FLOOD INSURANCE REFORM: A TAXPAYER'S PERSPECTIVE

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FLOOD INSURANCE REFORM: A TAXPAYER'S PERSPECTIVE

Wednesday, June 7, 2017

U.S. House of Representatives,
Committee on Financial Services,
Washington, D.C.

The committee met, pursuant to notice, at 10:35 a.m., in room 2128, Rayburn House Office Building, Hon. Jeb Hensarling [chairman of the committee] presiding.

Members present: Representatives Hensarling, Lucas, Posey, Luetkemeyer, Huizenga, Duffy, Hultgren, Ross, Pittenger, Wagner, Barr, Rothfus, Messer, Williams, Poliquin, Love, Hill, Emmer, Zeldin, Trott, Loudermilk, Mooney, MacArthur, Davidson, Kustoff, Tenney, Hollingsworth; Waters, Maloney, Velazquez, Meeks, Capuano, Clay, Lynch, Scott, Green, Cleaver, Moore, Perlmutter, Himes, Foster, Delaney, Sinema, Beatty, Heck, Vargas, Gottheimer, Gonzalez, Crist, and Kihuen.

Chairman Hensarling. The Committee on Financial Services will come to order.

The Chair is authorized to declare a recess of the committee at any time.

Today's hearing is entitled, "Flood Insurance Reform: A Taxpayer's Perspective."

The Chair now recognizes himself for 3 minutes for an opening statement.

Today, we have 5 million households who are part of the National Flood Insurance Program (NFIP). Clearly, these people need some level of security, continuity, and predictability for their homes. They also deserve some fairness with respect to rates in the face of mapping issues and numerous cross-subsidies, because unfortunately today, many moderate- and low-income individuals actually subsidize others.

But there is another group that deserves fairness as well, and that is the 110 million households who are not part of the National Flood Insurance Program, who subsidize the program. Ninety-six percent of Americans are currently subsidizing 4 percent. We know this is a program that is nearly $25 billion underwater and runs an actuarial annual deficit of $1.4 billion. It is unsustainable.

The 96 percent of Americans have their dreams, they have their hopes, and they struggle to continue to bail out and subsidize a program that unfortunately is unsustainable.

Before me and to my left and right is the national debt clock. It continues to spin out of control. I know some view this as some kind of partisan ploy. It is not. Perhaps others have grown accustomed to it, perhaps they are even anesthetized by it. But instead, it is something that should frighten us and it is something that should anger us. It is not something we can tax our way out of. As Lady Thatcher once said, sooner or later you run out of rich people.

I, for one, cannot look my children in the eyes and be complicit or complacent in the national debt that threatens their future. It is not fair. We must act. It is both an economic and moral imperative. Now is the time, as the NFIP is up for reauthorization.

There are a number of items that we must discuss and reform. One is mitigation. Mitigation can often be cost-effective. It is a classic case where an ounce of prevention is worth a pound of cure. And I would ask that all fiscal conservatives be open to such.

Another is premiums: 31 cents of every premium dollar goes to marketing and servicing of policies; this deserves attention. And only 46 cents is available to pay claims; this also deserves attention.

Risk transfer requirements are necessary as are catastrophe bonds. We have challenges in multiple lost properties where roughly 2 percent of all properties account for almost 25 percent of claims. And it begs the question, how many times should taxpayers be called upon to rebuild the same property?

But most importantly, gradually, over time, we must transition all to actuarial sound rates, otherwise we are helping put more people in harm's way.

Equally important to both taxpayers and ratepayers is opening up the program to private market competition. Notwithstanding Congressional intent, the Federal Government has an effective monopoly. We lose out on competition, we lose out on innovation which is a consumer's best friend.

I want to thank the many Members who have worked on this bill on a bipartisan basis. I want to especially thank Chairman Duffy for his leadership, Chairman Luetkemeyer before him, and the gentlelady from New York, Ms. Velazquez, on the other side of the aisle. This is a problem that is not going away and there is a better, smarter way to handle flood insurance.

I now recognize the ranking member for 3 minutes.

Ms. WATERS. Thank you, Mr. Chairman.

And welcome to all of our witnesses.

We are here to discuss draft legislation to reauthorize the National Flood Insurance Program. This hearing is critically important. The NFIP is set to expire in a matter of months and we simply cannot allow the program to lapse.

For years prior to the passage of Biggert-Waters, Congress had been extending the NFIP for just months at a time. Twice, this led to shutdowns, including one that stalled more than 40,000 home sales in 1 month alone. These short-term extensions place communities at risk and undermine our housing market.

That is why, Mr. Chairman, we cannot let politics get in the way of the work of legislating to keep flood insurance available and affordable. While there are certainly some provisions in the draft package of legislation before us today that seem to be reflective of the ideas that I and many of the Democrats and Republicans that I have worked with on this program share, it absolutely falls short in many respects.

Our requests are simple: provide a long-term reauthorization to ensure stability and confidence in the market; address the debt and the billions of dollars it costs policyholders already struggling with unaffordable premiums; provide robust affordability assistance to those who may literally lose their homes if we do not act; put guardrails in place to ensure that the development of a private market does not threaten the affordability and availability of coverage; invest heavily in mapping and mitigation, which we know saves more money than it costs; and put policyholders first by bringing transparency, accountability, and oversight to the various entities that participate in the program.

Mr. Chairman, I truly believe that this reauthorization can be bipartisan, but I am concerned that if you do not heed my call to work together on the details of this package, it will cause irreparable harm to the millions of Americans who rely on the NFIP to protect their homes and businesses.

Thank you, and I yield back the balance of my time.

Chairman HENSARLING. The gentlelady yields back.

The Chair now recognizes the gentleman from Wisconsin, Mr. Duffy, chairman of our Housing and Insurance Subcommittee, for 2 minutes.

Mr. DUFFY. Thank you, Mr. Chairman. And I want to thank you for holding this important hearing.

And I thank our witnesses for being here today. I am looking forward to your testimony and also hearing where everyone stands in this committee.

And to the ranking member, I appreciate her comments. But I think a lot of her concerns are addressed in this bill and I look forward to continuing to work with her and other Democrats on an important issue that is nonpartisan. This is an issue that affects a lot of families in a lot of places across our country, some of them in wealthy areas, but many people who come from very impoverished areas rely on flood insurance to make sure they can keep their homes.

But this is the third hearing we are having on this issue. We have had two on the Housing and Insurance Subcommittee. One was a hearing with FEMA and the other was a hearing with stakeholders in communities that rely on flood insurance.

As the chairman mentioned, I think there are a few key parts of this discussion draft. One is on mapping. We continuously hear complaints about the mapping process and how people are mapped and how unfair it is. Chairman Luetkemeyer did a lot of work on this and I think we are striking the right balance on reforms to make sure mapping is done correctly.

Another area of concern is Hurricane Sandy and the Sandy claims process. Those in the Northeast have been very aggressive and focused on making sure there are lessons that were learned from Sandy and we take those lessons learned into reforms into this package. And I think it has been a unique coalition of Republicans and Democrats working together to make sure that we had those reforms contained in this bill.

We have a great component for mitigation, helping families mitigate their homes with about a billion dollars over a 5-year period of time of this bill.

One of the key components is Mr. Ross's provision, which is that our private markets: one, can lower the exposure of the American taxpayer; and two, will offer better rates to homeowners who can't get a market-based rate from the NFIP.

I have a lot more to say, but my time has expired and I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now yields 2 minutes to the gentleman from Missouri, Mr. Cleaver, ranking member of our Housing and Insurance Subcommittee.

Mr. CLEAVER. Thank you, Mr. Chairman, and Ranking Member Waters.

Good morning, and thank you for the opportunity to speak today to our full committee.

I have been able to work over the past weeks with Chairman Duffy who has released six draft proposals designed to reauthorize the National Flood Insurance Program. And I think there are a number of things in there that many of us will happily embrace.

And there are some things that I think will require some significant debate. It is not in our best interest, for example, to continue to pile debt upon debt with the $24 billion we already owe as a result of this program. And so I think there should be a way for us to get that debt out of the way, have it forgiven and start over in a new program. And for us to do that, it would also be helpful if we could have the reauthorization extended for a 10-year period.

If we do that, we will allow for the real estate industry and, frankly, FEMA to have some time of stability. And I think if we are really interested in getting the private sector to become more involved, the opportunity for the expansion also, I think, is a magnet for greater participation as we move into the next few years with the private sector.

I have had a number of private conversations with Mr. Duffy. I have had meetings and roundtables with those in the private sector. I think everybody agrees that we need to do this. I look forward to the hearing today and hopefully some increased flexibility on some of the other issues that I have mentioned.

Chairman HENSARLING. The time of the gentleman has expired.

We now welcome the testimony of our panel, whom I will introduce as a group. First, Mr. Steve Ellis is the vice president of Taxpayers for Common Sense. Mr. Ellis joined Taxpayers for Common Sense in 1999. Prior to that, he served as an officer in the United States Coast Guard for 6 years.

Second, Ms. Caitlin Berni is the vice president for policy and communications at Greater New Orleans, Inc. Welcome. Greater New Orleans, Inc., is a regional economic development alliance serving the 10-parish region of southeast Louisiana. Ms. Berni is responsible for directing the organization's policy work at the Federal and State level and serves as the primary liaison with Congressional, State, and local elected officials.

Third, Mr. Josh Saks is the legislative director of the National Wildlife Federation. He coordinates outreach on clean water and wetlands issues, energy policy, Federal appropriations for wildlife conservation, and protection of public lands in Alaska and the Rocky Mountain West.

Fourth, Ms. Rebecca Kagan Sternhell is the deputy director and general counsel at the New York City Federal Affairs Office. Ms. Sternhell was most recently a deputy assistant administrator at the U.S. Small Business Administration.

Finally, Mr. R.J. Lehmann is a senior fellow, editor-in-chief, and co-founder of the R Street Institute. He is the author of the 2012, 2015 editions of R Street's Insurance Regulation Report Card and numerous other R Street policy papers. Before joining R Street, he served as deputy director of the Heartland Institute's Center on Finance, Insurance, and Real Estate.

Welcome, to each and every one of you. Thank you for agreeing to testify.

I know some of you have testified before us before, so you know the drill. For those who do not, you will be yielded 5 minutes for an opening statement, and without objection, each of your written statements will be made a part of the record.

At this time, Mr. Ellis, you are recognized for 5 minutes for your testimony.

STATEMENT OF STEVE ELLIS, VICE PRESIDENT, TAXPAYERS FOR COMMON SENSE

Mr. ELLIS. Thank you, Mr. Chairman. Good morning, Chairman Hensarling, Ranking Member Waters, and members of the committee.

I am Steve Ellis, vice president of Taxpayers for Common Sense (TCS), a national, nonpartisan budget watchdog. Thank you for inviting me to testify on the upcoming reauthorization of the National Flood Insurance Program.

Taxpayers for Common Sense is allied with SmarterSafer, a coalition in favor of promoting public safety through fiscally sound, environmentally responsible approaches to natural catastrophe policy. The groups range from free market and taxpayer groups to consumer and housing advocates to environmental and insurance industry interests.

Mr. Saks's and Mr. Lehmann's organizations, the National Wildlife Federation and the R Street Institute, are also members of SmarterSafer.

This brings me to the first of two issues I was asked to address, whether the NFIP represents an ideal model for the effective protection of residential and commercial property owners from the damages related to flooding. The quick and obvious answer is no, the NFIP is far from ideal. The program was created in 1968 to reduce ad hoc disaster payments and to deal with the perceived lack of available and affordable flood insurance.

Nearly half-a-century on, it is nearly $25 billion in debt to taxpayers and there have been enormous technological innovations that enable insurers to accurately price risk and provide products and coverages unavailable through the NFIP. Today, the industry is clamoring to write flood and remove some of the risks from taxpayers, like they do elsewhere in the world.

Though the NFIP provides critical insurance coverage to those at risk, the program must be significantly reformed to ensure that it is financially sustainable, provides sufficient incentives for reducing future flood damages and vulnerabilities, better protects taxpayers who have repeatedly backstopped the program, and better protects the environment and promotes nature-based mitigation solutions for the long-term benefit of homeowners and taxpayers.

We applaud the committee for putting legislative pen to paper and releasing their proposals. While we would like to see some changes and improvements, the legislative drafts provide a great start to the process.

TCS believes that the rates in the program must over time be linked to risk while understanding that there may be some in the program who will need assistance in order to pay higher rates or reduce their risk. Currently, subsidies are effectively hidden from the homeowner, which eliminates any price signal of risk or incentive to mitigate to reduce the risk, thereby the premium.

To that end, we are pleased that the committee proposal includes provisions to make premium methodology more clear to the policyholder as well as an explanation of their full flood risk and increased public access to historic loss and flood claims information.

We are opposed to the artificial rate cap in the legislative proposal. A better approach is to target any premium assistance to those who need it and to encourage and target mitigation measures that could serve to reduce rates by reducing risk.

We are pleased to see that H.R. 1422, the Flood Insurance Market Parity and Modernization Act, was incorporated into the legislative proposals. H.R. 1422 would ensure that the private sector flood insurance counts for the purposes of the mandatory purchase requirements.

The private sector is now writing first-dollar flood insurance, even in the highest-risk areas. There are 20 companies writing private flood insurance in Florida, home to nearly 40 percent of the NFIP policies. A majority of these are writing flood coverage in the highest-risk areas. TCS believes that the mapping fee on NFIP and private policies in the legislative proposal should be transparent to the policyholders as to its providence and use.

On mapping, we support the legislative proposal for greater public involvement, use of risk assessment tools in determining rates, and directing FEMA to work with the Technical Mapping Advisory Council to improve the mapping process.

Going further, FEMA should be required to move to a system of more granular property-level mapping, as has been done by States like North Carolina.

TCS is pleased to see the committee included provisions to require an annual independent actuarial review of of the NFIP as well as provisions to increase the use of risk transfer tools. The greater information requirements as well as the gradual removal of subsidies and shift toward risk-based rates for multiple-loss properties makes sense.

I recognize the value of targeting mitigation assistance to these properties, but it should be means-tested. If a homeowner can afford to mitigate, they should not be subsidized to do so.

TCS also supports provisions that prospectively restrict access to NFIP for properties with extreme loss profiles and to not make available Federal flood insurance to high-risk properties that are added to the special flood hazard area as well as high-value properties when private coverage is available and relatively affordable.

Again, TCS congratulates the committee on providing a responsible, thoughtful legislative start to NFIP reauthorization. While I noted some differences, we are ready to work with the committee to make reforms to the NFIP to ensure the program is sustainable in the long term.

The second issue I was asked to address is the cause of NFIP's $1.4 billion annual premium shortfall and what reforms are necessary to ensure the program collects sufficient revenue to pay claims. My testimony ought to address that topic throughout.

With better property-level mapping, a focus on mitigation and risk reduction, and a move to risk-based rates with targeted subsidies and private sector competition, we believe the NFIP will be strengthened and more people will be able to purchase needed flood coverage.

Thank you for inviting me to testify. I am happy to answer any questions you may have.

[The prepared statement of Mr. Ellis can be found on page 62 of the appendix.]

Chairman HENSARLING. Ms. Berni, you are now recognized for 5 minutes for your testimony.

STATEMENT OF CAITLIN BERNI, VICE PRESIDENT, POLICY AND COMMUNICATIONS, GREATER NEW ORLEANS, INC.

Ms. BERNI. Thank you, Mr. Chairman. Good morning, Chairman Hensarling, Ranking Member Waters, and members of the committee. I am honored to speak to you today about the package of bills proposed to reauthorize the National Flood Insurance Program.

My name is Caitlin Berni and I am the vice president of policy and communications at Greater New Orleans, Inc. (GNO), the economic development organization for southeast Louisiana.

Since April 2013, GNO, Inc. has led the Coalition for Sustainable Flood Insurance, a national alliance of approximately 250 organizations across 35 States, formed during Biggert-Waters implementation.

Our coalition was a driving force behind the passage of the Homeowner Flood Insurance Affordability Act, compromise legislation that was cosponsored by more than 235 members of this body, passed with 306 votes, representing the overwhelming support of both caucuses, and passed the Senate with the support of 72 Senators.

Since the passage of the 2014 law, our coalition has focused on advocating for a stronger policy framework for the NFIP. There are four primary policy areas that will provide for this stronger framework: mitigation; mapping; affordability; and program participation.

Let me start by recognizing that there is no simple answer to the complex challenge of maintaining premium affordability, keeping the NFIP on sound financial footing, ensuring taxpayer protections, and accurately communicating risk. And this is not just about our coastal cities. Flood, and therefore flood insurance, matters for the entire country. Flooding is the most common natural disaster in the United States, affecting communities in each of the 50 States and territories.

That said, our coalition is concerned that the committee's approach on several provisions may result in some of the same unintended consequences primarily around affordability and sustainability that arose during the implementation of the Biggert-Waters Act.

Our coalition is concerned that increasing the floor of rate increases from 5 percent to 8 percent will have a detrimental effect on premium affordability. While the bill does propose to lower the overall premium cap from 18 percent to 15 percent, increasing the floor will negatively impact many more policyholders than lowering the ceiling will help, especially when considering that premiums are increasing an average of 6.3 percent this year.

The rate structure and affordability provisions included in the 2014 law will eventually result in higher flood insurance premiums for all rate classifications already and increasing rates will likely result in affordability challenges during the midst of this next reauthorization period. We urge Congress not to increase rates or surcharges in this reauthorization.

Another critical tool to preserving affordability is to maintain grandfathering so that those property owners who did everything as they were told by building to code will not be faced with rate shocks when their communities adopt new maps. Accurately communicating and assessing risk is a top priority for our coalition.

We support the committee's proposals to improve mapping, including using better technology in map development and streamlining the mapping and appeals process. However, the current map process often results in communities having to fight inaccurate maps that do not take into account locally built flood protection features, which results in artificially inflated risk. We must question whether we can truly determine actuarial rates if they are based on flawed mapping.

Ultimately, mitigation is the real answer to preventing flood losses and reducing taxpayer exposure to flooding. We are concerned that the committee's approach does not provide communities with the tools needed to effectively implement mitigation plans and will not accomplish reducing flood losses or taxpayer exposure. Congress should instead consider redirecting the surcharges in the 2014 law to better funding a disaster mitigation and the flood mitigation programs. This proposal will yield approximately $400 million annually for flood mitigation activities.

However, our coalition does support several provisions in this package, including improving map development, strengthening the CRS program and modernizing ICC coverage. But given the past record of broad bipartisan support for affordable, sustainable flood insurance, we urge Congress to pass a multi-year reauthorization by September 30th that ensures affordability, improves mapping, increases support for mitigation activities, and increases flood insurance coverage across America.

Again, thank you for the opportunity to speak to you today and for your service. I look forward to answering your questions.

[The prepared statement of Ms. Berni can be found on page 54 of the appendix.]

Chairman HENSARLING. Mr. Saks, you are now recognized for 5 minutes for your testimony.

STATEMENT OF JOSHUA SAKS, LEGISLATIVE DIRECTOR, NATIONAL WILDLIFE FEDERATION

Mr. SAKS. Thank you, Mr. Chairman. Chairman Hensarling, Ranking Member Waters, and members of the committee, I am Joshua Saks and I serve as the legislative director for the National Wildlife Federation (NWF), the Nation's largest member-based conservation group representing 6 million members and supporters and affiliate organizations in 51 States and territories.

NWF is also a member of SmarterSafer, as was mentioned before.

I appreciate the opportunity to testify today regarding the committee's proposal to reform and reauthorize the National Flood Insurance Program. But first, allow me to say a few words about NWF's interest in flood insurance.

Floodplains, the flood-prone bottom lands that cradle rivers, streams, and oceans are where the land and the waters meet. Naturally functioning floodplains provide vital habitat for countless wildlife species as well as a number of other ecological benefits. As such, healthy floodplains are key to NWF's mission of protecting and preserving America's wildlife.

But for today's purposes and more broadly speaking, healthy natural floodplains provide the best flood protection money can buy. Yet, while the NFIP was created with the intention of slowing or preventing new flood-prone coastal and river development, the current floodplain management system in the U.S. is not working. Instead of reducing floodplain development, flood-prone coastal population growth and development in the U.S. has skyrocketed since the program's creation.

The coastal area that covers 17 percent of the Nation's land area is now home to half of its population. NFIP has contributed to this problem by encouraging development in flood-prone areas by charging subsidized rates and masking flood risk. In addition, the subsidized rates have failed to send market signals to encourage mitigation.

To address this, NWF encourages the NFIP to charge risk-based rates and encourage mitigation. For these reasons, NWF supports proposed efforts by the committee to ensure rates continue to move towards risk-based while providing some measures to keep flood insurance affordable.

NWF is comfortable with the limitation on rate increases included in the committee's draft bills. We believe that this allows FEMA the flexibility to continue to move towards risk-based market signals while limiting the potential impact on short-term increases.

NWF also applauds the committee for allowing States the ability to create flood insurance affordability programs, the first time Congress has addressed affordability outside of the rate structure. We recommend the inclusion of additional provisions that would provide means-tested assistance to low-income homeowners with a preference toward mitigation assistance rather than premium support.

While NWF supports the committee's proposals to keep flood insurance premiums affordable, we believe the best way to keep rates low and to protect people and property is through proactive mitigation. In other words, we need to reduce people's rates by reducing their risk, not by subsidizing risk.

A considerable amount of data shows this would be the most cost-effective way. Several analyses have shown a $2 to $6 return on every dollar spent on flood mitigation. But not all mitigation is created equal. Community-wide, nature-based mitigation should be used whenever possible. These are practices that protect, restore or, in some cases, even create natural features that reduce erosion and flooding.

NWF urges the committee to consider any and all ways to drive immediate investment in this kind of mitigation. We applaud the increase to ICC compliance coverage to help cover the cost of mitigation measures that would reduce flood risk, but loans are not enough to upgrade America's resilience to flooding. America needs immediate investment in coastal and river resilience and we encourage the committee to consider any and all ways to increase pre-disaster mitigation spending, including empowering FEMA to analyze whether it is most cost-effective to provide premium support or upfront mitigation dollars.

We also encourage the committee to consider spending a portion of the NFIP reserve fund dollars on up-front pre-disaster mitigation.

NWF applauds the risk reduction planning provisions of the proposal, a key step in protecting communities. We believe that it is essential to target flood-prone hot spots to create detailed plans to reduce flood risk and to implement them.

We support the Royce-Blumenauer proposal to create mitigation plans for communities with multiple, severe, repetitive loss properties, and request that the committee find a way to ensure that the plans include community-wide, nature-based mitigation.

We also believe that the proposal to create a pilot program for buyouts of severe, repetitive loss properties for low-income homeowners would ultimately provide the best type of mitigation, that which avoids loss of life and property by restoring lowlands to healthy, naturally functioning floodplains.

Americans cannot wait until the next storm for long-term planning to take hold and we encourage the committee to find ways to invest immediately in community-wide mitigation.

Finally, NWF believes that the discussion draft before us today represents true progress towards reforming the NFIP. We thank the committee for its work and I am happy to answer any questions you may have. Thank you.

[The prepared statement of Mr. Saks can be found on page 81 of the appendix.]

Chairman HENSARLING. Ms. Sternhell, you are now recognized for 5 minutes for your testimony.

STATEMENT OF REBECCA KAGAN STERNHELL, DEPUTY DIRECTOR AND GENERAL COUNSEL, NEW YORK CITY FEDERAL AFFAIRS OFFICE

Ms. STERNHELL. Thank you, Chairman Hensarling, Ranking Member Waters, and the New York delegation Members—Mrs. Maloney, Ms. Velazquez, Mr. Meeks, Mr. King, Mr. Zeldin, and Ms. Tenney—for the opportunity to testify here today.

I bring the perspective of New York City as it engages with the NFIP. Many of the challenges the City faces, urban cores, waterfront development, and riverine communities, are common across communities nationwide. But New York has them on a larger scale.

When Hurricane Sandy hit in 2012, the city was in the process of remapping, as the City's flood maps had not been updated in over 30 years. As the floodplain continues to grow with more extreme weather events, the NFIP will continue to play a critical role for our property owners. It is our position that the NFIP must be preserved.

As we talk about the program today, I hope to emphasize that at the end of the day we are talking about real people, real taxpayers and their homes where they raise children and seek refuge. The property is almost always most homeowners' largest tangible asset and nest egg. Too often as this discussion proceeds, we can lose sight of this point. It is easy to glibly say people need to move or too bad, it is quite another to talk face-to-face with a constituent who must leave the home that has been in their family for generations, or to let them know that their property has little to no value because of insurance costs and policy made many miles away in Washington, D.C.

The remainder of my testimony will focus on the chief concerns of our residents and the legislation being discussed today. The issue of greatest concern is affordability. A few months ago, the City was pleased to share with this committee and other stakeholders a RAND report commissioned to look at what affordability meant and model out options to remedy the issue.

There are three major findings I wish to highlight here: grandfathering of properties is one of the most effective affordability tools available; targeted, means-tested vouchers or credits are the most cost-effective tools available; and mitigation is cost-effective with greater premium reductions and grants in support of it. Given this, we are concerned about the proposal in the integrity bill that ostensibly eliminates grandfathering after 2021.

The affordability issue also looms large in the proposed integrity bill that would in many ways disallow any new coastal or riverine development and at the same time foreclose the NFIP as an option to many residents.

Section eight would not allow NFIP coverage for new construction in the SFHA. In order to be eligible for NFIP plus the mandated 10 percent surcharge, the State would need to certify that insufficient private coverage is available. This must be done year-over-year adding bureaucracy and complication to the NFIP.

Most troubling to residents is the resultant uncertainty as to whether their coverage will be dropped by the NFIP from one year to the next. What if no coverage is available that they can afford? More importantly, what happens with maintaining continuous coverage or if no private insurer will insure a given property?

The situation becomes nightmarish for taxpayers and has the potential to leave many in a doughnut hole of no coverage. I would strongly urge the committee to revisit, if not eliminate, this provision and instead find a way to work within the mitigation bill.

Hundreds of communities would face the threat of being kicked out of the NFIP because of a small number of properties with repeat claims. According to an analysis of FEMA data, 33 of the members of this committee, spread equally across party lines, would have at least one community in their district potentially kicked out of the NFIP or sanctioned under this provision. These numbers grow far worse with the proposed change to the definition of multiple-loss property and severe, repetitive loss in the integrity bill that would qualify even more communities for sanctions.

Another area of concern is the elimination of the non-compete clause for write-your-own companies. Past witnesses representing the insurance industry in Congressional hearings have admitted to cherry-picking the policies which will leave the NFIP with only the riskiest properties, thus undermining its solvency.

Rather than a dualistic approach, sharing all or sharing nothing, the City would like to offer a third way: eliminating the non-compete for a subset of properties, the A through D properties, for example. They can be a proving ground to validate or dispel fears about cherry-picking FEMA's book. The committee could set a timeframe for this and a review, ensuring the review is conducted by a non-stakeholder third party, invest the administrator with the authority to reinstall or remove more non-competes. This need not be an all-or-nothing proposition.

Lastly, after the experience with the Sandy claims process and fraud, we wholeheartedly endorse the revisions to the claims process. We would also offer that a provision be included such that none of the rights to appeal, litigate, or review documents can be waived in court.

I thank the committee again for their time and attention today and I am happy to answer any questions.

[The prepared statement of Ms. Sternhell can be found on page 90 of the appendix.]

Chairman HENSARLING. Mr. Lehmann, you are now recognized for 5 minutes for your statement.

STATEMENT OF R.J. LEHMANN, SENIOR FELLOW, R STREET INSTITUTE

Mr. LEHMANN. Chairman Hensarling, Ranking Member Waters, and members of the committee, my name is R.J. Lehmann. I am senior fellow, editor-in-chief, and co-founder of the R Street Institute. R Street is a think tank based here in D.C. that seeks to promote free markets and limited effective government.

