historically, FEMA has not used its full authority to increase rates up to the prescribed limitation. The section also requires a 5% minimum annual increase on pre-FIRM primary residence policies that are not at full risk.

- Section 6:** **Clarification of Rates for Properties Newly Mapped into Special Flood Hazard Areas** - Continues FEMA’s practice of allowing homes newly mapped into an area with special flood hazards to be given a preferred risk rate policy. This section clarifies the rate increases will not exceed the average annual rate increase limit of 15% as established by Section 5 of this Act.
- Section 7:** **Premiums and Reports** - In setting premium risk rates, in addition to striving to achieve actuarial soundness, FEMA is instructed to try and minimize the number of policies with annual premiums that exceed one percent of the total coverage provided by the policy.
- Section 8:** **Annual Premium Surcharge** – provides for the assessment of annual surcharges in the amount of \$25 for primary residence properties and \$250 for non-residential properties and non-primary residential properties. All revenue derived from the annual surcharges would be deposited in the NFIP Reserve Fund, which was established to ensure funds are available for meeting the expected future obligations of the NFIP.
- Section 9:** **Draft Affordability Framework** - directs FEMA to prepare a draft affordability framework that proposes to address the issues of affordability of flood insurance sold under the NFIP. Suggested affordability framework criteria includes: (1) accurate communication to consumers of the flood risk associated with their properties, (2) targeted assistance to flood insurance policy holders based on their financial ability to continue to participate in the NFIP, (3) individual or community actions to mitigate the risk of flood or lower the cost of flood insurance, (4) the impact of increases in risk premium rates on participation in the NFIP, and (5) the impact of increases in risk premium rates on participation in the NFIP. The deadline for submission of the affordability framework is 18 months after FEMA submits the affordability study (required under Section 100236 of the Biggert-Waters Flood Insurance Reform Act of 2012) to Congress.
- Section 10:** **Risk Transfer** – authorizes the FEMA administrator to fiscally prepare the National Flood Insurance Program for extreme catastrophic events through the transfer of risk to the private market or otherwise.
- Section 11:** **Monthly Installment Payment for Premiums** – authorizes FEMA to provide for both monthly and annual premium payment installment options.
- Section 12:** **Optional High-Deductible Policies for Residential Properties** – increases the maximum deductible for single family residences and any 2- to 4- family buildings to \$10,000. Requires disclosure of the level of out-of-pocket expense the insured is responsible for in the event of an insured loss.
- Section 13:** **Exclusion of Detached Structures from Mandatory Purchase Requirement** – authorizes the exclusion of detached structures that are not used for residential purposes from the mandatory purchase requirement. Detached structures are typically identified on the appraisal of a property. If the lender wants to require insurance on the detached structures this would give flexibility to do so – where those structures actually contribute value to the collateral from a safety and soundness perspective. The section would also allow lenders to waive coverage when the detached structures are of nominal value.
- Section 14:** **Accounting for Flood Mitigation Activities in Estimates of Premium Rates** – authorizes FEMA to consider and incorporate various flood mitigation activities when estimating and calculating risk premiums rates.
- Section 15:** **Home Improvement Fairness** – returns the “substantial improvement threshold” (i.e. renovations and remodeling) to the historic 50% of a structure’s fair market value level and

ensures that necessary renovations can continue without penalizing homeowners with excessive flood insurance rate hikes and costly mitigation. Under Biggert-Waters, flood insurance premium increases are triggered when the renovation investments meet 30% of the home's value. This section raises that level to 50% of the home's value (prior to Biggert-Waters levels).

**Section 16:** **Affordability Study and Report** – expands the scope of the affordability study mandated under Section 100236 of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112-141) to also include a study of: (1) options for maintaining affordability if annual premiums for flood insurance coverage were to increase to an amount greater than 2 percent of the liability coverage amount under the policy, including options for enhanced mitigation assistance and means-tested assistance; (2) the effects that the establishment of catastrophe savings accounts would have regarding long-term affordability of flood insurance coverage; and (3) options for modifying the surcharge under Section 6 of this Act, including based on homeowner income, property value or risk of loss. This section also requires the completion of the study no later than 2 years after the enactment of this Act. In addition, this section provides FEMA the necessary funding to complete the affordability study.

