

107TH CONGRESS
1ST SESSION

H. R. 1428

To amend the National Flood Insurance Act of 1968 to reduce losses to properties for which repetitive flood insurance claim payments have been made.

IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 2001

Mr. BEREUTER (for himself, Mr. BLUMENAUER, and Mr. COSTELLO) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the National Flood Insurance Act of 1968 to reduce losses to properties for which repetitive flood insurance claim payments have been made.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Two Floods and You
5 Are Out of the Taxpayers’ Pocket Act of 2001”.

6 **SEC. 2. FLOOD LOSS REDUCTION FOR REPETITIVE FLOOD**
7 **INSURANCE CLAIM PROPERTIES.**

8 Section 1366 of the National Flood Insurance Act of
9 1968 (42 U.S.C. 4104c) is amended—

1 (1) in subsection (a), by inserting after the first
2 sentence the following new sentence: “In awarding
3 grants under this section for mitigation activities,
4 the Director shall give priority to properties for
5 which repetitive flood insurance claim payments have
6 been made.”;

7 (2) in the last sentence of subsection (c), by in-
8 serting before the period the following: “, and shall
9 address properties in the area for which repetitive
10 flood insurance claim payments have been made”.

11 (3) in subsection (f), by striking paragraph (3)
12 and inserting the following new paragraph:

13 “(3) WAIVER.—The Director may waive the
14 dollar amount limitations under paragraphs (1) and
15 (2) for any State or community—

16 “(A) for any 5-year period when a major
17 disaster or emergency declared by the President
18 (pursuant to the Robert T. Stafford Disaster
19 Relief and Emergency Assistance Act (42
20 U.S.C. 5121 et seq.)) as a result of flood condi-
21 tions is in effect with respect to areas in the
22 State or community; or

23 “(B) whenever the Director determines
24 that the State or community has properties for
25 which repetitive flood insurance claim payments

1 have been made and that waiver of the cost lim-
2 itations is cost-effective and in the best inter-
3 ests of the National Flood Insurance Fund.”.

4 **SEC. 3. NATIONAL FLOOD MITIGATION FUND.**

5 (a) CREDITS.—Section 1367(b) of the National Flood
6 Insurance Act of 1968 (42 U.S.C. 4104d(b)) is
7 amended—

8 (1) by striking paragraph (1) and inserting the
9 following new paragraph:

10 “(1) amounts from the National Flood Insur-
11 ance Fund, in amounts not exceeding \$70,000,000
12 in each of fiscal years 2002, 2003, 2004, and 2005,
13 of which all amounts made available under this
14 paragraph in excess of \$20,000,000 in each such fis-
15 cal year shall be used only under section 1366 for
16 mitigation activities for properties for which repet-
17 itive flood insurance claim payments have been
18 made, such sums to remain available until ex-
19 pended;”;

20 (2) in paragraph (2), by striking “and” at the
21 end;

22 (3) in paragraph (3), by striking the period at
23 the end and inserting “; and”; and

24 (4) by adding at the end the following new
25 paragraph:

1 “(4) any amounts which may be appropriated
 2 for the Fund, which are authorized to be appro-
 3 priated in amounts not exceeding \$50,000,000 in
 4 each of fiscal years 2002, 2003, 2004, and 2005,
 5 which amounts shall be used only under section
 6 1366 for mitigation activities for properties for
 7 which repetitive flood insurance claim payments have
 8 been made, such sums to remain available until ex-
 9 pended.”.

10 **SEC. 4. CONSOLIDATION OF AUTHORIZATIONS.**

11 (a) IN GENERAL.—The National Flood Insurance
 12 Act of 1968 is amended as follows:

13 (1) BORROWING AUTHORITY.—In the first sen-
 14 tence of section 1309(a) (42 U.S.C. 4016(a)), by
 15 striking “through September” and all that follows
 16 through “, and” and inserting the following:
 17 “through the date specified in section 1319, and”.

