

NAR Issue Brief

“Homeowner Flood Insurance Affordability Act”

Legislative Analysis

On March 21, 2014, President Obama signed into law the “Homeowner Flood Insurance Affordability” amendments to the 2012 Biggert-Waters law:

- **Repeals the property sales trigger** requiring that buyers immediately pay the full-risk premium rate at the time of purchase.
- **Restores “grandfathering” of rates** under flood zones when properties were built to code.
- **Limits future increases to 18% annually** for most properties built generally after 1975 and 25% for the older properties until they are paying full cost for flood insurance.
- **Refunds any premiums** paid by property owners in excess of 18-25% increases.

This represents a dramatic departure from earlier versions that would have “paused” increases until FEMA reported on affordability. As enacted, the bill hits the “reset” button back to pre-2012 levels and caps all increases going forward. To make up revenue, a small assessment is added to all NFIP policies until property owners are paying full cost for flood insurance.

While going further in making permanent changes to law and providing refunds, the bill also allows 8-16 months for FEMA to issue the regulations to implement these changes. Most property owners will not see these changes reflected in rate quotes and insurance renewal notices right away.

[Note: This 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.
 - 8 months to issue the new rate tables and instructions to WYO insurance partners.
 - Additional 6-8 months for WYOs to carry out instructions in rate quotes/renewals.
- 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.

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- 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.
- 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.

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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.

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