

**Testimony of
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**On Behalf Of the
National Association of Home Builders**

**Before the
Unites States House of Representatives
House Financial Services Subcommittee on Housing and
Community Opportunity**

**Hearing on
Legislative Proposals to Reform the National Flood Insurance
Program**

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Introduction:

Chairwoman Waters, Ranking Member Capito and members of the Subcommittee on Housing and Community Opportunity, I am pleased to appear before you today on behalf of the 175,000 members of the National Association of Home Builders (NAHB) to share our views concerning efforts to reform the National Flood Insurance Program (NFIP). We appreciate the invitation to appear before the Subcommittee on this important issue. My name is Barry Rutenberg and I am the 2010 Second Vice Chairman of the Board and a home builder from Gainesville, Florida.

NAHB commends the subcommittee for addressing reform of the NFIP program and releasing a draft flood insurance bill that includes a much-needed long-term extension and reauthorization. For the last several years, the NFIP has had to undergo a series of short-term extensions that have created a high level of uncertainty in the program. The NFIP recently experienced several short-term authorization lapses causing severe problems for our nation's already troubled housing markets. Unfortunately, during this latest delay, many homebuyers faced delayed or cancelled closings due to the inability to obtain NFIP insurance for a mortgage. In other instances, builders themselves were forced to stop or delay construction on a new home due to the lack of flood insurance approval, adding unneeded delay and job loss. Moreover, with buyers seeking to qualify for the federal home-loan tax credit before it expires on April 30, the expiration of the NFIP could have significantly impacted the economic benefits of the tax credit as buyers attempted to secure mortgages prior to the deadline. NAHB supports this long-term extension to ensure the nation's real estate markets operate smoothly and without delay and commends the subcommittee for taking action quickly.

Background:

The Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP) plays a critical role in directing the use of flood-prone areas and managing the risk of flooding for residential properties. The availability and the affordability of flood insurance gives local governments the ability to plan and zone its entire community including floodplains. In addition, if a local government deems an area fit for residential building, flood insurance allows homebuyers and homeowners the opportunity to live in a home of their choice in a location of

their choice, even when the home lies in or near a floodplain. The home building industry depends upon the NFIP to be annually predictable, universally available, and fiscally viable. A strong, viable national flood insurance program enables the members of the housing industry to continue to provide safe, decent, and affordable housing to consumers.

The NFIP provides flood insurance to over 5 million policyholders, enabling them to protect their properties and investments against flood losses. Further, the NFIP creates a strong partnership with state and local governments by requiring them to enact and enforce floodplain management measures, including building requirements that are designed to ensure occupant safety and reduce future flood damage. This partnership, which depends upon the availability of comprehensive, up-to-date flood maps and a financially-stable federal component, allows local communities to direct development where it best suits the needs of their constituents and consumers. This arrangement has, in large part, worked well. Unfortunately, the losses suffered in the 2004 and 2005 hurricane seasons, including the devastation brought about by Hurricanes Katrina, Rita and Wilma, have severely taxed and threatened the solvency of the NFIP.

According to FEMA, between the NFIP's inception in 1968 through 2004, a total of \$15 billion has been needed to cover more than 1.3 million losses. The 2004 hurricane season required close to \$2 billion dollars in NFIP coverage, and the 2005 hurricane season resulted in payments totaling over \$13.5 billion. Combined claims for these two years exceeded the total amount paid during the entire 37-year existence of the NFIP program. While these losses are severe, they are clearly unprecedented in the history of this important program and, in our opinion, not a reflection of a fundamentally broken program. Nevertheless, NAHB recognizes the need to ensure the long-term financial stability of the NFIP and looks forward to working with this committee to implement needed reforms.

While NAHB supports reform of the NFIP to ensure its financial stability, it is absolutely critical that Congress approach this legislation with care. The NFIP is not simply about flood insurance premiums and payouts. Rather, it is a comprehensive program that guides future development and mitigates against future loss. While a financially-stable NFIP is in all of our interests, the steps that Congress takes to ensure financial stability have the potential to greatly impact housing

affordability and the ability of local communities to exercise control over their growth and development options.

NAHB Supports Thoughtful NFIP Reforms:

The unprecedented losses suffered in 2004 and 2005, including the devastation brought about by Hurricanes Katrina, Rita and Wilma, have severely taxed and threatened the solvency of the NFIP. While these events have been tragic, sobering, and have exposed shortcomings in the NFIP, any resulting reforms must not be an overreaction to unusual circumstances. Instead, reform should take the form of thoughtful, deliberative, and reasoned solutions. A key step in this process is to take stock of where we are today, what has worked, and what has not.

An important part of the reform process is determining what area or areas of the NFIP are in actual need of reform. In the past, a key tool in the NFIP's implementation, the Flood Insurance Rate maps (FIRMs), have been recognized by Congress to be inaccurate and out-of-date. Through the strong leadership of this Committee, FEMA is completing its map modernization effort aimed at digitizing, updating, and modernizing the nation's aging flood maps. While FEMA was successful in digitizing most of the FIRMs, not all have updated hydrologic data and a recent National Academy of Sciences report faulted some of the maps because of a lack of reliable topographical data. The result of this effort is large discrepancies between what was mapped as the 1% annual chance of flood decades ago and what the 1% annual chance of flood is today. Clearly, this and future data will help to ensure better and more-informed decision-making.

