

ASFPM Side-by-Side Comparison and Comments on NFIP Reform Bills

HR 1309 and Committee Passed Senate Bill

Topic	House Summary	Senate Summary	ASFPM Comment
General - Reauthorization Period	Reauthorization of the NFIP for 5 years through 2016.	Reauthorization of the NFIP for 5 years through 2016.	No comment.
General – Debt Forgiveness	No debt forgiveness.	No debt forgiveness.	While this is an important provision and ASFPM has been advocating debt forgiveness, it is one of the biggest political non-starters of the entire reform bill, if the Senate Bill contained it and the House bill did not.
General - Misc. Provisions	Makes eligible for assistance under the Community Development Block Grants (CDBG) program: (1) certain activities supplementing existing state or local funding for administration of building code enforcement by local building code enforcement departments, and (2) floodplain management outreach and education activities of local governmental agencies to encourage and facilitate purchase of flood insurance protection by owners and renters.	Establishes a Commission on Natural Catastrophe Risk Management and Insurance; tasks the Commission with examining risks from natural catastrophes and ways to mitigate those risks and pay for associated losses; requires a report to Congress within 9 months after enactment and provides for termination of the Commission 90 days after the report is submitted.	House provision good that it allows for expanded eligibility to use CDBG for floodplain management related activities. ASFPM understands that the Senate provision is an artifact from their 2008 bill. Not sure its value or impact – ASFPM had in the past indicated that this is not necessary.
Insurance – Additional Coverage Authorized	Adds optional actuarially based coverage for living expenses up to \$5,000 and business interruption up to \$20,000.	Does not add coverage, studies issue. <i>See Insurance – Studies.</i>	No comment.
Insurance – Rate Structure, Premium Calculations, Deductibles	<p>Changes allowed annual rate increase to 20% from 10%.</p> <p>Establishes minimum deductibles of \$1,000 for actuarially rated policies and \$2,000 for Pre-FIRM rated policies.</p> <p>Properties newly mapped as in a 100 year floodplain will pay premiums phased in to actuarial rates over 5 years – 20% each year.</p> <p>Communities making adequate progress on flood protection systems eligible for insurance rates as if the improvement were completed. Revises requirements for insurance rates for a community in the process of restoring flood protection afforded by a system previously accredited as providing 100-year frequency flood</p>	<p>Changes allowed annual rate increase to 15% from 10%.</p> <p>Establishes minimum deductibles of \$750 to \$1,000 based on coverage amounts for actuarially rated policies and \$1,500 to \$2,000 based on coverage amount for Pre-FIRM rated policies.</p> <p>Premium rates in residual risk areas should reflect level of protection regardless of certification status. Properties newly mapped as in a 100 year floodplain will pay premiums phased in to actuarial rates over 4 years – 40% in the first year and 20% each subsequent year.</p> <p>Requires FEMA to consider catastrophic loss years in calculation of average losses for the purpose of pricing</p>	<p>While there are many provisions of interest to members here. While both the House and Senate seemed focused on making the program more actuarially sound, it is clear that these bills carve out exceptions to that philosophy (such as the House provision related to communities making progress on flood control systems – see left) The following are of importance:</p> <p>Senate bill provision related to including catastrophic loss years in its premium calculations will significantly change premiums and make them more expensive. While making the program more actuarially sound, it will significantly affect affordability. ASFPM</p>

