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2d Session

HOUSE OF REPRESENTATIVES

REPORT
110–510

AMENDING THE NATIONAL FLOOD INSURANCE ACT OF 1968 TO PROVIDE FOR THE PHASE-IN OF ACTUARIAL RATES FOR CERTAIN PRE-FIRM PROPERTIES

JANUARY 16, 2008.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FRANK of Massachusetts, from the Committee on Financial Services, submitted the following

R E P O R T

[To accompany H.R. 3959]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3959) to amend the National Flood Insurance Act of 1968 to provide for the phase-in of actuarial rates for certain pre-FIRM properties, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

69–006

SECTION 1. PHASE-IN OF ACTUARIAL RATES FOR CERTAIN PRE-FIRM PROPERTIES.

(a) IN GENERAL.—Section 1308(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(c)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) RECENTLY PURCHASED PRE-FIRM SINGLE FAMILY PROPERTIES USED AS PRINCIPAL RESIDENCES.—Any single family property that is used as a principal residence that—

"(A) has been constructed or substantially improved and for which such construction or improvement was started, as determined by the Director, before December 31, 1974, or before the effective date of the initial rate map published by the Director under paragraph (2) of section 1360 for the area in which such property is located, whichever is later; and

"(B) is purchased—

"(i) after the date of enactment of this paragraph; and

"(ii) for not less than $600,000.".

(b) TECHNICAL AMENDMENTS.—Section 1308(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(c)) is amended—

(1) in the matter preceding paragraph (1), by striking "the limitations provided under paragraphs (1) and (2)" and inserting "subsection (e)"; and

(2) in paragraph (1), by striking ", except" and all that follows through "subsection (e)".

(c) EFFECTIVE DATE AND TRANSITION.—

(1) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply beginning on January 1, 2011, except as provided in paragraph (2) of this subsection.

(2) TRANSITION FOR PROPERTIES COVERED BY FLOOD INSURANCE UPON EFFECTIVE DATE.—

(A) INCREASE OF RATES OVER TIME.—In the case of any property described in paragraph (2) of section 1308(c) of the National Flood Insurance Act of 1968, as amended by subsection (a) of this section, that, as of the effective date under paragraph (1) of this subsection, is covered under a policy for flood insurance made available under the national flood insurance program for which the chargeable premium rates are less than the applicable estimated risk premium rate under section 1307(a)(1) for the area in which the property is located, the Director of the Federal Emergency Management Agency shall increase the chargeable premium rates for such property over time to such applicable estimated risk premium rate under section 1307(a)(1).

(B) ANNUAL INCREASE.—Such increase shall be made by increasing the chargeable premium rates for the property (after application of any increase in the premium rates otherwise applicable to such property), once during the 12-month period that begins upon the effective date under paragraph (1) of this subsection, and once every 12 months thereafter until such increase is accomplished, by 15 percent (or such lesser amount as may be necessary so that the chargeable rate does not exceed such applicable estimated risk premium rate or to comply with subparagraph (C)). Any increase in chargeable premium rates for a property pursuant to this paragraph shall not be considered for purposes of the limitation under section 1308(e) of such Act.

(C) FULL ACTUARIAL RATES.—The provisions of paragraph (2) of such section 1308(c) shall apply to such a property upon the accomplishment of the increase under this paragraph and thereafter.

PURPOSE AND SUMMARY

H.R. 3959 amends the National Flood Insurance Act of 1968 to reduce subsidies under the National Flood Insurance Program ("NFIP") for single family primary residences that are sold for at least $600,000.

BACKGROUND AND NEED FOR LEGISLATION

The NFIP, created by Congress in 1968, is administered by the Federal Emergency Management Agency ("FEMA"). The NFIP was designed to provide homeowners with affordable insurance protection against floods while alleviating taxpayers' responsibility for flood losses paid out in the form of post-disaster relief. Ancillary to providing flood insurance under the NFIP, FEMA also identifies and maps flood prone areas eligible to participate in the program. The maps FEMA issues are known as Flood Insurance Rate Maps ("FIRMs").

Structures that were built before FIRMs were issued, generally before 1974, receive subsidized flood insurance rates. These structures are known as "pre-FIRM" structures. Pre-FIRM rates are determined through a federal rule-making process designed to encourage participation in the NFIP and not, by definition, to generate premium income sufficient to pay anticipated claims on pre-FIRM properties.

In the past, Congress has appropriated funds to make-up the difference between pre-FIRM and actuarial rates, expecting that, over time, the percentage of pre-FIRM structures would decline and that most or all of the structures insured under the NFIP would be subject to actuarial rates. However, pre-FIRM structures continue to represent approximately 24 percent of structures insured under the NFIP and the NFIP has used its borrowing authority and its risk-based premium income to cover any shortfalls that result from the NFIP's two tier rate structure.

H.R. 3959 removes subsidies, over time, for pre-FIRM, single family properties used as a principal residence that are purchased for at least $600,000. Beginning on January 1, 2011, NFIP premiums for such properties will be increased by 15 percent annually until actuarial rates are reached.

Hearings

No hearings were held on this legislation in the 110th Congress.