18 (2) AUTHORITY FOR CONTRACTS.—In section
 19 1319 (42 U.S.C. 4026), by striking “after” and all
 20 that follows and inserting “after September 30,
 21 2005.”.

22 (3) EMERGENCY IMPLEMENTATION.—In section
 23 1336(a) (42 U.S.C. 4056(a)), by striking “during
 24 the period” and all that follows through “in accord-

1 ance” and inserting “during the period ending on
2 the date specified in section 1319, in accordance”.

3 (4) AUTHORIZATION OF APPROPRIATIONS FOR
4 STUDIES.—In section 1376(c) (42 U.S.C. 4127(c)),
5 by striking “through” and all that follows and in-
6 serting the following: “through the date specified in
7 section 1319.”.

8 **SEC. 5. CHARGEABLE PREMIUM RATES.**

9 (a) ACTUARIAL RATE PROPERTIES.—Section 1308 of
10 the National Flood Insurance Act of 1968 (42 U.S.C.
11 4015) is amended by striking subsection (c) and inserting
12 the following new subsection:

13 “(c) ACTUARIAL RATE PROPERTIES.—Subject only
14 to the limitation provided under paragraph (1), the
15 chargeable rate shall not be less than the applicable esti-
16 mated risk premium rate for such area (or subdivision
17 thereof) under section 1307(a)(1) with respect to the fol-
18 lowing properties:

19 “(1) POST-FIRM PROPERTIES.—Any property
20 the construction or substantial improvement of
21 which the Director determines has been started after
22 December 31, 1974, or started after the effective
23 date of the initial rate map published by the Direc-
24 tor under paragraph (2) of section 1360 for the area
25 in which such property is located, whichever is later,

1 except that the chargeable rate for properties under
2 this paragraph shall be subject to the limitation
3 under subsection (e).

4 “(2) REPETITIVE CLAIM PAYMENTS PROP-
5 ERTIES.—Any property for which the Director deter-
6 mines that repetitive flood insurance claim payments
7 have been made and the owner of which has refused
8 a buyout, elevation, or other flood mitigation meas-
9 ure funded in whole or in part by the Federal Emer-
10 gency Management Agency.

11 “(3) CERTAIN LEASED COASTAL AND RIVER
12 PROPERTIES.—Any property leased from the Federal
13 Government (including residential and nonresidential
14 properties) that the Director determines is located
15 on the river-facing side of any dike, levee, or other
16 riverine flood control structure, or seaward of any
17 seawall or other coastal flood control structure.”.

18 (b) APPLICABILITY OF ANNUAL LIMITATION ON PRE-
19 MIUM INCREASES.—Section 1308(e) of the National Flood
20 Insurance Act of 1968 (42 U.S.C. 4015(e)) is amended
21 by striking “Notwithstanding” and inserting “Except with
22 respect to properties described under paragraph (2) or (3)
23 of subsection (c) and notwithstanding”.

1 **SEC. 6. REMOVING REPETITIVE CLAIM PROPERTIES FROM**
2 **FEDERAL DISASTER ASSISTANCE RESPONSIBILITY.**
3 **BILITY.**

4 (a) IN GENERAL.—Section 582 of the National Flood
5 Insurance Reform Act of 1994 (42 U.S.C. 5154a) is
6 amended—

7 (1) by redesignating subsections (d) and (e) as
8 subsections (e) and (f), respectively; and

9 (2) by inserting after subsection (c) the fol-
10 lowing new subsection:

11 “(d) UNMITIGATED REPETITIVE CLAIM PROP-
12 erties.—Notwithstanding any other provision of law, no
13 Federal disaster relief assistance made available in a flood
14 disaster area may be used to make a payment (including
15 any loan assistance payment) for repair, replacement, or
16 restoration for damage to any property in the area for
17 which—

18 “(1) repetitive flood insurance claim payments
19 have been made; and

20 “(2) in accordance with such requirements as
21 the Director may establish, mitigation assistance
22 under section 1366 of this Act or section 404 of the
23 Robert T. Stafford Disaster Relief and Emergency
24 Assistance Act (42 U.S.C. 5170c) has been offered
25 to the owner of the property, before or after the oc-

1 currence of the flood loss events, which was refused
 2 by the owner.”.

