

113TH CONGRESS
1ST SESSION

S. 1610

To delay the implementation of certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 29, 2013

Mr. MENENDEZ (for himself, Mr. ISAKSON, Ms. LANDRIEU, Mr. COCHRAN, Mr. MERKLEY, Mr. VITTER, Mr. HOEVEN, Ms. HEITKAMP, Mr. SCHUMER, Mrs. GILLIBRAND, Mr. MARKEY, Mr. NELSON, Mr. BEGICH, Ms. WARREN, and Mr. FRANKEN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To delay the implementation of certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012, and for other purposes.

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 “Homeowner Flood In-

5 surance Affordability Act of 2013”.

6 **SEC. 2. DEFINITIONS.**

7 As used in this Act, the following definitions shall

8 apply:

1 (1) ADJUSTED BASE FLOOD ELEVATION.—For
2 purposes of rating a floodproofed covered structure,
3 the term “adjusted base flood elevation” means the
4 base flood elevation for a covered structure on the
5 applicable effective flood insurance rate map, plus 1
6 foot.

7 (2) ADMINISTRATOR.—The term “Adminis-
8 trator” means the Administrator of the Federal
9 Emergency Management Agency.

10 (3) AFFORDABILITY AUTHORITY BILL.—The
11 term “affordability authority bill” means a non-
12 amendable bill that if enacted would only grant the
13 Administrator the authority necessary to promulgate
14 regulations in accordance with the criteria set forth
15 in section 3(d)(2).

16 (4) AFFORDABILITY STUDY.—The term “af-
17 fordability study” means the study required under
18 section 100236 of the Biggert-Waters Flood Insur-
19 ance Reform Act of 2012 (Public Law 112–141; 126
20 Stat. 957).

21 (5) APPLICABLE FLOOD PLAIN MANAGEMENT
22 MEASURES.—The term “applicable flood plain man-
23 agement measures” means flood plain management
24 measures adopted by a community under section
25 60.3(c) of title 44, Code of Federal Regulations.

1 (6) COVERED STRUCTURE.—The term “covered
2 structure” means a residential structure—

3 (A) that is located in a community that
4 has adopted flood plain management measures
5 that are approved by the Federal Emergency
6 Management Agency and that satisfy the re-
7 quirements for an exception for floodproofed
8 residential basements under section 60.6(c) of
9 title 44, Code of Federal Regulations; and

10 (B) that was built in compliance with the
11 applicable flood plain management measures.

12 (7) DRAFT AFFORDABILITY FRAMEWORK.—The
13 term “draft affordability framework” means the
14 draft programmatic and regulatory framework re-
15 quired to be prepared by the Administrator and sub-
16 mitted to Congress under section 3(d) addressing
17 the issues of affordability of flood insurance sold
18 under the National Flood Insurance Program, in-
19 cluding issues identified in the affordability study.

20 (8) FLOODPROOFED ELEVATION.—The term
21 “floodproofed elevation” means the height of
22 floodproofing on a covered structure, as identified on
23 the Residential Basement Floodproofing Certificate
24 for the covered structure.

1 (9) NATIONAL FLOOD INSURANCE PROGRAM.—
2 The term “National Flood Insurance Program”
3 means the program established under the National
4 Flood Insurance Act of 1968 (42 U.S.C. 4001 et
5 seq.).

6 **SEC. 3. DELAYED IMPLEMENTATION OF FLOOD INSURANCE**
7 **RATE INCREASES; DRAFT AFFORDABILITY**
8 **FRAMEWORK.**

9 (a) DELAYED IMPLEMENTATION OF FLOOD INSUR-
10 ANCE RATE INCREASES.—

11 (1) GRANDFATHERED PROPERTIES.—Beginning
12 on the date of enactment of this Act, the Adminis-
13 trator may not increase risk premium rates for flood
14 insurance for any property located in an area subject
15 to the premium adjustment required under section
16 1308(h) of the National Flood Insurance Act of
17 1968 (42 U.S.C. 4015(h)).

