

Overview and Comparison of Flood Insurance Reform/Reauthorization Proposals



18-Jul-17

	NFIP Reauth. Prd.	Private Flood Insurance Provisions	FEMA Claims Data Sharing	Mandatory Purchase Requirements	NFIP Long-Term Solvency/Financial Stability Measures	NFIP Policy Affordability/Accessibility Measures	Other NFIP Reforms and Innovations
Biggert-Waters (Current Law)	Exp. 9/27/2017	"Private flood insurance" = (1) issued by admitted insurer or for multi-peril/all risk/blanket insuring nonresidential property issued by recognized SL insurer, (2) coverage "at least as broad as" SFIP, (3) includes requirement that insurers provide 45 days' written cancellation/non-renewal notice, info about the NFIP, a SFIP-like mortgage interest clause, and 1-year SOL provision for insured suits, and (4) cancellation provisions are as restrictive as SFIP policies; regulated lending institutions, Federal agency lenders and GSEs must accept "private flood insurance" if coverage meets minimum amount/term requirements (and, for GSEs, financial strength requirements)	Subject to Privacy Act restrictions (per FEMA)	Mandatory purchase requirement applies to residential and commercial properties in flood hazard zones; coverage must satisfy minimum amount and term/duration requirements	N/A	N/A	N/A
Ross-Murphy (H.R. 2901, 2016)/Ross-Castor (H.R. 1422, 2017)	N/A	Federal agency lenders and GSEs must accept "flood insurance" as satisfaction of the mandatory purchase requirement if the coverage meets minimum amount and term requirements (and, for GSEs, if a private insurer meets financial strength requirements); "Flood Insurance" = federal and private flood insurance; "Private Flood Insurance" = (1) issued by an admitted insurer or a SL insurer eligible under the NRRRA (insurer may not be disapproved as SL insurer); and (2) provides flood coverage that complies with the laws and regs of the State; private flood insurance coverage counts as a period of continuous coverage	N/A	N/A	N/A	N/A	N/A
House FSC Legislation (various bills passed by HFSC)	Until 9/27/2022	Incorporates Ross-Castor definitions ; clarifies that all federal agency lenders and federal mortgage entities "shall accept flood insurance as satisfaction of the flood insurance coverage requirement...if the flood insurance coverage meets the requirements [laid out in the bill];" in addition to Ross-Castor definition, adds mutual aid societies to definition of "private flood insurance;" eliminates current non-compete restriction to allow WYO companies to sell private policies outside of the program	Requires FEMA to share with public: data relating to risk on individual properties and loss ratio information; current and historical policy information (amount and term only); current and historical claims information (date and amount paid only); identification of mitigated properties and unmitigated multiple loss properties; and information on communities' overall NFIP profile; data may only ID property at zip code or census block level; info must be disclosed in a manner that does not reveal individually identifiable information about property owners in violation of the Privacy Act	Repeals mandatory purchase requirement for commercial properties located in flood hazard areas (but retains ability for commercial properties to get NFIP coverage if they want it)	Incorporates Rep. Luetkemeyer bill (below) approach to FEMA risk transfer tools ; prohibits or phases out NFIP coverage of certain high-risk properties if private coverage is available (establishes clearinghouse for private coverage offers); caps WYO compensation at 27.9% of premium ; increases penalties for violation of mandatory purchase requirements; allows for "all-perils" coverage satisfaction of mandatory purchase requirement	Caps individual annual rate increases and chargeable premiums for residential properties; creates voluntary state affordability program based on household income; allows FEMA to expedite implementation of monthly installment payment provision in current law; and requires use of replacement cost value of property in setting rates	Reforms and modernizes the flood mapping process; reforms the NFIP mitigation structure for frequent flood properties; creates pilot NFIP program that would allow WYO companies to do pre-inspections on structural conditions that may impact future flood claims; and includes "Superstorm Sandy Reforms" related to fraud, claims processing, and litigation
Senate Banking Committee (Crapo/Brown) Proposal	Until 9/30/2023	N/A	N/A	N/A	Allows FEMA, when purchasing private reinsurance as a risk transfer mechanism, to consider any form of risk transfer (e.g., traditional reinsurance, catastrophe bonds, collateralized reinsurance, and other insurance-linked securities)	N/A	Reforms the flood mapping process; Increases primary ICC coverage limit to \$60K with option to purchase additional ICC coverage up to \$100K; requires disclosure by sellers/lessors of certain property flood hazards; within 4 years of enactment, requires FEMA to use replacement cost values when setting premium rates; establishes new mitigation requirements for communities with repetitive loss properties; provides for more FEMA technical assistance for small communities to participate in the NFIP community rating program
Cassidy-Gillibrand (S. 1313)	Until 9/27/2027	Incorporates Ross-Castor definitions ; requires FEMA report in 2 years on any adverse selection issues; WYO non-compete reforms "phased in" over two-years by applying only to certain risk classifications: second homes, severe repetitive loss properties, properties that have incurred flood-related damage in excess of the property's fair market value, and business property--after the two-year phase-in period, FEMA will revisit WYO non-compete rules based on whether provision of private flood insurance by WYO insurers adversely impacts the NFIP	Requires FEMA to study and report to Congress on the feasibility of selling or licensing the use of NFIP claims data to the private market; upon completion of study, FEMA may sell or license NFIP claims data and promulgate rules to implement such transactions if certain findings are made by FEMA regarding legality, feasibility and benefit to the public	N/A	Incorporates Rep. Luetkemeyer bill (below) approach to FEMA risk transfer tools ; mandates 5-year risk-sharing Pilot Program under which WYO companies or other qualified insurance companies would assume a first-loss position for claims \$50K or less for structures covered by the pilot program, and NFIP would assume a secondary loss position	Requires FEMA to provide affordability vouchers (scaled based on area median income) to offset the cost of flood coverage if covered housing costs, including flood insurance, exceeds 40% of household income; increases coverage limits from \$250K to \$500K for residential structures and from \$500K to \$1M for multifamily and business structures	FEMA shall use premium surcharges to help fund mitigation programs ; provides a mitigation credit to reduce risk premium rates for policyholders by at least 10%; ensures equal treatment of cooperative building owners and condo owners; Agreed Value Pilot Program : for 8 years after enactment, policies will make payments on agreed schedule determined by flood height in covered structures, policies satisfy mandatory purchase requirement, placed by state-licensed agents/producers, nondiscrimination provision (based on location), designated program reserve fund; modernizes flood mapping with high-resolution technology provisions; sets a 30-day deadline for flood insurance claim determinations (w/ a one-time 15-day extension for extraordinary circumstances); calls for a report from the NFIP Transformation Task Force within 1 year on recommendations and timelines; reforms the statute of limitations for instituting claims-related actions to be 2 years after the date of the loss or 90 days after a claim is denied, whichever is later