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	protection but no longer does so. Requires application of such insurance rates without respect to the level of federal investment or participation in the restoration effort.	premiums. Changes deductibles for properties with above and below \$100,000 in coverage.	suggests delaying the timing of a provision like this until a voucher system or some other offset is in place that focuses on providing assistance to those who need it (low income homeowners)..
Insurance – Phase out Pre-FIRM subsidy	<p>Moves second homes, commercial properties, severe repetitive loss properties, homes sold to new Owners (but this provision only applies to post-FIRM homes anyways so shouldn't be a big impact) and properties substantially damaged or substantially improved (30% threshold vs. 50% in local floodplain regulations) toward actuarial rates.</p> <p>Prohibits extension of subsidized rates for policies lapsed as a result of the policy holder's deliberate choice.</p>	<p>Moves certain pre-FIRM properties toward actuarial rate premiums over 4 years: non-primary residences, properties where losses have exceeded property value, severe repetitive loss properties, business properties and properties with substantial damage or substantial improvement (30% threshold vs. 50% in local floodplain regulations).</p> <p>Requires that all new policies after date of enactment of reform law charge actuarial rates. Also requires all policies move to actuarial after refusing an offer of mitigation.</p>	<p>Key reform issue. ASFPM has long supported movement towards actuarial rates. The key question is how fast? Both bills move similar classes of structures to actuarial rating and, on the surface indicate that they are protecting primary homeowners and renters.</p> <p>However, both bills have provisions that could affect these "protected" individuals if they do not purchase / maintain coverage. This could create a financial burden on those individuals especially without a mechanism to provide assistance. ASFPM has cautioned that combined effect of the rate increases, reserve fund and higher caps will result in dramatically higher rates and that it would be better to have a mechanism to provide assistance to those who have a demonstrated need.</p> <p>Another problematic provision is that both bills contain is the change to the substantial improvement threshold to 30% versus 50% under NFIP minimum standards. This creates a new disconnect between the land use regulations and insurance rating.</p>
Insurance – Mandatory Purchase	<p>Allows temporary suspension of mandatory purchase for areas designated as having SFHAs for up to 5 years, if they meet certain eligibility requirements: No history of past SFHAs, or areas with flood protection systems under improvement, or areas for which an appeal has been filed.</p> <p>Exempts from mandatory flood insurance purchase and compliance requirements a property located in a special flood hazard area if the property owner submits an elevation certificate showing that the lowest level of the primary residence on such property is at least three feet higher than the elevation of the 100-year floodplain.</p>	<p>Would exempt property within the 500-year floodplain from the mandatory purchase requirement. The NFIP and federal or state lending institutions must notify communities that they are located within the 500-year floodplain.</p> <p>Requires mandatory purchase of flood insurance for properties in a Special Flood Hazard Area (SFHA) with mortgages through state-chartered lending institutions.</p>	<p>Key reform issue – both House bill provisions are very bad. Both run contrary to the concept of moving the program in a more fiscally sound direction. Also the exemption from mandatory purchase in the case of an elevated structure runs contrary to the principles of how mandatory purchase has been applied for decades.</p>
Insurance –	Provides for installment payment of premiums. Amends	Provides for installment payment of premiums. Requires	Good to have more flexibility.

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Escrow and Installment Payments	RESPA to explicitly state that the escrowing of flood insurance payments is required for many types of loans.	lenders to escrow payments for properties in SFHAs.	
Insurance – Reserve Funds	Requires a reserve fund in the NFIP with a minimum amount equal to 1% of the total property insured under the NFIP. However, there is provision for FEMA to opt out of paying into the reserve in any given year because the Fund cannot afford it.	Same as House bill.	ASFPM has cautioned that the cumulative effects of these will result in moving premiums very high very quickly and that could lead to economic hardship, especially without a mechanism for assisting those who need the help the most.
Insurance – Enforcement of Mandatory Purchase Provisions		Increases compliance penalties for lenders from \$350 to \$2000 per violation.	Senate bill provision is very good.
Insurance – Outreach and Notification	<p>Requires FEMA to notify: (1) Members of Congress whose districts or states would be affected of any significant action relating to any revision or update of any floodplain area or flood-risk zone, (2) tenants of the availability of contents insurance for property located in a special flood hazard area, and (3) policy holders annually regarding direct management by FEMA of their flood insurance policy and of the option to purchase flood insurance directly administered by an insurance company.</p> <p>Requires property owners subject to mandatory purchase to provide proof of notice of flood insurance availability to tenants.</p> <p>Requires FEMA to notify the holders of direct policies managed by FEMA that they could purchase flood insurance directly from an insurance company licensed by FEMA to administer NFIP policies.</p>	Requires lenders to give notice to property buyers in 500 year floodplain areas. Requires that lenders provide all buyers with notice that properties are in the 500 year floodplain. Requires lenders to flood insurance availability.	Overall provisions in both bills OK. Generally more notification is good and it will not be a cost to the program unlike additional notification under the mapping provisions (see below).
Insurance – Increased Private Sector Involvement	<p>FEMA may carry out such private risk-management initiatives under the NFIP as it considers appropriate to determine the capacity of private insurers, reinsurers, and financial markets to assist communities, on a voluntary basis only, in managing the full range of financial risks associated with flooding.</p> <p>Allows FEMA to purchase to flood reinsurance coverage from private market insurance, reinsurance, and capital market sources, including through an industry flood</p>	<p>Clarifies that FEMA is authorized to purchase reinsurance.</p> <p><i>See also Studies and Reports.</i></p>	Generally, the direction Congress is taking on increased private sector involvement is good – it is doing the needed studies and it is a slow and deliberate action. Reinsurance seems to be a quite viable option to have as part of the NFIP although it could have an effect on flood insurance premiums.