Our insurance project highlights the crucial role that competitive private insurance markets play in helping society evaluate, mitigate, and manage risk. Unfortunately, despite reforms passed by this committee and ultimately signed by President Obama in 2012, NFIP premiums still do not reflect the full risk of loss. The program is not sustainable in its current form, as evidenced by its $25 billion debt.

To prepare for shifting risks, to ensure that markets function properly and to protect taxpayers from the exploding costs of disaster assistance, we believe it is essential that we begin to transition to a private, risk-based insurance market for floods.

Shifting flood insurance to the private sector will mean bringing powerful catastrophe models to bear, to more accurately segment and price property-level risks. It will mean having companies compete to fashion products that are more attractive to policyholders and that better meet their needs.

Progress has already been made in the area of reinsurance. The NFIP historically relied on the Treasury whenever its losses exceeded its resources. But earlier this year, FEMA executed its first private reinsurance transaction and we are pleased to see that the legislation would incorporate Representative Luetkemeyer's proposal to require FEMA to use reinsurance to lower taxpayers' direct exposure to catastrophic loss.

The legislation also makes changes to better capitalize the NFIP's reserve fund which can be used to buy reinsurance. We support those changes, but we think reserve fund charges should be based on the risks posed by each individual property. The current assessments, which are based on a flat percentage of total premium, actually serve to magnify inequities between properties that pay subsidized rates and those that pay full risk rates.

When it comes to primary flood insurance, the private market currently is only about 12 percent of the size of the NFIP, but it is growing, and this legislation would address several concerns that have so far hindered its growth. It would remove the restriction that prohibited write-your-own insurers from selling standalone coverage outside the NFIP. We are pleased also that it incorporates the Ross-Castor bill to clarify that private coverage can be used to meet the mandatory purchase requirements.

One area where we think it does fall a little short is in granting NFIP claims data access. ZIP Code and Census bloc-level data isn't sufficient for insurance underwriting. Property-level data is essential. We understand that there are privacy concerns, but we think that those can be resolved through nondisclosure agreements.

There has been the concern raised that a more active private market would destabilize the NFIP by allowing insurers to cherry-pick low-risk policies until it was left a high-risk pool. But the program already serves as a high-risk pool. Only a relatively small number of homeowners buy flood insurance. Compare that with the United Kingdom where flood insurance is sold privately, 95 percent of homeowners have flood insurance coverage. The vast majority of existing NFIP policyholders reside in 100-year floodplains. That is a high-risk cohort. There are, by and large, no cherries to pick.

Reducing the size of the program reduces its overall exposure and the potential burden it can place on taxpayers.

The single-biggest impediment to a larger private market remains the fact that the program does not completely charge risk-based rates, both subsidized policies and grandfathered policies. We support moving to risk-based rates for all NFIP policies over time with an understanding that lower-income policyholders may need assistance. Such assistance should be targeted, limited, means-tested, and executed outside of the rate structure of the NFIP. And we support the draft legislation's proposal to authorize States to begin crafting affordability programs.

We oppose the legislation's proposal to decrease the cap on annual rate increases. And we strongly oppose the $10,000 hard cap. While we understand that this will affect very few properties, the concern is, once it is introduced as a statutory mechanism, it could be lowered by a future Congress or even potentially by an Executive Order. And in addition, any premium relief, we believe, has to be conditioned on some form of disaster mitigation.

So in closing, I would like to reiterate our support for the broad contours of the proposed legislation. Making the transition to private flood insurance or at least more private flood insurance is complicated, but not nearly as complicated as continually rebuilding flood-prone communities.

And I would be glad to answer any questions the members might have.

[The prepared statement of Mr. Lehmann can be found on page 73 of the appendix.]

Chairman HENSARLING. Thank you.

The Chair now recognizes himself for 5 minutes for questioning.

So, Mr. Ellis, it appears we have had testimony before that bringing in private market competition, which apparently some oppose, can have the effect of actually lowering rates. I believe it was last year we heard from the Pennsylvania insurance commissioner, Ms. Miller, who cited several different cases where one Pennsylvanian was charged a $7,500 annual premium under NFIP, but found private coverage for $1,415. Another homeowner was quoted a $6,000 annual premium by NFIP, but found a surplus line for only $900. She went on to cite several other examples, yet we have a very small private market. So why do we have such a small private market?

And I think also in previous testimony, you addressed the situation in Florida. Could you elaborate on capacity and the ability of the private market to help drive rates down?

Mr. ELLIS. Sure. Thank you very much, Mr. Chairman. The simple fact is, the only reason why someone would leave the NFIP to go to a private policy is if they got a better rate or they got a better product or both. And so we are just giving consumers choice. And certainly, that would be a way to drive down rates. Also, they could bundle that coverage. There is a company in Wisconsin that is doing that, that makes it part of the overall homeowner's insurance. Certainly, that was what Mr. Lehmann was referring to in the U.K.

And then in Florida, what we saw with their citizens program was that actually when they did a take out of insurance policies from their wind pool there that actually the insurance companies took out policies from all across the different risk spectrum. It wasn't simply just lower-risk properties.

Chairman HENSARLING. If I could interrupt, another witness mentioned the threat of cherry-picking. So are you saying that the empirical evidence in Florida is otherwise?

Mr. ELLIS. Correct. It was a study done by the Reinsurance Association of America that showed that, no, they want to—because one is, is that is where you are going to be able to make more money, quite frankly, is the higher risk and that is what insurance companies are in the business of doing. But then also it is that they need to diversify their portfolio and there are a lot of different reasons why an insurance company would want to necessarily have higher risk and then could lay off that risk in other parts of the world through reinsurance.

It is a simplistic view to just think about it as cherry-picking. It is not really the way the business would approach it.

Chairman HENSARLING. Mr. Saks, I don't want to put words in your mouth, but I thought I heard you say that we need affordability through mitigation instead of subsidies. Is that the essence of what you stated?

Mr. SAKS. Yes, sir.

Chairman HENSARLING. So could you expound a little bit on your organization's preferred method of mitigation and why that is preferable to subsidy?

Mr. SAKS. We believe that whenever a community can take steps to mitigate on the community-wide level, whether it is through natural features, which is best, or through levees or seawalls or other things like that, you are going to do the most to keep people's rates low. And we prefer that because at times it will provide the actions we like as opposed to continuing to provide subsidies.

Chairman HENSARLING. This is one you endorse? Did I understand you to endorse the Royce-Blumenauer bill as part of your testimony?

Mr. SAKS. That is correct.

Chairman HENSARLING. Okay. So this would be the essence of what you are trying to achieve?

Mr. SAKS. The Royce-Blumenauer bill will push communities to take a long-term view of planning how to mitigate flood risk. And we support that notion.

Chairman HENSARLING. Okay.

Ms. Berni, Ms. Sternhell, if I heard your testimony correctly, you do not advocate premium increases for current NFIP holders, is that correct?

Ms. BERNI. Yes, sir, Mr. Chairman. We would advocate that the committee leave the current rate structure.

Chairman HENSARLING. And I understand. So you would like the current rate structure left as is. We have correspondence from CBO saying the program is running at a $1.5 billion actuarial shortfall a year. So it has an actuarial need for $5 billion, but it is only bringing in $3.6 billion. We have similar information from GAO and FEMA. So are you advocating, Ms. Berni, as I understand it, that this should be a continued subsidy, that it is the taxpayer who should make up this shortfall? Is that correct?

Ms. BERNI. No, sir. I think we would argue that, as I mentioned in my verbal testimony, flooding does affect every State across the Nation and so this is a program that does benefit citizens.

Chairman HENSARLING. Okay, but who is supposed to make up the shortfall? If it is not ratepayers, then it is taxpayers. Who else is there? Am I missing somebody?

Ms. BERNI. We have some premium information from 2004 to 2016 that shows the NFIP, with the exception of Hurricanes Katrina and Sandy and the 2016 losses, that the program ultimately does break even with the exception of a few catastrophic loss years.

Chairman HENSARLING. I have to tell you, that is not what CBO has said, it is not what GAO has said, and it is not what FEMA has said. And if I have the data correct, 3 of the 6 costliest flood events have happened in the last 6 years.

Mr. Saks, does your organization see flooding events becoming less severe or more severe with the passage of time?

Mr. SAKS. Mr. Chairman, flood events are happening more often and they are more severe.

Chairman HENSARLING. Okay, thank you.

I am out of time.

The Chair now recognizes the ranking member for 5 minutes.

Ms. WATERS. Thank you very much. Mr. Chairman, I really wish I had time to deal with two of the issues that have been identified by our witnesses. The private insurers, for example, I recall they left the market following Katrina and I guess every disaster. But I remember Katrina very vividly because I was in Mississippi and New Orleans and the private market abandoned those communities. So I don't have time to get into it.

But on this mitigation, I believe in mitigation, too. However, there is not a dollar in the chairman's bill for mitigation. So where is it going to come from?

Let me go on with some of the other things I want to deal with. I hope some of the other Members will take up these issues of private insurers and mitigation.

The Republican bill attempts to respond to affordability challenges in the NFIP, but I am concerned that on the whole, the proposal does not meaningfully address affordability, and in some cases may actually make matters worse.

On the whole, are you concerned that policyholders may actually be worse off with the increased costs called for in this bill? What should we do instead to keep premiums affordable? And this question is for Ms. Sternhell.

Ms. STERNHELL. Yes. We are concerned about affordability. And certainly raising the floor plus the 1 percent of reserve fund, which effectively is a 50 percent increase, so rates would have to go up 9 percent annually, basically, where they are currently escalating year-over-year at about 6 percent, does nothing to help the affordability situation.

And in addition, we have long advocated, especially with the RAND report, to have an affordability program that utilizes means-tested vouchers or credits. The program proposed here in the legislation actually imposes additional surcharges to pay for that, so you are sort of taking with one hand and giving with another. So that, while well-intentioned, and we would gladly work with the committee to develop something else, isn't really going to get us as far as we need to towards the affordability.

Ms. WATERS. Well, you alluded to it. Adding all of the various premium increases, surcharges increases, reserve fund assessment, increases in calls for increased cross-subsidization, you are saying that it seems that the policyholder is going to be paying much more in flood insurance under this bill.

Can you talk a little bit about what that will mean? I was one of the authors of the Biggert-Waters insurance program which had all of the unintended consequences that I worked very hard to undo because we saw the premiums rise substantially. And some folks had premiums that matched their mortgage and they wouldn't be able to afford those kinds of premium costs. Could you share with us the other kinds of problems that these increases would cause the average homeowner?

Ms. STERNHELL. Certainly. And one of the ones we are already starting to see is distortion in real estate markets where people maybe want to get out of the floodplain and want to move, but nobody wants to buy that home because of the property value and because of the insurance costs affiliated with that property. So that affects not only that individual homeowner, but also you start to have community-wide level effects; I think it is down in Virginia where you are seeing this, where there are recurring floods and people would like to get out, but there is not an effective mechanism to do it or one where they can financially afford to even leave and start over somewhere else.

Ms. WATERS. I would like to just ask—I had not planned on asking this question or talking about it, but I believe that we absolutely should forgive all of this debt. And, of course, the chairman adamantly disagrees with that.

Does anybody agree with me, have you taken a look at the debt and the interest that we are paying on this debt? Do you have any thoughts about it?

Mr. ELLIS. Congresswoman Waters, we are opposed to forgiving the debt at this time. We want to see more significant reforms in the program and think that is an important means to concentrate the mind on those reforms. If sometime in the future, I think that it would be reasonable.

Ms. WATERS. Before my time is up, give me one significant reform that would reduce these premiums.

Mr. ELLIS. I think it is about mitigation and about reducing risk through—

Ms. WATERS. There is no mitigation in the bill.

Mr. ELLIS. —reducing rates through reducing risk.

Ms. WATERS. How should it be done in the bill? How should it be identified? Mitigation, what are you talking about?

Mr. ELLIS. I am talking about what Mr. Saks referred to, which is community-wide mitigation is a better tool than even, like, individual homeowner mitigation.

Ms. WATERS. What is community-wide mitigation?

Mr. ELLIS. Pardon me?

Ms. WATERS. What are you talking about with community-wide mitigation? What are you talking about?

Mr. ELLIS. I'm talking about restoring wetlands. I am talking about removing structures, doing buyouts in certain cases. That type of approach is going to be more beneficial to the remaining homeowners than other ones.

Ms. WATERS. So you think communities should get together and come up with some money to pay for this kind of mitigation that you are talking about?

Mr. ELLIS. We do have pre-disaster mitigation programs. We have programs through the Army Corps of Engineers.

Ms. WATERS. No, not the Army Corps of Engineers.

Mr. ELLIS. We are supportive of creating a loan program with the FHA.

Ms. WATERS. Okay, reclaiming my time.

Mr. ELLIS. Yes, ma'am.

Ms. WATERS. You are alluding to the nonexistent. And so until you can identify, and this chairman, where the money is going to come from for mitigation, I don't think it is a credible way by which to talk about reform.

I yield back the balance of my time.

Chairman HENSARLING. The time of the gentlelady has expired.

The Chair now recognizes the gentleman from Wisconsin, Mr. Duffy, chairman of our Housing and Insurance Subcommittee.

Mr. DUFFY. Thank you, Mr. Chairman.

I wasn't going to go here either, but let us stick on the $24.6 billion debt. If that $24.6 billion was forgiven, would the program then be solvent next year, the year after, 5 years from now? Or is the CBO correct in that we will run a billion-plus-dollar deficit every year from this point forward?

Mr. ELLIS. That is correct, Congressman. And actually, one of the largest loss years in the program's history was just last year where really the only storm that people really think about is Hurricane Matthew and some other flooding events. And so certainly, this program, while it does sort of teeter on the brink of solvency, these larger events are going to drag it down inevitably.

Mr. DUFFY. So forgiving the debt doesn't make the program solvent, it is going to continue to run deficits, even if the debt was forgiven. Is that a fair enough point, Mr. Ellis?

Mr. ELLIS. Yes, Congressman Duffy.

Mr. DUFFY. Okay. I want to just quickly talk about grandfathering, Ms. Berni.

And welcome, it's good to see you here.

Ms. BERNI. Thank you.

Mr. DUFFY. On grandfathered properties, is it only poor people who own grandfathered homes, or are there poor people, medium-wealth people and wealthy people who have properties that are grandfathered?

Ms. BERNI. So we would define grandfathering as any property that was built to code at the time of construction. Then when a new map is introduced in their community, that property would be able to retain credit for building according to code. And so that is what we want to program.

Mr. DUFFY. Right. So it is not just poor people whose properties have been grandfathered, it is wealthy people who have also been grandfathered in as well, right?

Ms. BERNI. Correct. It is people who did everything that they were told to do from FEMA.

Mr. DUFFY. That is the right answer. So it is rich people, medium-wealth folks, and poor people who are grandfathered. And who in the program subsidizes those wealthy people who are grandfathered in the program? Isn't it all other ratepayers? So don't you actually have poor people who are paying an actuarially sound rate, those who aren't pre-FIRM or grandfathered? Aren't they actually paying higher rates to subsidize rich people who have been grandfathered?

Ms. BERNI. So about the grandfathered properties—

Mr. DUFFY. Yes or no?

Ms. BERNI. —if you have built to base flood elevation and you have built to that standard, then FEMA considers you as mitigating the risk against having to pay a claim.

Mr. DUFFY. But you could be making a million dollars a year and you could have your home that is grandfathered in and you are getting a subsidized rate that a poor person in Louisiana who is paying a higher rate to subsidize that wealthy individual. That is correct, isn't it? I am not wrong on that point.

Ms. BERNI. I would respectfully disagree. There was a property that we often used as an example last time around—

Mr. DUFFY. Does anyone else disagree with me on that point?

Mr. Ellis, am I right on that point?

Mr. ELLIS. Yes, I agree with you, Congressman.

Mr. DUFFY. We have poor people subsidizing rich people in the current status of this program.

Mr. ELLIS. And the Government Accountability Office has documented massive cross-subsidies in the program, yes, sir.

Mr. DUFFY. Mr. Saks, do you agree with that? Am I wrong?

Mr. SAKS. No, you are not wrong.

Mr. DUFFY. Thank you.

Mr. Lehmann?

Mr. LEHMANN. That is correct. And in addition, we don't actually, at this point, know how many grandfathered properties there are. FEMA is still studying that issue and is not expected to have a complete report until late next year.

Mr. DUFFY. I find that to be outrageous, that we have a program where poor people can actually subsidize rich people who can afford to pay an actuarially sound rate.

Let us go to another point. In our bill—

Ms. VELAZQUEZ. It happens every day.

Mr. DUFFY. What is that? I'm sorry, I missed that.

If we can look out to 4 years from now, 4 years from the enactment of the bill, we are going to remove million-dollar homes from the program if your State commissioner certifies that a private market exists. Now, not multi-family units, we are talking specifically replacement costs for an individual home of a million dollars or more. Does anybody think that is a bad policy, on the panel?

Ms. STERNHELL. I do.

Mr. DUFFY. Why is that?

Ms. STERNHELL. Because setting that threshold doesn't consider the costs of construction in a lot of different regions. And the example I will give here is where you have attached homes and the engineering itself to actually rebuild, if you need to do that, can actually cost a million dollars.

Because defining single-family homes is actually one to four families within a given property. So if I have my home and we rent out the top two floors because that is how we can afford to stay in our home, it may cost a million dollars or just over to actually rebuild that property. It is not that I am so rich necessarily, but that property, which is where my family has lived and we have rented it out to be able to live there, it may cost that much and now I am no longer able to obtain NFIP coverage and will be forced to go to the private market.

Mr. DUFFY. So if you have a home that has a replacement cost of a million dollars or more, it is your testimony that we should not, if a private market exists, move that property into the private market, we should actually keep them in the NFIP and potentially they could be grandfathered and they could be subsidized as well?

Does that make sense to you, Mr. Lehmann?

Mr. LEHMANN. No, we support the—

Mr. DUFFY. Mr. Saks, does that make sense to you?

Mr. SAKS. Our view is that all properties need to be insured at a risk-based rate; it doesn't matter who provides the insurance.

Mr. DUFFY. Mr. Ellis?

Mr. ELLIS. I agree with my colleagues.

Mr. DUFFY. Can I just ask one quick question? We are moving from 31 percent on the write-your-own commission to 25 percent. Does anyone disagree with that provision of the bill? Do we have agreement there?

Ms. Berni?

Ms. BERNI. Yes.

Mr. DUFFY. Okay. I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Missouri, Mr. Cleaver, ranking member of our Housing and Insurance Subcommittee.

Mr. CLEAVER. Thank you, Mr. Chairman.

Mr. Ellis, I may have misunderstood you, and I looked for it in your written comments, and you didn't have it, but I thought I heard you say that the private sector is clamoring for greater participation.

Mr. ELLIS. Yes, sir.

Mr. CLEAVER. What private sector? Insurance or some other?

Mr. ELLIS. Yes, the insurance industry. Certainly, some of the members of SmarterSafer are insurance companies and reinsurance companies. They are advocating for reforms to actually be able to compete in the market.

Certainly, Mr. Ross and Ms. Castor's legislation is supported by many insurance companies because they want to actually write in the flood insurance market. And we have seen after Biggert-Waters a lot of companies started interests in New York and in—

Mr. CLEAVER. Okay, thank you. That is different than what you said. It is different because you threw the statement out and you didn't add anything to it. The truth of the matter is they are not clamoring for it unless there are reforms. And one of the reforms, the lengthening of the reauthorization, giving them more time to look at what is at risk and all components of insurance, including reinsurance.

The other question that I have for Mr. Saks and you, is you mentioned that more people would be at risk as time moves on. Why?

Mr. SAKS. From an environmental perspective, we are seeing tremendous sea-level rise, we are seeing land loss, we are seeing more frequent and more severe storms. And simply by not stepping up to provide mitigation and a response, the risk will continue to grow.

Mr. CLEAVER. You are absolutely right. I wish I had been in Paris with you giving me those comments.

I was reading an article in National Geographic, which says that by 2021, between 4 million and 13 million more Americans will be at risk, from New York to South Carolina to Florida to California as a result of climate change.

So, Mr. Ellis, you and I may have disagreed on something else earlier, but you also said the same thing. So climate change is having an impact on national flood insurance, is that right?

Mr. ELLIS. Yes, I would agree with that. Yes, absolutely, Congressman.

Mr. CLEAVER. Okay. Thank you very much for getting that information out.

The other question that I have is, somebody had mentioned grandfathering earlier. Who was that?

Ms. BERNI. I spoke about that.

Mr. CLEAVER. Okay. So are you aware that FEMA actually doesn't even keep records of grandfathering?

Ms. BERNI. Yes, sir, because they define the policy as actuarially rated when it is written.

Mr. CLEAVER. In your opinion, is that the appropriate—

Ms. BERNI. Yes. We believe this policy should be maintained so that anybody who did as they were told and followed the advice of the Federal Government and built according to the strong standards that FEMA sets out in their maps should be provided with protection and should be given credit for doing as they were told.

Mr. CLEAVER. Okay.

One more question, I will do this quickly. But I agree with increasing policyholder participation in the NFIP program, especially when you see we had a colleague, Cedric Richmond, who represents Baton Rouge, and I think 80 percent—80 percent—of the people who were adversely impacted did not have any kind of flood insurance. What would you suggest as a means of addressing this problem?

Twenty percent of all of the flood claims came from individuals who didn't have insurance.

Ms. BERNI. Yes, thank you for that question. You raise an important point. The Baton Rouge event that happened last August, as you referenced, about 80 percent of folks didn't have flood insurance. And I am sure that is hard for you all to understand after everything that has happened in Louisiana in the last 12 years, but Baton Rouge is about 100 miles away from the coast. This was a riverine backwater event. It could have happened anywhere. And so we have really tried to think about ways to get people to buy more insurance.

As Mr. Saks mentioned, flooding is happening with more frequency and greater severity.

Mr. CLEAVER. Why?

Ms. BERNI. Because of climate change.

Mr. CLEAVER. Oh, my goodness.

[laughter]

Ms. BERNI. And so we believe that encouraging people to buy more flood insurance both brings revenues in line with costs and will provide for greater protections for the taxpayer down the line as well. Ultimately, the NFIP was formed to put some of the people in flood-prone areas to have more skin in the game rather than just having it all funded directly from the taxpayer.

Mr. CLEAVER. Thank you, Mr. Chairman.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Missouri, Mr. Luetkemeyer, chairman of our Financial Institutions Subcommittee.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

And welcome to all the witnesses this morning.

Mr. Ellis, I want to start with you this morning. There are several things I want to get to here. Reinsurance, mitigation and rates are the things I want to talk about quickly here.

With regards to reinsurance, to me it seems like it is very important. We have had the discussion already this morning about the fact that we have had these major catastrophes that accumulated $24.6 billion worth of debt. And while the FEMA NFIP program has the ability to purchase reinsurance, it has not done so until recently when they found out that we are going to try and force them to do it. Now they are starting to have a little pilot program where they are starting to nip around the edges on it.

So I guess my question for you is, do you think it is a good idea to put the private sector on the risk for this excessive occurrence that would happen rather than the taxpayers?

Mr. ELLIS. Absolutely, Congressman. I think that it is important to lay off that risk on the private markets and then the private markets can lay off that risk all around the world or use catastrophe bonds or other means. And that is what insurance companies do to mitigate the risks rather than just simply borrowing more from taxpayers.

Mr. LUETKEMEYER. Okay. Is there enough capacity in the system that you see?

Mr. ELLIS. My understanding was that the most recent issuance was oversubscribed, was that there was more companies wanting to sell reinsurance to the NFIP than were actually able to.

Mr. LUETKEMEYER. Mr. Lehmann, I see you nodding your head. You are apparently in agreement with that?

Mr. LEHMANN. Yes, absolutely.

Mr. LUETKEMEYER. Very good, thank you.

With regards to mapping, I have a kind of unique situation from the standpoint that I have the Lake of the Ozarks in my backyard. And the Lake of the Ozarks is a man-made lake as a result of a dam. It is a hydroelectric dam that produces electricity for a local utility. And because of topography of the area, you have 1,150 miles of shoreline, which is more miles of shoreline than the State of California. And because it is not a core lake, you can build right down on it. So as a result of this, I have a flood insurance problem in my backyard, which is where I live, the size of the State of California. So to me, mapping is extremely important.

And I offered a bill to try and improve the ability of FEMA to be able to do something with their mapping process. Because in testimony in this committee some time ago, the director made the statement that—I asked him the question, how often do you think you are going to get back to be able to map these properties around the country? So, an average of 7 years. That means anywhere from

5 to 12 years before you are going to get to some of these properties probably. He said, yes, that is true.

So what we did in our bill was say, if at the end of 3 years you haven't been able to get back to these properties, the local folks should be able to remap their own things. And I will give you an example. At the Lake of the Ozarks, for instance, there are 27,000 people with a piece of property around this lake and that means you have 300 or 400 letters of map amendment (LOMAs) every year that cost $300 or $400 or $500 a piece. This is ridiculous. So if the communities wanted to get together to do this to be able to remap their communities, it seems to me like they should be able to do that.

What do you think of that idea, Mr. Ellis?

Mr. ELLIS. I think as long as there are adequate safeguards and standards that meet what the Technical Mapping Advisory Committee is laying out currently for FEMA, that makes sense. I also noted in my testimony that the State of North Carolina, for instance, took mapping money and actually used aircraft to do LIDAR elevation data in their higher-risk counties. So that is certainly an area where they took the bull by the horns and did a better job for their consumers and actually made all that information available online.

Mr. LUETKEMEYER. Ms. Berni, would that be helpful in your area, to allow the local communities to be able to remap everything to make sure they are accurate?

Ms. BERNI. Yes, absolutely. One of the big things we have advocated for is greater local stakeholder involvement. We have seen, though, that a lot of times local communities oftentimes don't even have the funding to appeal the maps. So we would request or respectfully request that the committee just consider funding for additional mapping increases. But yes, we would support this proposal and additional local stakeholder input in mapping.

Mr. LUETKEMEYER. Thank you very much.

With regards to the replacement cost rates, we have had a discussion in this area a little bit, but it seems to me and one of the things that we did, I have offered a bill with regards to this, and basically it takes the Florida model which shows that it can be done and done successfully. But what we are doing is the average home is $167,000 and basically people under $167,000 are supporting and subsidizing those above it when you have one rate across-the-board.

It would be like if you had a $167,000 house, but yours was only $50,000 in value versus $250,000 in value, but you are charged one premium across-the-board. To me, this is nuts. This doesn't take into account the value of the property. So I think it is very important that we get back to replacement cost values.

Mr. Lehmann, what do you think about that? I know you had some testimony with regards to the risk-based rates.

Mr. LEHMANN. Right. My understanding is that FEMA's current methodology uses a sort of national average for replacement costs as opposed to property-level replacement costs or even local replacement costs. There would have to be a process. I know there are contractors who provide that data, data and analytics firms.

Mr. LUETKEMEYER. It would seem to me that it would also make the rates more competitive.

Mr. LEHMANN. Absolutely. And currently, there is no doubt that a property that is more expensive to repair is—

Mr. LUETKEMEYER. Yes. So if you have lower-income folks who have a $50,000 house, even though we would restructure the program, they are going to get a break on this premium.

Mr. LEHMANN. That is correct.

Mr. LUETKEMEYER. Thank you very much.

I yield back, Mr. Chairman.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentlelady from New York, Mrs. Maloney, ranking member of our Capital Markets Subcommittee.

Mrs. MALONEY. Thank you, Mr. Chairman.

And I would like to first of all thank the City of New York and Mayor de Blasio's office for commissioning a RAND study of flood insurance for New York, which examines a number of different policy options to ensure that flood insurance is available and affordable for middle-class families.