18 (2) PRE-FIRM PROPERTIES.—Beginning on the
19 date of enactment of this Act, the Administrator
20 may not reduce the risk premium rate subsidies for
21 flood insurance for any property—

22 (A) described under section 1307(g)(1) of
23 the National Flood Insurance Act of 1968 (42
24 U.S.C. 4014(g)(1)); or

1 (B) described under 1307(g)(3) of the Na-
2 tional Flood Insurance Act of 1968 (42 U.S.C.
3 4014(g)(3)), provided that the decision of the
4 policy holder to permit a lapse in flood insur-
5 ance coverage was as a result of the property
6 no longer being required to retain such cov-
7 erage.

8 (3) EXPIRATION.—The prohibitions set forth
9 under paragraphs (1) and (2) shall expire 6 months
10 after the later of—

11 (A) the date on which the Administrator
12 proposes the draft affordability framework;

13 (B) the date on which any regulations pro-
14 posed pursuant to the authority that the Ad-
15 ministrator is granted in the affordability au-
16 thority bill, if such bill is enacted, become final;
17 or

18 (C) the date on which the Administrator
19 certifies in writing to Congress that the Federal
20 Emergency Management Agency has imple-
21 mented a flood mapping approach that utilizes
22 sound scientific and engineering methodologies
23 to determine varying levels of flood risk in all
24 areas participating in the National Flood Insur-
25 ance Program.

1 (b) PROPERTY SALE TRIGGER.—Section 1307(g)(2)
2 of the National Flood Insurance Act of 1968 (42 U.S.C.
3 4014(g)(2)) is amended to read as follows:

4 “(2) any property purchased after the expira-
5 tion of the 6-month period set forth under section
6 3(a)(3) of the Homeowner Flood Insurance Afford-
7 ability Act of 2013;”.

8 (c) TREATMENT OF PRE-FIRM PROPERTIES.—Be-
9 ginning on the date of enactment of this Act and ending
10 upon the expiration of the 6-month period set forth under
11 subsection (a)(3), the Administrator shall restore the risk
12 premium rate subsidies for flood insurance estimated
13 under section 1307(a)(2) of the National Flood Insurance
14 Act of 1968 (42 U.S.C. 4014(a)(2)) for any property de-
15 scribed in subparagraphs (A) and (B) of subsection (a)(2)
16 of this Act and in section 1307(g)(2) of the National
17 Flood Insurance Act of 1968 (42 U.S.C. 4014(g)(2)).

18 (d) DRAFT AFFORDABILITY FRAMEWORK.—

19 (1) IN GENERAL.—The Administrator shall pre-
20 pare a draft affordability framework that proposes
21 to address, via programmatic and regulatory
22 changes, the issues of affordability of flood insur-
23 ance sold under the National Flood Insurance Pro-
24 gram, including issues identified in the affordability
25 study.

1 (2) CRITERIA.—In carrying out the require-
2 ments under paragraph (1), the Administrator shall
3 consider the following criteria:

4 (A) Accurate communication to consumers
5 of the flood risk associated with their property.

6 (B) Targeted assistance to flood insurance
7 policy holders based on their financial ability to
8 continue to participate in the National Flood
9 Insurance Program.

10 (C) Individual or community actions to
11 mitigate the risk of flood or lower the cost of
12 flood insurance.

13 (D) The impact of increases in risk pre-
14 mium rates on participation in the National
15 Flood Insurance Program.

16 (E) The impact flood insurance rate map
17 updates have on the affordability of flood insur-
18 ance.

19 (3) DEADLINE FOR SUBMISSION.—Not later
20 than 18 months after the date on which the Admin-
21 istrator submits the affordability study, the Admin-
22 istrator shall submit to the full Committee on Bank-
23 ing, Housing, and Urban Affairs and the full Com-
24 mittee on Appropriations of the Senate and the full
25 Committee on Financial Services and the full Com-

1 committee on Appropriations of the House of Represent-
2 atives the draft affordability framework.

3 (e) CONGRESSIONAL CONSIDERATION OF FEMA AF-
4 FORDABILITY AUTHORITIES.—

5 (1) NO REFERRAL.—Upon introduction in ei-
6 ther House of Congress, an affordability authority
7 bill shall not be referred to a committee and shall
8 immediately be placed on the calendar.