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	<p>insurance pool.</p> <p>Would require FEMA to submit a report to Congress describing procedures and policies for limiting the number of flood insurance policies that are directly managed by the Agency to not more than 10% of the total number of flood insurance policies in force. After submitting the report to Congress, the Administrator would have 12 months to reduce the number of policies directly managed by the Agency, or by the Agency's direct servicing contractor that is not an insurer, to not more than 10% of the total number of flood insurance policies in force.</p>		<p>Key reform issue; 10% limitation provision in House bill is bad ASFPM has learned that there are a lot of politics surrounding this provision and that it involves other insurance companies wanting the State Farm book of business after they chose no longer to participate in the WYO program. ASFPM believes it is arbitrary and does nothing to assist the insured nor does it bolster the financial solvency of the program. Remember, FEMA encourages policies to be written by WYOs.</p>
Studies and Reports	<p>Requires FEMA to report annually to Congress on the financial status of the Program and of the National Flood Insurance Fund, including current and projected levels of claims, premium receipts, expenses, and borrowing under the Program.</p> <p>Requires FEMA study on procedures and policies that the Administrator can implement to limit the percentage of flood insurance policies directly managed by FEMA to 10%.</p> <p>Requires FEMA and the GAO to each conduct a separate study to assess a broad range of options, methods, and strategies for privatizing the NFIP.</p> <p>Requires FEMA to conduct an assessment to pay claims paying ability.</p> <p>Directs FEMA and Comptroller General each to study options, methods, and strategies for offering and incorporating voluntary community-based flood insurance policy options into the Program.</p> <p>Directs the National Academy of Sciences to study methods for understanding graduated risk behind levees and the associated land development, insurance, and risk communication dimensions.</p> <p>Requires FEMA to study the impact, effectiveness, and feasibility of amending the NFIA to include widely used</p>	<p>Requires FEMA to submit detailed repayment plans to the Treasury and Congress when borrowing authority is used. Requires an annual report to Congress on the activities and financial health of the NFIP.</p> <p>Requires the GAO and the DHS IG to review the 3 largest contractors FEMA uses in managing the NFIP.</p> <p>Requires GAO study of types and characteristics of pre-FIRM properties and structures and the options for eliminating the subsidy to such structures.</p> <p>Requires FEMA to assess the capacity of the private reinsurance industry to assume some of the NFIP's risk.</p> <p>Requires FEMA to conduct a study on feasibility of increasing coverage limits.</p> <p>Requires the Comptroller General to study addition of optional business interruption and/or additional living expenses coverage and impact of this on the NFIP.</p> <p>Requires FEMA to study the feasibility and impact of including widely used and nationally recognized building codes as part of floodplain management criteria.</p> <p>Requires FEMA to study the impact, effectiveness, and feasibility of amending the NFIA to include widely used and nationally recognized building codes as part of the floodplain management criteria.</p>	<p>Key reform issue. Studies and reports can be very good in digging deeper into issues. With the timing of FEMA's Rethinking the NFIP, some of those ideas can be further developed through studies.</p> <p>Key studies include: Community based flood insurance options (House), understanding graduated risk behind levees (House), effectiveness of building codes (House and Senate), studies on privatization options including reinsurance (House and Senate), encouraging participation and making it more affordable through targeted assistance including an economic analysis of means tested mechanisms (Senate). Generally ASFPM is supportive of these continued studies with the exception of the House study on limiting direct policies to 10% as we cannot see any public policy value to it.</p>