And I would like to ask unanimous consent to place in the record the RAND report.

Chairman HENSARLING. Without objection, it is so ordered.

Mrs. MALONEY. Thank you very much.

First of all, I would like to ask Ms. Sternhell, section two of the Flood Risk Mitigation Act would penalize communities with more than 50 repetitive loss properties or more than five severe, repetitive loss properties if they don't have a community-wide plan for addressing these specific properties.

And my question is, does it make sense for entire communities to have to develop a plan to deal with just five properties and to potentially be kicked our of the National Flood Insurance Program if they don't make sufficient progress on this plan? And aren't these thresholds way too low? What is your opinion?

Ms. STERNHELL. On having a plan? Absolutely, yes, I agree we should. On being kicked out? Absolutely not. And on the thresholds? Yes, they're far too low, especially when you consider the size of some of the communities. New York City's floodplain, based on the pre-FIRMs that are undergoing revision right now, has over 70,000 structures. So it is one thing if you have a few hundred structures and say, okay, five very bad apples and you need to deal with this. It is another thing if you have over tens of thousands of structures.

Moreover, sometimes these properties aren't located in contiguous regions. We have the five boroughs, for example. We could have problems in Staten Island, two opposite sides of the island, a property in Queens and then two in Brooklyn miles away from one another. We are happy to develop plans, but at what cost then to deal with these and to remedy these? And what then becomes available to us?

Would the committee be suggesting we utilize eminent domain or something that severe to remedy these properties? And with what funding available, given pre-disaster mitigation funding is not hugely available and it is not nearly robust enough to meet the need of the Nation?

Mrs. MALONEY. And do you think it is fair for entire communities to be sanctioned under this provision?

Ms. STERNHELL. No, I don't. And FEMA already has some authorities to suspend communities for failure to manage their floodplains properly. I don't know why we would need these new additional sanctions or provisions to kick whole communities out. Certainly, again, we absolutely endorse developing new, rigorous floodplain management plans, but not such that we could eventually be kicked out because we are trying our best.

Mrs. MALONEY. Okay. Now, I would like to ask you also about section eight of the National Flood Insurance Integrity Improvement Act, which would prohibit these policies altogether after 4 years for new structures that are either in special food hazard areas or that have a replacement cost of more than a million dollars. Even if FEMA temporarily waives this prohibition, which you can only do for 1 year at a time and only if private market insurance is not available, there will be a 10 percent surcharge on these policies for these new structures.

How would this provision affect New York City?

Ms. STERNHELL. It would create real problems in terms of redevelopment on the floodplain and three issues really. First, the one from the taxpayer perspective of whether you will have an NFIP versus depending on whether the State goes ahead and makes the case. It is entirely possible that there is 10 percent market penetration in one part of the City, but not elsewhere. But now that person and that homeowner is foreclosed from accessing the NFIP. So that gets to choice. And foreclosing on the choice, we do not object to people going out and getting private insurance. If they get a better rate, go ahead. But foreclosing the option of the NFIP is a real problem.

Mrs. MALONEY. Now, do you think it is fair for homeowners to be penalized really for the private market's failure?

Ms. STERNHELL. No, I don't. Not at all.

Mrs. MALONEY. It is not available usually, Okay.

Ms. STERNHELL. Certainly, some development can actually help make communities more resilient even. Taking over a parking lot and putting resilient housing there can actually protect a neighborhood.

Mrs. MALONEY. And as you noted in your testimony, in some ways, flood insurance is very different in New York City. For example, some mitigation options that are available in other communities, such as elevating the house, is simply not an option in New York City when you have tall buildings 50 stories and even higher, you can't do that. And the mitigation options that we do have in New York don't get enough credit in the current program.

So do any of these flood insurance bills address this issue?

Ms. STERNHELL. Not to the degree we would like to see.

Mrs. MALONEY. And could more be done to make sure that the mitigation options that are available to large urban areas, like New York, get the credit they deserve for lowering risk to the National Flood Insurance Program?

Ms. STERNHELL. Yes, if I may very quickly answer.

Chairman HENSARLING. Quickly.

Ms. STERNHELL. Yes. If we could actually look and see that mechanicals are a big part of every claim, let us lift the mechanicals and then let us reduce the premium because we got things out of harm's way.

Chairman HENSARLING. The time of the gentlelady has expired.

The Chair now recognizes the gentlelady from Missouri, Mrs. Wagner, chairwoman of our Oversight and Investigations Subcommittee.

Mrs. WAGNER. Thank you, Mr. Chairman.

And thank you all for appearing today to discuss the reauthorization of the flood insurance program which is, as we all know, set to expire this year in September. This is an important issue for the St. Louis region and, in particular, my 2nd Congressional District which has seen two major floods, in fact two 500-year floods in less than 2 years.

With the NFIP being $24.6 billion in debt, as has been duly noted, it is important to make sure that there are reforms to the program necessary to keep it solvent and continue providing coverage for those who live in the areas that truly need it.

To help offset this burden on the NFIP, I believe a strong private market is important for offering consumers more than one choice and giving them flexibility and options at oftentimes greater affordability in the coverage they are seeking.

Mr. Lehmann, when the NFIP was created in 1968, the belief was that the private insurance markets lacked the data and the ability to assess flood losses. What has changed in terms of data, technology, and the market's ability to assess risk since then, sir?

Mr. LEHMANN. So there are a couple of aspects. There is the issue of the modeling is the first major answer. Modeling was introduced in the 1980s and has progressed significantly since then. Also in the 1960s, you still had a lot of smaller regional insurance companies that had solvency risk and not the deep reinsurance markets that we have today. So the market has changed significantly and larger companies, it is a global industry where risk gets sort of segmented and chopped up and sent around the world, which is a good thing. And keeping risk on our shores is not something that we want to encourage.

Mrs. WAGNER. Do you believe, sir, that private capital would retreat from the market in those cycles where there are significant floods, for instance?

Mr. LEHMANN. There is a noted, in the property casualty insurance industry, cycle of capacity expanding and rates dropping and capacity shrinking and rates increasing. So that is normal, but it is a cycle. When rates go up, that attracts more capital and brings rates back down again. So we saw that after Hurricane Katrina. We certainly saw it after September 11th. We have been in a soft market for some time, so even Hurricane Sandy did not have the effect of making capital retreat. It has stayed soft all through that.

Mrs. WAGNER. Interesting. Your testimony refutes the notion that private sector cherry-picking the lowest-risk properties will destabilize the NFIP, which is something we hear often, to be perfectly honest. Can you provide more detail on that?

Mr. LEHMANN. I would not dispute that subsidized properties are unlikely to be moved out of the NFIP until they pay risk-based rates. That is true. But it is not the level of risk. There are subsidized properties that are higher and lower risk. There are high-risk properties that pay relatively a lot for the risks that they face. And there are low-risk properties that don't pay enough.

So it is a question of, does the risk match the premium? Those where the premium exceeds the risk will be the first to go, but that is not the same thing as cherry-picking. The program itself is a high-risk program and every policyholder in that program presents a potential cost to the taxpayers, which is why on an annual basis it is not actuarially sound.

Mrs. WAGNER. Will private insurance companies need to take on higher-risk properties in order to kind of chase the yield?

Mr. LEHMANN. They will take on high-risk properties where the high-risk property presents an appropriate return for them. I live in Florida, and that is something we have seen in Florida, in the citizens depopulation program, that high-risk properties, particularly in south Florida, are among the most attractive to the private market.

Mrs. WAGNER. Which barriers with the NFIP prevent private insurance from entering the market? And how do these legislative drafts today help solve some of those problems, Mr. Lehmann?

Mr. LEHMANN. There remains some confusion about what counts for the mandatory purchase agreement. The Ross-Castor language looks to address that. We do think there is still some confusion, even with that bill, in that the Federal banking regulators have not weighed in yet, and we don't know when they will. And so in the interim, we would like that language to be self-executing so that where a State insurance commissioner decides, determines that a policy is appropriate, that it will meet the mandatory purchase requirement. That is the top.

Mrs. WAGNER. My time has expired. I yield back, Mr. Chairman.

Chairman HENSARLING. The time of the gentlelady has expired.

The Chair now recognizes the gentlelady from New York, Ms. Velazquez.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

And let me take this opportunity to thank you and my colleague, Mr. Duffy, for working with me to address so many of the claims processing problems New Yorkers faced after Hurricane Sandy. I was pleased to see many sections of my bill were included in the discussion drafts we are reviewing today.

While I have concerns with portions of these discussion drafts, it is my hope that we can continue to work in a bipartisan manner to address these concerns and pass a long-term reauthorization of the program.

Ms. Sternhell, as you know, New Yorkers were devastated by Hurricane Sandy, particularly my Congressional district. Following the storm, there weren't enough qualified, licensed engineers available to assess homeowners' damage, exacerbating many of the problems homeowners faced after the storm.

Can you please speak to the importance of having qualified, licensed engineers participate in the assessment of storm damage?

Ms. STERNHELL. Certainly. I think it comes down to trust and trusting that what you are being told is fact and you can trust and rely upon what they are telling you as you proceed not only to rebuild, but to pursue your claim.

We dealt with an analogous situation with the rapid repairs program. We needed licensed electricians and plumbers immediately available to come and do work so we knew work was being done correctly. And that was such a big part of the claims process and the frauds where you would have individuals who maybe weren't engineers and maybe were assessors, but didn't necessarily have skills or weren't equipped to deal with the certain situations they were presented with. So we would absolutely endorse this provision.

Ms. VELAZQUEZ. Thank you.

Ms. Sternhell, in your testimony you suggest that a provision be included in the NFIP policy contracts that notifies policyholders that they cannot waive the right to appeal, litigate or review documents in a contract. Can you explain why inclusion of such a provision is important to a homeowner pursuing a flood claim?

Ms. STERNHELL. Certainly. When people are in a vulnerable state, we would like to ensure that they preserve their rights. They may not need to exercise them, but they retain those rights. And so we would not want to see a situation where, by virtue of signing an insurance agreement or maybe even having an assessor or adjuster, anybody can come by and ask you to sign a waiver of some sort, you no longer have the remedies you are entitled to under this legislation.

Ms. VELAZQUEZ. Thank you.

And, Ms. Sternhell, the National Flood Insurance Program Policyholder Protection and Information Act of 2017 requires the FEMA Administrator to consider the differences in properties located in coastal and inland areas when calculating annual premium rates. What would this provision mean for policyholders living in the coastal areas of the U.S., many of whom already pay higher premiums than most other NFIP policyholders?

I know that there was an exchange previously, but I would like to offer this opportunity for you to expound on how it is going to impact those who live in coastal areas.

Ms. STERNHELL. Certainly. What is confusing a little bit about this provision is that coastal residents already pay V zones. And so there is already a mechanism within the program to actuarially rate coastal properties with the V zone designation. So that already is present within the NFIP program.

Ms. VELAZQUEZ. What will this provision mean for the residents of New York City, specifically?

Ms. STERNHELL. To be honest, Congresswoman, I am not exactly sure. What I would hate to see is that further divisions that aren't based on sort of accurate mapping or actuarially principles further creating a divide. Not only do we have coastal V, but we also have riverine communities, so we have the full gamut and understand the spectrum of rates and zones that can be available.

Ms. VELAZQUEZ. Thank you.

Thank you, Mr. Chairman.

Chairman HENSARLING. The gentlelady yields back.

The Chair now recognizes the gentleman from Michigan, Mr. Huizenga, chairman of our Capital Markets Subcommittee.

Mr. HUIZENGA. Thank you, Mr. Chairman.

And I am going to try to—I have a lot of material, so I will try to move along quickly.

And I am going to start with you, Mr. Ellis. As pointed out by Chair Wagner, in 1968, we might not have had the ability to do what we can do today as far as data collection and all those things. But how would you gauge the private sector's appetite for entering the flood insurance marketplace? And how much of what currently is in that public space do we estimate that they could absorb?

Mr. ELLIS. As I indicated in my testimony, Congressman, and this kind of gets to the comments about clamoring, that actually under the current provisions of the flood insurance program, so with no further reforms, we have about 20 companies that are writing first-dollar flood insurance in the State of Florida and they are writing in all the various risk profiles. That is where 40 percent of the NFIP policies. So, clearly, there is an interest there.

And it also would get to I think one of the questions about getting more people with flood insurance. The more we normalize the flood insurance experience, that is it part of a rider on your existing homeowner's policy, more people are going to be insured. And that is what we should be trying to get is more Americans actually having flood insurance than do today so you don't have what happened in Baton Rouge where you don't have so many people actually only getting a few thousand dollars in disaster response instead of getting, in that case, $87,000 in flood insurance payments.

Mr. HUIZENGA. Okay. And do consumers benefit when there is only one choice?

Mr. ELLIS. Absolutely, Congressman. And as I said before, the only reason why anyone would opt for a private policy is they got a better price or a better product or both.

Mr. HUIZENGA. Okay.

Ms. Berni, we have learned a lot, hopefully we have learned a number of things since 1968. I am curious what you believe has changed in terms of data, technology, markets' abilities to assess risk. And since 2012, what happened with the development of a private flood insurance market?

Mr. LEHMANN. Since 2012, a lot of it did start with Biggert-Waters and the acknowledgment that subsidized rates were going to start to recede and that grandfathered rates, that was—

Mr. HUIZENGA. Was that pun intended, receding on the flood—[laughter]

Mr. LEHMANN. Yes.

Mr. HUIZENGA. Just curious.

Mr. LEHMANN. There would be risk-based rates, that we would be gradually moving to risk-based rates did begin to interest private insurers in writing much more than they had been.

Among the things that have changed that has brought in more private capital is simply the fact that home prices have increased. So we have a $250,000 statutory limit, and so you have much more umbrella coverage, excess coverage. Private insurers are writing that, they are becoming comfortable with the risk. They are buying reinsurance for it. And once they get to that level of comfort, they are ready to write it at the first dollar.

Mr. HUIZENGA. You believe that consumers should be involved and engaged in this, right?

Mr. LEHMANN. Absolutely.

Mr. HUIZENGA. Okay.

How about local entities, local governments?

Mr. LEHMANN. Certainly, yes. We support Mr. Saks, his proposals of community-based mitigation. We think that is appropriate and, of course, in addition to hardening properties, elevating and so forth.

Mr. HUIZENGA. Yes. I think that is what a lot of us are concerned with. I grew up in a flood zone, in a floodplain. We had to lobby our local county road commission to change a bridge that they tried to say removed as much water, and clearly it didn't because we haven't been flooded or my parents haven't been flooded.

Ms. Sternhell, we did just pull Mayor de Blasio's executive budget, $82.2 billion. My understanding is the RAND Corporation, the most aggressive mitigation grant and loan estimation was $100 million of that. And as I do the math here, I think that is .00121655 percent of the entire New York City budget.

Ms. STERNHELL. I will take your word for it.

Mr. HUIZENGA. And it seems to me, at some point or another, we have to have our local entities step into that gap as well.

And with that, my time has expired.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from New York, Mr. Meeks.

Mr. MEEKS. Thank you, Mr. Chairman.

And I, too, want to thank you and the ranking member, and Mr. Duffy, and Mr. Cleaver, for working on this bill and trying to make it a bipartisan bill, for surely when we talk about these floodwaters, I believe as a result of global climate change, this is an area that we need to figure something out because it comes to all regions of the country. It affects all parties and all individuals. So I am hopeful that we can continue in that same vein and working together and ultimately come up with a product that is good for everyone.

With that, I was intrigued in listening to some of the conversation and the questions and answers going back and forth. And I come from a district that was devastated by Hurricane Sandy. And this whole issue of grandfathering is extremely important to me.

If you look at the communities in my district, especially those in Nassau County and along the Rockaway Peninsula, you find individuals who are—many of them are not rich. Many of them are not poor, but they are middle-class, hardworking individuals who are trying to live the best that they can and the American Dream. They made sacrifices to own their home.

So I would like to ask Ms. Kagan Sternhell first about these grandfathering provisions and what happens if they were removed. Because when I talk to my constituents, some will just talk about how their premiums will increase by thousands of dollars and then they couldn't afford the homes because they are paying day-to-day, struggling day-to-day to pay their mortgage, et cetera. Then what happens to these hardworking, middle-class Americans?

So may you elaborate on the value of grandfathering and the implications removing grandfathering would have on the affordability of a house for a hardworking, middle-class family?

Ms. STERNHELL. Yes. And, to what Caitlin has elaborated on an others, we believe grandfathering is important because where you have built to code and done as you have been told, you should not be penalized as the world changes around you necessarily. Now, that is not to say that the communities and the City itself is undertaking a number of mitigation measures and certainly around your district with the Rockaway hardening, but for a lot of these individuals that is part of the reason we commissioned the RAND study to look at what this means and develop the thing called a pity ratio which looks at sort of the cost of carrying a home, independent of just necessarily home value or income, certainly factoring income in, but whether your insurance-burdened, which actually hits at some of these middle-class individuals and these homeowners to say, okay, by virtue of these insurance rate increases or 1 percent, 2 percent, what have you, it becomes unaffordable to even live in your home.

And so that is why grandfathering was sort of highlighted in that report as one of the most effective tools. And then one of the even more cost-effective tools was actually means-tested targeted vouchers or credits to help individuals stay in their homes.

Mr. MEEKS. Thank you.

And I want to stay with you, Ms. Sternhell, because I think in your testimony you noted that proposals to disallow the National Flood Insurance Program coverage for new construction and special flood hazard areas are misguided, I think that was your word. And from what I have read, I think I agree with you considering that approximately 400,000 New Yorkers live in these areas. And a smart alternative would be to require sustainable construction in high-risk communities, I believe.

For example, in New York we saw new construction in New York City communities, including Battery Park and Arverne by the Sea, emerged relatively unscathed from Hurricane Sandy because they were built for resiliency.

Could you provide an alternative proposal that would protect taxpayers from risks, yet maintain NFIP's accessibility to homeowners in flood-prone areas like Nassau County and the Rockaways?

Ms. STERNHELL. Absolutely. So for individual homeowners, the City immediately changed its building code following Hurricane Sandy such that any new construction has to be built to what the current FEMA standard is plus additional feet of freeboard. And so that if anything is going to be rebuilt, you have to be building to a more resilient standard and one that considers the environment.

So there are sort of City-level things we can do in addition to the Staten Island sea wall and programs like the Staten Island Bluebelt, which are actual wetlands that we have built that do ponding and where you can't actually have great drainage. They will actually feed in, absorb water and drain it out to the sea, further protecting communities, just as Mr. Saks has talked about. So we absolutely endorse the green infrastructure options.

And again, sort of general routing and with an eye to new construction codes, continuing to make sure that if we are going to put things within our floodplain, that we do so in a smart manner and with ways that truly consider what is going to happen in the next 10, 15, 20, years.

Mr. HUIZENGA. Thank you.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Florida, Mr. Ross, for 5 minutes.

Mr. ROSS. Thank you, Mr. Chairman.

Mr. Chairman, I want to thank you for having this hearing today. I think this is something that is long overdue, and especially in light of the expiration of the NFIP by the end of September. We have our work cut out for us.

And as we go back over the last 50 years since the NFIP was created in 1968, a time when we were trying to put men on the moon and technology was at its infancy as we know it today, we also saw that there were limited building codes, limited zoning restrictions, urban sprawl and, therefore, a market that just did not want to particulate in the flood insurance arena and so, therefore, we engaged the Federal Government with warnings, knowing that if we did so for very long, it would create a moral hazard, which we are at today.

So my concern, and I will start with you, Mr. Ellis, is in 1968, one of the underlying reasons for the National Flood Insurance Program was that there was not available technology, mapping and data that would justify being able to accurately assess the risk and, therefore, we couldn't place it on the market. What has happened since then? Have we seen an advancement that might make it a little bit more realistic as to what the risk may be?

Mr. ELLIS. I would venture, Congressman, that my iPhone probably has about as much computing power as a whole room did at that time of computers. And so I think that we have moved dramatically, technological advances in modeling, and Mr. Lehmann referred to some of these earlier, in that we are in a much different place, and then also just the way the insurance industry has changed dramatically in that timeframe and about being able to lay off risk worldwide. And so we are just in a different place where it makes sense to shift more of the risk to the private sector.

Mr. ROSS. And we have seen greater capacity, would you not agree? That there is sufficient capacity out there in the private sector to come in and take a sizable, if not all of the risk that is being borne by the NFIP.

Mr. ELLIS. Absolutely, and probably beyond that, hopefully, as taking on more and more people get flood insurance. Absolutely, Congressman.

Mr. ROSS. But the barriers that have been created over the last 50 years have allowed us to kind of limit the involvement of the private sector except for what has come back since 2012. So my purpose here today is to, quite frankly, talk about the Insurance Modernization and Parity Act that I filed last year, that we passed overwhelmingly in this House.

And my concern is that we desperately need to have the ceding of risk to private capital in order to make a viable market that is competitive and good for the consumers. Would it not be a good first step to make sure that we allow for those barriers of private capital to be broken down to allow the State regulators to do what they do best, not only in terms of solvency, but consumer protections, and at the same time allow to exist as it has been for the last 50 years, the safety net of the NFIP so if those consumers out there feel prejudice, they won't be?

Mr. ELLIS. Absolutely, Congressman. You actually undersold your bill. It wasn't just overwhelmingly, it was 419 to zero, which is not very many substantive pieces of legislation pass unanimously in the House, and so absolutely. This is just a common-sense approach that there is never an intent that people couldn't buy private flood insurance, there is no prohibition that you shouldn't be able to buy flood insurance. And this just says, all right, as long as you get something that is comparable, you can actually have that and meet your mandatory purchase requirement.

Mr. ROSS. And as a result, we created a subsidy, a subsidized market that, in effect, flies in the face of the laws of economics because, Mr. Lehmann, as you pointed out, there may be a spike in rates, but it is not rates that create the problem, it is the return on the investment of that capital that is at risk.

So in other words, if you have capital that is at risk, but you can reduce that risk, you can get a higher rate of return, but yet have a lesser rate that you are charging the consumer. Is that not true?

Mr. LEHMANN. That is absolutely true.

Mr. ROSS. The only way that happens, though, is if you bring that capital in to assess that risk. So instead of having the NFIP out there saying we are going to just do a one-size-fits-all policy premium, we actually invite those carriers to come in and do what they do best, and that is put their capital at risk and manage that risk. And if we are going to make this change to where we want people to feel as though they have not only the comfort of knowing they are insured, but also to know that they are going to be able to find it at an affordable rate, we have to open up the markets.

And so my next question, and I would offer this to the panel is, what significance is mitigation? We have housing stock out there that has been built for years, we have no aggressive policy to try to make these more resilient, to remediate them. Who would like to just in 30 seconds address mitigation?

Mr. SAKS. Congressman, if I could, I would like to say of course mitigation is the key to affordability. It is also an essential right now. And we have had a lot of discussion about grandfathered properties and subsidized rates. And I would say one of the troubles with properties like that is that they are not sending a market signal that is encouraging people to take matters into their own hands and take pre-disaster, mitigative action.

Mr. ROSS. Which is absolutely necessary and maybe we should do it through tax incentives, maybe we should do it through private/public partnerships with some of our building supply companies that can come in there and allow them to finance at zero or no rate to be able to do this mitigation that is so necessary.

I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Georgia, Mr. Scott.

Mr. SCOTT. Thank you very much, Mr. Chairman.

My major concern is making sure that those families who are most at risk can obtain affordable flood insurance. And that, Mr. Chairman, if I might say a word to you on that, is what is missing in this bill.

Let me just give you an example of what I am talking about. In this bill, my Republican friends have put into this bill what is referred to as a voluntary buyout program. And my understanding is that it is to discourage repetitively flooded properties from rebuilding after flooding. But there is no money there. If we ever had a glaring example, Mr. Chairman, as to why we need to enlarge this.

It is important that we have a bipartisan flood insurance bill and I believe we are going to have one. But I want to make this point. FEMA has declared that for every dollar that we spend on flood insurance to help people, we save the taxpayers $4. I think that is gone from here and I am very perplexed by it. But there is in this bill a buyout program. Now, how can you buy something out when you don't have money attached to the program?

Can I get the panel to address this?

Mr. Saks, let me start with you because I enjoyed your commentary. You talked about mitigation. You talked about not increased funding, but you did talk about affordability and mitigation. Here you have this program and I think it has some promise, it is a good program, but how can you have a buyout program and you don't have any money attached to it to do the buyout?

Mr. SAKS. Thank you, Congressman. And I do believe that the committee should find more ways to invest in mitigation. And I offered some solutions to that in my testimony.

With regard to the buyouts, I believe the intent is that would draw on existing programs that currently pay for buyouts and this would target people into it, but I am not sure of that. But there is existing money currently for buyouts in the flood program.

Mr. SCOTT. And there is my point. Because let us be realistic here. Where are the buyout possibilities? Where is the greatest impact of this? Do you know where it is? It is in the lower-income areas, it is where developers went in without adequate mapping, built housing on the lower plain, and you know who moved into those? It wasn't your wealthy people. They have money and they have enough sense to know that, why am I going to buy a house in a low-plain area?

So my point is, what I want from you all is to share with the chairman and with this committee that we need to do more mitigation, affordability, and if we have a great program like this for voluntary buyouts, understand that the greatest impact we can make for FEMA's investment return of every dollar, they get $4 for the taxpayers, we have to look at it the fact that it is the lower-income people who don't have that choice, who see a home develop there and boom.

I am a living witness to this. Three years ago, Atlanta's whole metro area was flooded. Six Flags Over Georgia is in my district, and you all saw it. We went and got Vice President Joe Biden who flew down with us, and looked at it. And you know who lived in those areas? They were lower-income people. They can't do it.

So I think in our haste to, and I am very hasty in saving the taxpayers money, but a return of $4 for every $1, helps us get to that point and we will have a bipartisan bill.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Illinois, Mr. Hultgren.

Mr. HULTGREN. Thank you, Mr. Chairman.

Thank you all so much for being here. This is an important discussion and something that we have to get done, we have to make sure that there isn't any type of lapse.

And I think there is basically among most of us a shared commitment that we want to make sure that who need flood insurance, can afford it, but also that we, as best as we can, make sure that taxpayers aren't on the hook, that we get markets working again. And that is really what I want to see happen.

So I thank you for the information that you have given to us and the important steps that we are taking and hopefully we can move this forward quickly and get some important work done so that markets are not disrupted at all, and this can keep flowing.

My district is just west of Chicago, but many of my constituents live in floodplain areas along the Fox River or in the lake country which is kind of in the northern counties of Illinois. In fact, Illinois has the Nation's largest inland system of rivers, lakes, and streams. And 12 percent of the entire land area in Illinois is mapped as floodplain.

What is important, though, for all my constituents, whether they live in a high-risk area or not, is to understand the risks of their own property and also that they are empowered to make responsible decisions of how to manage that risk.

I remain eager to hear ideas about how to reform what I think most of us would agree is a broken flood insurance program, $25 billion in debt and growing; it just isn't sustainable. It is irresponsible government and it is unfair to taxpayers. We also have to make sure, though, that flood insurance remains available to those who need it and choose to use it responsibly.

I want to address my first question to Mr. Ellis. In your testimony, you say, "Masking subsidies with lower rates prevents policyholders from understanding their true level of risk." I wonder if you could expand on the moral hazards that subsidies create. And would a change to how this subsidy is delivered help consumers make more informed decisions regarding flood insurance?

Mr. ELLIS. Thank you, Congressman. And I would argue that the fundamental, basic responsibility of government is to protect their constituents, and yet you have this program where people are being subsidized to live and continue to live in harm's way. And that is one of the things that bewilders me somewhat in talking about artificially holding down rates rather than doing other things to make flood insurance more affordable.

