113TH CONGRESS
1ST SESSION
S. 1846

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

DECEMBER 17, 2013

Mr. Menendez (for himself, Mr. Begich, Mr. Blumenthal, Mr. Booker, Mr. Casey, Mr. Cochran, Mr. Franken, Mrs. Gillibrand, Mr. Graham, Mrs. Hagan, Ms. Heitkamp, Mr. Hoeven, Mr. Isakson, Ms. Klobuchar, Ms. Landrieu, Mr. Manchin, Mr. Markey, Mr. Merkley, Ms. Murkowski, Mr. Nelson, Mr. Reed, Mr. Schatz, Mr. Schumer, Mr. Scott, Mr. Vitter, Ms. Warren, Mr. Whitehouse, and Mr. Wicker) introduced the following bill; which was read the first time

DECEMBER 18, 2013

Read the second time and placed on the calendar

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,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Homeowner Flood Insurance Affordability Act of 2013”.

SEC. 2. DEFINITIONS.

As used in this Act, the following definitions shall apply:

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

(2) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

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

(4) AFFORDABILITY STUDY.—The term “affordability study” means the study required under section 100236 of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112–141; 126 Stat. 957).
(5) **Applicable Flood Plain Management Measures.**—The term “applicable flood plain management measures” means flood plain management measures adopted by a community under section 60.3(c) of title 44, Code of Federal Regulations.

(6) **Covered Structure.**—The term “covered structure” means a residential structure—

(A) that is located in a community that has adopted flood plain management measures that are approved by the Federal Emergency Management Agency and that satisfy the requirements for an exception for floodproofed residential basements under section 60.6(c) of title 44, Code of Federal Regulations; and

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

(7) **Draft Affordability Framework.**—The term “draft affordability framework” means the draft programmatic and regulatory framework required to be prepared by the Administrator and submitted to Congress under section 3(d) addressing the issues of affordability of flood insurance sold under the National Flood Insurance Program, including issues identified in the affordability study.
(8) **FLOODPROOFED ELEVATION.**—The term “floodproofed elevation” means the height of floodproofing on a covered structure, as identified on the Residential Basement Floodproofing Certificate for the covered structure.

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

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

(a) **DELAYED IMPLEMENTATION OF FLOOD INSURANCE RATE INCREASES.**—

(1) **GRANDFATHERED PROPERTIES.**—Beginning on the date of enactment of this Act, the Administrator may not implement section 1308(h) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(h)).

(2) **PRE-FIRM PROPERTIES.**—Beginning on the date of enactment of this Act, the Administrator may not implement—
(A) section 1307(g)(1) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(g)(1)); or

(B) section 1307(g)(3) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(g)(3)) with respect to any policy described in that section, provided that the decision of the policy holder to permit a lapse in flood insurance coverage was as a result of the property covered by the policy no longer being required to retain such coverage.

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

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

(B) the date on which any regulations proposed pursuant to the authority that the Administrator is granted in the affordability authority bill, if such bill is enacted, become final; or

(C) the date on which the Administrator certifies in writing to Congress that the Federal Emergency Management Agency has implemented a flood mapping approach that, when
applied, results in technically credible flood hazard data in all areas where Flood Insurance Rate Maps are prepared or updated.

(b) Property Sale Trigger.—

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

“(2) any property purchased after the expiration of the 6-month period set forth under section 3(a)(3) of the Homeowner Flood Insurance Affordability Act of 2013;”.

(2) Protection of subsidy for properties purchased on or before expiration date.— Notwithstanding paragraph (1) or (3) of section 1307(g) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(g)(1) and (3)), the Administrator may not reduce the risk premium rate subsidy for flood insurance for a property purchased on or before the expiration of the 6-month period set forth under subsection (a)(3) of this section based on the fact that—

(A) the property was not insured by the flood insurance program as of the date of enactment of the Biggert-Waters Flood Insurance
Reform Act of 2012 (Public Law 112–141; 126 Stat. 916); or

(B) on or before the expiration of that 6-month period, the policy for the property had lapsed in coverage as a result of the deliberate choice of the policy holder, provided that the decision of the policy holder to permit a lapse in coverage was as a result of the property no longer being required to retain such coverage.