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	and nationally recognized building codes as part of the floodplain management criteria.	<p>Requires GAO to conduct a study that examines the current rates of participation by Indian tribes and prescribe some methods of encouraging participation and outlines legislative options to increase awareness and encourage participation by Indian tribes in the NFIP.</p> <p>Requires FEMA to conduct a study on possible methods to encourage and maintain participation in the NFIP as well as making the program more affordable for certain people through targeted assistance rather than generally subsidized rates, including means-tested vouchers. Would authorize FEMA to commission a National Academy of Sciences study, in consultation with GAO, that provides an economic analysis of the cost and benefits to the federal government of a flood insurance program with full risk-based premiums, combined with means-tested federal assistance to aid individuals who cannot afford coverage, through an insurance voucher program.</p>	
Insurance – Coverage Limits	Maximum coverage limits indexed to inflationary index and automatically adjusts. Would be retroactive to 1994.	Requires a study to determine feasibility on increasing coverage limits. <i>See Studies and Reports.</i>	Ironically, the House provision runs contrary to the overall philosophy of the program being more actuarially sound (if this would apply to all policies including Pre-FIRM) and run contrary to the notion of increasing private sector involvement as ASFPM understands that there is a robust excess flood insurance market in most areas.
Insurance – Various Misc Provisions	<p>Makes any property otherwise in compliance with the Program eligible for flood insurance even it has a swimming pool located at ground level or in the space below the lowest floor of a building which is enclosed with non-supporting breakaway walls after November 30 and before June 1 (outside hurricane season).</p> <p>Defines “flood in progress” for insurance purposes.</p>	<p>Requires FEMA to study how to determine that a flood is in progress for insurance purposes.</p> <p>Would give the Administrator of FEMA discretion to terminate the eligibility for flood insurance coverage if the community has not made adequate continuing progress in completing the reconstruction project.</p>	The House provision on swimming pools a narrow single interest issue by a particular member of the House---it is not good public policy.
Mapping – Technical Mapping Advisory Council (TMAC)	<p>Reconstitutes a Technical Mapping Advisory Council with instructions to develop new mapping standards that FEMA would be required to adopt.</p> <p>Places a moratorium on issuance of new maps until the new TMAC standards are issued.</p>	Re-establishes the Technical Mapping Advisory Council; requires FEMA to report annually to Congress on TMAC recommendations and actions taken to address them.	Key Reform Issue. ASFPM supports the TMAC in Senate bill and opposes some aspects of it in the House bill. The House version would result in delayed mapping, require that the TMAC develop updated flood mapping standards and is generally an inappropriate use of an advisory