And also, the other thing that I would point out is that the discussion draft that was provided did have a bunch of transparency measures so that we actually have an effective risk communication, that people understand that they are at higher risk, which could incentivize them to mitigate their risk and have a better understanding.

Mr. HULTGREN. That is great. That is absolutely what we want, is where possible to make sure that good decisions are made to mitigate risk. I think it also just drives us crazy when we see these repeat offender properties that so much money is poured into. We have to continue to figure that out and deal with that.

I wonder, Mr. Saks, if I could jump to you. One of the provisions in the draft legislation, which was also included in Ranking Member Waters's proposal, would prohibit the NFIP from selling new policy coverage to future structures built in today's highest-risk areas. By limiting future risk into the NFIP, what effect would this have on the fiscal health of the program? And is this a risk the private market would be willing to take on?

Mr. SAKS. First, I will answer in reverse order. I believe, yes, the private market would take this risk on and they have said as much.

I think for the view of the National Wildlife Federation, our interest has always been that rates send a market signal to slow development and we continue to support that notion.

Mr. HULTGREN. Okay.

I am going to finish up with Mr. Lehmann. I wonder if you can go into this, and maybe open it up to others as well, but one of the most fundamental aspects of the National Flood Insurance Program and for all flood insurance is reliable data and accurate mapping. And it has been one of the, I think, greatest frustrations for many of my constituents and other folks in Illinois, frustration that the maps just don't really reflect the risk. Despite dramatic developments in flood modeling and mapping technology, the average map is 35 years old, according to the Association of State Floodplain Managers.

How can the entire flood insurance system, private and non-private entities, better utilize the available technology? And I wondered if you could maybe talk a little bit about your views of the value of LIDAR technology, light detection and ranging technology.

Mr. LEHMANN. Sure. And that has been mentioned by other witnesses before. We know about North Carolina's experience with LIDAR. We think that is a valuable tool. We think FEMA should be required to use it, LIDAR and other modern methods, to get property-level data, which would also help with many of the subsidized properties that currently don't have flood elevation certificates. Ninety-seven percent of them don't have flood elevation certificates.

Mr. HULTGREN. Thank you all so much.

I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Florida, Mr. Crist.

Mr. CRIST. First, I want to thank Chairman Hensarling and Ranking Member Waters for holding this important hearing today.

And I want to thank our witnesses for taking the time to be with us and share your expertise.

As my Florida colleagues can attest to you, our State is the biggest player in flood insurance in the country. And within Florida, my home, Pinellas County, St. Petersburg, Clearwater, is ground zero. We are literally a peninsula. Pinellas County is on the peninsula of Florida. We are surrounded by water. My constituents rely on the National Flood Insurance Program for economic security as well as peace of mind, which is why it is so important that we reauthorize this program on time and why I am concerned to see that some of these drafts don't contain legislative language that would do that, because I think that is our number-one priority. It is my hope and my belief that this will be remedied very quickly.

It is also my hope that we can work together to address some of the affordability concerns that I have and others share. It is clear that these bills propose several changes to address both affordability as well as solvency.

Ms. Sternhell, taken together, do you believe that these bills will decrease or increase the costs for policyholders?

Ms. STERNHELL. I believe ultimately they will increase the cost to policyholders. The City's position is that if you can get a private flood policy, please go ahead, and we do not object to individuals and the private market being able to count as part of your mandatory purchase requirement.

But what that will then do is start to encourage, especially if the non-compete agreements fall away, as currently presented in this legislation, individuals to come in, private entities to come in and take the less risky policies. They may be located in a V zone, but it may not be a risky policy.

And as Mr. Lehmann himself as testified, it needs to make market sense, they need to make a profit. And even in the study of the Reinsurance Association, cited by a number of the panelists here today, they even note that for policies to come out of NFIP and to make sense, they have to be profitable for the private insurance industry.

NFIP was created because there was a market failure, and so by its very nature it has high-risk policies and people who could not necessarily get coverage in the private market. What this is trying to do and by forcing people to private coverage, it may not be affordable for them by foreclosing the option of NFIP and not leaving that as an option, but the alternative only being private. It may become more unaffordable for them and for that we are very concerned.

Mr. CRIST. Thank you.

Ms. Berni, would you agree?

Ms. BERNI. Forgive me, yes, I would agree. As Ms. Sternhell mentioned, between the floors going up from 5 percent to 9 percent and also the increases in the surcharges, we are very concerned that this would overall increase the cost of the policy for folks across America.

Mr. CRIST. Thank you. In my home of Pinellas County, 69 percent of all policies in the special flood hazard area are non-waterfront and have home values of just $170,000 or less. This is the middle class, these are working families. This is the American Dream for them.

We have the power and the moral responsibility to help these folks. But if our committee puts flood insurance out of reach for the middle class, those families in my district and elsewhere would have done everything right, but they could lose it all. I am certain that it is not the intent of this legislation and that we can work together to produce a strong, timely, and affordable reauthorization of the National Flood Insurance Program.

I yield my time back, Mr. Chairman. And thank you again.

Chairman HENSARLING. The gentleman yields back.

The Chair now recognizes the gentleman from North Carolina, Mr. Pittenger.

Mr. PITTENGER. Thank you, Mr. Chairman.

And thanks to each of you for your testimony today and your good thoughts and counsel.

Chad Berginnis, executive director of the Association of State Floodplain Managers, mentioned in his testimony in March of this year the term "freeboard," which means the committee has adopted a building standard that is higher than the base flood evaluation for 100-year floodplain. What would be the impact of a national standard requiring all newly constructed properties to meet this freeboard standard?

We will start with you, Mr. Ellis.

Mr. ELLIS. We haven't taken a position on national building standards. We think that we have done some things and advocating disaster relief that States that actually do have stronger building standards that that would make sense.

Also, we have supported basically that any Federal investments actually go to having a higher freeboard, but we haven't talked about it for homeowners; they are all developments.

Ms. BERNI. If I may, we also, in the City of New Orleans, have an additional foot of freeboard that is required in our building codes. And we are working very hard to make sure that we are increasing mitigation and increasing standards and making our community more flood-resilient as well. And so we are taking the steps proactively.

Mr. SAKS. I would say that it is an important part of reducing flood risk, but it's only one part of the puzzle. And many of the other mitigation steps I talked about today also need to be included.

Mr. PITTENGER. Thank you.

Ms. STERNHELL. I would say from New York City's perspective, within months of Hurricane Sandy hitting, the city council went ahead and changed the building code and we now require two feet of freeboard for new development.

Mr. PITTENGER. Thank you.

Mr. LEHMANN. And I would just echo Mr. Ellis's comments.

Mr. PITTENGER. Thank you.

In North Carolina this past year, we suffered an enormous flood, a thousand-year flood from Hurricane Matthew. Much of that was in my district. I have a very rural district that includes two of the counties that were hardest hit in the State. It was devastating. I was there for the third time going over that region just this last week with our sheriffs.

I had interesting conversations with the mayors and the sheriffs of each of these towns. And these small towns—Laurinburg, Fayetteville, Hope Mills—saw all of the homes being abandoned. And I asked them the question, what is our responsibility in our government toward the NFIP relative to people building in new construction? One is a Democrat, and two are Republicans, so it wasn't a

Republican issue, but it is a moral concern to me of the obligation that we have as legislators and representatives of the taxpayers.

And to a person, they all said, well, we really believe that there should not be an engagement for new construction because that is something that seems it would incentivize people to continue the same obligation and losses.

What are your thoughts on that?

Mr. ELLIS. Certainly, one of the things that was brought up when Congressman Meeks was talking about or doing his conversation was about the development in New York City and denying flood insurance to some of these high-risk developments, future developments. To me, if they are building appropriately, if they are building to mitigate the risk, the private sector is going to come in, it is going to be something that is affordable and it is something that is going to be interesting to them. And so—

Mr. PITTENGER. So say it is affordable and it is a prudent investment and a business opportunity for private insurance, then do we really need NFIP?

Mr. ELLIS. I think that we are going to have to have the NFIP, at least in some form, in the near term and we are eventually, hopefully, transitioning to having more Americans buying flood insurance and having a more robust private flood insurance market.

Mr. PITTENGER. Do you understand the moral obligation we have of causing this issue to continue, exacerbating the problem?

Mr. ELLIS. Absolutely. And as I said before, one of the fundamental responsibilities of government is to protect their constituents, to protect their people, and yet we have a program that subsidizes and encourages people, not to just build in harm's way, but to remain in harm's way, to keep them at risk.

Mr. PITTENGER. And just to the point, we do have a responsibility to protect the taxpayer.

Mr. ELLIS. Absolutely, Congressman.

Mr. PITTENGER. And apparently, there hasn't been enough of that since we are $24 billion in debt.

Does anybody else have any more comments? We have 20 seconds.

Ms. STERNHELL. I would just add that, with regard to the floodplain and disallowing the NFIP to participate, as Mr. Ellis said, with new, resilient construction, we continue talking about greater choice, greater choice, so leave the NFIP in as a choice.

Mr. PITTENGER. Again, that is the backdrop and obligation of the taxpayer for people continuing to build in areas that are floodplain areas.

Thank you very much.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Washington, Mr. Heck.

Mr. HECK. Thank you, Mr. Chairman.

Mr. Saks, I would like to walk through a door that Congressman Cleaver unlocked, if he didn't crack open a little bit. If I read the website of the National Wildlife Federation correctly, it would be that the organization subscribes to the scientific consensus that in fact planet Earth is experiencing climate change, it is having consequences and will continue to so in an increasing amount. Is that a fair characterization?

Mr. SAKS. Yes, sir, that is correct.

Mr. HECK. I also read this line on your website, "Scientists have concluded that most of the observed warming is very likely due to the burning of coal, gas, and oil. Other reasonable explanations, most notably changes in the sun, have been ruled out."

So can I fairly infer, therefore, that the National Wildlife Federation believes that climate change is primarily caused by human activity? Is that fair?

Mr. SAKS. That is correct.

Mr. HECK. I also read other language that led me to conclude that the organization believes that one of the consequences of climate change is increased extreme weather occurrences, like drought and fire danger and hurricanes, hurricanes which result in flooding. Is that correct, Mr. Saks?

Mr. SAKS. That is correct.

Mr. HECK. Is it also true, by the way, that the organization is advocating that Members of Congress voice their opposition to the President's withdrawal from the Paris accords?

Mr. SAKS. That is correct.

Mr. HECK. Do you see the connection between my line of questioning and our subject here today?

Mr. SAKS. I do. And I agree. I would also make the point, though, that primarily when I come to work every day and think about this program, I think of it as a land-use program first and foremost before I think climate. Climate, of course, is an exacerbator and a driver here, but—

Mr. PITTENGER. And indeed, the primary cause of exacerbation.

I have another line of questioning if I may, for any members of the panel. I am not exactly sure who would be most appropriate. I was actually reading through section eight of the National Flood Insurance Program Integrity Improvement Act—it would be the biggest mouthful to name a proposed bill imaginable—which excludes certain types of property from NFIP coverage, but allows State insurance regulators to waive those exclusions if they find a market contraction.

I am going to put aside for the moment whether or not that is good policy and focus on the conditions under which a State regulator can issue a waiver because, well, frankly, to me, they seemed needlessly complex. I would invite you to check on pages 29 and 30, the conditions under which a State regulator could indeed issue a waiver. I find them confusing. I find them basically duplicative. I find my characterization of them just now a gross understatement in that regard.

And frankly, to me, it seems like we should either say we trust the State regulators and their knowledge of conditions in the market that they know best, and after all they are, in most States, elected or appointed and it is the repository of deep expertise in this regard, and we defer to them about whether to exercise a waiver like this.

Or if we decide to be more prescriptive about what we want States to do, be forthright about that, be upfront about that, be clear about that, be less confusing. This section seems like it is trying to have it both ways, giving State regulators waiver authority and then making them jump through a lot of confusing hoops to use it that serve, in my opinion, no useful purpose.

So my question to any of the witnesses is, why all this complexity? Why not just say, again, we trust the States, we trust the State regulators, and have a simpler, more straightforward waiver?

Ms. Sternhell, I am calling upon you because you grabbed your microphone.

Ms. STERNHELL. Fair enough, sir. I would agree, and part of what gives us concern about this is the year-to-year nature of this, that I can be somebody who has new construction, we have been granted a waiver, I have NFIP, now there are hearings, I don't know if next year I have to have it or if I need to seek out a private policy now. And what this does, if somehow that coverage lapses because there is ambiguity in the system and now I no longer have maintained continuous coverage or there is an event when I am sort of in that doughnut hole.

And there is also the concern that some people may not be able to get private coverage. And so there may be sufficient penetration elsewhere, but not where I am located. And based on how my State has defined it, I am now sort of in a doughnut hole of no coverage available to me.

Mr. PITTENGER. Thank you.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Pennsylvania, Mr. Rothfus.

Mr. ROTHFUS. Thank you, Mr. Chairman.

Mr. Lehmann, in your testimony, you expressed support for Chairman Luetkemeyer's Taxpayer Exposure Mitigation Act which has been incorporated into our package. As you know, this bill would require FEMA to use reinsurance and other risk transfer tools to reduce taxpayer exposure to catastrophic losses.

You testified, "As FEMA gains more experience buying reinsurance and as reinsurers gain more experience absorbing risk from the NFIP," you anticipate that future risk transfers could be significantly larger.

As you know, under our proposal, private insurers will begin to take a greater share of the flood insurance market as well. Can you describe the role that reinsurers will play in the flood insurance market as the private sector's share increases?

Mr. LEHMANN. Sure. I would say there was some discussion earlier about whether insurance companies are clamoring for flood risk. In the reinsurance market, there is no question that they are. The reinsurance market has been a soft market for quite some time. There is more capital than there is risk and they desperately want more risk to take on. So reinsurers are very eager.

The first reinsurance transaction this year was oversubscribed. There were many companies that wanted to take part that weren't able to. So I think that reinsurers will be taking the lead in a lot of cases and providing capacity and that the primary insurers will follow. Once there is available reinsurance for private primary flood insurance, more will enter the market on that side as well.

Mr. ROTHFUS. Okay. Can you talk about how this would impact consumers?

Mr. LEHMANN. We think it is unquestionably a good thing for consumers because you would only be buying a private policy if you have a better deal, if you have a better product or you have a cheaper product. For taxpayers as well, reinsurers participating in taking out risk from the NFIP means that we should have less examples of the sorts of borrowing that led us to a $25 billion debt.

Mr. ROTHFUS. You also mentioned in your testimony about the U.K. as an example of a place where a healthy private flood market has taken root. Can you talk a bit about how the U.K. and perhaps other countries have been able to foster a private flood insurance market?

Mr. LEHMANN. So in the U.K., flood insurance is included as a part of homeowner's insurance. It is actually required. That is not an approach that we at R Street would necessarily endorse in the United States, but on a State-by-State basis, States will determine whether an all-risk policy is something they think is appropriate. And it has been proposed many times in the past.

We think that moving in the direction of more private flood insurance makes that a possibility, but it is one among a menu of options.

Mr. ROTHFUS. Mr. Ellis, I want to talk a little bit about some State issues here. As you know, some have expressed concerns about consumer protections for homeowners who purchase insurance through surplus lines.

My own State's insurance commissioner, Teresa Miller, testified before this committee in support of Representative Ross's bill last Congress and expressed a high level of comfort with not admitting carriers. Is there evidence to show that State insurance commissioners or State regulators have not protected consumers, particularly with policies sold through non-admitted carriers via surplus lines?

Mr. ELLIS. Not to my knowledge, Congressman. And this is sort of the natural wave of evolution of an insurance product is to go through surplus lines and then to admitted carriers.

Mr. ROTHFUS. Would you agree or disagree that insurance products sold to non-admitted carriers via surplus lines brings much-needed insurance products and services to consumers?

Mr. ELLIS. Absolutely, Congressman.

Mr. ROTHFUS. Mr. Ellis, in your testimony you discussed the GAO's finding that large cross-subsidies are built into the NFIP and that they are largely benefiting high-income homeowners. I know Chairman Duffy talked a little bit about this earlier. But can you talk a bit about why the program's current structure creates this dynamic and how the committees may address this problem?

Mr. ELLIS. Absolutely, Congressman. And actually, the exact figures from the Government Accountability Office is that 78 percent of subsidized properties in the NFIP are located in counties with the highest home values, so the top 3 deciles, while only 5 percent of subsidized properties are in counties with the lowest home values, the bottom 5 deciles.

And so what has happened is that a lot of these are these grandfathered properties, these pre-FIRM properties that are staying here and that are getting these subsidies, whereas when there is some new development, they are paying the full freight and disproportionately subsidizing those wealthier homeowners.

Mr. ROTHFUS. Thank you.

I yield back, Mr. Chairman.

Chairman HENSARLING. The gentleman yields back.

The Chair now recognizes the gentleman from Massachusetts, Mr. Lynch, for 5 minutes.

Mr. LYNCH. Thank you, Mr. Chairman.

First of all, I would like to ask for unanimous consent to enter into the record some letters expressing concern with the draft bills from various stakeholders, including housing, insurance and consumer advocates and lenders.

Chairman HENSARLING. Without objection, it is so ordered.

Mr. LYNCH. Just for the record, there are statements from the National Association of REALTORS®; the Council of Insurance Agents and Brokers; the Consumer Federation of America; and the Credit Union National Association, all concerned about provisions of the bill.

So, Ms. Berni and Ms. Sternhell, in reading this bill, there is sort of a pattern that emerges, and that is that the burden and the cost shifting seems to go from the national level really to fall on the States and local governments. There is no money at all for mitigation.

So any mitigation that is going to be done in accordance with this bill will have to be done by the City of New Orleans or the town of Scituate, Massachusetts. It will fall on those localities actually to take those mitigation steps, as well as a voluntary buyout program, but there is no money, there is no money on the Federal level for that.

So I would imagine that New York, after a Superstorm Sandy situation, or New Orleans or Florida would have to come up with that. So it seems to be taking the burden off of the Federal taxpayer and putting it on the locality.

And as well on the commercial properties, it introduces the opportunity for cherry-picking which would, again, shift costs to a smaller group of people away from the larger group of people.

And I am just wondering, the whole principle behind insurance is to really spread risk and this bill seems to have the opposite effect. It actually concentrates the risk on a smaller number of people who are more vulnerable. And I just wanted to get your opinions, Ms. Sternhell, and Ms. Berni, am I wrong on this?

Ms. BERNI. Respectfully, sir, we would agree with your assessment. We are supportive of improvements to the program, but not in a way that destabilizes the NFIP.

With regard to mitigation, it has been a leading policy area that we have advocated for. And we have included in our written testimony some potential ideas for increasing funding. One additional idea could potentially be to freeze just the interest accrual on the debt for the duration of this authorization. That is about $400 million a year to provide for greater funding for mitigation. That would provide greater benefit rather than just moving money from one Federal Government pocket to another.

And then another concept we will mention is just increasing program participation. Again, it will reduce taxpayer exposure, reduce the risk of flood losses, and potentially bring in more revenues from healthy premiums that are being paid into the NFIP. And so we think those should be some additional proposals the committee should consider ahead of reauthorization.

Mr. LYNCH. Great. And the idea of going for private insurance, that lowers the level of participation in the NFIP, right?

Ms. BERNI. Yes. We support the private market coming in as long as it is done alongside a healthy and sustainable NFIP.

Mr. LYNCH. Okay.

Ms. Sternhell?

Ms. STERNHELL. I wholeheartedly concur with that. That was why the approach the City has offered is one that can dispel fears or validate them—

Mr. LYNCH. Right.

Ms. STERNHELL. —about what the private market would do to the NFIP and its ability to pool risk appropriately.

Mr. LYNCH. One other provision that I notice in this bill is that ostensibly it lowers the maximum mandatory rate from 18 to 15 percent, but on the other end it increases what is now probably around a 5 percent average rate of contribution and bumps that up to 8 percent. When you look at FEMA's numbers, no one is paying 18 percent.

Ms. STERNHELL. Correct.

Mr. LYNCH. No one is paying 18 percent, so that is kind of fake. So no one really benefits from that, but a whole lot of people who are paying between 5 and 6 percent are going to be bumped up to 8 percent and that is the real impact of the bill. Is that how you see this?

Ms. STERNHELL. Yes. And we would even argue that it is 9 percent with the additional charge on the service—

Mr. LYNCH. That is right, I forgot about the surcharge. Yes, good point.

Ms. STERNHELL. I agree.

Mr. LYNCH. Okay.

I think my time has just about expired, so I yield back.

Thank you for your testimony.

Chairman HENSARLING. The gentleman yields back.

The Chair now recognizes the gentleman from New Jersey, Mr. MacArthur.

Mr. MACARTHUR. Thank you, Mr. Chairman.

My home is in New Jersey, so we know all about flood and flood insurance. I had to smile earlier when there was talk about the mapping. We built a home some years ago and when I got the flood map, my living room was in one flood zone and my bedroom was in a different flood zone. It is not that big of a house, but that is the way the mapping was.

But my questions are on other subjects. We are one of the States with the highest participation in the NFIP. And we also were hurt the most by Sandy. Half of all New Jersey Sandy losses occurred in my district, so this is very important to me.

And I wanted to ask, do any of you know how many Americans live in coastal communities, coastal counties, counties that abut the ocean? Anybody?

Mr. LEHMANN. It is about half, I believe.

Mr. MACARTHUR. It is about 140 million people. How does it affect, beyond the homeowner who has had a flood loss, who else is affected by flooded communities in general? I will take a brief answer from anybody.

Ms. STERNHELL. You can look at a State's economy. If you have the Jersey shore where you have the boardwalk and a tourism economy, you have social networks. Apart from a homeowner trying to rebuild, kids being able to go to school, infrastructure more broadly to rebuild.

Mr. MACARTHUR. Yes, so other businesses, State and local taxes get affected, Federal taxes get affected by business decline and that is exactly what I have seen back at home.

I want to be clear, I absolutely support the reforms in the bill because the reality is the program won't be sustained if we don't fix it. We can't just keep running in arrears, we have to fix this. But I want to make the point that this is much bigger than the individual policyholder.

And in fact, if we have less policyholders, those are the very people and businesses that will be at the front of the line to get FEMA grants and we will be spending Federal dollars without having gotten the benefit of individual premiums paid in for that. So we have to get this right.

I have questions in just a couple of areas. The first is new construction, this elimination after 4 years. And I do support lifting up a private market. I have spent my whole career in insurance and there should be a more robust flood market out there.

I want to ask, though, the 10 percent threshold, that if there is 10 percent market penetration by uninsured, and I think, Mr. Ellis, I will start with you on this, is it possible that you could have 10 percent, even 50 percent, even a higher market penetration, could you have that, but have an individual not be able to find flood insurance on their particular risk?

And bear in mind, these are homes that probably are older if they are being torn down and now they would be subject to more rigorous zoning restraints, they would be more flood proof properties. But is it possible an individual could find no access to insurance in an otherwise robust private market?

Mr. ELLIS. I am assuming it could be possible, although for the exact reasons that you outline, Congressman, about the zoning and the new development and then also the fact that a developer is going to want to sell that home to somebody and part of getting that home is going to have flood insurance.

Mr. MACARTHUR. Is it possible, and I have spent 30 years in insurance and I spent some of those years in the flood market, but it has been a while since I have rolled around in that industry. Do any of you think it would be reasonable to require agents, because they are agents of the flood program, require them to either provide an alternative private market quote or certify that none is available? Would that be a practical requirement of agents?

Mr. LEHMANN. I don't know that you could get agents to—you have a certain number of appointments and there could be a conflict there regarding are you representing your company or are you representing NFIP.

Mr. MACARTHUR. I am running out of time, so I have one more question. It is for Ms. Berni. You said in your opening remarks that the 8 percent floor hurts more than the 6 percent ceiling. We do have to get people toward risk-based rates. We have to for this program to be sustained. What would you suggest would be an appropriate floor for premium increases?

Ms. BERNI. The Biggert-Waters Act required that subsidized properties go to full risk rates. And the 2014 law maintained that. And so we feel that the 5 percent floor is sufficient, especially when considering that last year, FEMA increased premiums 5.4 percent on the base rate, but 6.3 percent when including fees.

Mr. MACARTHUR. My time has expired. Thank you.

I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Tennessee, Mr. Kustoff.

Mr. KUSTOFF. Thank you, Mr. Chairman.

And thank you to the witnesses for being here this morning and now this afternoon to testify.

If I could, regarding the flood mapping, and, Mr. Ellis, if I could address this to you, we have heard today that reforms are desperately needed to the NFIP. And to me, there is probably no statistic that is any more glaring than the fact that the program is almost $25 billion in debt.

But as we look at the flood mapping reforms, I could share an example with you that recently I met with a constituent of mine who owns a house that was built in the 1970s. The home is not located near a major river, it is not located near a tributary, and FEMA has never required the individual, the owner, to purchase flood insurance. Even during the 100-year flood of the Mississippi River in 2011, the home did not sustain any flood damage.

However, 2 years ago in 2015, FEMA determined that a portion, not the whole house, but a portion was located in the flood zone and the owner was mandated to purchase flood insurance. My question to you is, how after 45 years of owning a home is it suddenly designated as being located within a flood zone without having any history of flooding?

Mr. ELLIS. Congressman, and I obviously don't know the exact circumstances of this situation, you outlined them, but certainly, because of other development patterns, because of other changes, a home could move from being not in a flood zone to actually being in a flood zone. It could have been just outside of it or whatever. I don't know the exact circumstances here.

But it does get back to, again, that it is in the homeowners' interests to have a better mapping program, to have more confidence in the mapping program, because if you don't have confidence then we are just going to continue to have these fights about, am I in the floodplain or not in the floodplain? And if you are just barely outside of the floodplain, you still have a significant amount of flood risk, Congressman. And certainly the people in Baton Rouge found that out, that they may not have been required to purchase flood insurance, but they sure wish they had.

Mr. KUSTOFF. If a property owner wants to dispute the decision by FEMA, can you describe the process for doing so?

Mr. ELLIS. Normally, they have to get, particularly if it is a grandfathered property, which I am assuming this house is built in the 1970s, probably was before the flood insurance rate map was done, that they have to get an elevation certificate, which can be several hundred dollars, which, depending on who the person is, could be a huge cost.

And that is why we have really pushed to follow things like North Carolina has done, where the State took their mapping money or took the mapping money and did LIDAR for all the higher-risk areas and actually provided that information to the public, and I think that is the more responsible way. And that is why we are pushing for FEMA to have more granular data in this reauthorization.

Mr. KUSTOFF. Thank you very much.

Mr. Lehmann, if I could, my district or part of my district runs along the Mississippi River. And I am interested in how we calculate premiums for inland properties as opposed to coastal properties and specifically properties that are protected by levees and dams. Can you explain how FEMA differentiates between inland and coastal properties when assessing that risk?

Mr. LEHMANN. That is not my area of expertise. I couldn't tell you that.

Mr. KUSTOFF. Okay. Do any of the witnesses know?

Mr. Ellis?

Mr. ELLIS. They have certain higher designations, like, for instance, if you are at risk of storm surge and things along those lines, you have the V zone, which is going to have a higher premium than you would have in a coastal area.

Also, NFIP, if you are behind a levee and the levee provides a hundred-year level of protection or more, you are considered not to be in the special flood hazard area anymore. I would argue you still have a residual risk. It is probably still in your interest to purchase flood insurance. It would be cheaper because of that level of protection, but they are supposed to take that into account.

Mr. KUSTOFF. And looking at those rates and the NFIP program for authorization, the draft, do you believe that the premium rates will be lower for inland property owners?

Mr. ELLIS. Generally, depending on whether they are there has certainly been significant flooding on the Mississippi River. I first got into this whole area when I was in the Coast Guard and Base St. Louis flooded in 1993 and I was out there for that. So, there would be some risk, but it would be less than for some of the higher-risk coastal areas like Florida.

