NATIONAL ASSOCIATION of REALTORS®

500 New Jersey Avenue, N.W.

Washington, DC 20001-2020

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STATEMENT OF

MAURICE "MOE" VEISSI
NATIONAL ASSOCIATION OF REALTORS® 2012 PRESIDENT

TO THE

UNITED STATES HOUSE FINANCIAL SERVICES COMMITTEE
HOUSING AND INSURANCE SUBCOMMITTEE

HEARING TITLED

IMPLEMENTATION OF THE BIGGERT-WATERS FLOOD INSURANCE ACT OF 2012: PROTECTING TAXPAYERS AND HOMEOWNERS

NOVEMBER 19, 2013

Introduction

Chairman Neugebauer, Representative Capuano, and members of the Housing and Insurance Subcommittee, more than 1 million members of the National Association of REALTORS® (NAR) thank you for this opportunity to testify on implementation of the Biggert-Waters Flood Insurance Act of 2012.

My name is Moe Veissi. I have been a Realtor® for over 40 years, and am the broker-owner of Veissi & Associates, Inc. in Miami, FL. Since 1981, I have served the Realtor® community in many capacities, from local association president to NAR's 2012 President. Based on numerous first-hand accounts over the years, as well as my direct personal experience as a practitioner in the field, I can assure you that there are few issues of greater importance to real estate markets than ensuring access to affordable flood insurance.

Thank you for passing a 5-year reauthorization of the National Flood Insurance Program (NFIP). I especially wish to acknowledge Representative Maxine Waters today, for her continued leadership and tireless efforts in maintaining access to affordable flood insurance. Reauthorization ended the uncertainty of month-long extensions or shut downs that cost 40,000 home sales each month. The flood program also protects taxpayers by reducing the amount of emergency disaster relief to be spent on underinsured properties after major floods.

While the 5-year NFIP reauthorization brought stability, the law has proven complicated and difficult for FEMA to implement. Only the first round of rate changes have taken effect and already, property owners and Realtors® across the country are reporting dramatic increases well beyond what was imagined and certainly beyond congressional intent.

Realtors® strongly support the "Homeowner Flood Insurance Affordability Act" introduced by Representatives Michael Grimm (R-NY) and Maxine Waters (D-CA), and by Senators Bob Menendez (D-NJ) and Johnny Isakson (R-GA) in the Senate. This legislation would delay further implementation of the major rate changes until FEMA completes the affordability study required by Biggert-Waters, creates an office of the Advocate to investigate the flood insurance rate increases and reports to Congress with a proposed solution to the problems encountered based on the findings.

In the interim, NAR calls on FEMA to convene a national summit with key stakeholders to develop a longer-term affordability solution. We believe that the Agency already has the ample authority under current law to begin the discussion and should not wait for Congress. We stand ready to work with you and the Administration to bring clarity to housing markets subject to the Biggert-Waters reforms.

Biggert-Waters Provided 5 Years of NFIP Stability

The Biggert-Waters Act of 2012 (BW12) provided the first longer-term NFIP reauthorization in many years. Eighteen times since 2008, Congress had extended the program month-to-month. Twice, Congress gridlocked and failed to pass an extension. During each lapse, NFIP could not write insurance policies in more than 20,000 communities nationwide where flood insurance is required for a mortgage, and therefore for most property purchases.

The BW12 reauthorization ended the uncertainty surrounding extensions and shutdown that cost 40,000 home sales per month. Each lost sale meant lost jobs, income, economic growth and community revenue. The reauthorization also protected taxpayers by reducing the amount of emergency disaster relief that Congress will need to spend on uninsured and underinsured properties after the next major flood.

In addition to reauthorization, BW12 maintained NFIP coverage for all properties so no one would have to take their chances in a virtually nonexistent private flood insurance market. While there may be the potential for some niche players where lenders can accept a non-NFIP policy, private insurance companies would still cherry pick and likely not find it profitable to write policies in higher risk coastal zones.