Nevertheless, re-engineered FIRMs have both removed and introduced homeowners to the realities of flood insurance. For homeowners who are required to purchase flood insurance for the first time due to a FIRM update, this new and oftentimes unexpected requirement can be confusing and pose unanticipated financial hardship. For this reason, NAHB appreciates the committee's inclusion of language that delays the effective date of the FIRM and phases-in the insurance rates over a 5-year period.

In an attempt to improve both the solvency of the program and its attractiveness to potential policy-holders, NAHB supports a number of reforms designed to allow FEMA and the NFIP to better adapt to changes to risk, inflation, and the marketplace. Increasing coverage limits to better reflect today's home values would provide more assurances that losses will be covered and benefit program solvency by generating increased premiums. NAHB is pleased that the subcommittee's draft legislation includes this much-needed increase. Similarly, creation of a more expansive "deluxe" flood insurance option, or a menu of insurance options from which policy-holders could pick and choose, could provide additional homeowner benefits while aiding program solvency. Finally, increasing the minimum deductible for paid claims would provide a strong incentive for homeowners to mitigate and protect their homes, thereby reducing potential future losses to the NFIP.

NAHB believes that modifying the numbers, location, or types of structures required to be covered by flood insurance may play an important part in ensuring the NFIP's continued financial stability. Two options that have been widely considered in recent years include mandatory flood insurance purchase for structures located behind flood control structures, such as levees or dams, and all structures in a floodplain, regardless of whether or not they currently hold a mortgage serviced by a federally-licensed or insured carrier. Both of these strategies would increase the number of residences participating in the NFIP, buttressing the program against greater losses. While this seems simple in reality, it is much more complicated.

The NFIP and its implementing provisions were not created solely to alleviate risk and generate premiums -- they were created to balance the needs of growing communities with the need for reasonable protection of life and property. Accordingly, NAHB believes that before any reforms are enacted to change the numbers, location, or types of structures required to be covered by flood insurance, FEMA should first demonstrate that the resulting impacts on property owners, local communities, and local land use are more than offset by the increased premiums generated and the hazard mitigation steps taken. Only after such documentation is provided, documentation that includes the regulatory, financial, and economic impact of reform efforts, can Congress, FEMA, stakeholders, and the general public fully understand whether or not such actions are appropriate. NAHB is pleased that the subcommittee's draft flood insurance

legislation requires that FEMA conduct a study of the feasibility and implications of such a change in the NFIP's mandatory purchase requirements.

Section 21 of the subcommittee's draft bill requires a report on the inclusion of building codes in floodplain management criteria. NAHB supports efforts to allow the director of FEMA to conduct a study on the efficacy, economic and regulatory impacts, and effectiveness of including widely used and nationally recognized building codes. NAHB believes it would be beneficial to evaluate the effectiveness of allowing states to use the national model codes (e.g., those promulgated by the International Code Council) with state-specific amendments, as currently allowed. The draft language, however, would allow state-prescribed or other privately-developed building codes and standards to be included in the study. Over the last five years, state and local governments have begun adopting various "green" codes and protocols for use as mandatory building standards within their respective jurisdictions. In some cases, these codes may not adequately consider the unique geographic needs for building in zones with the potential for high-impact natural disaster risks. Often, these codes and standards exist outside of the scope of the national model code development bodies and, in addition to being expensive, they do not always provide all stakeholders in the building industry an opportunity to equally participate in their development.

NAHB supports allowing FEMA to investigate the costs and benefits of using the national model codes with respect to flood plain management and enforcement in areas with high-impact weather risks. As such, NAHB recommends that the study language be modified to focus only on the national model codes. At the same time, NAHB believes in the importance of maintaining the flexibility for these areas to adopt innovative ways to address building needs that cannot be achieved through a nationally-applied or privately-developed code.

Finally, hurricanes Katrina, Rita and Wilma radically disrupted the lives of those living on the Gulf Coast. After the storms' passing, many homeowners found themselves in dispute with their property insurance companies over whether water or wind was the primary cause of damage to their homes. After much debate, one proposed solution which has emerged to address this conflict is to expand the authority of the NFIP to include wind coverage. NAHB is therefore

pleased to support H.R. 1264, the Multiple Peril Insurance Act of 2009, authored by Representative Gene Taylor (D-MS), that would provide wind insurance for home owners, providing a needed addition to the availability and affordability of property insurance in high hazard areas. NAHB is pleased that H.R. 1264 references the mitigation requirements of consensus-based building codes as a measure to lessen the potential damage caused by a natural disaster and thus further ensure the financial stability of the NFIP. As this legislation moves forward, NAHB urges Congress to limit the amount of the program's fiscal exposure to ensure its financial stability and to require premiums for the new multi-peril coverage to be risk-based and actuarially sound.