Mr. KUSTOFF. When the consideration is being done for premiums, should the inland properties located within the flood protection structures, like levees or dams, should they be assessed differently?

Mr. ELLIS. My understanding is that they are currently, Congressman. They take into account the level of protection. And again, though, my concern would be that there is some residual risk. We certainly have seen levees fail in areas and that is something where those people would be flooded just like they were in the regular floodplain.

Mr. KUSTOFF. Thank you.

I yield back my time.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentlelady from New York, Ms. Tenney.

Ms. TENNEY. Thank you, Mr. Chairman.

I just have a couple of issues. I come from upstate New York, where we don't really have any what you would think major flooding, but we have had major flooding. A lot of it I would like to place on the fault of government in some cases.

I would like specifically just to quickly mention something as I think it is something that we can address on the Federal level, having to do with the Department of Environmental Conservation in New York State. And unfortunately, what has happened is a lot of the intervention from the State and Federal side of it has prevented our local governments from being able to protect themselves from really just heavy rains, not necessarily what we have termed hundred-year floods.

And I just want to point out one thing that is particularly difficult for an area like where I live, which is a small city, suburban area. Article 15 of the Department of Environmental Conservation Regulations talks about protections of waterways and streams. And it names as its three goals relating to water policy is the establishment of regulations compatible with protections and enhancement of the present potential values of the water resources, to protect the public health and welfare, and that are consistent with the reasonable economic and social development of the state, including protecting the human environment.

This article has been interpreted to protect, unfortunately, the fish environment, I might add, for lack of a better term, in the middle of a human environment where an area that was once industrialized, we are seeing an inability of the local governments to be able to even participate in managing the streams and waterways because we are creating, let us put it this way, artificial trout spawning areas in the middle of former industrial areas where basically the trout don't make it too far down the stream.

But toward that, it has caused an imbalance in our water table and caused a lot of flooding in areas that have not received flooding in many, many years. Just the high incidence of rain has caused us to have massive flooding and massive requests for aid from the Federal Government.

And this brings me to two big issues that I wanted to have possibly Ms. Berni address since you are in that area. One is on the ability of the local governments to be able to map what true flood zones are and the ability to participate and get assistance from FEMA in areas where these—we can't correct these areas immediately dealing with the Department of Environmental Conservation, but allowing FEMA to be able to come in and say the local governments can determine where flood zones are to drive down the costs of flood insurance, to have the availability of flood insurance through NFIP and with the fiscal idea in mind of eventually bringing NFIP's fiscal shift to the taxpayers back in line.

So maybe, Ms. Berni, you could address this issue as to your experience in an area which is truly in a flood zone.

Ms. BERNI. Yes, absolutely. So in south Louisiana since Katrina, we have worked, several local governments have taxed themselves in order to generate more money to build local flood protection features. And we have had to work very closely with FEMA through the development of new maps to get those locally built flood protections, levees, drainage, improvements included onto the map.

We had a lot of trouble when the first iteration of maps were redone for several parishes because they didn't take those locally built flood protection features into account. Several communities in Louisiana are now part of a pilot program called the Levee Analysis Mapping Procedure, LAMP process, which was established to essentially help give credit for some of these local flood protection features.

And so we are working very closely and it has certainly been our experience that local governments and local levee districts and local floodplain managers have the most and need to really be involved through the mapping process as well.

And so I believe the Technical Mapping Advisory Council is getting more engaged toward this as well. But local governments, when they are able to provide maps, deliver ultimately a better product working with FEMA.

Ms. TENNEY. Great. So this is something that you think is feasible that we could do, provide to New York. Because really, we technically really aren't in a flood zone, but we have created such a disastrous scenario in our very rural inland region of the State that we actually do have problems. We have had massive flooding. I would love to see us roll back the cost, obviously make the National Flood Insurance Program more affordable, reduce the burden on the taxpayers and taking the risk on this.

But I appreciate your comments. And just wanted to—I think I am losing my time here. But I want to say thank you, that I hope that we can find a resolution here that would give our local governments the opportunity to protect themselves since our State Government doesn't seem to be interested in allowing them to protect themselves and our taxpayers and the value of our properties.

Ms. BERNI. Absolutely.

Ms. TENNEY. Thank you so much.

I yield back my time.

Chairman HENSARLING. The time of the gentlelady has expired.

The Chair now recognizes the gentleman from Indiana, Mr. Hollingsworth.

Mr. HOLLINGSWORTH. Good afternoon, thank you all for being here. I really appreciate all of the great testimony.

I wanted to put a bit of a face on the flood insurance program and flooding. As the chairman said, I represent Indiana, and in a small, rural community we had a flood a couple of weeks ago. But the story starts far before that. Brooklyn Bush started her American Dream on June 1st of 2015. She opened a small hair salon. Her mom had owned a hair salon before that. And she opened it on Water Street, which, by the way, isn't in a hundred-year floodplain.

And then on May 19th of this year, because of 30 minutes of really, really hard rain where more than 6 inches fell during that 30 minutes and in the previous few hours before that, her entire hair salon was flooded, not flooded by 6 inches, not flooded by 12 inches, but flooded 5 feet deep in her hair salon. And so her American Dream ended that day and she is struggling to get back on her feet.

Now, somewhat lost in the conversation about how we help individuals get flood insurance who are in hundred-year floodplains are those that we need to ensure have access to it, because one of the things that she talked about was, I would have bought flood insurance, but no one talked to me about flood insurance. I am outside the hundred-year floodplain.

And I think one of the things we need in terms of a private market participation is more people understanding and pushing this product and helping people understand their risks.

Mr. Lehmann, I think you talked about this earlier with the high percentage of people outside of the hundred-year floodplain or the percentage of the population that purchases inside the hundred-year floodplain, but not outside of it, while there is still risk there.

Can you talk a little bit about how we might expand the program because of the access to private capital and the access to private insurers?

Mr. LEHMANN. Sure. I would like to expand who buys, expand take-up, write, whether it is in the NFIP or in private insurance. We prefer that more risk be shifted to private insurance.

Mr. HOLLINGSWORTH. Yes.

Mr. LEHMANN. If there are private products that agents can make some money selling, they will definitely do their best to market it to a broad range of people.

Historically, it has basically been tied to your mortgage. If you were required to get it, that is who got it. And that is who was ever told about it.

There have been efforts—FloodSmart is a pretty good effort to try to spread the word beyond that cohort. It is not terribly successful. I couldn't tell you if the ROI was worth it for the government to spend that money, but it is a public good.

Mr. HOLLINGSWORTH. Ultimately, I think what you said I really latch onto, is that if we align the incentives for individual sellers of this product to sell private products to individuals, then those individuals would be more likely to purchase it and we will see uptake, not only in the hundred-year areas, but also in other areas. And I totally believe what you are saying.

I think Mr. Ellis talked about this a few minutes ago with Baton Rouge—I believe you brought up the example of people who would have liked to have purchased it, but might be outside the hundred-year floodplain?

Mr. ELLIS. Absolutely, Congressman. As a matter of fact, I have the numbers right here. After the Baton Rouge flooding, the average NFIP payment was $86,500. If you didn't have flood insurance, the average individual disaster aid payment was $9,150. And so really, you want to have more people getting flood insurance.

And I sympathize with Ms. Bush, your constituent. What we are hoping is that you develop a greater private flood insurance market so that the insurance agents, the people who sold her her other business insurance, are going to understand this better, are going to say, hey, here is this other product, you are not in the higher-risk area, you are not in the hundred-year floodplain, so it shouldn't be that much more expensive. But if you do have a disaster, which they do happen, then you are going to be covered.

Mr. HOLLINGSWORTH. Right. And I think that stems from getting more and more private players into the market, more and more opportunities.

Mr. ELLIS. Absolutely.

Mr. HOLLINGSWORTH. The other thing that came up in this was how vanilla the current product is and how we need more private players in the market so that we can develop different policies that cover different types of people.

And one example was also some apartment dwellings were flooded, and the contents inside, and while the structure may have been covered, the contents inside weren't. And we have to make sure that we develop those policies. And I think that comes through more private players, being able to develop different types of products that ultimately people will or won't buy and those that they will buy are successful over the long run.

Any comment on that, Mr. Lehmann?

Mr. LEHMANN. Yes, certainly. On the commercial side, NFIP doesn't provide much in the way of business interruption insurance.

On the personal residential side, if you need to stay in a hotel while your home is being worked on, there isn't coverage for that.

These are the sorts of things, product features that you would expect in the private market.

Mr. HOLLINGSWORTH. Right. In a private market where people begin to decide what they want and what they don't want. And companies are incentivized to offer more and more products, just like we see in other insurance products. Companies develop gap measures to be able to account for what people need.

The last question I wanted to ask you, Mr. Saks, was, Mr. Heck had brought up some of the maybe increasing challenges associated with climate change and other reasons why the risk may be increasing for flooding around the country. I guess what I think about it is, if the risk goes up, but we fail to make any changes to the pricing on the policies, wouldn't we expect the program itself to be less and less actuarially sound over time?

Mr. SAKS. I think that is correct. I would add one point to what you were saying before, which is we encourage that FEMA map beyond the hundred-year floodplain, not necessarily the purchase. But Ms. Bush should have known she had flood risk.

Mr. HOLLINGSWORTH. Right, thank you so much.

I appreciate it and I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

For what purpose does the gentleman from Massachusetts seek recognition? Unanimous consent requests?

Mr. LYNCH. Yes, I do, Mr. Chairman. I ask unanimous consent to place in the record a letter from Mitch Landrieu, Mayor of the City of New Orleans, citing concerns regarding the lack of affordability and the flood mapping process and lack of mitigation.

Chairman HENSARLING. Without objection, it is so ordered.

Mr. LYNCH. Thank you.

Chairman HENSARLING. There being no other Members in the queue, I want to thank each of our witnesses for coming to testify today. We are most appreciative.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

This hearing stands adjourned.

[Whereupon, at 1:09 p.m., the hearing was adjourned.]

APPENDIX

June 7, 2017

coalition for sustainable flood insurance

Testimony of Caitlin Berni, Vice President of Policy and Communications, Greater New Orleans, Inc.
Before
The House Committee on Financial Services
June 7, 2017

Chairman Hensarling, Ranking Member Waters, and Members of the Committee, I am honored to speak to you today about the package of bills proposed to reauthorize and reform the National Flood Insurance Program (NFIP). My name is Caitlin Berni, and I am the Vice President of Policy and Communications of Greater New Orleans, Inc., the regional economic development organization for Southeast Louisiana.

Since April 2013, GNO, Inc. has led the Coalition for Sustainable Flood Insurance (CSFI), a national coalition of approximately 250 organizations across 35 states, formed during the implementation of the Biggert-Waters Act. CSFI was a driving force behind the passage of the Homeowner Flood Insurance Affordability Act (HFIAA), compromise legislation that was cosponsored by more than 235 Members of this body and supported by 306 Members, representing the overwhelming support of both caucuses, and passed the Senate with the support of 72 Senators. Since the passage of HFIAA, our coalition has focused on advocating for a stronger policy framework for the NFIP. There are four primary policy areas CSFI has focused on that will provide for this stronger framework – mitigation, mapping, affordability, and program participation.

- **Mitigation** - A comprehensive approach to reducing flood losses before a disaster occurs is a more effective means to reducing economic loss and protecting taxpayer interests than ejecting households and businesses from the NFIP via unaffordable flood insurance premiums.
- **Mapping** – Enhancing the way we assess and communicate risk through improvements to the mapping process will protect communities and the NFIP over the long-term.
- **Affordability** – Premiums must remain affordable, and people who played by the rules at the time that they built or bought their property should not be penalized.
- **Program Participation** – Adopting policies that encourage more people to buy flood insurance will help to bring the program's costs in line with revenues in a responsible way and help communities recover more quickly following a flood event.

There is no simple answer to the complex problem of maintaining premium affordability, keeping the NFIP on sound financial footing, ensuring taxpayer protections, and accurately communicating and reducing risk. Flooding is the most common natural disaster in the United States, affecting communities in each of the fifty states and territories. This is not just about our coastal cities – flood insurance impacts the entire country.

As we consider flood insurance reauthorization, we should recall why the federal government is in the flood insurance business at all. The NFIP was created in 1968 following Hurricane Betsy because the private market failed, and Congress wanted citizens in flood prone areas to have some skin in the game, rather than having the full brunt of disaster costs borne by the taxpayer. The NFIP helps communities that are at risk of flooding better prepare by requiring stronger floodplain management standards and incentivizing mitigation to discourage risky building in harm's way. While the NFIP is in need of improvements, changes to the Program should not destabilize it.

I thank Chairman Hensarling and Chairman Duffy for proposing this package of bills. While we support several of the proposals included in the package of legislation, our coalition is concerned that the overall approach may result in some of the same unintended consequences, primarily around affordability, that arose during the implementation of the Biggert-Waters Act.

CSFI encourages the Committee to consider our concerns and recommendations listed below.

Mitigation

Flooding is the most common natural disaster in the United States, affecting communities in each of the fifty states and territories. Across the nation, states and municipalities have worked diligently to reduce the frequency and impact of flooding in their communities even while resources to reduce flood losses remain limited.

Effective flood mitigation is a multi-faceted enterprise. The federal and state governments share significant responsibilities in the planning, design, construction, and maintenance of major flood control projects that protect hundreds of millions of homes and businesses. At the community level, particularly those communities participating in the NFIP, governments adopt and enforce floodplain management standards and building codes. County and parish governments that adopt stronger standards and participate in the Community Rating System (CRS) achieve a greater level of flood protection for the community that is reflected in reduced flood insurance premiums.

Property owners have a key responsibility to reduce flood damage and secure resources to comply with floodplain management and building code requirements. Property owners may fulfill this responsibility to protect property by purchasing flood insurance and Increased Cost of Compliance (ICC) coverage. Appropriate flood insurance and ICC coverage ensures flood damage is repaired and that damaged structures are restored to a higher level of flood protection if required by current floodplain management standards and building codes. Property owners further have the obligation to work through local, state, and federal programs to mitigate high-risk structures having sustained repetitive flood loss events.

Despite this coordinated, multi-layered approach to flood mitigation, substantial sums of taxpayer funds are appropriated each year in response to disaster damage caused by flooding. This raises important questions about the efficacy of the national flood loss mitigation strategy and the efficiency of deploying substantial taxpayer funds for disaster response while making limited investments in disaster mitigation by comparison. Aggressively addressing flood risks at the regional and community levels, while providing homeowners' options and resources to lower flood risks will save lives and property, reducing flood damage, flood insurance claims, and flood insurance premiums.

Federal policymakers must work with state and local governments and individual property owners to reduce the frequency and expense of flood losses. This necessarily requires allocating resources for disaster prevention and flood loss mitigation. Reducing the exposure of our communities, homes, and businesses to flood losses is a more efficient and effective use of taxpayer resources and will reduce future disaster costs and preserve flood insurance affordability.

CSFI has concerns with the following Committee proposal:

- **Repeatedly Flooded Communities Preparation Act** - CSFI is concerned that the inclusion of the Repeatedly Flooded Communities Preparation Act (H.R. 1558) will not achieve stronger levels of mitigation because instead of empowering communities with the mitigation tools they need, the bill threatens to punish communities with sanctions, including suspension from the NFIP. This proposal, which captures all communities with 50 repetitive loss properties or 5 or more severe or extreme repetitive loss properties, combined with the Committee's proposal to lower the threshold for repetitive loss properties to any property with two claims of any amount, will potentially redline coastal communities all across America from participating in the NFIP. The bill does not provide communities with any additional funding for mitigation or support to develop the required mitigation plans. Often times, smaller governments simply do not have the capacity or technical expertise to develop mitigation plans. Congress and FEMA should instead focus on providing communities with the tools needed to become more resilient.

CSFI supports the following Committee proposals:

- **Increase and Modernize Increased Cost of Compliance Coverage** - CSFI supports the Committee's proposal to modernize Increased Cost of Compliance Coverage (ICC) by increasing the amount of coverage available for purchase and allowing some pre-disaster mitigation to be eligible. Improving ICC is a wise way to assist property owners in mitigating their homes.
- **Provide CRS credits to the maximum number of communities practicable** – CRS is an effective program in incentivizing communities to reduce flood risk, and Congress should support and improve this program.

Congress should consider the following additional policies that to increase mitigation:

- **Redirect Premium Surcharges Included in HFIAA** – Require FEMA to reallocate the existing surcharges established in HFIAA to better finance the Pre-Disaster Mitigation and the Flood Mitigation Assistance Programs. This proposal to redirect existing fees would yield approximately $400 million annually for flood mitigation activities.
- **Provide a Premium Credits to Offset the Cost of Obtaining an Elevation Certificate** – Offer policyholders without an elevation certificate a one-time rate credit for the cost of obtaining elevation data. Knowledge of flood risk and accuracy of a structure's base flood elevation information will be enhanced by removing or reducing the financial barrier associated with the acquisition of elevation certificates.
- **Facilitate Mitigation Credits that Reduce Premium Rates** – Require FEMA to develop meaningful cost reductions, in excess of 10% of the current risk premium rate for a property, for flood mitigation activities undertaken on properties in all zones, including moderate risk zones.
- **Partner with participating communities and state governments to obtain elevation data** - Offer CRS credit for participating jurisdictions that require an elevation certificate to be prepared at a subsequent transfer of title for structures in a flood zone where elevation data are not available.
- **Provide Effective Oversight of the U.S. Army Corps of Engineers** – While this is not germane to reauthorizing the NFIP, I want to urge Congress to conduct effective oversight of U.S. Army

Corps of Engineers (USACE) procedures and project approval timelines to ensure authorized flood control projects do not languish, needlessly putting communities, homes, and businesses at risk of flood damage.

Mapping

Accurate mapping is fundamental to assessing and communicating risk, and to pricing it appropriately. The current mapping process often results in communities having to fight inaccurate maps that do not take into account locally built flood protection features and communities building off of outdated mapping, which results in artificially inflated risk. **We must question whether we can truly determine actuarial rates if they are based on flawed mapping. To that point, if we question the data upon which all premium rates are based, that presents fundamental problems when discussing reforms to the Program.** Further, many areas of the country are not mapped or mapped accurately, which results in communities who are at risk of flooding unaware of the risk.

For example, in the August 2016 floods in Baton Rouge, Louisiana, over 80% of survivors of this riverine flood event did not have flood insurance. I know it is easy for those of you not from Louisiana to question why these people did not have flood insurance given what has occurred in Louisiana over the last twelve years. Here's the answer: many of those communities were not mapped into a flood zone or were only in optional purchase areas. Updated and accurate mapping and better communication about risk when purchasing property could have limited the number of uninsured properties significantly. This in turn could have resulted in these affected communities needing less post-disaster funding, thus saving the taxpayer.

Technology around assessing and communicating risk is also rapidly evolving, and FEMA should embrace this technology to provide more accurate maps for America.

CSFI supports the Committee's proposals to:

- **Use Other Risk Assessment Tools in Determining Premium Rates** – Technology around risk assessment is rapidly evolving, and FEMA should use the most up-to-date technology when determining risk.
- **Streamline the Mapping Process** – CSFI supports this proposal, particularly the provision to assist communities in locating resources to appeal elevations and hazard map designations. Many small communities simply do not have the expertise or capacity to fight FEMA on inaccurate mapping, and this provision will provide needed support.
- **Communication and Outreach Regarding Map Changes** - Expediting the required community notification layover period so that communities can accelerate their mapping process if they choose to will result in communities planning land use more accurately and efficiently. For example, this provision would benefit communities in South Louisiana who are in the process of adopting new, more accurate maps that reflects stronger mitigation features and accurate science.

CSFI urges the Committee to consider the following proposals for inclusion in order to fully and meaningfully improve the mapping process:

- **Increase the authorization for the National Flood Mapping Program** – Increase the authorization of the National Flood Mapping Program, which would help communities better understand and plan for risk.
- **Allow Counties to Adopt Portions of Maps at a Time** – Require FEMA to allow communities to adopt portions of a flood map that they agree with at one time while still allowing for map appeals in other areas of the community. The current policy puts the entire county's new map on hold during the appeals process, which results in the entire community planning land use policies around outdated maps and some residents paying inflated rates.
- **Improve the Flood Mapping of Levee-Protected Areas** – Require FEMA to replace its "Zone D" designation (defined as an area of undetermined/undefined risk) in levee-protected areas with risk zones that are more appropriate for the level of protection that the flood mitigation features afford.

Affordability

Following the Biggert-Waters Act, when homeowners across the nation faced skyrocketing premiums, legislators reasserted the long-held view that premium affordability is a fundamental tenet of national flood insurance. In HFIAA, policymakers addressed premium affordability concerns by restoring the practice of rate "grandfathering", reversing the elimination of pre-FIRM subsidized (PFS) policies, eliminating the property sales trigger, and increasing damage and improvement thresholds. Those policies must be maintained in reauthorization.

In HFIAA, Congress revised key policies driving substantial increases in flood insurance premiums yet retained the Biggert-Waters Act imperative to reduce or eliminate certain premium subsidies. In general, HFIAA limits year-over-year premium increases to 18 percent for individual properties and 15 percent for the average of all premium increases within a risk classification. Premiums for most subsidized policies must, by law, increase at least 5 percent on an annual basis, subject to the overall limitation that NFIP not charge rates greater than a classification's determined risk. Further, certain property classifications will see premium increases designed to rapidly eliminate subsidies.

CSFI is concerned with the following provisions in the Committee's proposal:

- **Increase the Floor of Rate Increases from 5% to 8%** - CSFI is concerned that increasing the floor of rate increases from 5% to 8% will have a detrimental effect on premium affordability. While the bill does propose to lower the overall premium cap from 18% to 15%, increasing the floor will negatively impact many more policyholders than lowering the ceiling will help, especially when considering that premiums are increasing an average of 6.3% this year. **CSFI urges Congress not to increase rates during this reauthorization.** Congress should also obtain detailed information on how all changes to costs, both by increases in surcharges and increases in rates, would impact policyholders in different geographic areas and zone classifications. It should also be a goal of the Committee to analyze what impact it would have on the overall program – e.g. at what price point do people decline coverage. It does not appear that the Committee has explored this perspective in a public forum, and the future of the Program depends on this data.

- **Increase Surcharges Established in HFIAA** - CSFI is concerned about the Committee's proposal to increase surcharges established in HFIAA. While these surcharges may seem nominal at surface value, when they are added to the premium and other assessments, they put the total premium cost either out of reach or make the policy unattractive for many. Communities and taxpayers would be better served by using those dollars to increase mitigation.
- **Consideration of Coastal and Inland Properties** - CSFI questions the need for a provision to require FEMA to consider the difference in coastal and inland areas when determining premium rates. The difference in areas is already accounted via the V zone.
- **Prohibition on New Build**– CSFI is concerned about the Committee's proposal to prohibit offering flood insurance for new construction in special flood hazard areas after January 1, 2021. While we strongly support building to resilient standards and do not want to incentivize risky building in harm's way, prohibiting offering insurance for new build will cause damage to communities and economies.

Additional proposals that should be addressed during this reauthorization include:

- **Grandfathering - Preserving grandfathering is of critical importance.** Meaning, if you built your property according to FEMA's base flood elevation at the time of construction, you will not be penalized when new maps are introduced. The confluence of removing grandfathering and the introduction of new maps are what drove skyrocketing rates post Biggert-Waters.
- **Address the Debt** – Congress should have a broader discussion regarding the overall debt of the Program, the causes of that debt, and differentiating between the debt and the deficit.

CSFI supports the following provisions in the Committee's proposal:

- **Enforcement of Mandatory Purchase Requirements**
- **Requiring Disclosure of Premium Methodology**
- **Making Available Flood Insurance Information upon Request**
- **Giving FEMA the Authority to Provide Policyholders Credit for Implementing a Variety of Mitigation Options to Lower Premium Costs**

An additional affordability measure Congress should consider includes:

- **Formalizing 1% Cost to Value Ratio** – This proposal means that no premium could be more than 1% of the policy value. So, for example, a policy worth $250,000 could never cost more than $2,500. Language was included in the Homeowner Flood Insurance Affordability Act that FEMA should strive to accomplish this policy, and Congress should strengthen this language.

Program Participation

Sustainability and affordability of flood insurance coverage is a growing concern as NFIP is experiencing a year-over-year decline in several key metrics. According to FEMA data, NFIP policies-in-force peaked in 2009 at 5,700,235. As of June 30, 2016, the number of policies-in-force was 5,083,071, a decline of almost 11 percent from 2009. Total coverage-in-force is also in decline after peaking at approximately $1.3 trillion in 2013 and as of June 30, 2016, is approximately $1.25 trillion. For only the second time since 1978, total premium earned has fallen from the previous year, with $3.54 billion of premium earned in 2014 compared to $3.44 billion in 2015.

This is not sufficient evidence to validate a long-term forecast of year-over-year decline for the NFIP, but policymakers must be mindful of data showing declines in core program variables over the short-term. It must also be noted that key coverage-in-force and premium earned declines have largely occurred post-Biggert-Waters Act.

For policymakers to more fully achieve the core purposes of national flood insurance—floodplain management, limiting government disaster costs, and facilitating property owner purchase of insurance—the NFIP must be designed with the interests of end users as preeminent. Increases in both policies written and coverage in force will bring greater stability to communities and provide greater protection for the federal treasury. Simply put, with both the severity and frequency of floods increasing, we need more people buying flood insurance.

The Committee should consider policies to increase program participation, including:

- **Offering a Default "Opt-Out" Flood Policy as Standard Part of Homeowners Insurance Package-** NFIP should be directed to engage in product testing that offers consumers a "default" insurance option where consumers are required to actively decline (opt-out) flood insurance coverage. Based on the outcome of consumer testing, NFIP and NAIC should move to expand "default" options that include NFIP coverage as appropriate.
- **Expanding the Definition of the Special Flood Hazard Area -** Congress should authorize a study to assess the effectiveness of the mandatory purchase requirement; assess the benefit of mandatory purchase to taxpayers, communities, and households; and identify areas outside designated SFHAs or adjacent thereto where mandatory purchase would have a demonstrable, positive cost-benefit impact for taxpayers and property owners.
- **Mandatory Purchase of Flood Insurance for Properties that Have Experienced a Loss and Federal Disaster Assistance Was Accepted to Repair or Replace the Structure** - Congress should consider requiring mandatory purchase of flood insurance for at least ten years for properties that have experienced a flood loss event and federal disaster assistance was accepted to repair or replace the damaged structure and contents. The mandatory purchase requirement should attach to the structure and the requirement should be noted in local land records in a manner that is readily apparent to title researchers, lenders, appraisers, borrowers, and other parties interested in the transfer of property.

The Role of the Private Market

The Committee has also proposed legislation to ease private market entry and increase consumer choice. While a fuller entry of the private market would bring competition and discipline to the flood insurance market, I urge Congress to be mindful of the risk of cherry-picking. A scenario where the private market comes in and takes all of the low risk properties while leaving the NFIP with nothing but high risk properties will not serve the policyholder or taxpayer well and leaves the NFIP open to needing further loans from the US Treasury. Congress should consider requiring private carriers to assume a certain portion of high-risk properties as well. An increase in private market coverage should occur parallel to a healthy and sustainable NFIP.

CSFI is concerned with the following provision in the Committee's proposal:

- **Elimination of the Write Your Own (WYO) Non-Compete Clause** – As structured, the Committee's proposal would allow for cherry-picking because WYOs would have access to all costs and claims information, therefore making it easy to understand where the "healthiest" policies are located. Congress instead should consider eliminating the non-compete clause for only certain risk categories or portions of risk, and charging a fee for accessing the data, to prevent turning the NFIP into a high-risk pool.

