

NAR FAQ

“Homeowner Flood Insurance Affordability Act”

(April 16, 2014)

Why was it critical for Congress to pass the 2012 Biggert-Waters National Flood Insurance Reforms?

- Provided 5 years of certainty from NFIP shutdowns and extensions that had cost 40,000 home sales a month. Home owners can rest assured that flood insurance will be available at the closing table.
- Maintained NFIP coverage so no one takes their chances in a private market that cherry picks million-dollar property owners. Flood insurance is accessible to all homeowners and businesses.
- Gradually phased-out subsidized flood insurance that had painted a giant budget “bull’s eye” on NFIP. The program will borrow less from taxpayers to make up for undercharging old properties.
- \$24 billion - The amount NFIP had to borrow to cover claims after Hurricane Katrina. Biggert-Waters pays back \$5 billion and keeps the program from going broke in the long run.

Then why did NAR support amendments made by the Flood Insurance Affordability Act?

- NAR supports a gradual phase-out of taxpayer subsidies for flood insurance.
- But FEMA botched the implementation of Biggert Waters.
 - Did not gradually phase-out subsidies for the property buyers and sellers.
 - Did not tell Congress about \$30,000 flood insurance before Biggert-Waters passed.
 - Did not disclose rates of this magnitude until a year after many bought their home.
 - Did not train insurance companies to set one rate per property; wide ranges were common.
 - Did not check the accuracy of quotes that overestimated rates by tens of thousands of dollars.
 - Did not provide a FEMA ombudsman to answer questions or advocate for homeowners.
- Instead, FEMA left it to REALTORS® to explain the implementation mess created by the agency.
- Many buyers refused to come to the closing table or negotiated down the property’s price; each \$500 premium increase translates to a \$10,000 decrease in property value according to the RAND Institute.
- Home buying is complicated enough without introducing new variables like inaccurate flood insurance rates into the process.

How do the recent flood insurance amendments change the Biggert-Waters law?

- Restores the original intent of Biggert Waters, which is to gradually phase out the subsidies.
 - No more time-of-sale increases; increases will occur when flood insurance is renewed.
 - Buyers will no longer see 100% of the increase at closing; now it’s spread out over many years.
- Repeals FEMA’s authority to raise premium rates at the time of property sale or new flood map.
- Returns to allowing buyers to assume the seller’s current rate so the rate stays and transfers with the property, not the owner.
- Restores grandfathering so property owners who build and maintain to NFIP standards in one flood zone aren’t rated in higher cost zones, simply because FEMA maps change.
- Limits premium increases to 18% annually for newer properties and 25% for the older ones.
- Refunds premiums paid by property owners in excess of rates under the flood insurance amendments.
- Provides for the accuracy of future flood insurance rates.
 - Requires technical review and certification of the flood insurance rate maps.
 - Creates a flood insurance advocate for homeowners to challenge faulty rates or maps.
 - Increases funding to reimburse property owners for successful flood map appeals.
 - Accounts for flood-proofing or other alternative methods to elevating property.
 - Provides for higher deductibles up to \$10,000 before flood losses are covered.
- Reduces NFIP borrowing by placing a small assessment on all NFIP policies until property owners are paying full cost of flood insurance.

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When will my clients see rate relief under Flood Insurance Affordability Amendments?

- Within 8 months FEMA is required to issue new rate tables and instructions to insurance companies.
- Then insurance companies will have 6-8 months to carry out FEMA’s instructions.
- Refunds “any premiums ... in excess of rates [under flood insurance amendments]” ...
- ...but not until FEMA issues the new rate tables in order to calculate the excess over and above.
- While subject to FEMA interpretation and change, flood insurance experts are making educated guesses that:
 - Rate changes will show up “automatically” in the first renewal notice after insurance companies update their computer software.
 - Insurance companies will initiate and calculate refunds but it is unclear whether the refund will take the form of a Treasury check.
- [Read FEMA’s latest announcement on the refunds and premium rates.](#)

What do I tell my clients while FEMA implements the law over the next 8-16 months?

- Recent flood insurance amendments will slow and refund the higher flood insurance rates.
- It will take some time for FEMA to implement the law before property owners will see rate relief.
- In the meantime, the law allows buyers to assume the seller’s current rate ([See FEMA’s bulletin implementing this provision](#)).
 - Reference Public Law 113-89.
Section 3(b) states: “*Assumption of Policies at Existing Premium Rates.--The Administrator shall provide that the purchaser of a property that, as of the date of such purchase, is covered under an existing flood insurance policy under this title may assume such existing policy and coverage for the remainder of the term of the policy at the chargeable premium rates under such existing policy. Such rates shall continue with respect to such property until the implementation of subsection (a).*”
 - Show them [NAR’s video](#) of FEMA committing to help with any premium rate transfer issues.
 - Read FEMA’s latest [announcement](#) particularly “... a new purchaser will be allowed to assume the prior owner’s flood insurance policy and retain the same rates until the guidance is finalized.”
 - Point them to the [Congressional Record](#).
 - [Contact](#) FEMA’s Regional Office.