BW12 also instituted several reforms so that the NFIP could more quickly pay back the loans incurred to cover losses from Hurricanes Katrina and Sandy and remain solvent over the long-term. The law phases out subsidies for the "Severe Repetitive Flood Loss" properties that represent 1% of insured properties but 30% of flood claims. It also provided a 4-5 year transition period for most properties to adjust to any rate increases, as well as allowing installment payments for flood insurance so the costs would not have to be absorbed in one lump sum.

Lastly, BW12 included improvements to the accuracy of the flood maps used to determine which properties require flood insurance. It created a technical council of experts to review and set the mapping standards. It also subjected FEMA's mapping determinations to third-part dispute resolution and provided for reimbursement for successful map appeals.

BW12 achieved many of NAR's NFIP priorities, and ensured the program's continuation for the 5.5 million businesses and homeowners that rely on the program for flood insurance. It also ensured that U.S. taxpayers will spend less on emergency disaster assistance for underinsured properties after major floods. However, there have been a number of unintended consequences as a result of the new law. The remaining issues of affordability must be addressed.

BW12 Implementation Has Unintended Consequences

While bringing stability to the NFIP, the law has proven too complicated and difficult for FEMA to implement in an open and transparent process for all stakeholders. To date only the first round of rate changes have taken effect and already property owners and Realtors® across the country are reporting dramatic increases that are well beyond what we and many members of Congress believed to be possible. FEMA is relying solely on their network of write-your-own (WYO) insurance agents to roll out the changes to the program without sufficient training or timely, up-to-date information needed to fully respond to consumer questions.

Selective implementation has contributed to the rate confusion

FEMA has introduced needless complexity into an already complicated law. For example, FEMA waited nearly nine months to implement section 205's removal of subsidized rates at point of sale for properties purchased after July 2012. It was not until March 2013 that FEMA issued guidance so that the WYO companies could begin quoting the non-subsidized rate for purchased properties.

FEMA's guidance directed WYOs to implement the purchase provision beginning on October 1, 2013 and to apply it retroactively to sales beginning in July 2012. Some WYO companies were quicker than others in updating their rate quote software before that date. Those that could update provided two quotes for one property – the first if the home was purchased before October 1 and the second, if purchased afterward. This only confused prospective buyers. The other WYO companies, however, only provided the first rate quote, not the second.

In addition, FEMA has yet to implement section 207 because it only recently began collecting the data on "grandfathered" properties, i.e., those properties that have been mapped and are paying an actuarial rate but whose risk has increased due to new maps. In the past, these properties were allowed to keep their original risk rates because they were built to code at the time. FEMA has posted on its site that it will begin phasing out grandfathered rates in late 2014 at the earliest. That date, however, seems to be a moving target.

While continuing to roll out new maps and pushing forward with some provisions increasing rates, FEMA has yet to implement the other provisions that could help homeowners in the affordability arena, including:

- Completing the affordability study required by BW12 so Congress can understand and act on the rate changes; the report was due April 2013 but may not be completed for another two years.
- Providing for installment payments and reimbursement for successful flood map appeals. We are not aware of FEMA's plans to initiate either rulemaking any time soon.
- Issuing a "without levee" policy to give partial credit in the premium rates for any flood protection provided by a dam or levee that has not been federally accredited.

In addition to the changes mandated in BW12, FEMA continues to roll out flood map updates in communities across the country. While not a result of BW12, maps and changes in the law do have overlapping effects. The vast majority of Realtor® reports come from areas where a map was recently updated. Part of the rate increases could be due to the property being mapped into a higher risk flood zone, in addition to a subsidy being phased out. But we do not have the information to determine how many of the reports involved a new flood map.