9 (2) CONSIDERATION IN THE HOUSE OF REP-
10 RESENTATIVES.—

11 (A) PROCEEDING TO CONSIDERATION.—It
12 shall be in order to move to proceed to consider
13 the affordability authority bill in the House. All
14 points of order against the motion are waived.
15 Such a motion shall not be in order after the
16 House has disposed of a motion to proceed with
17 respect to the affordability authority bill. The
18 previous question shall be considered as ordered
19 on the motion to its adoption without inter-
20 vening motion. The motion shall not be debat-
21 able. A motion to reconsider the vote by which
22 the motion is disposed of shall not be in order.

23 (B) CONSIDERATION.—The affordability
24 authority bill shall be considered as read. All
25 points of order against the affordability author-

1 ity bill and against its consideration are waived.
2 The previous question shall be considered as or-
3 dered on the affordability authority bill to its
4 passage without intervening motion except 10
5 hours of debate equally divided and controlled
6 by the proponent and an opponent. A motion to
7 reconsider the vote on passage of the afford-
8 ability authority bill shall not be in order.

9 (3) CONSIDERATION IN THE SENATE.—

10 (A) PLACEMENT ON THE CALENDAR.—
11 Upon introduction in the Senate, an afford-
12 ability authority bill shall be immediately placed
13 on the calendar.

14 (B) FLOOR CONSIDERATION.—Notwith-
15 standing Rule XXII of the Standing Rules of
16 the Senate, it is in order, at any time beginning
17 on the day after the 6th day after the date of
18 introduction of an affordability authority bill
19 (even if a previous motion to the same effect
20 has been disagreed to) to move to proceed to
21 the consideration of the affordability authority
22 bill and all points of order against consideration
23 of the affordability authority bill are waived.
24 The motion to proceed is not debatable. The
25 motion is not subject to a motion to postpone.

1 A motion to reconsider the vote by which the
2 motion is agreed to or disagreed to shall not be
3 in order. If a motion to proceed to the consider-
4 ation of the affordability authority bill is agreed
5 to, the affordability authority bill shall remain
6 the unfinished business until disposed of.

7 (C) CONSIDERATION.—All points of order
8 against the affordability authority bill are
9 waived. Consideration of the affordability au-
10 thority bill and of all debatable motions and ap-
11 peals in connection therewith shall be limited to
12 not more than 10 hours which shall be divided
13 equally between the majority and minority lead-
14 ers or their designees. A motion further to limit
15 debate on the affordability authority bill is in
16 order, and is not debatable.

17 (D) NO AMENDMENTS.—An amendment to
18 the affordability authority bill, or a motion to
19 postpone, or a motion to proceed to the consid-
20 eration of other business, or a motion to com-
21 mit or recommit the affordability authority bill,
22 is not in order.

23 (E) VOTE ON PASSAGE.—If the Senate has
24 voted to proceed to the affordability authority
25 bill, the vote on passage of the affordability au-

1 thority bill shall occur immediately following the
2 conclusion of consideration of the affordability
3 authority bill, and a single quorum call at the
4 conclusion of the debate if requested in accord-
5 ance with the rules of the Senate.

6 (4) AMENDMENT.—The affordability authority
7 bill shall not be subject to amendment in either the
8 House of Representatives or the Senate.

9 (5) CONSIDERATION BY THE OTHER HOUSE.—

10 (A) IN GENERAL.—If, before passing the
11 affordability authority bill, one House receives
12 from the other an affordability authority bill—

13 (i) the affordability authority bill of
14 the other House shall not be referred to a
15 committee; and

16 (ii) the procedure in the receiving
17 House shall be the same as if no afford-
18 ability authority bill had been received
19 from the other House except that the vote
20 on passage shall be on the affordability au-
21 thority bill of the other House.

22 (B) REVENUE MEASURE.—This subsection
23 shall not apply to the House of Representatives
24 if the affordability authority bill received from
25 the Senate is a revenue measure.

1 (6) COORDINATION WITH ACTION BY OTHER
2 HOUSE.—

3 (A) TREATMENT OF AFFORDABILITY AU-
4 THORITY BILL OF OTHER HOUSE.—If the Sen-
5 ate fails to introduce or consider a affordability
6 authority bill under this section, the afford-
7 ability authority bill of the House shall be enti-
8 tled to expedited floor procedures under this
9 section.