**Section 17:** **Flood Insurance Rate Map Certification** – Requires FEMA to certify in writing to Congress that it has implemented a flood mapping approach that, when applied, results in technically credible flood hazard data in all areas where Flood Insurance Rate Maps are prepared or updated.

**Section 18:** **Funds to Reimburse Homeowners for Successful Map Appeals** - allows communities to be reimbursed for successful challenges to FEMA maps.

**Section 19:** **Flood Protection Systems** - prohibits FEMA from considering the level of federal funding or participation in the flood control structure project when determining the level of protection that the project provides the community.

**Section 20:** **Quarterly Reports Regarding Reserve Fund Ratio** – clarifies a quarterly reporting requirement regarding NFIP Reserve Fund transactions.

**Section 21:** **Treatment of Flood-Proofed Residential Basements** – clarifies that FEMA shall continue to extend exceptions and variances for flood-proofed basements consistent with current regulation.

**Section 22:** **Exemption from Fees for Certain Map Change Request** – exempts a requestor from having to submit a review or processing fee for a request for a Flood Insurance Rate Map change based on a habitat restoration project that is funded in whole or in part by Federal or State funds. Unlike U.S. Army Corps of Engineers projects, sponsors of habitat restoration projects are required to pay a fee for a map change request resulting from the project. While this fee is oftentimes waived, it requires a lengthy and time consuming process that diverts resources away from the project. This section would treat habitat restoration projects the same as Army Corps projects.

**Section 23:** **Study of Voluntary Community-Based Flood Insurance Options** - requires FEMA to conduct a study on the viability of offering community-based flood insurance policies.

**Section 24:** **Designation of Flood Insurance Advocate** - directs FEMA to designate a Flood Insurance Advocate to assure the fair treatment of policy holders under the NFIP and property owners in the mapping of flood hazards, the identification of risks from flood, and the implementation of measures to minimize the risk of flood.

**Section 25:** **Exceptions to Escrow Requirements for Flood Insurance Payments** - removes the retroactive component of the NFIP escrow requirement in Biggert-Waters. This removes a compliance

burden to collect and escrow for flood insurance when other escrows are not required for those loans, such as junior or home equity loans. Some community banks have exited the mortgage business due to certain mandatory escrow rules.

**Section 26:** **Flood Mitigation Methods for Buildings** – requires FEMA, not later than 1 year upon enactment of this Act, to issue guidelines for property owners that provide alternative methods of mitigation, other than building elevation, to reduce flood risk to residential buildings that cannot be elevated due to their structural characteristics.

**Section 27:** **Mapping of Non-Structural Flood Mitigation Features** – requires FEMA to account for non-structural flood mitigation features, such as forests, marshlands and other natural features, in Flood Insurance Rate Maps.

**Section 28:** **Clear Communications** – requires the Administrator of FEMA to clearly communicate full flood risk determinations to individual property owners regardless of whether their premium rates are full actuarial rates.

**Section 29:** **Protection of Small Businesses, Non-Profits, Houses of Worship, and Residences** – requires FEMA to assess the impact rate increases and/or surcharges will have on: (1) small businesses with less than 100 employees, (2) non-profit entities, (3) houses of worship, and (4) residences with a value equal to or less than 25 percent of the median home value of properties in the State in which the property is located. The section also requires FEMA to develop recommendations on ways to improve affordability no later than 3 months after it determines increased rates and/or surcharges are having a detrimental effect on the policyholder categories listed above.

**Section 30:** **Mapping** – requires FEMA to notify communities of remapping as well as models used in the mapping process. Members of Congress are also to be notified of proposed flood map changes within the relevant state or congressional district.

**Section 31:** **Disclosure** - addresses the ability of the NFIP to share its data with the public in accordance with applicable all laws designed to protect consumers' personally identifiable financial information. Providing greater transparency with claims data will help enable private insurers to provide consumers with more flood insurance options.