Homebuyers were not warned

Because FEMA delayed, then retroactively applied, the purchase provision in section 205, many home buyers, specifically those who bought between enactment of BW12 and March 2013, were not warned of rate increases before purchasing their properties. Flood insurance policies are not labeled as "subsidized." Many of the homebuyers did not learn of the increase until opening the policy's renewal notice. For example:

- Tim and Caterine Clearwater (Purchased November 2012) – First-time home buyers with an infant who searched for years near his work as a merchant marine. The Clearwaters spent their life savings to put a 20% downpayment on their purchase and took out a conventional loan on a modest 1950's home in Haleiwa, HI. They were never told and are facing an increase from \$2,700/year to \$28,000 or more/year (see example 5 of the appended report).
- Brent and Maggie Campbell (Purchased October 2012) – Second home buyers of an 850 ft^2 beach rental in Folly Beach, SC. Like many other middle-class families, the Campbells –

both architects – were looking to supplement their income with an investment property. They too were never told of the increase from $825/year to $13,000/year (nearly a 1,500% premium increase) according to the rate quote.

Neither the Clearwaters nor the Campbells can afford the increases they face. Both would have walked away from the purchase had they been informed.

There do not appear to be good options for these families:

- Neither can sell without significantly reducing the homes' listing prices and taking a loss.
- Both have maxed or nearly maxed out their flood policy deductible at $5,000.
- The Campbell's rate reflects a Community Rating System discount of $2,100.
- The Clearwaters home was already elevated before purchase.
- The Clearwaters were not able to obtain an elevation certificate by the renewal deadline of October 31, so they received a tentative rate of $10,000/year for one year.
- If unable to get a loan to elevate or buyout the property, both could be facing foreclosure.

Realtors® supported BW12 as it passed the House (H.R. 1309), which included a gradual 5-year phase-out both for the purchase or grandfathering of property. There was also a 12-month grace period before the phase-outs would begin. The Senate version did not include a purchase provision.

When added to the omnibus transportation bill (called MAP-21) the night before the vote, those provisions changed. While still applying to grandfathered properties, the gradual 20% cap on rate increases for the purchases was deleted, as was the grace period. Buyers would see the full actuarial increase upfront, but Congress intended them to be warned first. Also, the grandfathering provision appears to have been expanded to include "any property," when the original intent was to limit it to helping newly mapped properties.

The vote was on a conference report for the bill so amendments were not allowed. It was a Sophie's choice: either support the final bill with the changes, or oppose and risk 4 years of efforts to reauthorize NFIP and get real estate transactions moving again in 20,000 communities nationwide. Realtors® chose to support the reauthorization and keep working to make any necessary technical corrections.

$87,000 Flood Insurance

This was supposed to be a myth.

No one could have imagined rates of this magnitude. Before BW12, FEMA had repeatedly reported in its annual rate reviews that subsidized policy holders were paying 40-45% of the actuarial cost and that the average subsidized rate was $1,200/year in 2011.[1] The Congressional Budget Office adopted those figures when scoring the legislation. When FEMA was confronted with the reports of $30,000 flood insurance, the Agency initially responded that actuarial rates could range between $500 and $10,000 or more, but it would be unusual to see a rate outside this range.

[1] GAO. "Flood Insurance: More Information Needed on Subsidized Properties," Report #GAO-13-607, July 3, 2013.

Yet consumers and Realtors® across the nation were routinely reporting rate quotes for flood insurance in the $20,000-$30,000 range. Consequently, prospective buyers have been walking away or refusing to come to the closing table on properties if flood insurance is required. Some sellers have responded with a front-yard sign or MLS selling point that "no flood insurance required." Others, who are not so fortunate, are being forced to reduce their listing price or choosing not to sell and are stuck. Based on NAR survey data before October 1, 2013, when the first round BW12 went into effect, Realtors® reported that 10% of their transactions were located in a floodplain.

On October 1, coastal markets froze. The freeze spread, and has been felt as far inland as A zones near rivers in Indiana. According to RAND, a $500 premium increase is associated with a $10,000 decrease in property value based on previous research.[2] Not only were the increases affecting the sellers but also entire neighborhoods as winners and losers were picked. It was costing jobs and income in related industries and rippling throughout the local economy and community tax base.