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Menendez-Kennedy (S. 1368)	Until 9/30/2023	N/A	N/A	N/A	Caps WYO compensation at 22.46%, but requires agent commissions be at least 15% of written premium; freezes interest accrual on NFIP debt for 6 years; charges private companies for use of flood insurance rate maps; adds transparency and reimbursement requirements for WYO vendors	Caps annual premium, surcharge and fee increases at 10%; increases policy coverage limits; provides for increased affordability assistance and mitigation funding; requires FEMA to implement provision under current law for monthly installment payments of premiums	Incorporates Senator Kennedy bill (S. 1058) below on FEMA WYO contract cancellation authority; various claims process, litigation, and policyholder experience reforms under the NFIP, including enhanced WYO agent, engineer and claims adjuster training and certification requirements
Rep. Luetkemeyer (H.R. 2246)	N/A	N/A	N/A	Repeals mandatory purchase requirement for commercial properties located in flood hazard areas (but retains ability for commercial properties to get NFIP coverage if they want it)	Requires FEMA to annually cede a portion of the risk of NFIP to the private reinsurance and/or capital markets in an amount sufficient to maintain NFIP ability to pay claims and that limits exposure of the NFIP to flood losses in accordance with a probable maximum loss target established for the year	N/A	Repeals written notice requirement to purchaser/lessee/servicers of special flood hazards for commercial properties; removes commercial properties from standard hazard determination form requirements; revises definition of "Federal agency lender" to mean an agency that makes loans secured by residential (not commercial) real estate
Sen. Kennedy (S. 1058)	N/A	N/A	N/A	N/A	N/A	N/A	Allows FEMA to terminate a contract or other agreement between a covered entity (defined as any attorney, law firm, consultant, or third-party company that provides services to a WYO company) and a WYO company if the Administrator determines: (1) the covered entity has engaged in conduct "that is detrimental to the flood insurance program," and (2) not later than 14 days before termination of the contract/agreement, provides notice to the covered entity of the termination (NOTE: no other standards/requirements for termination are included); an appeals process shall be established by FEMA; applies to any contract/agreement entered into on or after the date of enactment