10 (B) TREATMENT OF COMPANION MEAS-
11 URES IN THE SENATE.—If following passage of
12 the affordability authority bill in the Senate,
13 the Senate then receives the affordability au-
14 thority bill from the House of Representatives,
15 the House-passed affordability authority bill
16 shall not be debatable.

17 (C) VETOES.—If the President vetoes the
18 affordability authority bill, debate on a veto
19 message in the Senate under this section shall
20 be 1 hour equally divided between the majority
21 and minority leaders or their designees.

22 (7) RULES OF THE HOUSE OF REPRESENTA-
23 TIVES AND SENATE.—This subsection is enacted by
24 Congress—

1 (A) as an exercise of the rulemaking power
2 of the Senate and the House of Representa-
3 tives, respectively, and as such it is deemed a
4 part of the rules of each House, respectively,
5 but applicable only with respect to the proce-
6 dure to be followed in that House in the case
7 of an affordability authority bill, and it super-
8 sedes other rules only to the extent that it is in-
9 consistent with such rules; and

10 (B) with full recognition of the constitu-
11 tional right of either House to change its rules
12 at any time, in the same manner, and to the
13 same extent as in the case of any other rule of
14 that House.

15 (f) INTERAGENCY AGREEMENTS.—The Adminis-
16 trator may enter into an agreement with another Federal
17 agency to—

18 (1) complete the affordability study; or

19 (2) prepare the draft affordability framework.

20 (g) CLEAR COMMUNICATIONS.—The Administrator
21 shall clearly communicate full flood risk determinations to
22 individual property owners regardless of whether their pre-
23 mium rates are full actuarial rates.

24 (h) RULE OF CONSTRUCTION.—Nothing in this sec-
25 tion shall be construed to provide the Administrator with

1 the authority to provide assistance to homeowners based
2 on affordability that was not available prior to the enact-
3 ment of the Biggert-Waters Flood Insurance Reform Act
4 of 2012 (Public Law 112–141; 126 Stat. 916).

5 **SEC. 4. AFFORDABILITY STUDY AND REPORT.**

6 Notwithstanding the deadline under section
7 100236(c) of the Biggert-Waters Flood Insurance Reform
8 Act of 2012 (Public Law 112–141; 126 Stat. 957), not
9 later than 2 years after the date of enactment of this Act,
10 the Administrator shall submit to the full Committee on
11 Banking, Housing, and Urban Affairs and the full Com-
12 mittee on Appropriations of the Senate and the full Com-
13 mittee on Financial Services and the full Committee on
14 Appropriations of the House of Representatives the af-
15 fordability study and report required under such section.

16 **SEC. 5. AFFORDABILITY STUDY FUNDING.**

17 Section 100236(d) of the Biggert-Waters Flood In-
18 surance Reform Act of 2012 (Public Law 112–141; 126
19 Stat. 957) is amended by striking “not more than
20 \$750,000” and inserting “such amounts as may be nec-
21 essary”.

22 **SEC. 6. FUNDS TO REIMBURSE HOMEOWNERS FOR SUC-**
23 **CESSFUL MAP APPEALS.**

24 (a) IN GENERAL.—Section 1363(f) of the National
25 Flood Insurance Act of 1968 (42 U.S.C. 4104(f)) is

1 amended by striking the second sentence and inserting the
2 following: “The Administrator may use such amounts
3 from the National Flood Insurance Fund established
4 under section 1310 as may be necessary to carry out this
5 subsection.”.

6 (b) CONFORMING AMENDMENT.—Section 1310(a) of
7 the National Flood Insurance Act of 1968 (42 U.S.C.
8 4017(a)) is amended—

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

11 (2) in paragraph (7), by striking the period at
12 the end and inserting “; and”; and

13 (3) by adding at the end the following:

14 “(8) for carrying out section 1363(f).”.