CSFI supports the following provisions in the Committee's proposal:

- **Include Continuous Coverage Language in Reauthorization** – CSFI supports language in the Ross-Castor Flood Insurance Market Parity and Modernization Act that allows policyholders to maintain continuous coverage, which would allow them to leave the NFIP for the private market and subsequently return to the NFIP while proving continuous coverage. This policy is key to providing consumers with the assurance needed that the NFIP will be available should they be priced out of the private market or should private flood insurance become unavailable. Under current law, policy holders who may have access to more affordable, comprehensive private market coverage are not incentivized to leave the NFIP.

Multi-Year Reauthorization

It is critically important that we reauthorize the NFIP for a multi-year period. Short-term extensions, and especially lapses in authorization, have real world implications. Lapses in authorization stall or kill home closings. Particularly with a September 30 expiration – in the middle of hurricane season – American home and business owners need to be able to rest assured that the flood insurance they have purchased and relied on will be available should a flood happen. A multi-year reauthorization is needed to bring certainty to consumers and real estate markets.

Given the past record of broad bipartisan support for affordable, sustainable flood insurance, we urge Congress to pass legislation by September 30 that ensures affordability, improves mapping, meaningfully increases support for mitigation activities, and increases flood insurance coverage in America.

Again, thank you for the opportunity to speak to you today about reauthorizing and reforming the National Flood Insurance Program, and for your service. CSFI stands ready and willing to assist the Committee as we work to reauthorize the NFIP by September 30.

TAXPAYERS FOR COMMON SENSE
MAKING GOVERNMENT WORK

Testimony of Steve Ellis
Vice President, Taxpayers for Common Sense

U.S. House of Representatives
Committee on Financial Services
hearing
"Flood Insurance Reform: A Taxpayer's Perspective"

June 7, 2017

Good morning, Chairman Hensarling, Ranking Member Waters, members of the committee. I am Steve Ellis, Vice President of Taxpayers for Common Sense (TCS), a national non-partisan budget watchdog. Thank you for inviting me to testify on the upcoming reauthorization of the National Flood Insurance Program (NFIP) and the proposed legislative reforms. TCS has worked on flood insurance issues and reform of the program for our entire twenty-one years of existence and I've been involved in flood issues dating back to my days as a young Coast Guard officer dealing with the aftermath of the Great Midwest Flood of 1993. This is a critical issue for taxpayers and smart public policy that protects people and property.

Taxpayers for Common Sense is allied with SmarterSafer, a coalition in favor of promoting public safety through fiscally sound, environmentally responsible approaches to natural catastrophe policy. The groups involved represent a broad set of interests, from free market and taxpayer groups to consumer and housing advocates to environmental and insurance industry groups.[1] For a decade the coalition has advocated reforms in the National Flood Insurance Program that ensure the program is smarter and safer for those in harm's way, the environment, and for federal taxpayers.

This brings me to the first of two issues the Committee asked me to address in my testimony: Whether the NFIP, as it is presently constituted, represents an ideal model for the effective protection of residential and commercial property owners from the damages related to flooding.

The quick and obvious answer is no--the NFIP is far from ideal. The program was created in 1968 to deal with a perceived lack of available flood insurance and to reduce ad hoc disaster

[1] Full list of groups is available at www.smartersafer.org

payments. Nearly a half-century on, there have been enormous technological innovations that enable insurers to accurately price risk and provide products and coverages unavailable through NFIP. Instead of lack of interest from the private sector, the industry is clamoring to make reforms so that they can remove some of the risk from taxpayers like they do elsewhere in the world.

Though the NFIP provides critical insurance coverage to those at risk, the program must be significantly reformed to ensure it is financially sustainable, that there are sufficient incentives for reducing future flood damages and vulnerabilities, that it provides better protection for taxpayers who have repeatedly backstopped the program, and that it better protects the environment and promotes the use of nature-based mitigation solutions that have a long term benefit for homeowners and the taxpayers.

We applaud the committee for putting legislative pen to paper and releasing their proposals. While we would like to see some changes and improvements, the legislative drafts provide a great start to the process.

Background on the National Flood Insurance Program

It is important to understand the context of how the nation got into the flood insurance business. After years of ad hoc disaster aid being meted out by Congress, the National Flood Insurance Program (NFIP) was established in 1968 to create "a reasonable method of sharing the risk of flood losses through a program of flood insurance which can complement and encourage preventative and protective measures."[2] The program was to make up for a perceived lack of available flood insurance. But even at that time Congress was warned that it was playing with fire. The Presidential Task Force on Federal Flood Control Policy wrote in 1966:

> A flood insurance program is a tool that should be used expertly or not at all. Correctly applied it could promote wise use of flood plains. Incorrectly applied, it could exacerbate the whole problem of flood losses. For the Federal Government to subsidize low premium disaster insurance or provide insurance in which premiums are not proportionate to risk would be to invite economic waste of great magnitude.[3]

With the program nearly $25 billion in debt to taxpayers, it is clear that the program has resulted in a waste of great magnitude and not promoted a wise use of floodplains. In fact it represents a significant lost opportunity to strengthen our country's protections against natural disasters. Although subsidies were largely envisioned to be limited and short-term, they weren't. And while the program has encouraged standards and construction that help reduce flood risks for participating communities, the availability of subsidized federal flood insurance over the last several decades made it financially attractive to develop in high risk areas. Along

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[2] P.L. 90-448.

[3] U.S. Task Force on Federal Flood Control Policy. "A Unified National Program for Managing Flood Losses." August 1966. P 17. http://www.loc.gov/law/find/hearings/floods/floods89-465.pdf

with other factors, NFIP helped fuel the coastal development boom that increased the program's risk exposure and losses.

$25 Billion in Debt and Subsidized Rates

There is a general misperception that NFIP is financially healthy but for a couple of large storms—namely Katrina and Sandy. However, for years prior to Katrina, NFIP teetered on either side of solvency, covering shortfalls with Treasury borrowing and repaying the loans in years of surplus. Then in 2005, the inevitable happened – a catastrophic loss year – and after Katrina, Rita, and Wilma, the program was roughly $18 billion in debt to the Treasury. That was followed by the Superstorm Sandy losses in 2012 which resulted in the program being $23 billion in debt to taxpayers.

Losses continue to grow, however, with 2016—as a result of Hurricane Matthew and several other rain events—representing one of NFIP's largest loss years with $3.7 billion in payouts triggering additional borrowing from the Treasury. The program is now nearly $25 billion in debt to U.S. taxpayers. As storms and flooding become more frequent and more severe, the debt in this program will only continue to grow. Nuisance flooding, disaster declarations, and billion dollar disasters are all on the rise; leaving the flood program as is basically guarantees additional borrowing from the Treasury.

To put the program's debt into perspective, FEMA data indicates that in 2016 the 5.1 million policies in force resulted in $3.3 billion in premiums to insure $1.25 trillion worth of property.[4] The Government Accountability Office has estimated that approximately 20 percent of policies are explicitly subsidized and paying only 35-45 percent of their actual full-risk level premiums.[5] These numbers have likely changed some subsequent to the enactment of the Homeowners Flood Insurance Affordability Act of 2014, also known as Grimm-Waters.

As this Committee well knows, reforms to the NFIP were enacted in the Biggert-Waters Flood Insurance Reform Act of 2012 to align premiums with risk, which would not only help program solvency, but also help policyholders better understand their risk and take measures to mitigate that risk. Despite some concerns, TCS supported the 2012 legislation while also favoring additional efforts to help address affordability. Unfortunately, in Grimm-Waters, Congress rolled back many of the reforms that would have led to more actuarial rates. The rollbacks actually exacerbated the inequities in the program, placing surcharges on policies to pay for continued subsidies.

The authorization for NFIP expires September 30, 2017. Before the long-term reauthorization in 2012, NFIP required 17 extensions after the 2004 reauthorization expired in 2009 and even lapsed four times only to be temporarily reauthorized retroactively. We think all involved should work together so the program doesn't lapse again.

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[4] Federal Emergency Management Agency. Available at: https://www.fema.gov/statistics-calendar-year

[5] Government Accountability Office. "Flood Insurance: More Information Needed on Subsidized Policies." July 2013.

I would like to respond to the six legislative proposals released by the committee.

Affordability

NFIP has subsidized rates in the program virtually since its inception, regardless of need. FEMA estimates 20 percent of properties in the program pay subsidized rates, but that doesn't include properties with grandfathered rates where the flood zone designation has changed. Even with the properties that are paying supposedly risk-based premiums, the fact that the program can borrow from the Treasury is a built-in subsidy. The GAO has documented large cross-subsidies, many of which benefit high-income homeowners.[6] They found that over 78 percent of subsidized properties in NFIP are located in counties with the highest home values (the top three deciles), while only five percent of subsidized properties are in counties with the lowest home values (the bottom five deciles)[7]. This represents a real challenge to the program's sustainability.

TCS believes that rates in the program must over time be linked to risk while understanding that there may be some in the program who will need assistance in order to pay higher rates or reduce their risk. Currently subsidies are effectively hidden from the homeowner, which eliminates any price signal of risk or incentive to mitigate to reduce the risk and thereby the premium. Masking subsidies with lower rates prevents policyholders from understanding their true level of risk. As was noted in the FEMA privatization report mandated by Biggert-Waters, subsidized rates "can promote (and have promoted) poor decisions on the part of property owners and political representatives ... they also create a moral hazard, especially when the subsidies are not well targeted."[8] The report continues that the presences of subsidies "removes the incentive to undertake mitigation efforts, thereby encouraging ever increasing societal costs."

To that end, we are pleased to see that the Committee's proposal includes provisions to make premium methodology more clear to the policyholder as well as an explanation of their full flood risk and increased public access to historic loss and flood claims information to the public.

We are opposed to the artificial rate cap in the legislative proposal. As discussed rates are a clear communication of risk and provide incentives to mitigate – a far better way to reduce rates than by maintaining the risk and subsidizing the rate.

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[6] Supra note 5.

[7] U.S. Government Accountability Office. July 2013. Flood Insurance: More Information Needed on Subsidized Properties. (Publication No. GAO-13-607). Retrieved from: http://www.gao.gov/assets/660/655734.pdf

[8] Oliver Wyman. Flood Insurance Risk Study: "Options for Privatizing the NFIP. P60 Available at: http://www.floods.org/ace-files/documentlibrary/2012_NFIP_Reform/Reinsuring_NFIP_Insurance_Risk_and_Options_for_Privatizing_the_NFIP_Report.pdf

A better approach is to target any premium assistance to those who need it, and to encourage and fund mitigation measures that could serve to reduce rates by reducing risk. These mitigation efforts should be targeted at higher risk and lower income property owners.

The proposal includes a provision where states can create flood insurance affordability programs. We are pleased to see a proposal that addresses affordability and does so in a way that allows states to alter their programs based on need. We are also pleased to see that smaller states or regions could join together to create affordability plans. We do believe, however, that if a state provided affordability assistance for policyholders by merely capping rates, that wouldn't improve the fiscal solvency of the NFIP, remove risk from taxpayers, or help foster the developing private flood insurance market. It must be clear that all policyholders must continue to be told their true risk-based rates regardless of any subsidies.

While affordability must be addressed, we must also separate out those who truly cannot afford their risk based rates and those who need time to plan for rate increases, but for whom those rates would not cause a substantial hardship. TCS is interested in developing affordability proposals further and we believe that as rates move to risk-based, Congress must ensure that there is assistance for those in need – but it must be done in a means-tested, targeted, and time-limited manner outside the rate structure. Low-income property owners should be eligible for this premium support. However, premium support is not the preferred option for reducing premiums—we should be doing more to reduce premiums by reducing risk.

While noting some of the challenges of creating a premium assistance program, an April 2017 Government Accountability Office report on flood insurance noted: "Prioritizing mitigation over premium assistance could address the policy goal of enhancing resilience because it would involve taking steps to reduce the risk of the property, thus reducing the likelihood of future flood claims and potentially reducing long-term federal fiscal exposure."[9] To that end, TCS is supportive of the proposal's provisions to encourage FEMA to work with policyholders without preferred risk premiums to better understand how they can reduce rates through mitigation.

We believe FEMA should be working to conduct cost-benefit analyses so that subsidies can be used for mitigation where cost-effective; this should be built into state affordability plans as well. In addition, FEMA should be required to work with private lenders as well as the Federal Housing Administration to develop or modify existing loan products that homeowners could use to mitigate thus reducing their flood insurance rates.

Private Market

Though for many years NFIP was virtually the only option for flood insurance, the private sector is writing first dollar flood insurance, even in the highest risk areas. For instance, there are at least 19 companies writing private flood insurance in Florida, home to nearly 40 percent of the

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[9] Government Accountability Office. "Flood Insurance: Comprehensive Reform Could Improve Solvency and Enhance Resiliency." April 2017.

NFIP policies. A majority of these are writing flood coverage in the highest risk areas, and many are providing much higher coverage limits.

This provides needed competition in the flood marketplace – it provides consumer choice in flood policies, instead of forcing homeowners to purchase a one-size fits all government policy that is significantly limited. It also takes risk off the federal government, helping to stabilize the flood program and reduce the burden on taxpayers. I request to include for the record a recent analysis done by the Reinsurance Association of America (RAA) of a comparable public insurance system for hurricane risk – Florida Citizens Property Insurance Corporation, a state-run, subsidized wind insurer. This analysis reveals the results of an effort to get the private sector to "take out" policies from the program – an exodus of nearly a million policies out of a million and a half total. But instead of choosing only low risk properties, private insurers took out properties across the risk spectrum, including those along the coast in the highest risk areas. This left a smaller and stronger state run insurance program that could meet its obligations. While it's an extrapolation, the RAA analysis concludes that private sector engagement in flood insurance would "be extremely beneficial to both policyholders, taxpayers, and NFIP."[10]

Through private competition, purchase of reinsurance and a continued move toward risk based rates, NFIP would be able to meet its obligation in a 100-year flood with little Treasury borrowing.

We are pleased to see that H.R. 1422, The Flood Insurance Market Parity and Modernization Act was incorporated into the legislative proposal. As you know, this common sense legislation passed the House last Congress with a 419-0 vote and represents the first step toward leveling the playing field for private sector flood insurance and bringing competition and consumer choice to the flood insurance marketplace. Private sector participation would increase coverage while decreasing the cost for consumers, and should be encouraged. Consumers should be able to choose private flood insurance policies, potentially with terms and coverage that can be tailored to the interests of the consumer, as well as better incentives for mitigation. In fact, private flood policies could allow property owners to purchase enough coverage to ensure they can rebuild after a storm, not constrained by NFIP limits or by the amount of the mortgage.

H.R. 1422 would ensure that private flood insurance counts for purposes of the mandatory purchase requirements, and would also provide an important consumer protection that ensures rate stability for consumers if they leave NFIP for private coverage and then come back to NFIP. This bill is merely a clarification that Congress never intended for homeowners to be required to purchase flood coverage through the federal government, only that they had to have coverage if they were in the 100-year floodplain and had a federally-backed mortgage. The broad, bipartisan support for the proposal is a strong statement that consumers should be given choices in flood coverage and the unanticipated regulatory hurdle to acceptance of private flood coverage should be addressed. We would also encourage a provision stipulating

[10] Reinsurance Association of America. "Private Flood Improves NFIP's Stability."

until regulations are in place, that lenders shall accept private coverage as long as it covers the required amount and the insurer is subject to the authority of the state insurance commissioner.

In addition we support the legislative proposal's repeal of the non-compete provisions for Write-Your-Own (WYO) companies.

I would remiss if I did not highlight our concerns with proposals currently in the Senate that would prevent millions of homeowners currently in Special Flood Hazard Areas from opting for private flood insurance. To deny them access to the coverage that could be cheaper or better than what NFIP provides seems illogical at best. There is currently no requirement to purchase a National Flood Insurance Program policy if you are in the floodplain, only that you purchase flood insurance. This proposal turns that concept on its head.

TCS believes that the mapping fee on NFIP and private policies in the legislative proposal should be transparent to policyholders as to its provenance and use.

Finally, it is important to note that private companies will not only compete for the 5 million NFIP polices, but write coverage beyond as well. The goal is to ensure that more people around the nation purchase needed flood coverage. Recent flooding events have sadly demonstrated that many people who need coverage do not have it. The average NFIP payment for the 2016 flooding in Louisiana was $86,500, the average individual aid payment was $9,150. Absent flood insurance the homeowner is left with low interest Small Business Administration loans to rebuild. Piling a loan on top of a mortgage to rebuild a currently uninhabitable house is not conducive to efficient and resilient rebuilding. Leveling the playing field for private insurers will allow for additional property owners to benefit from insurance coverage.

Risk Analysis and Mapping

FEMA is required to map the Special Flood Hazard Area (SFHA). This delineates the area considered to have a one percent chance of flooding in any given year (so-called 100-year floodplain) and therefore has a mandatory purchase requirement for federally backed mortgages. These maps are the backbone of the NFIP and are used to determine rates. However, the flood maps do not look at property level risk or elevation, and this means there is a lack of confidence in maps and the risk analysis provided by those maps. The current lack of confidence in the flood maps hobbles FEMA implementation of the program.

Mapping is both a challenge and an opportunity. Technology has enabled greater levels of detail and accuracy in mapping. It also can be used by the private sector for more intensive risk analysis and modeling that can benefit private sector flood insurance alternatives (and NFIP as well) particularly in providing risk-based coverage in areas outside the SFHA. In addition, flood claims should inform mapping. While it is true that just because a property has never flooded in no way guarantees it won't flood, the converse does provide an indicator. Absent significant mitigation action for structural changes, a property that has flooded is certainly at risk of flooding again. Yet, in a three-part series published in early 2014, NBC News documented instances where FEMA agreed to remap out of the floodplain large condominiums built in previously flooded areas.[11] One company head that made the remapping program his business (only for commercial properties, not residential) dubbed himself Robin Hood. Hardly. Maps have to be accurate for both sides. Taxpayers and ratepayers.

That's why we support the legislative proposal for greater public involvement, use of risk assessment tools in determining rates and directing FEMA to work with the Technical Mapping Advisory Council to improve the mapping process.

The community mapping initiative proposal has merit and would enable communities to move the mapping process along. However, this will only work if there are sufficient standards and safeguards to ensure the maps are accurate.

I would also like the Committee proposal to go further. Mapping has to be smarter. Private companies are using tools that enable property level mapping and elevation. FEMA should be required to move to a system of more granular, property level mapping. This would not only ensure proper risk analysis and rates, but it would take the onus off homeowners who now have to go through a burdensome and expensive process if they believe they are mapped incorrectly.

FEMA should be required to assess elevation at a higher resolution or conduct more granular risk analysis. This is something that is possible—the state of North Carolina has undertaken a mapping effort where they have not only gotten property level data at a reasonable cost, but they have a digital system to allow property owners to search and understand their risk, potential flood premiums and mitigation options. FEMA should be required to move in this direction.

There are also many different federal agencies that engage in mapping. This should be more coordinated and shared among agencies to avoid duplication. This is also where – and I know this is also outside the committee's jurisdiction – the nation's mitigation and pre-disaster programs have to dovetail with NFIP and post-disaster response.

More needs to be done for the public to have a greater understanding of their flood risk. As discussed earlier, FEMA is tasked with mapping the SFHA for the mandatory purchase requirement. That is a federal mandate unlikely to change. However these maps are static – lines on a map designating various flood risk areas and charging various rates based on those risks. If a homeowner has an elevation certificate that proves they are elevated "out" of the floodplain they can have those rates adjusted. But the creation of the rates are sort of a black box and it's not entirely clear that even "full-risk" rates are actuarially sound.[12] In some cases

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[11] Dedman. "Why Taxpayers Will Bail Out the Rich When the Next Storm Hits US" http://www.nbcnews.com/news/investigations/why-taxpayers-will-bail-out-rich-when-next-storm-hits-n25901 NBC News.

[12] Beider. "Understanding FEMA's Rate-Setting Methods for the National Flood Insurance Program." Congressional Budget Office. October 7, 2014. Available at: https://www.cbo.gov/sites/default/files/presentation/49441-femaratemethodsnfip.pdf

there are significant cross-subsidies where lower risk properties pay more to maintain subsidies for higher risk properties.

Mitigation

Subsidized rates provide a disincentive to mitigation, but as rates gradually increase there is more incentive for individuals, and by extension communities, to mitigate. This should be encouraged by further federal investment. While we appreciate that the committee's proposals focus on mitigation, we believe Congress should go further to encourage mitigation before flooding occurs. We know each dollar of mitigation reduces post-disaster costs by four dollars or more.[13] Instead of going to premiums, FEMA's subsidies should be used for mitigation where possible and cost-effective. Mitigation funds should be better targeted to homeowners and communities most at risk. We appreciate the increased level of available Cost of Compliance coverage. Regarding the Community Rating System changes, we want to be sure it isn't just increasing credits without actually increasing a community's use of nature-based mitigation approaches.

There is a greater benefit from larger scale, community wide mitigation efforts than mitigating house by house or property by property. In addition, this type of mitigation often becomes a community amenity that can actually increase home values beyond the flood damage reduction benefits alone. So we appreciate the inclusion of H.R. 1558, the Repeatedly Flooded Communities Preparation Act, targeting communities with large numbers of repetitive loss structures. FEMA should establish a system to promote mitigation of groups of adjacent properties in order to maximize flood damage reduction and provide additional opportunities for preservation of wetlands and other natural buffers against storm surge and other flooding.

Taxpayer Protections

TCS is pleased to see the Committee included provisions to require an annual independent actuarial review of the NFIP as well as provisions from H.R. 2246, the Taxpayer Exposure Mitigation Act that require FEMA to increase use of risk transfer tools.

I am intrigued by the Committee's creation of the "multiple-loss property" designation and sub-categories of "repetitive-loss", "severe-repetitive loss", and "extreme repetitive-loss." In general, the greater information requirements as well as the gradual removal of subsidies and shift toward risk-based rates for these properties makes sense. I would like to see what the impacts are of the interaction between current law requiring severe repetitive-loss properties movement toward risk-based rates and this proposal. In addition, targeting mitigation assistance to multiple-loss properties makes sense, but I would encourage the Committee to make it means tested. If a homeowner can afford to mitigate, they should not be subsidized to do so.

[13] Multi-Hazard Mitigation Council. Natural Hazard Mitigation Saves: An Independent Study to Assess the Future Savings from Mitigation Activities. Available at: https://c.ymcdn.com/sites/www.nibs.org/resource/resmgr/MMC/hms_vol1.pdf

TCS also supports provisions that prospectively restrict access to NFIP for properties with extreme loss profiles. In addition, TCS supports the proposal's concept to not make available federal flood insurance to high risk properties that are added to the SFHA as well as high value properties (greater than $1 million in value not including the value of the underlying real estate) when private coverage is available and relatively affordable. We would like to work with the Committee to make this provision simpler to administer.

We also support increased lender penalties for not enforcing mandatory purchase requirement and increased reporting requirements on compliance.

Administrative Reforms

In general, TCS supports the penalties and administrative reforms that are being adopted in the wake of policyholder experience and adjuster fraud after Superstorm Sandy.

Additional Thoughts

Adverse selection – The simple fact is that most of the people who are purchasing flood insurance are those most likely to get a payout. As I indicated there are 5.1 million policies in the program. According to the U.S. Census Bureau there are 134 million housing units[14] in the country and even leaving out multi-unit structures – that could be purchasing flood insurance – and commercial properties, roughly 5.4 percent of the houses in the country have flood insurance. Just about everybody has some level of flood risk, but for the most part, unless it's acute, they don't buy insurance. This means that NFIP as currently structured is essentially a high risk pool covering the most at-risk properties; the $25 billion in debt shows this to be the case. This concentration of risk has put significant strain on the program, particularly given the lack of risk-based rates. The private sector would most likely not concentrate all of their risk in flood, but would have diverse risk pools; in addition they could write multi-peril insurance that includes flood and other risks, making the pricing for the peril less, and they can also lay off risk on the worldwide reinsurance marketplace.

Reinsurance - FEMA's recent purchase of reinsurance demonstrated there is interest and capacity in the reinsurance markets to take on U.S. flood risk. Obviously industry will have to gain a greater understanding of the nature of the underlying flood risk in the NFIP portfolio, but that can be managed through responsible data sharing. Laying off risk on the private sector will help protect taxpayers from debts racked up by future large storms.

Disaster Assistance - NFIP's inter-relationship with federal disaster aid programs under the Stafford Act is both an opportunity for reform and a challenge to a more rational holistic federal approach.

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[14] http://quickfacts.census.gov/qfd/states/00000.html

An observation from a the 2014 FEMA privatization report "... highly publicized instances of federal aid following catastrophic events have also created a public perception that individual property owners do not need to insure against low-probability high severity flood events, effectively creating moral hazard."[15] What people are not realizing is that the vast majority of the aid goes to rebuild public and federal infrastructure, not individuals to help them move on after disaster. A 2014 study by the Wharton Center for Risk Management and Decision Processes at the University of Pennsylvania found that increasing disaster assistance by $1,000 reduced subsequent insurance coverage by $6,000.[16]

Conclusion

Again, TCS congratulates the Committee on providing a responsible, thoughtful legislative start to NFIP reauthorization. While I noted some differences, we are ready to work with the committee to make reforms to the NFIP to ensure the program is sustainable in the long term. Coming full circle, the second topic the committee asked me to address in its invitation to testify was: "The cause of NFIP's approximately $1.4 billion annual premium shortfall and what reforms may be needed to ensure the program collects revenue sufficient to pay expected claims." My testimony sought to address that topic throughout. In short, with better, property level mapping, a focus on mitigation and risk reduction, a move to risk based rates with targeted subsidies, and private sector competition, we believe NFIP will be strengthened and more people will purchase needed flood coverage.

[15] Oliver Wyman. Flood Insurance Risk Study: "Options for Privatizing the NFIP. P52 Available at: http://www.floods.org/ace-files/documentlibrary/2012_NFIP_Reform/Reinsuring_NFIP_Insurance_Risk_and_Options_for_Privatizing_the_NFIP_Report.pdf

[16] Kousky, Michel-Kerjan, Raschky. Does Federal Disaster Assistance Crowd Out Private Demand for Insurance? Available at: http://opim.wharton.upenn.edu/risk/library/WP2013-10_FedDisasterAssistance.pdf

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Testimony of R.J. Lehmann
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R Street Institute

U.S. House Committee on Financial Services
Subcommittee on Housing & Insurance
"Flood Insurance Reform: A Taxpayers Perspective"
June 7, 2017

Chairman Hensarling, Ranking Member Waters and members of the committee,

My name is R.J. Lehmann, and I am the editor-in-chief, co-founder and a senior fellow with the R Street Institute. I appreciate the opportunity to testify and greatly appreciate the work done by committee members and staff to draft legislation to reform and reauthorize the National Flood Insurance Program. We strongly support many aspects of the legislation set to come before the committee, including provisions to encourage more private sector competition and choice, to shift more risk to the private sector through reinsurance and to limit taxpayer exposure to NFIP losses.

R Street is a nonpartisan, nonprofit public policy research organization based here in Washington, D.C. Through our research and outreach, we seek to promote free markets and limited, effective government at both the state and federal level, with a particular focus on issues that might be considered relatively low salience and high complexity. We have a commitment to work with broad coalitions and, wherever possible, to build support for pragmatic market-oriented proposals that can earn bipartisan consensus. As one notable example of that commitment, like the National Wildlife Federation and Taxpayers for Common Sense, R Street is a part of the SmarterSafer coalition, a group of taxpayer advocates, conservation groups, insurance interests and housing advocates that supports NFIP reform.

