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Selected Issues for National Flood Insurance Program (NFIP) Reauthorization and Reform

NFIP Reauthorization

The National Flood Insurance Program (NFIP) is the main source of primary flood insurance coverage in the United States, with more than 5.1 million policies in over 22,000 communities. Ten short-term NFIP reauthorizations have been enacted since the end of FY2017, and the NFIP is currently authorized until May 31, 2019. Unless reauthorized or amended by Congress, the following will occur on May 31, 2019: (1) The authority to provide *new* flood insurance contracts will expire; however, insurance contracts entered into before the expiration would continue until the end of their policy term of one year; and (2) the authority for the NFIP to borrow funds from the Treasury will be reduced from $30.425 billion to $1 billion.

A number of bills were introduced in the 115th Congress to provide longer-term reauthorization of the NFIP, as well as numerous other changes to the program. The House passed H.R. 2874 (21st Century Flood Reform Act) on November 14, 2017. Three bills were introduced in the Senate.1: S. 1313 (Flood Insurance Affordability and Sustainability Act of 2017), S. 1368 (Sustainable, Affordable, Fair, and Efficient [SAFE] National Flood Insurance Program Reauthorization Act of 2017), and S. 1571 (National Flood Insurance Program Reauthorization Act of 2017). However, neither H.R. 2874 nor the three Senate bills were considered by the Senate in the 115th Congress.

Premiums and Affordability

Throughout its history, Congress has asked FEMA to set NFIP premiums that are simultaneously "risk-based" and "reasonable." Except for certain subsidies, statute directs that NFIP flood insurance rates should reflect the true flood risk to the property. Properties that pay less than the full risk-based rate are determined by the date when the structure was built relative to the date of adoption of the Flood Insurance Rate Map (FIRM), rather than the flood risk or the ability of the policyholder to pay. Congress has directed FEMA to subsidize flood insurance for properties built before the community's first FIRM (the pre-FIRM subsidy). FEMA also "grandfathers" properties at their rate from past FIRMs to updated FIRMs through a cross-subsidy. Under existing law, pre-FIRM subsidies are being phased out, while grandfathering is retained indefinitely.

Reforming the premium structure to reflect full risk-based rates could place the NFIP on a more financially sustainable path, risk-based price signals could give policyholders a clearer understanding of their true flood risk, and a reformed rate structure could encourage more private insurers to enter the market. However, charging risk-based premiums may mean that insurance for some properties is considered unaffordable.

H.R. 2874 would have phased out the pre-FIRM subsidy for primary residences at a rate of 6.5%-15% (compared to the current rate of 5%-18%) and would increase surcharges for most policyholders. It would also have capped premiums for single-family properties at $10,000 per year. S. 1368 would have prohibited FEMA from increasing the amount of covered costs above 10% per year on any policyholder.

FEMA does not currently have the authority or funding to implement an affordability program. An NFIP-funded affordability program would require either raising flood insurance rates for NFIP policyholders or diverting resources from another existing use. H.R. 2874 would have authorized states to create a voluntary flood insurance affordability program to reduce premiums for owner-occupiers of single-family residences. A state affordability program would have been funded through a surcharge on each policy within that state that is not eligible to participate in the affordability program. This would have created a new cross-subsidy within the NFIP for any states that develop an affordability program. S. 1313 would have provided vouchers to reduce premiums for owner-occupied households in mapped high-risk flood zones; it is unclear how these vouchers would be funded. S. 1368 would have required FEMA to establish an Affordability Assistance Fund. This fund would have been credited with the income from an existing surcharge paid by all policyholders, and could be used for vouchers, grants, or premium credits to eligible households.

Properties with Multiple Losses

An area of controversy involves NFIP coverage of properties that have suffered multiple flood losses. One concern is the cost to the program; another is whether the NFIP should continue to insure properties that are likely to have further losses. According to FEMA, all repetitive loss (RL) and severe repetitive loss (SRL) properties over the history of the program amount to approximately $17 billion in claims, or approximately 30% of total claims paid. Some RL and SRL properties have been mitigated, and some are no longer insured by the NFIP. Currently, insured RL and SRL properties (which represent about 2% of the overall policies in the NFIP) account for approximately $9 billion in claims, or approximately 16% of total claims paid over the history of the program. Reducing the number of RL and SRL properties, through mitigation or relocation, could reduce claims and improve the NFIP's financial position.