Committee Consideration

The Committee on Financial Services met in open session on October 31, 2007, and ordered H.R. 3959, to amend the National Flood Insurance Act of 1968 to provide for the phase-in of actuarial rates for certain pre-FIRM properties, as amended, favorably reported to the House by a voice vote.

Committee Votes

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken with in conjunction with the consideration of this legislation. A motion by Mr. Frank to report the bill, as amended, to the House with a favorable recommendation was agreed to by a voice vote. During the consideration of the bill, the following amendment was considered:

An amendment by Mr. Frank, No. 1, manager's amendment, was agreed to by a voice vote.

Committee Oversight Findings

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings and made findings that are reflected in this report.

Performance Goals and Objectives

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

H.R. 3959 removes a subsidy under the National Flood Insurance Program for primary residential properties built before flood maps were put into effect with the goal of strengthening the flood insurance program and making it more financially viable.

New Budget Authority, Entitlement Authority, and Tax Expenditures

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

Committee Cost Estimate

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

Congressional Budget Office estimate

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

November 20, 2007.

Hon. Barney Frank,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3959, a bill to amend the National Flood Insurance Act of 1968 to provide for the phase-in of actuarial rates for certain pre-FIRM properties.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Daniel Hoople.

Sincerely,

Peter R. Orszag.

Enclosure.

H.R. 3959—To amend the National Flood Insurance Act of 1968 to provide for the phase-in of actuarial rates for certain pre-FIRM properties

H.R. 3959 would direct the Federal Emergency Management Agency (FEMA) to increase premiums for certain policyholders that pay less than the actuarial cost (the amount estimated to cover expected claims in any given year) of their flood insurance policies. Any premium increase implemented as a result of the bill would yield additional receipts to the National Flood Insurance Program (NFIP); however, CBO estimates that such funds would be spent to cover the ongoing costs of the program, resulting in no significant net effect on direct spending. Enacting this legislation would not affect revenues.

H.R. 3959 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

H.R. 3959 would direct FEMA to increase flood insurance premiums for some single-family, primary residences that are purchased after the bill's enactment for at least $600,000. Under current law, FEMA charges some policyholders a discounted premium because their properties were built before the community's flood insurance rate map (FIRM) was completed, or before 1975, whichever is later. Those properties are collectively known as pre-FIRM properties. Under H.R. 3959, premium rates for this subset of pre-FIRM properties would be increased by a maximum of 15 percent a year until 2011, after which all properties in that subset would be charged actuarial rates.

CBO expects that enacting H.R. 3959 would increase premium income to the NFIP over the 2008–2017 period. Based on data from the agency, we estimate that up to 150,000 properties might be charged a higher premium. Assuming that 1 percent of those properties would be sold in each year, we estimate that net income to the program would increase by $65 million over the 2008–2017 period. (Income could vary, depending on the number of properties sold during the next 10 years and the number of policyholders that would drop coverage in the face of higher rates.) CBO anticipates that additional premium receipts generated as a result of this legislation would be used to pay ongoing expenses of the NFIP, including future insurance claims that would not otherwise receive timely benefit payments. As a result, the bill's enactment would not have a significant net budgetary impact.

The CBO staff contact for this estimate is Daniel Hoople. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 3959 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Phase-in of actuarial rate for certain pre-FIRM properties

This section requires the removal of flood insurance subsidies for recently purchased pre-FIRM single family properties used as principal residences that have been purchased for at least $600,000. Beginning on January 1, 2011, NFIP premiums for such properties will be increased by 15 percent annually until actuarial rates are reached.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 1308 OF THE NATIONAL FLOOD INSURANCE ACT OF 196

ESTABLISHMENT OF CHARGEABLE PREMIUM RATES

SEC. 1308. (a) * * *

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(c) ACTUARIAL RATE PROPERTIES.—Subject only to ⟦the limitations provided under paragraphs (1) and (2)⟧ *subsection (e)*, the chargeable rate shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 1307(a)(1) with respect to the following properties:

(1) POST-FIRM PROPERTIES.—Any property the construction or substantial improvement of which the Director determines has been started after December 31, 1974, or started after the effective date of the initial rate map published by the Director under paragraph (2) of section 1360 for the area in which such property is located, whichever is later⟦, except that the chargeable rate for properties under this paragraph shall be subject to the limitation under subsection (e)⟧.

(2) RECENTLY PURCHASED PRE-FIRM SINGLE FAMILY PROPERTIES USED AS PRINCIPAL RESIDENCES.—Any single family property that is used as a principal residence that—

(A) has been constructed or substantially improved and for which such construction or improvement was started, as determined by the Director, before December 31, 1974, or

before the effective date of the initial rate map published by the Director under paragraph (2) of section 1360 for the area in which such property is located, whichever is later; and

(B) is purchased—

(i) after the date of enactment of this paragraph; and

(ii) for not less than $600,000.

【(2)】 *(3)* CERTAIN LEASED COASTAL AND RIVER PROPERTIES.—Any property leased from the Federal Government (including residential and nonresidential properties) that the Director determines is located on the river-facing side of any dike, levee, or other riverine flood control structure, or seaward of any seawall or other coastal flood control structure.

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