R Street's insurance project has been a core part of our mission since we opened our doors five years ago. In fact, the first white paper we ever published was a "report card" evaluating the regulatory environment for insurance in each of the 50 states, which we have continued to update annually.[1] Our

[1] http://www.rstreet.org/wp-content/uploads/2012/06/2012-Insurance-Regulation-Report-Card.pdf

work seeks to highlight the crucial role that competitive private insurance markets play in sending price signals that allow society to better evaluate, mitigate and manage risk. It is in no small part thanks to risk-based insurance rates produced through the price discovery process of private-sector competition that America has significantly safer roads and workplaces today than it did 50 or 100 years ago, as the prospect of lower premiums have offered strong incentives for employers, automakers and drivers to opt for safer behavior and safer processes.

However, such price signals can be muted or deliberately distorted where underwriting and ratemaking decisions are subject to explicit government-imposed price controls, or where private insurance and reinsurance capacity is displaced by taxpayer-backed entities, such as the federal programs for crop insurance, trade credit insurance and terrorism reinsurance and state-backed residual markets for home and auto insurance. The National Flood Insurance Program is among the largest and most distortionary of these government insurance entities. In 1966, when Congress initially deliberated the legislation that would eventually authorize the NFIP, the Presidential Task Force on Federal Flood Control Policy warned that creating a federal program that provided "insurance in which premiums are not proportionate to risk would be to invite economic waste of great magnitude."[2] That prediction has, unfortunately, come to pass.

Over much of its history, the NFIP has subsidized irresponsible floodplain development at taxpayers' expense. For example, a December 2014 report by the Government Accountability Office found that, thanks to subsidized policies, the program collected $11 to $17 billion less in premiums than was actuarially prudent over the dozen years from 2002 to 2013.[3] Despite reforms passed by this committee and ultimately signed by President Obama in 2012,[4] NFIP premiums still do not reflect the full risk of loss.

When property owners don't bear the full cost of the risks they face, they are encouraged to take on more. Thus, it should not surprise anyone that, over its 50-year history, the NFIP has literally changed the landscape, allowing acres of lush river valleys and miles of coastal land to be transformed into manicured lawns and beachfront cottages. Today, more than half the U.S. population lives in coastal counties, up 45 percent from 1970 to 2010.[5] It is no coincidence that, according to Federal Emergency Management Agency's own statistics, more than 90 percent of all presidentially declared national disasters involve flooding.[6]

Moreover, those development and population trends show no signs of slowing down, even as rising sea levels and other changes in climate patterns merit heightened concern about the risk of flooding. A 2013 report that appeared in the journal *Nature* projected that annual global flood losses would be expected

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[2] http://ufdc.ufl.edu/UFE0041081/00001
[3] http://www.gao.gov/products/GAO-15-111
[4] https://www.fema.gov/media-library/resources-documents/collections/341
[5] http://www.livescience.com/18997-population-coastal-areas-infographic.html
[6] https://www.downsizinggovernment.org/dhs/fema

to rise to between $60 and $63 billion by 2050, compared to the current $6 billion, even if governments made significant investments in flood defenses.[7] But even more striking was the researchers' projection that average global flood losses would rise to at least $52 billion a year by 2050 based solely on economic development and growth in coastal populations, ignoring the expected effects of climate change.

Given such projections, the NFIP is not sustainable in its current form, as evidenced by its $24.6 billion debt to federal taxpayers. To prepare for these shifting risks, to ensure that markets receive and incorporate appropriate price signals and to protect taxpayers from the exploding cost of disaster assistance, it is essential that Congress move, as Chairman Hensarling has proposed, to "take up legislation to transition to a private, innovative, competitive, sustainable flood insurance market."[8]

Transitioning to a private, risk-based insurance market for floods will not be easy, but it is a challenge private insurers and reinsurers can meet, just as they have done in countries such as the United Kingdom. Advances in mapping, risk modeling and the ability to spread risk across the globe means that many of the logistical problems the insurance industry once faced in attempting to underwrite flood risks have been significantly addressed, if not completely resolved.

Indeed, as this committee moves forward with reforms, I encourage members to recognize the burgeoning private flood insurance market for what it is: an example of entrepreneurial innovation. The insurance industry may have a public image as stodgy and old-fashioned, but that doesn't mean it's incapable of breaking new ground. I would argue that an insurance contract is a kind of technology. Some might quibble with that claim, but there can be no question that the catastrophe models that insurers use to project potential losses employ some of the most advanced computational algorithms in the world. Shifting flood insurance to the private sector will mean bringing those powers to bear to much more accurately segment and price property-level risks. It also will mean having companies' marketing and underwriting teams compete to fashion products that are more attractive to policyholders and better meet their needs.

Requiring risk transfer

One area where considerable progress already has been made in transferring flood risk off the backs of taxpayers and onto the private market is in reinsurance. Even if all of the NFIP's policies were charged full risk-based rates—a scenario that remains some years in the future—the nature of catastrophe risk dictates that the program will sometimes experience extraordinarily large events that exceed anticipated losses. Losses from such events, notably 2005's Hurricane Katrina and 2012's Superstorm Sandy, continue to account for the bulk of the program's debts.[9]

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[7] http://www.nature.com/nclimate/journal/v3/n9/full/nclimate1979.html
[8] https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=316375
[9] https://www.fema.gov/loss-dollars-paid-calendar-year

Private market insurers curtail their exposure to such catastrophes through the use of reinsurance, commonly described as "insurance for insurance companies." The NFIP historically has instead relied on loans from the federal Treasury in years when losses exceed available resources. The Biggert-Waters Act clarified FEMA's authority to execute reinsurance contracts for the NFIP, which can take the form of traditional facultative or treaty reinsurance or various forms of collateralized reinsurance, such as catastrophe bonds or other insurance-linked securities. Earlier this year, FEMA executed the first such risk transfer, ceding $1 billion of flood exposure risk to a consortium of 25 private reinsurers.

We are pleased to see the legislation set to come before the committee would incorporate Rep. Luetkemeyer's Taxpayer Exposure Mitigation Act, which would make it a requirement that FEMA's administrator use reinsurance and other risk-transfer tools to lower taxpayers' direct exposure to catastrophic losses. As FEMA gains more experience buying reinsurance, and as reinsurers gain more experience absorbing risk from the NFIP, we anticipate that future risk transfers could be significantly larger.

The NFIP purchases reinsurance using the resources accumulated in its Reserve Fund, which also was established by the Biggert-Waters Act. The fund is required to hold at least 1 percent of the NFIP's total potential loss exposure, which stood at $1.25 trillion at year-end 2016.[10] It is capitalized by an assessment levied on all policies, which currently is calculated at 15 percent of total premium, as well as an additional surcharge of $25 for each residential policy and $250 for each nonresidential and nonprimary residential policy. By law, the annual combination of the assessments and surcharges are required to total at least 7.5 percent of the mandated Reserve Fund, or about $937.5 million annually, based on current NFIP exposures.

We welcome provisions of the draft legislation that would require FEMA's administrator to raise the assessment rate by 1 percentage point each year until the program meets the minimum reserve ratio phase-in of 7.5 percent. We think the language could be further improved if, rather than either a flat percentage assessment (which serves actually to magnify inequities between policies that pay subsidized or grandfathered rates and those that pay full-risk rates) or flat fee surcharges (some of which would change under the current draft), the committee were instead to consider applying Reserve Fund charges that are based on the catastrophe risk posed by each individual property. Private insurers already use similar catastrophe loads to buy reinsurance and the NFIP should, as well.

Encouraging private flood insurance

While the private market for primary flood insurance remains comparatively small, it is not insubstantial and most sources agree that it is growing. While FEMA collected $3.3 billion in premiums last year from its 5.1 NFIP million policies,[11] according to data from S&P Global Market Intelligence, there was $412.6 million of standalone private flood insurance written in the United States in 2016, the first year for

[10] https://www.fema.gov/total-coverage-calendar-year

[11] https://www.fema.gov/total-earned-premium-calendar-year

which data are available.[12] The total includes coverage written on an excess-of-loss basis, although it does not capture flood risks covered by umbrella policies or by multiperil commercial insurance policies.

The largest private flood markets can be found in California, with $48.8 million of direct premium, and Florida, with $47.8 million. Florida is notable not only in that it is the largest participating state in the NFIP—with 1.8 million policies, representing nearly 40 percent of the program—but also in that the state Legislature moved in 2014 to create a statutory framework to regulate four different kinds of private flood insurance policies, which has served as a legislative model adopted in a handful of other states.

But there remain a number of issues that serve to hinder growth of the private market, several of which are addressed in the draft legislation before the committee.

First and perhaps simplest to accomplish, the draft legislation would remove a longstanding restriction that prohibits insurers who participate in the Write Your Own program from selling standalone coverage outside of the NFIP. As companies with experience marketing flood insurance policies and adjusting flood claims, these are the insurers that arguably are best positioned to enter the market for private flood. The legislation includes transparency safeguards to ensure policyholders are clear as to whether a given policy is underwritten by the NFIP or a private company, which should address the only potential objection to removing this otherwise needless restriction.

We also are pleased that the legislation incorporates the Flood Insurance Market Parity and Modernization Act, sponsored by Reps. Ross and Castor, which previously passed the House unanimously. While the Biggert-Waters Act required regulated lending institutions to accept private flood insurance to satisfy the Flood Disaster Protection Act of 1973's mandatory purchase requirement, the market still doesn't have clarity from federal banking regulators about which private policies will be deemed compliant. This legislation would clarify that policyholders who leave the NFIP for private coverage and later return are considered to have continuous coverage and that both admitted market and surplus lines policies may qualify for the mandatory purchase requirement. We think the language could be further strengthened to be self-executing, so that lenders and borrowers could choose to accept private coverage today, without having to continue to wait for rulemaking from federal banking regulators, which could take years.

One area where the legislation may fall short of the mark is in the access it would grant insurers to NFIP claims data. While the draft includes language that would require FEMA to make information relevant to assessing flood risk and identifying and establishing flood elevations and premiums available to the public through an open source system, we are concerned that these data are not sufficiently granular to serve the purposes for which it would be needed. The legislation provides that data would be made available at the ZIP code or census-block level, while insurance underwriters would need claims and policy information at the individual property level. FEMA has raised the concern that it is barred by the

[12] http://marketintelligence.spglobal.com/

Privacy Act of 1974 from releasing more specific information. This argument is lacking. For one, the most sensitive data that would actually interest insurers—the price the policyholder paid for the property—is information that now is readily available to the public through apps like Zillow and Trulia. Moreover, to the extent that other data could be considered personally identifiable, insurers and reinsurers routinely consent to nondisclosure agreements to address such concerns.

I also would like to address the concern—raised by some members and other observers—that a more active private market for flood insurance could destabilize the NFIP by cherry-picking low-risk policies until it is rendered an underfunded high-risk pool. Almost every piece of this charge misses the market. The program already is unstable and underfunded. Its $25 billion in debt is sufficient testimony to that reality. It already serves, in essence, as a high-risk pool. In the United Kingdom, where flood insurance is wrapped into all-risks homeowners coverage sold by private insurers, about 95 percent of homeowners have coverage for flood risks. In the United States, only about 14 percent of homeowners do.[13]

The vast bulk of existing NFIP policyholders are required to purchase coverage, meaning they face at least a 1 percent chance of flooding in any given year. This is a high-risk cohort. There are, by and large, no cherries to pick. Reducing the size of the program will necessarily reduce its overall exposure and the potential burden it could place on taxpayers.

Further countering this concern are provisions in the proposed legislation that would ensure the NFIP's highest-risk properties are either mitigated or forcefully pushed into the private sector. One such provision would bar NFIP coverage for any property whose lifetime claims, subsequent to the law's passage, amount to more than twice its replacement value. Another would bar coverage for new construction in high-risk special flood hazard areas, as well as residential structures whose replacement costs top $1 million, where private flood insurance options are available. We support these provisions.

Rates and affordability

While the Ross-Castor language would help address technical issues that represent obstacles to further flowering of the private flood insurance market, the single biggest impediment remains the fact that the program does not charge sufficient risk-based rates, making it nearly impossible for private companies to compete for some NFIP business.

For roughly 1 million policies—representing 20 percent of the program—rates are explicitly "subsidized." These are properties that joined the NFIP before the introduction of flood insurance rate maps in the mid-1970s and have never been charged a risk-based premium. Indeed, FEMA reported earlier this year that 97 percent of the program's subsidized properties lack flood elevation certificates.[14] This means that, effectively, not only do they not pay what actuarial guidelines would recommend, but

[13] http://www.theadvocate.com/baton_rouge/news/business/article_16bd46b2-ceb3-11e6-92ac-7bb4e0eef917.html

[14] http://www.gao.gov/assets/690/684354.pdf

neither FEMA, Congress nor the policyholders themselves have any solid information about what they *should* be paying or what sort of financial exposure they represent for the program. As others have suggested, we strongly recommend this committee require FEMA to follow the State of North Carolina's lead and contract to use LIDAR or other modern technologies to obtain property-level elevation data, which would reduce the burden on policyholders to obtain elevation certificates.

The best available estimates from the Government Accountability Office are that subsidized properties currently pay about 35 percent to 40 percent of their full risk-based rates. Moreover, nearly 80 percent of subsidized properties are located in counties that are among the top 30 percent of the nation in home values, while only about 5 percent of subsidized properties are located in counties in the bottom half of the home-price distribution.[15] While the 2012 and 2014 reform bills set nearly all of these policies on the path toward risk-based rates, we would urge the committee to revisit changes made in the 2014 bill to slow that progress.

Another set of policies—whose precise number FEMA has, to date, been unable to quantify—are "grandfathered" into rates associated with lower-risk flood zones even after changes in flood maps have reclassified them into higher-risk zones. While we do not know how many grandfathered properties there are, FEMA has asserted that, taken together with other properties within their risk classes, they produce enough premiums to cover expected losses. If this claim is true, by definition, the other properties within such risk classes are contributing more in premium than their actual risk characteristics would merit. This would make them natural targets for competition from the private sector. FEMA is currently engaged in a project to gather information on grandfathered properties, which it has said it expects to complete by September 2018.

We support moving to risk-based rates for all NFIP properties, with an understanding that, for some lower-income policyholders, assistance may be needed to ensure those rates are reasonably affordable. Such assistance must be targeted, limited, means-tested and executed outside the rate structure of the NFIP. We think the draft legislation's proposal to authorize states to create affordability programs for lower-income policyholders, financed by surcharges on other NFIP policyholders within that state, represents an important step in the right direction. Not only does this comport with the principles of federalism, but states already collect income data for a variety of means-tested programs, which should ease what might otherwise be substantial compliance costs.

On the other hand, we oppose the legislation's proposal to decrease the cap on annual rate increases from 18 to 15 percent and we strongly oppose the provision to impose a hard cap of $10,000 on the risk premium that can be charged to any single-family residential property. While this provision would affect very few properties—we understand that there are only 763 properties nationwide out of roughly 3.5 million residential policyholders that pay more than $10,000 annually in premium—we fear the precedent set by any such arbitrary rate cap. Once introduced as a statutory mechanism, it could be lowered by a future Congress or possibly even by executive order. Moreover, it ignores that any policy

[15] http://www.gao.gov/assets/690/684354.pdf

that would be charged an annual premium of more than $10,000 for what are maximum benefits of just $350,000 ($250,000 for the structure and $100,000 for contents) must, by definition, pose an extraordinarily high level of risk. Any offer of premium relief made to such policyholders must, at a minimum, be conditioned on agreeing to some level of pre-disaster mitigation.

Conclusion

In closing, I'd like to reiterate our support for the broad contours of the proposed legislation, which in many respects mirrors similar proposals the SmarterSafer coalition put forward earlier this year in our National Flood Insurance Program Reform Proposal. I urge committee members who haven't done do to read that proposal, which also includes detailed analysis of such topics as mapping and mitigation, which I've only touched on briefly here.

Making the transition to private flood insurance will be complicated endeavor, although not nearly as complicated as continually rebuilding flood-prone communities that have no incentive to adapt and mitigate risk because that risk is borne by others. I would be glad to answer any questions the members might have.

Testimony of Joshua Saks
Legislative Director, National Wildlife Federation
United States House of Representatives
Financial Services Committee, Subcommittee on Housing & Insurance
"Flood Insurance Reform: A Taxpayer's Perspective"

June 7, 2017

Chairman Hensarling, Ranking Member Waters, and members of the Committee. I am Joshua Saks, and I serve as the Legislative Director for the National Wildlife Federation (NWF), the nation's largest member-based conservation group, representing 6 million members and supporters and affiliate conservation organizations in 51 states and territories. The National Wildlife Federation is also a member of the Smarter-Safer Coalition, a broad-based partnership of conservationists, free-market and taxpayer advocates, low-income housing advocates, insurance interests, and other stakeholders that support National Flood Insurance Program (NFIP) reform.

I appreciate the opportunity to testify today about the draft reauthorization proposal recently released by the Financial Services Committee and on the ways the National Flood Insurance Program impacts, and benefits from, the natural environment.

NWF has been engaged in protecting and restoring the nation's coasts, wetlands, and floodplains – areas that provide some of the most vital wildlife habitat – since its founding in 1936. Healthy, natural systems not only provide essential wildlife habitat but also help to protect people and communities by providing buffers against storm surge and wave action and maintaining areas for water to pool and settle instead of flooding surrounding areas. But decades of federal policies have led to increased development and alteration of coasts and floodplains that, as a result, are no longer able to serve important environmental and public safety functions. Unfortunately, the National Flood Insurance Program has been one of the primary culprits.

The NFIP was originally founded on a strategy developed by eminent scientists and government officials in the late 1960s, which combined the ideas of identifying flood risks (generally through mapping), developing and implementing risk-reducing land use and building codes, and providing affordable insurance that was not otherwise available in the private markets. It was believed that the NFIP would slowly reduce the amount of floodplain development and encourage communities to take steps to reduce flood risk. Nearly 50 years later, we find that the exact opposite has happened. Development of the floodplain has continued at an alarming pace, building codes and mitigation have failed to keep pace, and the NFIP currently owes a debt to the federal treasury nearing $25 billion.

This enormous debt is due in large part to heavily subsidized rates, inadequate investments in mitigation, and the failure to protect the vital functions that floodplains perform. National flood damages, instead of decreasing as the program's founders would have hoped, are now rising at alarming levels. To address these shortcomings, the National Flood Insurance Program is in need of significant reform. The Committee has previously taken positive steps – including phasing out subsidies for Severe Repetitive Loss properties and second homes – and this year's reauthorization is a vital opportunity to move the reform ball further down the field.

Today I will make five major points reflecting on the Committee's draft and, in some cases, going beyond. First, the NFIP must better protect natural floodplains which benefit wildlife, improve water quality, reduce flood impacts, and enhance hunting, fishing and outdoor recreation opportunities. Second, we cannot afford business as usual with extraordinary and often unwise development pressures, more severe weather, and sea level rise. Third, we must continue to build upon efforts to ensure rates reflect the actual risk to properties and that communities truly understand their risk through accurate mapping. Fourth, substantial new investments in mitigation, especially through enhancing natural features such as wetlands and dunes, can greatly reduce flood risks and save taxpayers from ballooning disaster payments. Fifth, offering private market insurance alternatives will provide consumers with vital choices, enhance affordability, and promote better site specific mitigation.

<u>The NFIP Must Protect Floodplain Functions</u>

Floodplains, the flood-prone bottomlands that cradle rivers, streams, and oceans, are where the land and the waters meet. Naturally functioning floodplains provide vital habitat for countless species. These areas provide grounds for breeding, foraging, and other parts of the life cycles of a variety of plants, insects, reptiles, amphibians, birds, and mammals. Floodplains are also crucial to the survival and recovery of many threatened and endangered species, including salmon, steelhead trout, sturgeon, and sea turtles. However, alterations to floodplains create multiple threats to wildlife through a range of impacts including: changing the flow and hydrology of rivers; eliminating wetlands and side channels, destroying nesting and rearing areas and other important habitat; straightening and deepening channels; and causing siltation, nutrient, and other water quality problems.

Additionally, floodplains in their natural form provide an array of environmental and public health benefits, including: reducing the number and severity of floods; attenuating floodwaters upstream to delay and reduce downstream flood peaks; fostering vegetation to limit non-point water pollution from storm water runoff; providing a tree canopy for shade to cool water temperatures in adjacent rivers and streams, which in turn increases dissolved oxygen levels and improves habitat for aquatic plants and animals; allowing water to recharge in underground drinking water aquifers; and providing aesthetic beauty and outdoor recreation benefits.

Protecting floodplains is also way to protect the areas where NWF members, hunt, fish, and enjoy wildlife. Often overlooked, the outdoor recreation sector supports more jobs than many American industries. According to the Outdoor Industry Association the outdoor recreation industry supported 6.1 million American jobs and contributed $646 billion in economic output in 2012. From hunting and fishing supplies, to outdoor guides and travel to America's National Parks and more, adventure and travel exploring our nation's natural treasures and wildlife resources is a major driver of the U.S. and local economies, particularly in rural communities. This is the outdoor economy and it is dependent upon its own type of infrastructure — natural infrastructure comprised of restored wildlife habitat, clean waterways, healthy forests, wetlands, and grasslands, and productive soils, and accessible public lands for recreating, hunting, fishing, and supporting abundant wildlife populations. Preserving floodplains is an investment in this outdoor economy.

Floodplain Development is Skyrocketing

As noted earlier, the NFIP was created with the intention of slowing or preventing new flood-prone coastal and riverine development. The program aimed to incentivize "appropriate land use adjustments to *constrict* the development of land which is exposed to flood damage" and intended to "guide the development of proposed future construction, where practicable, *away* from locations which are threatened by flood hazards."[1]

But despite these good intentions, the current floodplain management system in the United States is not working. Instead of reducing floodplain development, one of the NFIP's original goals, the system in place has incentivized and exacerbated development. Flood-prone coastal population growth and development in the U.S. has skyrocketed since the NFIP's creation. U.S. Census Bureau data shows that the population in coastal counties grew by 84% between 1960 and 2008, compared to 64% in noncoastal counties.[2] In 2010, the number of people living in coastal shoreline counties made up 39% of the population – and by 2020, that number is expected to increase by an additional 8%.[3] Now, the coastal area which comprises only 17 percent of the nation's contiguous land area is home to nearly half its population. With this population growth, development has also increased: between 2000 and 2010, the total number of housing units in coastal shoreline counties increased by 8%, and the number of seasonal housing units increased by 18%.[4]

The result has been large-scale loss and alteration of floodplains and a loss of their ecological benefits as these important natural systems have been developed, filled, and leveed off due in part to ill-conceived NFIP policy choices. Of these problematic NFIP policies, the primary driver of development has been a rate structure with many hidden subsidies that have masked the risk and true cost of floodplain development. As such, land use patterns have been altered, impairing the ability of the systems themselves to provide natural flood protection values.

Courts have also realized the impact premiums have on land use and development. In Florida Key Deer v. Stickney 864 F. Supp. 1222 (1994), the federal district court found that "The evidence presented in the case clearly demonstrates that there is more than a substantial likelihood of cause and effect between the federal flood insurance and new development…"

With Sea-level Rise and Heavier Rainfall, Flooding is Only Getting Worse

Furthermore, sea-level rise and an increase in the number and intensity of heavy rainfall events are only making the problem of flooding worse. Accelerating sea-level rise due to the expansion of warming ocean water and melting glaciers and ice sheets is among the most direct and certain

[1] 42 U.S. Code § 4001, ***emphasis added***
[2] U.S. Census Bureau, Coastline Population Trends in the United States: 1960 to 2008, May 2010, found in The Growing Value of U.S. Coastal Property at Risk
[3] NOAA, National Coastal Population Report, March 2013, found in The Growing Value of U.S. Coastal Property at Risk
[4] NOAA, National Coastal Population Report, March 2013, found in The Growing Value of U.S. Coastal Property at Risk

consequences of climate change. The global average sea level rose about 8 inches over the past century, and since the early 1990s the rate of sea-level rise has been accelerating more quickly than previously thought.[5]

As global temperatures continue to increase, further sea-level rise is inevitable. Scenarios developed for the 2014 U.S. National Climate Assessment suggest that future sea-level rise will range from an additional 8 inches (above 1992 levels) to 6.6 feet by the end of the century, with a mid-range estimate of 1-4 feet.[6] Even at the low-end sea level projections, coastal communities will face significant impacts. Yet there is compelling evidence that even the high-end projections likely underestimate potential sea-level rise due to accelerating ice loss on Greenland and Antarctica.[7]

In addition to contributing to sea water inundation and erosion, sea-level rise is exacerbating coastal flooding and storm damage.[8,9] According to a recent study by NOAA, an increase in relative sea levels has led to more frequent flooding during high tides in many U.S. coastal regions,[10] a trend that is projected to continue.[11,12] In addition, as sea level rises, storm surges emanate from an elevated base. Already, a rise in relative sea levels across the Mid-Atlantic coast has increased the probability that the region will experience additional storm surge events comparable to the severity of Hurricane Sandy.[13] In some areas of the Pacific Northwest, southern California, and the Southeast, research suggests that sea-level rise could turn today's 100-year storm surge into an annual event before the middle of this century.[14]

In addition, heavy downpours are increasing nationally, especially over the past 3 to 5 decades, with the largest increases occurring in the Midwest and Northeast.[15] In data ranging back to 1895, 9 of the 10 years for the most extreme precipitation events have occurred since 1990.[16] This has corresponded to a significant increase in annual flood magnitude from the 1920s through 2008.[17] An increase in both the frequency and intensity of extreme precipitation events are projected across the United States in the decades to come. Recent events illustrate the potential risks. For example,

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[5] Dangendorf, S., et al. 2017. Reassessment of 20th century global mean sea level rise. Proceedings of the National Academy of Sciences, 201616007.

[6] Parris, A., et al. 2012. *Global Sea Level Rise Scenarios for the U.S. National Climate Assessment*. NOAA Tech Memo OAR CPO-1. http://scenarios.globalchange.gov/sites/default/files/NOAA_SLR_r3_0.pdf.

[7] Le Bars, D., et al. 2017. A high-end sea level rise probabilistic projection including rapid Antarctic ice sheet mass loss. *Environmental Research Letters* 12: 044013.

[8] Melillo, J.M., T.C. Richmond, and G.W. Yohe (eds.) 2014. *Climate Change Impacts in the United States: The Third National Climate Assessment*.

[9] Vitousek, S., et al. 2017. Doubling of coastal flooding frequency within decades due to sea-level rise. *Scientific Reports* 7: 1399.

[10] Sweet, W., et al. 2014. *Sea level rise and nuisance flood frequency changes around the United States*. NOAA Technical Report NOS CO-OPS 073.

[11] Dahl, K.A., et al. 2017. Sea level rise drives increased tidal flooding frequency at tide gauges along the U.S. East and Gulf Coasts: Projections for 2030 and 2045. *PLoS One* 12: e0170949.

[12] Moftakhari, M.R., et al. 2017. Cumulative hazard: The case of nuisance flooding. *Earth's Future* 5: 214-223.

[13] Sweet, W., et al. 2013. Hurricane Sandy inundation probabilities today and tomorrow. In: Explaining Extreme Events of 2012 from a Climate Perspective. *Bulletin of the American Meteorological Society* 94: S17-S20.

[14] Tebaldi, C., Strauss, B. H., & Zervas, C. E. 2012. Modelling sea level rise impacts on storm surges along US coasts. *Environmental Research Letters*, 7: 014032.

[15] Kunkel, K.E., et al. 2013. Monitoring and understanding trends in extreme storms: state of knowledge. *Bulletin of the American Meteorological Society* 94: 499-514.