What if there’s currently no flood insurance on the property?

- Suggest they contact an insurance agent or legal counsel and ask if one of these provisions can help.
- **Sec. 3** will allow less than full-cost flood insurance for property owners who:
 - Purchased a property after July 7, 2012.
 - Purchased new flood insurance after July 7, 2012.But not for property owners who:
 - Let the prior flood insurance policy lapse, but not if coverage was no longer required.
 - Refuse to accept an offer for mitigation assistance from FEMA.
- **Sec. 4** restores grandfathering. If built and maintained to NFIP standards in one flood zone, the property retains the flood zone’s rates if remapped into a higher cost zone. No one can bait you into building to X feet, then switch in 5 years to ‘rebuild higher or pay more flood insurance.’ [Read FEMA Grandfathering Rules.](#)
- **Sec. 6** clarifies that the full cost for flood insurance will phase-in for properties that are newly mapped for the first time into flood zone A or V after March 21, 2014. Will start at preferred risk rates and increase 18-25% per year until the rate reaches full cost.

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- [FEMA's congressional advisory states](#): "lapsed policies receiving PRE FIRM subsidized rates may be reinstated..."
- Read [NAR's updated legal guidance](#) of what to say about flood insurance.

Do the flood insurance amendments repeal or temporarily delay rate increases?

- While originally delaying increases pending an affordability study, the bill was dramatically amended before being signed into law.
- The signed bill actually goes further by repealing and restricting FEMA's authority to raise premium rates at certain times or above specified limits (for more on what the bill does, see above).
- Makes these changes into permanent law regardless of affordability study results, though the study is retained in the final bill to monitor implementation.

Do the flood insurance amendments apply to second homes and commercial properties?

- Yes. The amendments will slow the highest rate increases under Biggert-Waters for the vast majority of second homes and commercial properties.
- While some may not see a “rate reduction,” everyone will gain new options to help moderate the impact and transition: they can sell, assume, grandfather, mitigate, or appeal under these amendments.
- Before, the Biggert-Waters law was:
 - Impacting property values; each \$500 premium rise meant a \$10,000 loss in value according to the RAND institute; and
 - Picking winners and losers not only among the property owners if they tried to sell but also among the communities where these properties are concentrated.
- The problem was owners of second homes and commercial properties were stuck:
 - Could not sell the property because buyers were either balking at flood insurance increases above 25% per year or worried that it might one day lose its “grandfathered” status.
 - Could not elevate the property (due to the cost or nature of construction), appeal the flood insurance rate map, raise deductibles further, or find anyone at FEMA to advocate on their behalf with insurance companies that were providing wildly inaccurate rates and quotes.
- Recent amendments solve this problem by unsticking sales and correcting the disparity between the owners and sellers/buyers of second homes and commercial properties.
 - Deletes the provisions triggering increases up to the tens of thousands of dollars; it was not Biggert-Waters' intention for any second home or commercial owners to see more than 25% increases – even at purchase according to FEMA.
 - Allows buyers to assume the seller's current rate and limits future increases to 25% a year.
 - Refunds increases above 25% at time of property sale. [Read FEMA's announcement](#).
 - Restores grandfathering under lower cost flood zones if/when FEMA's maps change; second homes/commercial properties aren't singled out or excluded just because theirs is not a first home. [Read FEMA's grandfathering eligibility rules \[link\]](#).
 - Reduces the maximum annual increase a newer second home/commercial owner could pay. From 40% down to 18%. 18% is a hard cap per-property, not an average across a flood zone where otherwise, individuals could have seen much higher.
 - Adds more options, like mitigation alternatives to elevation, to address a wider range of circumstances and properties (e.g., it's constructed of concrete block).
 - Technically reviews the accuracy of flood insurance rate maps and require certification.
 - Creates a flood insurance advocate for property owners to challenge faulty rates or maps.

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- Increases funding to reimburse property owners for successful flood map appeals.
- Reduces rates based on flood-proofing or other alternative methods to elevating property.
- Provides for a higher deductible up to \$10,000 for a second home before flood losses are covered by insurance.
- If these amendments don't resolve all affordability issues, requires FEMA to report to Congress, particularly on the small businesses and low value properties, and propose additional solutions, like means-tested vouchers.

Will my flood insurance increase 18% every year into perpetuity until it skyrockets?

- No, FEMA will set rates each year according to a cost analysis – same as before Biggert-Waters.
- 18% is the absolute upper-bound limit on how high FEMA can raise the rates in any given year.
- Historically under this cost approach, increases have been closer to 5% so any speculation about perpetual 18% annual increases at this point is just that: speculation.
- Before, FEMA could have charged up to 40% of individual properties so long as the average increase in a flood zone did not exceed 20%; 18% could be a significant reduction from previous rates.
- Also FEMA is required to review the accuracy of flood insurance rates so while uncertain, the future rate in 10 years could be significantly lower than the inaccurate rate quotes you're seeing today.
- Nevertheless if it turns out that future increases are closer to 18%, FEMA is to report to Congress on any affordability issues and propose additional solutions, like means-tested vouchers.