(c) Treatment of Pre-FIRM Properties.—Beginning on the date of enactment of this Act and ending upon the expiration of the 6-month period set forth under subsection (a)(3), the Administrator shall restore the risk premium rate subsidies for flood insurance estimated under section 1307(a)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(a)(2)) for any property—

(1) with respect to which the Administrator may not, under subsection (a)(2)(A) of this section, implement section 1307(g)(1) of the National Flood Insurance Act of 1968;

(2) with respect to which the Administrator may not, under subsection (a)(2)(B) of this section, implement section 1307(g)(3) of the National Flood Insurance Act of 1968; or
(3) described in section 1307(g)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(g)(2)), as amended by this section.

(d) **Draft Affordability Framework.**—

(1) **In General.**—The Administrator shall prepare a draft affordability framework that proposes to address, via programmatic and regulatory changes, the issues of affordability of flood insurance sold under the National Flood Insurance Program, including issues identified in the affordability study.

(2) **Criteria.**—In carrying out the requirements under paragraph (1), the Administrator shall consider the following criteria:

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

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

(C) Individual or community actions to mitigate the risk of flood or lower the cost of flood insurance.
(D) The impact of increases in risk premium rates on participation in the National Flood Insurance Program.

(E) The impact flood insurance rate map updates have on the affordability of flood insurance.

(3) DEADLINE FOR SUBMISSION.—Not later than 18 months after the date on which the Administrator submits the affordability study, the Administrator shall submit to the full Committee on Banking, Housing, and Urban Affairs and the full Committee on Appropriations of the Senate and the full Committee on Financial Services and the full Committee on Appropriations of the House of Representatives the draft affordability framework.

(e) CONGRESSIONAL CONSIDERATION OF FEMA AFFORDABILITY AUTHORITIES.—

(1) NO REFERRAL.—Upon introduction in either House of Congress, an affordability authority bill shall not be referred to a committee and shall immediately be placed on the calendar.

(2) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(A) PROCEEDING TO CONSIDERATION.—It shall be in order to move to proceed to consider
the affordability authority bill in the House. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed with respect to the affordability authority bill. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(B) CONSIDERATION.—The affordability authority bill shall be considered as read. All points of order against the affordability authority bill and against its consideration are waived. The previous question shall be considered as ordered on the affordability authority bill to its passage without intervening motion except 10 hours of debate equally divided and controlled by the proponent and an opponent. A motion to reconsider the vote on passage of the affordability authority bill shall not be in order.

(3) CONSIDERATION IN THE SENATE.—

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

(B) FLOOR CONSIDERATION.—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order, at any time beginning on the day after the 6th day after the date of introduction of an affordability authority bill (even if a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the affordability authority bill and all points of order against consideration of the affordability authority bill are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the affordability authority bill is agreed to, the affordability authority bill shall remain the unfinished business until disposed of.

(C) CONSIDERATION.—All points of order against the affordability authority bill are waived. Consideration of the affordability authority bill and of all debatable motions and appeals in connection therewith shall be limited to
not more than 10 hours which shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate on the affordability authority bill is in order, and is not debatable.

(D) No Amendments.—An amendment to the affordability authority bill, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to commit or recommit the affordability authority bill, is not in order.

(E) Vote on Passage.—If the Senate has voted to proceed to the affordability authority bill, the vote on passage of the affordability authority bill shall occur immediately following the conclusion of consideration of the affordability authority bill, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate.

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

(5) Consideration by the Other House.—
(A) IN GENERAL.—If, before passing the
affordability authority bill, one House receives
from the other an affordability authority bill—
(i) the affordability authority bill of
the other House shall not be referred to a
committee; and
(ii) the procedure in the receiving
House shall be the same as if no afford-
ability authority bill had been received
from the other House except that the vote
on passage shall be on the affordability au-
thority bill of the other House.

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

(6) COORDINATION WITH ACTION BY OTHER
HOUSE.—

(A) TREATMENT OF AFFORDABILITY AU-
THORITY BILL OF OTHER HOUSE.—If the Sen-
ate fails to introduce or consider a affordability
authority bill under this section, the afford-
ability authority bill of the House shall be enti-
tled to expedited floor procedures under this
section.
(B) TREATMENT OF COMPANION MEASURES IN THE SENATE.—If following passage of the affordability authority bill in the Senate, the Senate then receives the affordability authority bill from the House of Representatives, the House-passed affordability authority bill shall not be debatable.

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

(7) RULES OF THE HOUSE OF REPRESENTATIVES AND SENATE.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of an affordability authority bill, and it supersedes other rules only to the extent that it is inconsistent with such rules; and
(B) with full recognition of the constitutional right of either House to change its rules at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(f) **INTERAGENCY AGREEMENTS.**—The Administrator may enter into an agreement with another Federal agency to—

1. complete the affordability study; or
2. prepare the draft affordability framework.