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			committee. The TMAC from a decade ago was a key driver in building support and consensus for Map Modernization. It could function in that same role here.
Mapping – Authorization of National Flood Mapping Program	No formal mapping program authorized.	Authorizes an on-going mapping program which should map 100 year and 500 year floodplains and residual risk areas; authorizes \$400 million annually for mapping and directs that FEMA enhance communication and outreach to states, localities and property owners concerning map changes and purchase requirements.	Key reform issue. Perhaps of the biggest issues. Final bill must include this! As we foresee tight budgets into the future it will be critical that flood mapping exist as an authorized program or all supplemental appropriations could be lost.
Mapping – Residual Risk Areas	Removes any requirement to map residual risk areas.	Would require the Administrator of FEMA to issue final regulations establishing a revised definition of areas of special flood hazard, including areas of residual risk.	Key reform issue. House provision is bad – it ignores this important problem. Senate provision is very good – 2011 has demonstrated that these areas, in particular, have property owners who believe they are safe and have not done appropriate mitigation. Residual risk areas are those areas behind levees, below dams, 500-year floodplains etc. where there is remaining flood risk even if they aren't identified as SFHAs.
Mapping – Appeals and LOMCs	Expenses for LOMAs would be reimbursable to property owners if FEMA was found to be in error. Requires FEMA to notify a prominent local television and radio station of projected and proposed changes to flood maps for communities. Allows for an extra 90 days for appeals based on not being aware of the original appeal period.	Permits map appeals to address SFHA boundaries in addition to Base Flood Elevations. Requires additional education to property owners about flood map revisions and appeals. Establishes an independent Scientific Resolution Panel to deal with concerns from communities dissatisfied with appeal outcomes.	The reimbursement of expenses for successful LOMC is an unknown costs, and all such costs would ultimately come out of flood mapping funds thereby reducing funds to actually do flood mapping. The extra 90 days would only be another delay tactic in an already extremely long process and extra reporting by FEMA.
Mapping – Coordination		Requires FEMA and USACE along with the National Committee on Levee Safety to form a task force to better align data from Corps levee inspections with data required for FEMA levee accreditation.	Senate provision is good – would formalize ongoing meetings that FEMA and the USACE have on levee and mapping issues.
Mapping – Outreach and Notification	When new BFEs established, notify community CEO's by certified letter and notified all affected property owner. Would require FEMA to communicate with communities located in areas where flood insurance rate maps have not been updated in 20 years or more and the appropriate State emergency agencies to resolve outstanding issues, provide technical assistance, and	Requires notice to communities with areas mapped as 500 year floodplain.	While additional outreach is good, ASFPM very concerned that it will cost money to fund and this will come out of the mapping budgets. But upside is that it will force FEMA to address the non-modernized areas.

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	disseminate all necessary information to reduce the prevalence of outdated maps in flood-prone areas.		
Mapping – Misc. Provisions	<p>Would prohibit the Administrator of FEMA from issuing flood insurance maps, or make effective updated flood insurance maps, that omit or disregard the actual protection afforded by an existing levee regardless of the accreditation status of such feature.</p> <p>Would allow state and local governments to use the Army Corps of Engineers to evaluate locally operated levee systems which were either built or designed by the Corps, and which are being reaccredited as part of a NFIP remapping.</p>	Removes current limit of 50% contribution to mapping costs by states. Requires that FEMA use local data when mapping communities having over 1 million population.	First provision of the House bill is problematic and would result in more map delays.
Mitigation – FMA/RFC/SRL	Streamlines the repetitive flood claims and severe repetitive loss programs.	Reconfigures and streamlines the NFIP's mitigation programs including those specifically focused on severe repetitive loss properties.	Key reform issue. Behind authorizing mapping, this is probably the second most important reform issue. This provision maintains funding authorization for SRL, RFC, FMA (total \$90 million) but puts them into one program. Cost share is tied to loss history versus the nonsensical way it works now. Also, allows for greater consistency among programs. ASFPM has been a key supporter of this provision. Also, in the Senate, ASFPM continues to support the Hagen amendments, which makes further accommodations for SRL properties to better enable mitigation of them.
Mitigation – SRL Definition	Changes definition of SRL to increase the 4 claims amount from \$5,000 per claim to \$15,000 per claim.		House bill provision is important, and ASFPM thinks it should be included in the Senate Bill. Along with the changes to the mitigation programs under the NFIP, this change would put a more concentrated focus on the “bad” repetitive loss properties. A criticism of the current definition which includes 4 claims at 5K per claim is that it results in properties being declared SRLs that have had relatively minor flood damage so BCA does not work for mitigation project and where the best mitigation may be maintaining flood insurance.