We asked an expert, Lisa Jones of Carolina Flood Solutions, to review several of the rate quotes we received, including one for $87,000. She's a certified floodplain manager with nearly 30 years of experience advising clients on the NFIP from a variety of vantage points, including former NFIP coordinator and past president of the Association of State Floodplain Managers. Her full report with findings and recommendations is appended to this testimony.

While information to draw definitive conclusions isn't available, it appears that the $87,000 example is potentially a mistake by the insurance company. The example involves the purchase of property under BW12. However, the property's construction date (1986) appears to follow the community's first flood map (1984), meaning it may be eligible for a lower grandfathered rate (i.e., until FEMA implements section 207). It will also have to be confirmed that the structure is built to A-zone standards or has a current policy where the rate can be assigned. Moreover, this appears to be a classic case of over-insurance: the quote was for $250,000 of coverage but the property may require less insurance if the structure is valued at less than that. The public tax assessment suggests that the structure's value is closer to $92,000; for this amount of coverage, the flood insurance would cost only $24,000/year.

Cost is not the only issue

Each property should have only one actuarial rate. Different WYO insurance agents should all be quoting a single rate based on FEMA issued guidelines. Yet many of the Realtor® reports involve multiple rate quotes for a single property.

The attached report highlights three such examples. In one case, the buyer received six different quotes ranging from $10,000 to $30,000 per year; three of those came from different agents for the same company. According to our analysis, all 6 insurance agents provided inaccurate information about the property. When inputting the data into the rate-quote software, information about the home's true elevation, construction date, CRS discount, eligibility for grandfathering, all were entered incorrectly. Those mistakes drove the quotes. As the old saying goes: garbage in, garbage out. When the correct data was entered, the true rate turned out to be $480 per year, which has been confirmed by FEMA.

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[2] RAND. "Flood Insurance in New York City Following Hurricane Sandy," Pre-published report, 2013, page xxi.

Lack of training appears to be contributing to excessive rate quotes. FEMA currently has a 4-hour introductory class that is required only if agents write for the NFIP Direct Program. It does not teach agents how to fill out an application for flood insurance. FEMA could expand the class and modify its agreements with WYO companies to make it a requirement. Additionally, FEMA could require training for surveyors, engineers or architects who complete the Elevation Certificate as part of the Letter of Map Change process.

Many of the rate quotes also appear to be based on arcane "Submit-to-Rate" procedures that require individual judgments for properties that are two or more feet below base flood elevation. There is no transparency in the calculations. The quotes issued do not contain enough information to reproduce the estimates. This should be addressed.

To our knowledge, insurers do not routinely re-underwrite old policies or even verify the accuracy of basic facts about a property before applying rate increases. At least one insurance company adjusted a premium rate upward because the original agent writing the policy a decade before had made a mistake and missed a basement. Another listed a basement on the declaration page of the policy, even though one does not exist for the property.

Right now, consumers have no one to turn to when faced with multiple differing rate quotes for the same property. They are essentially told to trust the WYO agent. If this were a question about the standard homeowners' policy instead, the owner could turn to the state insurance commissioner. There should be an equivalent advocate at the federal level for flood insurance.

Conclusion

While BW12 brought certainty to the NFIP, we now see some unintended consequences as well. However, at this time we cannot identify enough information to determine how many of these are due to the law, its implementation, insurance rating error or flood map updates.

Therefore, Realtors® urge you to support the "Homeowner Flood Insurance Affordability Act" to delay further implementation of the major rate changes until FEMA can complete the affordability study required by BW12, create a flood insurance advocate to further investigate rating abnormalities and report back to Congress with a proposed affordability solution.

In the interim, we are also calling on FEMA to convene a national summit with key stakeholders to develop a long-term affordability solution and work with industry and consumers implement the law in the most transparent and understandable process possible. We believe that the Agency already has the authority under current law to begin the discussion.

Thank you for the opportunity to share the Realtor® community's views on such a critical topic. We stand ready to work with you and the Administration to bring clarity to the housing markets under BW12.