(g) **CLEAR COMMUNICATIONS.**—The Administrator shall clearly communicate full flood risk determinations to individual property owners regardless of whether their premium rates are full actuarial rates.

(h) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to provide the Administrator with the authority to provide assistance to homeowners based on affordability that was not available prior to the enactment of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112–141; 126 Stat. 916).

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

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

SEC. 5. AFFORDABILITY STUDY FUNDING.

Section 100236(d) of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112–141; 126 Stat. 957) is amended by striking “not more than $750,000” and inserting “such amounts as may be necessary”.

SEC. 6. FUNDS TO REIMBURSE HOMEOWNERS FOR SUCCESSFUL MAP APPEALS.

(a) IN GENERAL.—Section 1363(f) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(f)) is amended by striking the second sentence and inserting the following: “The Administrator may use such amounts from the National Flood Insurance Fund established under section 1310 as may be necessary to carry out this subsection.”.

(b) CONFORMING AMENDMENT.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—
(1) in paragraph (6), by striking “and” at the end;

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

(3) by adding at the end the following:

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

SEC. 7. FLOOD PROTECTION SYSTEMS.

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

(1) in the first sentence, by inserting “or reconstruction” after “construction”;

(2) by striking the second sentence and inserting the following: “The Administrator shall find that adequate progress on the construction or reconstruction of a flood protection system, based on the present value of the completed flood protection system, has been made only if (1) 100 percent of the cost of the system has been authorized, (2) at least 60 percent of the cost of the system has been appropriated, (3) at least 50 percent of the cost of the system has been expended, and (4) the system is at least 50 percent completed.”; and
(3) by adding at the end the following: “Notwithstanding any other provision of law, in determining whether a community has made adequate progress on the construction, reconstruction, or improvement of a flood protection system, the Administrator shall consider all sources of funding, including Federal, State, and local funds.”.

(b) COMMUNITIES RESTORING DISACCREDITED FLOOD PROTECTION SYSTEMS.—Section 1307(f) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(f)) is amended by striking the first sentence and inserting the following: “Notwithstanding any other provision of law, this subsection shall apply to riverine and coastal levees that are located in a community which has been determined by the Administrator of the Federal Emergency Management Agency to be in the process of restoring flood protection afforded by a flood protection system that had been previously accredited on a Flood Insurance Rate Map as providing 100-year frequency flood protection but no longer does so, and shall apply without regard to the level of Federal funding of or participation in the construction, reconstruction, or improvement of the flood protection system.”.
SEC. 8. TREATMENT OF FLOODPROOFED RESIDENTIAL BASEMENTS.

In implementing section 1308(h) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(h)), the Administrator shall rate a covered structure using the elevation difference between the floodproofed elevation of the covered structure and the adjusted base flood elevation of the covered structure.

SEC. 9. DESIGNATION OF FLOOD INSURANCE ADVOCATE.

(a) IN GENERAL.—The Administrator shall designate a Flood Insurance Advocate to advocate for the fair treatment of policy holders under the National Flood Insurance Program and property owners in the mapping of flood hazards, the identification of risks from flood, and the implementation of measures to minimize the risk of flood.

(b) DUTIES AND RESPONSIBILITIES.—The duties and responsibilities of the Flood Insurance Advocate designated under subsection (a) shall be to—

(1) educate property owners and policyholders under the National Flood Insurance Program on—

(A) individual flood risks;

(B) flood mitigation;

(C) measures to reduce flood insurance rates through effective mitigation; and

(D) the flood insurance rate map review and amendment process;
(2) assist policy holders under the National Flood Insurance Program and property owners to understand the procedural requirements related to appealing preliminary flood insurance rate maps and implementing measures to mitigate evolving flood risks;

(3) assist in the development of regional capacity to respond to individual constituent concerns about flood insurance rate map amendments and revisions;

(4) coordinate outreach and education with local officials and community leaders in areas impacted by proposed flood insurance rate map amendments and revisions; and

(5) aid potential policy holders under the National Flood Insurance Program in obtaining and verifying accurate and reliable flood insurance rate information when purchasing or renewing a flood insurance policy.

(c) Authorization of Appropriations.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the duties and responsibilities of the Flood Insurance Advocate.
A BILL

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