15 **SEC. 7. FLOOD PROTECTION SYSTEMS.**

16 (a) ADEQUATE PROGRESS ON CONSTRUCTION OF
17 FLOOD PROTECTION SYSTEMS.—Section 1307(e) of the
18 National Flood Insurance Act of 1968 (42 U.S.C.
19 4014(e)) is amended—

20 (1) in the first sentence, by inserting “or recon-
21 struction” after “construction”;

22 (2) by amending the second sentence to read as
23 follows: “The Administrator shall find that adequate
24 progress on the construction or reconstruction of a
25 flood protection system, based on the present value

1 of the completed flood protection system, has been
2 made only if (1) 100 percent of the cost of the sys-
3 tem has been authorized, (2) at least 60 percent of
4 the cost of the system has been appropriated, (3) at
5 least 50 percent of the cost of the system has been
6 expended, and (4) the system is at least 50 percent
7 completed.”; and

8 (3) by adding at the end the following: “Not-
9 withstanding any other provision of law, in deter-
10 mining whether a community has made adequate
11 progress on the construction, reconstruction, or im-
12 provement of a flood protection system, the Adminis-
13 trator shall consider all sources of funding, including
14 Federal, State, and local funds.”.

15 (b) COMMUNITIES RESTORING DISACCREDITED
16 FLOOD PROTECTION SYSTEMS.—Section 1307(f) of the
17 National Flood Insurance Act of 1968 (42 U.S.C.
18 4014(f)) is amended by amending the first sentence to
19 read as follows: “Notwithstanding any other provision of
20 law, this subsection shall apply to riverine and coastal lev-
21 ees that are located in a community which has been deter-
22 mined by the Administrator of the Federal Emergency
23 Management Agency to be in the process of restoring flood
24 protection afforded by a flood protection system that had
25 been previously accredited on a Flood Insurance Rate Map

1 as providing 100-year frequency flood protection but no
 2 longer does so, and shall apply without regard to the level
 3 of Federal funding of or participation in the construction,
 4 reconstruction, or improvement of the flood protection sys-
 5 tem.”.

6 **SEC. 8. TREATMENT OF FLOODPROOFED RESIDENTIAL**
 7 **BASEMENTS.**

8 Notwithstanding the Biggert-Waters Flood Insurance
 9 Reform Act of 2012 (Public Law 112–141; 126 Stat.
 10 916), the amendments made by that Act, or any other pro-
 11 vision of law, the Administrator shall rate a covered struc-
 12 ture using the elevation difference between the
 13 floodproofed elevation of the covered structure and the ad-
 14 justed base flood elevation of the covered structure.

15 **SEC. 9. DESIGNATION OF FLOOD INSURANCE ADVOCATE.**

16 (a) **IN GENERAL.**—The Administrator shall designate
 17 a Flood Insurance Advocate to advocate for the fair treat-
 18 ment of policy holders under the National Flood Insurance
 19 Program and property owners in the mapping of flood
 20 hazards, the identification of risks from flood, and the im-
 21 plementation of measures to minimize the risk of flood.

22 (b) **DUTIES AND RESPONSIBILITIES.**—The duties
 23 and responsibilities of the Flood Insurance Advocate des-
 24 ignated under subsection (a) shall be to—

- 1 (1) educate property owners and policyholders
2 under the National Flood Insurance Program on—
3 (A) individual flood risks;
4 (B) flood mitigation; and
5 (C) measures to reduce flood insurance
6 rates through effective mitigation; and
7 (D) the flood insurance rate map review
8 and amendment process;
- 9 (2) assist policy holders under the National
10 Flood Insurance Program and property owners to
11 understand the procedural requirements related to
12 appealing preliminary flood insurance rate maps and
13 implementing measures to mitigate evolving flood
14 risks;
- 15 (3) assist in the development of regional capac-
16 ity to respond to individual constituent concerns
17 about flood insurance rate map amendments and re-
18 visions;
- 19 (4) coordinate outreach and education with
20 local officials and community leaders in areas im-
21 pacted by proposed flood insurance rate map amend-
22 ments and revisions; and
- 23 (5) aid potential policy holders under the Na-
24 tional Flood Insurance Program in obtaining and
25 verifying accurate and reliable flood insurance rate

1 information when purchasing or renewing a flood in-
2 surance policy.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated for each fiscal year such
5 sums as may be necessary to carry out the duties and re-
6 sponsibilities of the Flood Insurance Advocate.

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