3 (b) EFFECTIVE DATE.—Notwithstanding subsection
 4 (f) of section 582 of the National Flood Insurance Reform
 5 Act of 1994 (as so redesignated by paragraph (1)(A) of
 6 this subsection), the amendment made by paragraph (1)
 7 shall apply to disasters declared after the date of the en-
 8 actment of this Act.

9 **SEC. 7. MITIGATION GRANTS FOR REPETITIVE CLAIM**
 10 **PROPERTIES.**

11 (a) IN GENERAL.—Chapter I of the National Flood
 12 Insurance Act of 1968 is amended by adding after section
 13 1322 (42 U.S.C. 4029) the following new section:

14 “GRANTS FOR REPETITIVE CLAIM PROPERTIES

15 “SEC. 1323. The Director may provide funding for
 16 mitigation actions that reduce flood damages to repetitive
 17 flood insurance claim payments properties, if the Director
 18 determines that—

19 “(1) such activities are in the best interest of
 20 the National Flood Insurance Fund; and

21 “(2) such activities can not be funded under the
 22 program under section 1366 because—

23 “(A) the State or community in which the
 24 property is located can not comply with the re-
 25 quirements of section 1366(g); or

1 “(B) the State or community does not
2 have the capacity to manage such activities.”.

3 (b) AVAILABILITY OF NATIONAL FLOOD INSURANCE
4 FUND AMOUNTS.—Section 1310(a) of the National Flood
5 Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

6 (1) in paragraph (7), by striking “and” at the
7 end;

8 (2) in paragraph (8), by striking the period at
9 the end and inserting “; and”; and

10 (3) by adding at the end the following new
11 paragraph:

12 “(9) for funding for mitigation actions under
13 section 1323.”.

14 **SEC. 8. USE RESTRICTIONS ON ACQUIRED PROPERTY.**

15 Section 1366(e)(5)(C) of the National Flood Insur-
16 ance Act of 1968 (42 U.S.C. 4104c(e)(5)(C)) is amended
17 by striking “for public use, as the Director determines is
18 consistent with sound land management and use in such
19 area” and inserting the following: “except that the Direc-
20 tor may not provide amounts under this section for use
21 for acquisition of properties unless the State or community
22 agrees, to the satisfaction of the Director, that the instru-
23 ment for acquisition of the property will convey to the
24 United States a future interest in all right, title, and inter-
25 est in and to all property acquired with the amounts under

1 this section that is contingent upon the condition that the
 2 property acquired ceases to be dedicated and maintained
 3 for use that is compatible with open space, recreational,
 4 or wetlands management practices.”.

5 **SEC. 9. DEFINITION OF REPETITIVE CLAIM PROPERTIES.**

6 Section 1370(a) of the National Flood Insurance Act
 7 of 1968 (42 U.S.C. 4121(a)) is amended—

8 (1) in paragraph (7), by inserting after the
 9 paragraph designation the following: “for purposes
 10 of sections 1304(b)(1), 1315(a)(2)(A)(i), and
 11 1366(e)(4),”;

12 (2) in paragraph (13), by striking “and” at the
 13 end;

14 (3) in paragraph (14), by striking the period at
 15 the end and inserting “; and”; and

16 (4) by adding at the end the following new
 17 paragraph:

18 “(15) the term ‘repetitive flood insurance claim
 19 payments’ means, with respect to a property, that
 20 claim payments for losses to the property have been
 21 made under flood insurance coverage under this title
 22 on more than one occasion, without regard to the
 23 amount or timing of the payment or the ownership
 24 of the property.”.

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