S. 996

To improve the National Flood Insurance Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 21, 2013

Ms. LANDRIEU introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To improve the National Flood Insurance Program, 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. DEFINITION.

4 In this Act, the term “Administrator” means the Ad-
5 ministrator of the Federal Emergency Management Agen-
6 cy.

(a) In general.—Section 1307(g) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(g)) is amended—

(1) by striking paragraph (2); and
(2) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) Effective date.—Subsection (a) shall take effect as if enacted on the date of enactment of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112–141; 126 Stat. 916).

SEC. 3. DELAY IN FLOOD INSURANCE RATE CHANGES.

(a) In general.—Any change in risk premium rates for flood insurance under the National Flood Insurance Program under the amendments made by sections 100205 and 100207 of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112–141; 126 Stat. 917) to sections 1307 and 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4014 and 4015) shall not take effect until—

(1) the date that is 180 days after the date on which the Administrator submits the report on af-
fordability under section 100236(c) of the Biggert-Waters Flood Insurance Reform Act of 2012; or

(2) if the Administrator determines that the report on affordability required under section 100236(c) of the Biggert-Waters Flood Insurance Reform Act of 2012 cannot be submitted by the date specified under such section 100236(c), the date that is 180 days after the date on which the Administrator submits the information under section 100236(c)(2) of such Act, as added by section 6 of this Act.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect as if enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012.

SEC. 4. STUDIES OF VOLUNTARY COMMUNITY-BASED FLOOD INSURANCE OPTIONS.

(a) Study.—

(1) STUDY REQUIRED.—The Administrator shall conduct a study to assess options, methods, and strategies for making available voluntary community-based flood insurance policies through the National Flood Insurance Program.

(2) CONSIDERATIONS.—The study conducted under paragraph (1) shall—
(A) take into consideration and analyze how voluntary community-based flood insurance policies—

(i) would affect communities having varying economic bases, geographic locations, flood hazard characteristics or classifications, and flood management approaches; and

(ii) could satisfy the applicable requirements under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a); and

(B) evaluate the advisability of making available voluntary community-based flood insurance policies to communities, subdivisions of communities, and areas of residual risk.

(3) CONSULTATION.—In conducting the study required under paragraph (1), the Administrator may consult with the Comptroller General of the United States, as the Administrator determines is appropriate.

(b) REPORT BY THE ADMINISTRATOR.—

(1) REPORT REQUIRED.—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to the Committee on
Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that contains the results and conclusions of the study conducted under subsection (a).

(2) CONTENTS.—The report submitted under paragraph (1) shall include recommendations for—

(A) the best manner to incorporate voluntary community-based flood insurance policies into the National Flood Insurance Program; and

(B) a strategy to implement voluntary community-based flood insurance policies that would encourage communities to undertake flood mitigation activities, including the construction, reconstruction, or improvement of levees, dams, or other flood control structures.

(c) REPORT BY COMPTROLLER GENERAL.—Not later than 6 months after the date on which the Administrator submits the report required under subsection (b), the Comptroller General of the United States shall—

(1) review the report submitted by the Administrator; and

(2) submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the
Committee on Financial Services of the House of Representatives a report that contains—

(A) an analysis of the report submitted by the Administrator;

(B) any comments or recommendations of the Comptroller General relating to the report submitted by the Administrator; and

(C) any other recommendations of the Comptroller General relating to community-based flood insurance policies.

SEC. 5. AMENDMENTS TO NATIONAL FLOOD INSURANCE ACT OF 1968.

(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 by inserting after the second sentence 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 not consider the level of Federal funding of or participation in the construction, reconstruction, or improvement.”.

(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 in the first sentence by striking “no longer does so.” and inserting the following: “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. 6. AFFORDABILITY STUDY.

Section 100236 of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112–141; 126 Stat. 957) is amended—

(1) in subsection (c), by striking “Not” and inserting the following: “Subject to subsection (e), not”;

(2) in subsection (d)—

(A) by striking “Notwithstanding” and inserting the following:

“(1) NATIONAL FLOOD INSURANCE FUND.—Notwithstanding”; and

(B) by adding at the end the following:

“(2) OTHER FUNDING SOURCES.—To carry out this section, in addition to the amount made available under paragraph (1), the Administrator may use any other amounts that are available to the Administrator.”; and

(3) by adding at the end the following:
“(e) ALTERNATIVE.—If the Administrator determines that the report required under subsection (c) cannot be submitted by the date specified under subsection (c)—

“(1) the Administrator shall notify, not later than 60 days after the date of enactment of this subsection, the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of an alternative method of gathering the information required under this section;

“(2) the Administrator shall submit, not later than 180 days after the Administrator submits the notification required under paragraph (1), to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives the information gathered using the alternative method described in paragraph (1); and

“(3) upon the submission of information required under paragraph (2), the requirement under subsection (c) shall be deemed satisfied.”.

SEC. 7. FACILITIES IN COASTAL HIGH HAZARD AREAS.

(a) DEFINITIONS.—In this section—
(1) the term “coastal high hazard area” has the same meaning as in section 9.4 of title 44, Code of Federal Regulations, or any successor thereto;

(2) the term “eligible entity” means an entity that receives a contribution under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172);

(3) the term “essential to a community’s recovery” means, with respect to a structure or facility, that the structure or facility is associated with the basic functions of a local government, including public health and safety, education, law enforcement, fire protection, and other critical government operations; and

(4) the term “major disaster” means a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

(b) REGULATIONS.—

(1) Substantial Improvements.—Notwithstanding section 9.4 of title 44, Code of Federal Regulations, an action relating to a structure or facility located in a coastal high hazard area for which an eligible entity received a contribution under section 406 of the Robert T. Stafford Disaster Relief
and Emergency Assistance Act (42 U.S.C. 5172) shall be deemed to be a “substantial improvement” for purposes of part 9 of title 44, Code of Federal Regulations, if—

(A) the action involves the replacement of a structure or facility that—

(i) was located in the coastal high hazard area before the incident that caused the structure or facility to be totally destroyed; and

(ii) is essential to a community’s recovery from a major disaster;

(B) there is no practicable alternative to locating a replacement structure or facility in the coastal high hazard area;

(C) the replacement structure or facility conforms to the most recent Flood Resistant Design and Construction standard issued by the American Society of Civil Engineers, or any more stringent standard approved by the Administrator; and

(D) the eligible entity develops evacuation and emergency response procedures to reduce the risk of loss of human life and operational disruption from a flood.
(2) Relocation.—

(A) Relocation Required.—The amendments under paragraph (1) shall provide that if the Administrator determines that there is a practicable alternative to the original site of a structure or facility described in paragraph (1) that is outside the coastal high hazard area and that provides better protection against the flood hazard or other hazards associated with coastal high hazard areas, the replacement structure or facility shall be relocated to the alternative site.

(B) Relocation.—If a replacement structure or facility is relocated under subparagraph (A), the original site for the destroyed structure or facility shall be deed restricted in conformance with part 80 of title 44, Code of Federal Regulations.

(C) No Relocation.—If a replacement structure or facility is rebuilt at the same location, the eligible entity shall set aside an alternative parcel of land in the coastal high hazard area of equal or greater size, to be deed restricted in conformance with part 80 of title 44, Code of Federal Regulations, that the Administrator determines—
(i) provides better protection against floods; or

(ii) promotes the restoration of natural and beneficial functions of coastal floodplains, including protection to endangered species, critical habitat, wetlands, or coastal uses.

(3) APPLICABILITY.—This section shall apply with respect to any major disaster declared on or after the date of enactment of this Act.