H.R. 2874 and S. 1571 would have required certain NFIP communities with a history of flood loss to identify repetitive loss property locations, assess the continuing risks to such areas, and develop community-specific flood mitigation plans for risks in these areas. Failure to meet these requirements would have resulted in possible sanctions from FEMA. H.R. 2874 would also have defined a new "multiple-loss property" category which would include RL, SRL, and a new category of extreme repetitive loss properties. After two claims, any multiple-loss properties that are charged less than full risk-based rates would have had premium rates increased at 10% per year until the full risk-based rate is reached. This would have had the effect of eliminating grandfathering for multiple-loss properties after two future claims. H.R. 2874 would also have eliminated any new or renewed NFIP coverage for multiple-loss properties with excessive lifetime claims, representing the first time that the NFIP could refuse to cover a property.

Private Flood Insurance

Currently private insurers play a major role in administering the NFIP, including selling and servicing policies and adjusting claims, but take on relatively little flood risk themselves. Instead, the NFIP retains the direct financial risk of paying claims for these policies. Few private insurers compete with the NFIP in the primary residential flood insurance market. However, private insurer interest in providing flood coverage has increased in recent years, and private insurance is seen by many as a way of transferring flood risk from the federal government to the private sector.

Private flood insurance may offer some advantages over the NFIP, including more flexible policies, broader coverage, integrated coverage with homeowners' insurance, business interruption insurance, or lower-cost coverage for some consumers. Private marketing might also increase the overall amount of flood coverage purchased. More people purchasing flood insurance, either NFIP or private, could help to reduce the amount of disaster assistance provided by the federal government. Increasing private insurance, however, may have some disadvantages compared to the NFIP. Unlike the NFIP, private coverage availability would not be guaranteed to all floodplain residents, and consumer protections could vary in different states, leading to variable claims outcomes. In addition, private sector competition might increase the financial exposure and volatility of the NFIP, as private markets will likely seek out policies that offer the greatest likelihood of profit. In the most extreme case, the private market might "cherry-pick" (i.e., adversely select) the profitable, lower-risk NFIP policies that are "overpriced" either due to cross-subsidization or imprecise rate structures. This could leave the NFIP with a higher density of actuarially unsound policies that are directly subsidized or benefit from cross-subsidization. An increase in private flood insurance policies that "depopulates" the NFIP may also undermine the NFIP's ability to generate revenue, reducing the ability or extending the time required to repay previously incurred debt.

The role of the NFIP has historically been broader than just providing insurance. As currently authorized, the NFIP also encompasses social goals to provide flood insurance in flood-prone areas to those who otherwise would not be able to obtain it, and to reduce government's cost after floods. The NFIP has tried to reduce the impact of floods through flood mapping and mitigation efforts. It is unclear how effectively the NFIP could play this broader role if private insurance became a large part of the flood marketplace. The majority of funding for floodplain mapping and management comes from the Federal Policy Fee (FPF), which is paid by all NFIP policyholders. To the extent that the private flood insurance market grows and policies move from the NFIP to private insurers, FEMA would no longer collect the FPF on those policies and less money will be available for floodplain mapping and management.

The four reauthorization bills differ in the degree to which they encourage private participation in flood insurance, particularly flood insurance sold by private companies in competition with the NFIP. H.R. 2874 included several provisions intended to promote private flood insurance: revising the definition of private flood insurance, allowing private flood insurance to satisfy the mandatory purchase requirement (MPR), where federally-regulated lending institutions must require property owners in a Special Flood Hazard Area to purchase flood insurance as a condition of obtaining a mortgage). H.R. 2874 would also have eliminated the MPR for non-residential properties and required FEMA to make NFIP data publicly available, including to private insurers. S. 1313 would have revised the definition of private flood insurance in a similar manner to H.R. 2874 and would also have allowed private flood insurance to satisfy the MPR. However, S. 1313 would only have given temporary authority for sale of private flood insurance for certain types of properties for two years and would require FEMA to study the extent to which the entry of private insurers adversely impacted the NFIP's risk pool. S. 1313 would also have required FEMA to study the feasibility of selling or licensing the use of NFIP claims data to non-governmental entities. Neither S. 1368 nor S. 1571 contained provisions relating to private flood insurance in competition with the NFIP.

CRS Products About the NFIP

CRS Report R44593, *Introduction to the National Flood Insurance Program (NFIP)*.

CRS Report R45099, *National Flood Insurance Program: Selected Issues and Legislation in the 115th Congress*.

CRS Report R45242, *Private Flood Insurance and the National Flood Insurance Program*.

CRS Insight IN10450, *Private Flood Insurance and the National Flood Insurance Program (NFIP)*.

CRS Insight IN10784, *National Flood Insurance Program Borrowing Authority*.

CRS Insight IN10835, *What Happens If the National Flood Insurance Program (NFIP) Lapses?*

CRS Insight IN10890, *Closing the Flood Insurance Gap*.

CRS In Focus IF10988, *A Brief Introduction to the National Flood Insurance Program*.

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