

“Homeowner Flood Insurance Affordability Act”

Section by Section Summary

On March 21, 2014, President Obama signed the “Homeowner Flood Insurance Affordability Act” which amends the 2012 Biggert-Waters law:

- Repeals the property-sale trigger, which had required buyers to immediately pay the full cost for flood insurance at time of purchase.
- Gradually phases-in premium rates at 18-25% per year until property owners are paying full cost.
- Refunds the premiums paid by property owners in excess of 18-25% increases.
- Restores the “grandfathering” of properties so owners who build to code in one flood zone won’t be penalized by zone changes in subsequent flood maps.

These are permanent changes to law. Rather than simply hit the “pause” button, Congress decided to roll back the rates to 2013 and then cap the increases going forward. To make up revenue, a small assessment will be added to all NFIP policies until property owners are paying full cost for flood insurance.

[Note: The following summary is for informational purposes only. It is not intended to be legal advice or relied upon in connection with a real estate transaction without consulting legal counsel.]

SECTION BY SECTION

Sec. 2. Definitions.

Sec. 3. Repeals the property-sale/new-policy triggers to full-risk premiums rates

- Spells out an 8-16 month process for FEMA to implement the rate changes.
- Directs FEMA to refund directly to policy holders any premiums collected in excess of the new rate tables, but not until after FEMA issues new rate tables/instructions.
- Provides that buyers may assume an existing policy (at the current rate) from the seller, until FEMA implements this section.

Sec. 4. Restores grandfathering of properties, e.g., those built and maintained to A-zone building standards will keep the A-zone rate if the property is later remapped into a V zone.

Sec. 5. New Limits on Annual Premium Increases

- Reduces from 20% to 15% the current limit on the average increase in each flood zone.
- Adds a new limit so no individual property owner pays more than 18% over the previous year with certain exceptions.
 - Pre-FIRM Properties (generally built BEFORE 1975)
 - Primary Homes – no more than 18% but no less than 5% (new floor).
 - Second Homes or Commercial Properties – 25% increase until full risk rate (no change to current law).
 - Post-FIRM Properties (generally built AFTER 1975) – Primary, Second, Commercial – no more than 18% increase over previous year’s premium.

Sec. 6. Clarifies phase-in of rates for properties newly mapped into flood zone for first time.

Sec. 7. Directs FEMA to “strive to minimize” the number of property owners who pay more than 1% of the coverage provided by their insurance policy.

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Sec. 8. Applies an annual assessment of \$25 per policy on all NFIP primary homes; \$250 on second homes and commercial properties in the NFIP. Expires when all pay full-risk rates.

Sec. 9. Directs FEMA to propose regulatory changes to address issues raised by the Biggert-Waters affordability study within 18 months.

Sec. 10. Authorizes FEMA to buy reinsurance from the private market.

Sec. 11. Clarifies that flood insurance may be paid in monthly installments.

Sec. 12. Provides for an optional deductible up to \$10,000 for homes.

Sec. 13. Excludes detached structures so home owners are not required to purchase flood insurance for them under the NFIP but clarifies that the lender may still require it on own.

Sec. 14. Allows FEMA to estimate premium rates that account for flood proofing.

Sec. 15. Raises from 30% to 50% the threshold before home improvements trigger a rate increase.

Sec. 16. Requires FEMA to submit the Biggert-Waters affordability study within 18 months and increases the study funding to \$2.5 million, up from \$750,000.

Sec. 17. Requires FEMA to certify when a technically reviewed and credible flood mapping program has been implemented.

Sec 18. Increases funding for FEMA to reimburse property owners for successful flood map appeals.

Sec. 19. Allows FEMA to give rate credit in communities that self-finance improvements to existing levees and dams.

Sec. 20. Requires quarterly reports on the flood insurance reserve fund.

Sec. 21. Allows FEMA to keep excluding flood-proofed basements from rate calculations in communities where necessary to protect home owners from extreme weather like tornados.

Sec. 22. Waives fees for flood map changes based on habitat restoration.

Sec. 23. Provides for a study of voluntary community-based flood insurance.

Sec. 24. Establishes a Flood Insurance Advocate within FEMA to educate and assist property owners with flood map appeals and flood insurance rates.

Sec. 25. Provides exceptions to escrow requirements for smaller banks.

Sec. 26. Allows FEMA to set premium rates that account for implementation of an alternative mitigation method described in guidance.

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Sec. 27. Incorporates non-structural flood mitigation features into flood maps.

Sec. 28. Directs FEMA to clearly communicate the full flood risk to property owners who are paying less than a full-risk premium.

Sec. 29. Requires FEMA to report on the affordability to small businesses, non-profits, churches and lower value homes, and make recommendations accordingly.

Sec. 30. Provides for additional notification and outreach on the flood maps.

Sec. 31. Requires FEMA make public the rate tables and guidelines six months in advance.