

Menendez-Isakson Homeowner Flood Insurance Affordability Act

Sponsors: Menendez, Isakson, Landrieu, Vitter, Merkley, Cochran, Heitkamp and Hoeven

SECTION 1. SHORT TITLE

The short title is the Homeowner Flood Insurance Flood Affordability Act.

SECTION 2. DEFINITIONS

Defines key components of the draft affordability regulations FEMA is required to propose to Congress after completing the affordability study as well as key elements in the flood mapping process. Additional provisions included in this section will ensure that homeowners with flood-proof basements will continue to receive credit for this investment when their rates are calculated.

SECTION 3. DELAYED IMPLEMENTATION OF FLOOD INSURANCE RATE INCREASES; AFFORDABILITY FRAMEWORK

Delays the implementation of rate increases on the following three types of properties until FEMA meets two requirements: 1) completes the affordability study mandated by the Biggert-Waters Flood Insurance Reform Act of 2012, proposes a draft affordability framework for Congressional review, and Congress has a chance to give FEMA affordability authority; and 2) the FEMA Administrator certifies that the agency has implemented a flood mapping approach that utilizes sound scientific and engineering methodologies to determine varying levels of flood risk in all areas participating in the National Flood Insurance Program:

1. All homes and businesses that are currently “grandfathered.” These are properties that were built to code and later remapped into a higher risk area. Prior to Biggert-Waters, these policyholders were not penalized for relying on inaccurate FEMA flood maps.
2. All properties that purchased a new policy after July 6, 2012, before they were legally required to purchase insurance.
3. All properties sold after July 6, 2012. New homeowners and business owners will continue to receive the same treatment as the previous owner unless they trigger another provision in Biggert-Waters such as Severe Repetitive Loss, non-primary residence, substantial damage, etc.

The measure requires FEMA to propose a draft regulatory framework to address any affordability issues identified by the study within 18 months after the completion of the study and establishes a six month period thereafter to provide for Congressional review. The House and Senate would then hold up or down votes through a privileged motion on giving FEMA the authority to propose regulations in accordance with the regulatory framework. If Congress approves this authority, the targeted freeze promulgated by this bill would continue until regulations are finalized. If not, the freezes would be lifted absent other Congressional action.

Affordability measures addressed by the draft regulatory framework may include targeted assistance to individual policyholders and may consider the negative effects of rate increases and map changes on program participation. FEMA has estimated it will take two years to complete the affordability study before a draft regulatory framework can be provided to Congress.

SECTION 4. AFFORDABILITY STUDY AND REPORT

Requires FEMA to complete the affordability study required by Biggert-Waters within two years of the date of enactment of this bill.

SECTION 5. AFFORDABILITY STUDY FUNDING

Lifts the arbitrary \$750,000 cap on the affordability study to ensure FEMA has the funding required to complete it within two years of the date of enactment.

SECTION 6. FUNDS TO REIMBURSE HOMEOWNERS FOR SUCCESSFUL MAP APPEALS

Allows FEMA to utilize the National Flood Insurance Fund (NFIF) to reimburse policyholders who successfully appeal a map determination. FEMA currently has the authority to reimburse homeowners for successful appeals of map findings, but Congress has never appropriated funding for this purpose. Making appeal reimbursement an eligible expense of the NFIF would give FEMA the incentive to “get it right the first time” and repay homeowners for contributing to the body of flood risk knowledge. Unsuccessful appeals would not be reimbursed in any way.

SECTION 7. FLOOD PROTECTION SYSTEMS

FEMA AR and A99 flood zone categories provide more affordable flood insurance to qualifying communities that are in the process of levee construction, reconstruction, and improvements. Current regulations require a certain level of federal participation to qualify for either an A99 or an AR designation, and therefore prevent FEMA from giving communities fair credit for improvements made to existing flood control systems. Proactive communities that invest in mitigation should not be penalized for self-financing flood protection projects.

SECTION 8. TREATMENT OF FLOODPROOFED RESIDENTIAL BASEMENTS

Preserves the pre-Biggert-Waters basement exception to ensure that homeowners who have flood proof basements receive credit for that flood proofing when their flood insurance rates are calculated. This affects 54 communities nationwide where basements are necessary to protect homeowners from extreme weather. Basements that have not been flood-proofed would remain subject to the effects of Biggert-Waters.

SECTION 9. DESIGNATION OF FLOOD INSURANCE ADVOCATE

Establishes a Flood Insurance Advocate within FEMA to answer current and prospective policyholder questions about the flood mapping process and flood insurance rates. The Flood Insurance Advocate will be responsible for educating policyholders about their individual flood risks, their options in choosing a policy, assisting property owners through the map appeals process, and improve outreach and coordination with local officials, community leaders, and Congress.