NAHB is Concerned with Potential Negative Reforms:

As Congress considers strategies to bolster the financial stability of the NFIP, NAHB cautions against those reforms that have far-reaching and unintended consequences, including reforms that decrease housing affordability and the ability of communities to meet current and future growth needs. Chief among these concerns are changes that would expand the Special Flood Hazard Area (SFHA), fail to take into account flood protection structures when setting premiums, or expand the current federal minimum residential design, construction, and modification standards.

While changes to the NFIP's mandatory flood insurance purchase requirements present one set of issues, a programmatic change of the SFHA presents an entirely different and overwhelming set of concerns. Changing the SFHA from a 100-year standard to a 500-year (or 0.2% annual chance) standard would not only require more homeowners to purchase flood insurance, but would also impose mandatory construction requirements on a completely new set of structures. Furthermore, those homeowners who had been in compliance with the 100-year standards will suddenly find themselves below the design flood elevation for the 500-year flood. Although these structures may be grandfathered and avoid higher premiums as a result of their non-compliant status, this ends when the structure is sold or substantially improved. Placing these homes in this category impacts their resale value in a very real way, as any new buyer may be faced with substantially higher premiums or retrofit and compliance costs.

The revision of the SFHA standard not only affects homeowners, but also homebuilders, local communities, and FEMA. An expanded floodplain means an expanded number of activities taking place in the floodplain, and a corresponding increase in the overhead needed to manage and coordinate these activities. A larger floodplain would likely result in an increased number of flood map amendments and revisions, placing additional burdens on federal resources to make these revisions and amendments in a timely fashion. Residents located in a newly-designated SFHA would need to be notified through systematic outreach efforts. Communities would likely need to modify their floodplain ordinances and policies to reflect the new SFHA. In short, the entire infrastructure of flood management and mitigation practice and procedures institutionalized around the 1% standard would need to change.

Although a revision of the 1% SFHA standard has been considered in recent years, even specially-convened policy forums have failed to reach consensus on the issue. What has started to emerge, however, is a recognition of the tremendous implications that changing the SFHA would have on homebuilders, homebuyers, communities, and the federal government itself. NAHB strongly cautions against making such sweeping changes to the NFIP without first having all the facts in-hand. Only after Congress and FEMA have adequately documented that a drastic revision of the SFHA is absolutely necessary to the continued existence and operation of the NFIP, should a programmatic revision of the SFHA be considered.

Another important component of the NFIP is the ability of communities, with the assistance of the federal government, to design, install, and maintain flood protection structures. In most instances, residential structures located behind dams or levees providing protection to the 1% annual chance level are not required to purchase flood insurance. This is because most structures are removed from the 100-year floodplain or SFHA on the relevant FIRM through the Letter of Map Revision, or LOMR, process. Accordingly, any reforms that contemplate bringing these same residences back under a mandatory purchase requirement raise very real and powerful equity and fairness issues. Should Congress or FEMA produce adequate documentation indicating that the benefits of mandating flood insurance purchase for residences behind flood control structures outweigh the costs to homeowners, NAHB would support these residences

being charged premiums at a reduced rate to reflect their reduced risk. A great deal of time and taxpayer money were invested to provide additional flood protection to these residences, and it is only fair that homeowners in these areas, if required to purchase insurance, be recognized for their communities' efforts.

While requiring mandatory flood insurance purchase is one option, another option may be to require that structures meet federal residential design, construction and modification requirements. NAHB is strongly opposed to expanding such requirements to new classes of structures, including those found behind flood protection structures and those affected by any programmatic change to the SFHA. These requirements would substantially increase the cost of new home construction and severely impact housing affordability. For example, on the Gulf Coast, elevating new structures could add \$30,000 to the cost of the homes, depending on the estimate source and size of the home. NAHB has conducted research that shows that a \$5,000 increase in housing price in New Orleans would eliminate 6,089 households from the housing market. It is easy to see the tremendous impact that such reforms would have not only on nation's home builders, but on the nation's home buyers. NAHB urges Congress to soften the impact of any programmatic changes to the NFIP by ensuring that construction requirements remain tied to the 1% standard.

Finally, the subcommittee's draft bill would phase-in actuarial rates for non-residential properties and non-primary residences. NAHB's primary concern is that flood insurance remains available and affordable. FEMA reports that 76% of policy-holders are already paying actuarial (risk-based) premiums; nevertheless, NAHB believes reforms aimed at reducing federal subsidies for any subset of the remaining properties must ensure that overall affordability is not adversely affected. NAHB looks forward to working with the committee to strike the proper balance between ensuring the long-term financial viability of the NFIP, and ensuring program affordability and equality for those who rely on this valuable government insurance program.

Thank you for this opportunity to share the views of the National Association of Home Builders on this important issue. We look forward to working with you and your colleagues as you contemplate changes to the National Flood Insurance Program to ensure that federally-backed

flood insurance remains available, affordable, and financially stable. We urge you to fully consider NAHB's positions on this issue and how this program enables the home building industry to deliver safe, decent, affordable housing to consumers. I look forward to any questions you or other members of the committee may have for me.