[16] NOAA. 2014. U.S. Climate Extremes Index: URL: www.ncdc.noaa.gov/extremes/cei

[17] Peterson, T.C., et al. 2013. Monitoring and understanding changes in heat waves, cold waves, floods and droughts in the United States: state of knowledge. *Bulletin of the American Meteorological Society* 94: 821-834.

in April 2016, 17-inches of rainfall and associated flooding in in Houston, Texas, caused an estimated $2.7 billion in damages.[18] Research by the National Oceanic and Atmospheric Administration (NOAA) suggests that human-caused climate change increased the chances of the torrential rains and catastrophic flooding in south Louisiana last August by at least 40 percent.[19] And this spring, parts of Missouri, Illinois, Indiana, Arkansas, and Louisiana received 10-15 inches of rain over a seven-day period, contributing to deadly, record-breaking flooding throughout the region.

Rates Should Send Risk-Based Signals

As described above, heavily subsidized rates have contributed to or enabled coastal and riverine development, which has in turn contributed to the loss of functioning floodplains and natural features that reduce flood damages. Risk-based rates help send appropriate signals that will lessen new development in high risk areas and encourage individuals and communities to take steps to reduce or mitigate their risk.

For these reasons, the National Wildlife Federation was supportive of efforts in the Biggert-Waters Flood Reform Act of 2012 to increase rates and opposed to rollbacks in the Homeowner Flood Insurance Affordability Act (HFIAA). However, we understand the need to provide targeted assistance for low-income homeowners, through outside of the rate-structure support and mitigation assistance, as well as the need to more thoughtfully and slowly transition primary residences to risk-based rates. We are encouraged to see the committee proposing such assistance.

We understand there are people – specifically owners of primary residences who face higher flood threats due to land use decisions made by the federal and state governments – for whom full risk-based rates in a short five-year time horizon would be unaffordable. This includes communities in coastal Louisiana, where the National Wildlife Federation has worked to restore coastal wetlands for over a decade. Some of these communities have been settled for more than two centuries. Their increased flood threat is not the result of choices that they made, but rather are in large part the result of governmental actions that changed the management of the lower Mississippi River, built a vast network of federal navigation channels, and permitted and incentivized thousands of miles of oil and gas canals, all leading to the highest marsh loss rate in the nation – a football field every hour. The loss of millions of acres of marsh that formerly buffered those communities is a leading cause of their increasing vulnerability. The political backlash to rate increases mandated by Biggert-Waters taught us that while premiums should reflect risk, they must also remain affordable and allow for a longer transition horizon with significant front-loaded mitigation investments.

For these reasons the National Wildlife Federation supports proposed efforts by the Committee to continue rate increases while providing some measures to help keep flood insurance affordable. NWF supports the 15% limitation on rate increases included in the Committee's draft bills. We believe that this allows the Federal Emergency Management Agency (FEMA) the flexibility to

[18] NOAA. 2017. U.S. Billion-Dollar Weather & Climate Disasters 1980-2017. URL: https://www.ncdc.noaa.gov/billions/events/US/1980-2017.

[19] Van der Wjel, K., et al. 2017. Rapid attribution of the August 2016 flood-inducing extreme precipitation in south Louisiana to climate change. *Hydrology and Earth Systems Sciences* 21: 897-921.

continue to move towards risk-based market signals while thoughtfully limiting the potential for dramatic short-term rate increases. NWF also applauds the Committee for allowing states the ability to create state flood insurance affordability programs. We recommend inclusion of additional provisions that would provide means tested assistance to low-income homeowners with a preference towards mitigation.

While the National Wildlife Federation supports slowing annual rate increases, we believe that affordability assistance should happen independent of and outside of rate structure, and believe it would be a mistake to provide states with authority to cap premiums. Similarly, NWF is concerned about a proposal to eliminate the mandatory purchase requirement for business properties. We do not support exemptions for classes of properties from mandatory purchase requirements. We believe that those in harm's way must be covered for those risks and must understand what their risks are. For this reason, we do not support a blanket exemption for commercial properties. However, we understand that the intent is to reduce the regulatory burdens for large commercial properties that are covered through umbrella or other large scale insurance policies. If this is the case, then we would ask for clarification that this exemption is truly a regulatory relief provision, and that commercial properties must still be covered for known risks including flood. In addition, this could be fixed by limiting the so-called exemption to only the largest commercial properties, to ensure that smaller businesses are not left without flood coverage.

NFIP Must Mitigate to Reduce Risk and Rates

While NWF supports the Committee's proposals to keep flood insurance premiums affordable, the best way to keep rates low and to protect people and property is through proactive mitigation actions that would avoid and minimize damages on the ground, rather than premium support that subsidizes development in risky places, is reactive by nature, and provides a sense of false security to flood-prone areas. A considerable amount of data shows that proactive, preventative mitigation is the most cost effective investment the NFIP can make.

Several analyses have shown a range of more than \$2 to nearly \$6 return on investment for every \$1 spent on flood mitigation. A highly-cited 2005 study from the Multihazard Mitigation Council (MMC) documented how every \$1 spent on mitigation saves society an average of \$4.[20] A new 2016 study in Florida showed flood mitigation benefits even exceeded this 4:1 cost-benefit ratio.[21] A 2014 study by URBIS showed flood mitigation assets in Australia have the potential to provide economic payoffs which exceed \$2.20 and range as high as \$5.40 for each dollar spent.[22] A 2016 analysis by the Economist Intelligence Unit, using a database of flood mitigation projects provided by FEMA of 21,411 flood-specific projects spanning all 50 states, indicated the economic benefits from flood mitigation significantly outweigh the costs by as much as 5:1 when using traditional cost-benefit analysis, and when broader benefits are considered, values could be even higher than 5:1.[23]

And not all mitigation is created equal. Community-wide, natural, and nature-based mitigation should be used and encouraged wherever possible. These are practices that protect, restore, or in

[20] Natural Hazard Mitigation Saves: An Independent Study to Assess the Future Savings from Mitigation Activities
[21] An Addendum to the White Paper for Developing Pre-Disaster Resilience Based on Public and Private Incentivization
[22] Economic Benefits of Flood Mitigation Efforts
[23] Flood Mitigation Takeaways, Economist Intelligence Unit

some cases, even create natural features or processes that reduce erosion and flood impacts in coastal or riverine floodplains by dissipating floodwaters or wave energy, capturing sediment and debris, and building land elevation.[24]

Such practices may include but are not limited to:

- Planting or conserving native vegetation that increases floodwater infiltration, traps debris, slows erosion, and contributes to land building and elevation gain;
- Restoring, protecting, or constructing wetlands to attenuate floodwaters in the upper reaches of a watershed, thereby delaying and reducing downstream flood peaks;
- Levee setbacks, floodways, and restoration of floodplain topography to allow floodwaters to spread out across the landscape and slow down, thereby reducing downstream flood impacts;
- Managing sediment budgets to help build and maintain coastal ecosystems, helping them to keep pace with sea level rise;
- Restoring tidal marshes where they have been ditched or ponded for navigation or mosquito control, damaging practices which cause rapid marsh deterioration, erosion, and inland saltwater intrusion, which in turn can further lead to coastal forest die-off and even greater exposure to coastal storms;
- Implementing "living shorelines" that use site-appropriate, native biological materials to stabilize shorelines as an alternative to hard armoring;
- Expanding no-wake zones to reduce tidal marsh erosion;
- Open space protection and ecological restoration of barrier islands that buffer the mainland from the full force of coastal storms.

Floodplain forests, wetlands, wide beaches, vegetated dunes, tidal marshes, coastal forests, shrublands, mangroves, and oyster reefs all have a role to play as a form of natural infrastructure that, in some cases, can be even more resilient than hard armoring, like bulkheads, and create less erosion.[25] These natural features serve not only as vital fish & wildlife habitat, but also to keep communities safe by dissipating floodwaters and wave energy, while helping to maintain and, in places, gain land elevation.

Taking this into account, the National Wildlife Federation urges the Committee consider any and all ways to drive immediate investment in mitigation. We applaud the proposed change to Increased Cost of Compliance (ICC) coverage provides up to up to $60,000 to help cover the cost of mitigation measures that will reduce flood risk. But loans are not enough to upgrade America's resilience to flooding, and loans do not reduce premiums and help affordability. We encourage the Committee to consider Smarter Safer's proposal to evaluate whether it is best to provide premium support or up-front mitigation dollars. We ask the Committee to look at the proposal offered by Senators Cassidy and Gillibrand to spend a portion of the NFIP Reserve Fund dollars, collected via a fee imposed by HFIAA on up-front mitigation. And we encourage the Committee to look outside of the NFIP to help mitigate risk. We need robust investment through appropriated programs like the Pre-Disaster Mitigation Grant Program, the Hazard Mitigation Grant Program, and the Emergency Management Performance Grant Program. Any infrastructure package

[24] Bridges et al. 2015, Small-Lorenz et al. 2016
[25] Gitman 2016

considered by the House should also include an investment in pre-disaster mitigation and resiliency.

The National Wildlife Federation applauds the risk-reduction planning provisions of the Committee's proposal. We believe that it is essential to target flood-prone hotspots, to create detailed plans to reduce flood risk, and to implement them. We support the Royce-Blumenauer proposal to create plans for communities with multiple Severe Repetitive Loss properties, and request the Committee to consider ensuring that the plans cover community-wide, nature based mitigation when possible. We also believe that the proposal to create a pilot program for buyouts of Severe Repetitive Loss properties for low-income homeowners would ultimately provide the best type of mitigation: that which avoids loss of life and property by restoring lowlands to healthy, naturally functioning floodplains. But Americans cannot wait until the next storm for long-term planning to take hold, and we encourage the Committee to find ways to invest immediately in community-wide, natural infrastructure as a high priority aspect of pre-disaster mitigation.

Maps Must Reflect Risk

Accurate mapping is critical to the NFIP; without accurate maps, communities, and their residents cannot be confident in the federal program or their projected flood rates. Although there are new tools at our disposal to get more accurate, up to date mapping including property level elevation, unfortunately FEMA does not use the latest technology. In fact, it is our understanding that FEMA continues to spend some mapping funds to digitize outdated paper maps. The National Wildlife Federation and Smarter Safer believe that the only way to restore faith in the maps and the NFIP's rate structure is to require FEMA to use the latest technologies such as LIDAR to get property level elevation data (or as close to property level as possible), combined with the latest climate modeling, including precipitation, sea level rise, and flood projections, and to use that data to map and set rates. There are areas of the country that have done this at a reasonable cost: North Carolina secured Lidar data for flood-prone areas of the state for under $25 per property. Smarter Safer and NWF urge the Committee to include language in any bill that requires FEMA to secure LIDAR data and use it in mapping and rate setting. This could be done on a rolling basis starting with the states with the highest concentrations of NFIP properties, and could be paid for either through a modest fee on policies or through appropriations.

Not only will property level data ensure that FEMA maps are accurate and rates are risk-based, but it will also take the burden off of homeowners to prove their elevation and will do so at a much lower cost than property by property elevation certificates. This will also reduce burdens program-wide, as North Carolina has experienced almost no appeals on mapping and flood risk determinations since moving to this new system. We urge the Committee to consider these options in the final NFIP reauthorization.

NWF also urges the Committee to consider that maps, to accurately detail risk, be graduated to include: not only the 100-year floodplain, but also the 50, 200 and 500-year floodplain areas (for example); residual risk areas and associated depths of flooding; other flood-related hazards and additional risk areas; and important habitat and key natural ecosystem functions areas. Although it has been expedient to list whether a property is located in or out of a floodplain ("special flood hazard area"), this does not reflect real risk. We believe maps should be as graduated as possible, so that a homeowner knows if they are in a 10-year floodplain or a 70-year floodplain.

Maps must address the issue of levee decertification. Like the 100-year floodplain, FEMA's rate maps are currently based on an in-out model. When a levee is no longer accredited to provide protection from a 100-year flood, FEMA's maps are redrawn as if the levee is not in existence. Again, while this may have been expedient in the past, it does not reflect real conditions. We recommend the Committee require FEMA to take into account each levee based on the level of protection each confers.

Private Insurance Options Will Benefit Consumers, Taxpayers, and Environment

The National Wildlife Federation is aligned with Smarter Safer in supporting several objectives of this bill, including leveling the playing field so that consumers can choose private sector flood insurance, continuing to require the NFIP to purchase reinsurance to cover risks, and making changes to the program to ensure it is on sounder financial footing. We are pleased to see that the draft legislation includes the bill authored by Representatives Ross and Castor to ensure that consumers can choose private flood insurance where available, and we oppose any efforts to prohibit the purchase of private flood insurance. We believe private sector competition will help with affordability, will provide consumers different choices of types of coverages and plans, and will provide needed competition on risk analysis and mitigation credits. In many cases, private insurance companies are better equipped to credit site specific mitigation that property owners may take to reduce their own flood risk.

We applaud the Committee for releasing a discussion draft that takes strides towards improving the National Flood Insurance Program. We are pleased to see updates to mapping as well as plans to address affordability and mitigation, and we hope to work with the Committee to strengthen and pass meaningful NFIP reauthorization.

Testimony of Rebecca Kagan Sternhell
Deputy Director and General Counsel, New York City Office of Federal Affairs
June 7, 2017
House Financial Services Committee
"Flood Insurance Reform: A Taxpayer's Perspective"

Thank you to Chairman Hensarling, Ranking Member Waters, New York City Congressional Delegation members Ms. Maloney, Mr. Meeks, and Ms. Velazquez. And to the other fellow New Yorkers on this committee, Mr. King, Mr. Zeldin, and Ms. Tenney, for the opportunity to testify here today.

I bring the perspective of the City of New York as it engages with the NFIP. Many of the challenges the City faces- urban cores, waterfront development, and riverine communities - are common across communities nationwide, but New York City has them on a larger scale. Our 8.5 million residents live across the 5 boroughs, with terrain so varied even within a borough that some blocks are coastal while others are situated up on hills and others border creeks that feed into the Hudson. And within this density along our 520 miles of coast, 37 percent of households in the floodplain earn less than 80 percent of area median income (AMI).

When Hurricane Sandy hit the New York and New Jersey coast in 2012 the City was in the process of getting new flood maps as the City's flood maps had not been updated in 30 years. I highlight this fact to note that in many ways, the Committee is dealing with flood insurance in an extremely dense urban area for the first time in a generation. The City's floodplain according to the 1983 maps has 36,000 buildings and 218,000 residents, on new 2013 pFIRMs 71,500 buildings and over 400,000 people. Clearly these new maps were overdue. As the floodplain continues to grow with more extreme weather events, the NFIP will continue to play a critical role for these property owners. Sandy made plain the importance of flood insurance in helping recovery, and it is our position that the NFIP must be preserved. Improvements are welcome but not such that they undermine the program.

As we talk about the program today I hope to emphasize that at the end of the day we are talking about real people- real taxpayers; their homes where they raise children and seek refuge.

On the other end of every rate change, added requirement, or disqualification is generally a person. The property is also most homeowners' largest tangible asset and nest egg. Too often as the policy discussion proceeds, we can lose sight of this point. It is easy to glibly say, "people need to move" or "too bad," it is quite another to talk face-to-face with a constituent who you inform must leave the home that has been in their family for generations -that is near their job, their church or synagogue, their community. And it is doubly difficult when you let them know that the property they may be forced from has little to no value because of escalating insurance costs and policy made many miles away in Washington DC.

I want to thank Chairman Hensarling and Chairman Duffy for putting forward these draft proposals to reform the NFIP. As detailed further below, however, we have serious concerns with section 2 of the Flood Risk Mitigation Act of 2017, which could potentially kick large swaths of the country out of the NFIP; section 8 of the NFIP Integrity Improvement Act, which would either foreclose NFIP as an option, or make flood insurance unaffordable, for residents of New York City and across the country; and the changes to the definitions of 'multiple loss property' and 'severe repetitive loss' in the NFIP Program Integrity Improvement Act, which would interact with the other proposals in these bills in a way that would make flood insurance less affordable and less available."

The remainder of my testimony will focus on the chief concerns of our residents and the legislation mentioned. First, I would like to touch on mapping, then planning and mitigation, affordability, data sharing, and lastly, the claims process reform.

<u>Mapping</u>

The City recently won its very expensive appeal of its 2013 pFIRMs after a Scientific Review panel determined that FEMA had not properly validated its model and therefore was not accurate. We firmly believe you should only be paying insurance premiums <u>today</u> for your risk <u>today</u>, not the risk ten years out. That said, following our appeal FEMA agreed to work with the City to develop two mapping products: (1) a map that reflects current risk for insurance purposes; and (2) a new climate-smart map that will be adopted for building code and land use decisions. The climate-smart maps will reflect the impact of sea level rise and help us strategically direct future city planning. I would urge the committee to consider an approach like this. By arming communities with the best available information they can make smart floodplain management and building code choices to avoid wasting taxpayer dollars.

Affordability

The issue of greatest concern is affordability. The affordability challenge affects take-up rates, the real estate market, and City planning overall. A few months ago, the City was pleased to share with this committee and other interested stakeholders, a RAND report commissioned to look at what "affordability" meant and model out options to remedy the issue. The report utilized a metric called a PITI ratio (a ratio of mortgage principal and interest, property taxes, and property insurance (PITI) payments to income), that looked at the cost of owning a given home, not merely property value or income alone. This tool enabled researchers to see what small changes could affect the ability of a person to stay in their home, whether it was a mandatory rate increase or even just additional fees.

Three major findings I wish to highlight here:

1. Grandfathering in properties is one of the most effective affordability tools available.
2. Targeted, means tested vouchers or credits are the most cost effective tools.
3. Mitigation is cost effective only with greater premium reductions for actions taken and grants in support.

Any proposed affordability program should not also cause more cost or fees to be incurred by the very people who need assistance. Nor should it create disincentives to take up flood insurance though additional fees.

The affordability issue also looms large in a proposal in the "Program Integrity Improvement Act" that would, in many ways, disallow any new coastal or riverine development and at the same time foreclose the NFIP as an option to many New York City residents. Section 8 of the Act would not allow NFIP coverage for new Special Flood Hazard Area building or for properties that would cost more than $1 million to rebuild. In order to be eligible for NFIP, plus the mandated 10% surcharge, the state would need to certify that insufficient private insurance is available. This must be done year over year, adding bureaucracy and complication to the NFIP program. Most troubling to residents is the resultant uncertainty as to whether their coverage will be dropped by NFIP because it is no longer allowed from one year to the next. Will they have to shop for private coverage immediately? What if no coverage is available that they can afford? How does this affect force placed insurance? More importantly, what happens with maintaining continuous coverage? Of if <u>NO</u> private insurer will insure a property?

What is ostensibly an effort to boost private participation becomes nightmarish for taxpayers; and has the potential to leave many in a "donut hole" of no coverage. I would strongly urge the Committee to revisit, if not eliminate, this provision and instead find a way to work with communities for better floodplain management. The Federal Flood Risk Management Standard, or FFRMS, was by no means a perfect solution but it was a more measured and collaborative response to construction in Special Flood Hazard Areas.

<u>Planning and Mitigation</u>

New York City has long-endorsed utilizing mitigation to avoid risk and drive down costs to homeowners. Since the passage of Biggert-Waters, the City has pushed for FEMA to develop cost effective mitigation options for dense urban areas – where homes cannot be elevated nor can homeowners "build up"- that result in meaningful premium reductions. For example: elevating mechanicals. If most of what FEMA is paying claims for is drywall, carpet and mechanical systems, shouldn't moving them out of harm's way result in a lower premium? In addition to largescale mitigation initiatives like the Staten Island sea wall and the Rockaway Beach hardening, the City has also evaluated smaller scale options like mitigation loans and block level measures to help manage risk. We believe these are not bad policy ideas but we found the ROI for many simply do not pan out for either the homeowners or the City.

This hard truth is what gives us great pause about the *Royce-Blumenauer* bill, included as Section 2 of the "Flood Risk Mitigation Act." Hundreds of communities would face the threat of being kicked out of the NFIP because of a small number of properties with repeat claims. According to an analysis of FEMA data, 33 of the members of this committee – spread evenly across party lines, would have a community in their district potentially kicked out of the NFIP or sanctioned under this provision. Moreover, these numbers would grow far worse with the proposed change to the definitions of "multiple loss property" and "severe repetitive loss" in the "Program Integrity Improvement Act," that would qualify more communities for sanctions.

The majority of these communities are not trying to mismanage floodplains – and they should be encouraged to revisit what isn't working and devise plans. But as noted, sometimes the best plans available cost far more than the benefits that flow to the residents of those communities. Add to this limited funding for mitigation nationwide and proposed cuts to those very programs, and the provision becomes unduly punitive.

Furthermore, the proposed buyout mitigation program, while well intentioned, both lacks funding and excludes huge numbers of communities. Since community eligibility is tied to the $250,000 coverage limit and property values, New York City and many others would never be eligible.

Data

Another area of concern is the elimination of the non-compete clause for the Write Your Own insurance companies, and the requirement that NFIP share their data in full with any party. Such actions might certainly bring more private participation but it will be at the expense of the NFIP and its solvency. Past witnesses representing the insurance industry in both Senate and House hearings have admitted to "cherry-picking" the "healthiest" policies, which will leave NFIP with only the riskiest properties — thus undermining its solvency. This will do nothing for the program's debt nor for the residents holding NFIP policies, who will see increased rates and fees. Flood insurance will become more unaffordable for those that can least afford the increase.

Rather than a dualistic approach – sharing all or nothing, the City would like to offer a third way: eliminating the non-compete for a subset of properties – the "(A) through (D) properties" in section (a)(2) of 42 USC 4014. These properties represent a smaller part of FEMA's book of business. They can also be a proving ground to validate or dispel the fears about cherry-picking FEMA's book. The Committee could set a timeframe for this and a review, ensure the review is validated by a non-stakeholder third party, and vest the administrator with the authority to reinstall or remove non-competes – this needn't be all or nothing.

As for data, it needs to come at a price. As currently proposed, private insurers have all the upside while the NFIP only stands to be harmed. The NFIP incurs costs for collecting and maintaining this data, this fact needs to be recognized in the sharing. No private insurer would ever turn over their records and data wholesale for free. We should not expect the NFIP to do so either.

Claims

After the experience with the Sandy claim process and fraud, we whole heartedly endorse revisions to the claims process – both in preserving the customer-centric approach FEMA stood up once fraud was discovered, and other reforms laid out in the proposed legislation. We would also offer that a provision be included such that none of the rights to appeal, litigate, and review documents can be waived in a contract. Homeowners attempting to pursue a claim should not find out that they waived their rights in signing an insurance contract.

I thank the committee again for their time and attention today. I am happy to answer any questions.

Statement for the record from

the National Association of Home Builders (NAHB)

House Financial Services Committee

Hearing on

"Flood Insurance Reform: A Taxpayer's Perspective"

June 7, 2017

On behalf of the 140,000 members of the National Association of Home Builders (NAHB), I am writing in opposition to provisions within Section 8 of the House Financial Services Committee's leadership's draft, *National Flood Insurance Program Integrity Improvement Act of 2017*, that would prohibit new construction from having access to the National Flood Insurance Program (NFIP) pending subjective terms of accessibility to private flood insurance. It is essential that the NFIP is reauthorized by September 30 to prevent significant repercussions to the housing industry; however, going down this path would lead to the same affordability and accessibility problems we saw after *Biggert-Waters* (2012). NAHB requests that the Section 8 "new construction" language be removed from any legislation.

NAHB supports competition in the marketplace by opening up access to private insurers, but it needs to happen by consumer choice and market demand, not through artificial means. Part of the attraction of a private market is that it provides choice; however, markets succeed based on societies' needs and what individuals are willing and able to pay. Stipulating that all new construction must obtain flood insurance policies from the private market artificially skews the market and further constrains choice. If the flood insurance market is to be successful in the long run, it must be based on market forces, not government intervention.

New construction is subject to more stringent building codes and standards than existing structures, and policyholders are required to pay full-actuarial rates. Additionally, new construction traditionally outperforms older housing stock in a region during flooding events. These structures clearly fall in the lower-risk category of policies; however, pushing these policies out of the program will do more harm than intended. Because these lower risk policies pay more into the program than they receive in claims, they are considered a "healthy risk." Removing these policies from accessing the NFIP will have consequences to the financial stability of the program.

Additionally, there is great uncertainty for what the market may look like in four years. There are major concerns about whether private insurance will be available and/or affordable in many areas of the country. Of equal concern, the requirements in Section 8 that state insurance regulators must follow to determine "availability" are highly subjective, focus solely on protecting access for private insurers, and do not address the actual availability or affordability of insurance in the Special Flood Hazard Area (SFHA). For example, two of the questions state insurance regulators must consider are if there has been "fair access" and "no evidence of hindering" the private market. Another question determines if private insurers have penetrated the market by 10% for the entire state, not specifically within the 100-year floodplain. At no point are state insurance regulators required, or potentially given the authority, to ensure that there is access to private insurance in the 100-year floodplain or that it's affordable for middle class Americans.

The NFIP needs to remain available and predictable for properties where the private market may not choose to participate. Adding unnecessary surcharges and relying on changing timeframes complicates the program and leads to unexpected consequences. Based on the Section 8 language, if a state determines there is no access to private insurance, every policy holder in that state would be required to pay a 10% surcharge on top of their already full-risk rate. This is a penalty for those that have access to the NFIP only because there is no private insurance available. Average policyholders and communities may have a hard time understanding all of the conditions placed on new development. However, there is another complication. If a state is granted access to the NFIP, it would only be for 12 months at a time, but if at any time FEMA decides the state has access to private insurance it would take away access to the NFIP. This will lead to significant market uncertainty and unpredictability, which could create turmoil in the housing industry and is the opposite of what insurance companies have said they require to enter the marketplace.

This proposal could have major effects on local and national economic growth, and the threat to new development in the SFHA could have major consequences. NAHB's economic department found that in 2021, when this provision would occur, there will be $34 billion in wages and salaries, $24 billion in taxes and revenue, and 587,000 full-time jobs from new construction in the 100-year floodplain. These billions of dollars and hundreds of thousands of jobs annually are what will be at risk if this provision hurts development and new construction starts across the country.

NAHB urges the Committee to remove the "new construction" provision in Section 8 of the *National Flood Insurance Program Integrity Improvement Act of 2017*. It is essential that there is a reauthorization of this program by its deadline; however, mandates that create uncertainty for the housing market can have long term economic effects on both local communities and the NFIP. We look forward to working with the Committee on this effort.

NATIONAL MULTIFAMILY HOUSING COUNCIL

NATIONAL APARTMENT ASSOCIATION

June 7, 2017

The Honorable Jeb Hensarling
Chairman
House Financial Services Committee
2440 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
House Financial Services Committee
4340 O'Neill Federal Office Building
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

The National Multifamily Housing Council (NMHC) and National Apartment Association (NAA) applaud the Committee for calling a hearing entitled "Flood Insurance Reform: A Taxpayer's Perspective." We appreciate the Committee exploring the issues facing the NFIP as it advances towards the program's needed reauthorization before September 30, 2017. Additionally, we commend the Committee for the steps it has taken to engage stakeholders throughout the legislative process and look forward to continuing to work with the Committee on reform and reauthorization efforts.

For more than 20 years, the National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA) have partnered in a joint legislative program to provide a single voice for America's apartment industry. Our combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management and finance. NMHC represents the principal officers of the apartment industry's largest and most prominent firms. As a federation of nearly 170 state and local affiliates, NAA encompasses over 72,000 members representing more than 8.4 million apartment homes throughout the United States and Canada.

Like the broader real estate community NMHC/NAA understand that the future stability of the property insurance market and its ability to withstand the continued occurrence of catastrophic events must remain a top concern of our sector. With floods being the most common natural disaster in the United States, the NFIP ensures that affordable flood insurance is available at all times, in all market conditions for every at-risk rental property. These include more than just high-rise multifamily properties in urban centers and extend across every state to include rental homes of all sizes and types. Ensuring that all rental properties continue to have access to affordable, quality flood insurance through the NFIP is a top priority for our membership to not only protect their property investment but to help manage the increasing costs of providing housing that is affordable.

We acknowledge that the NFIP comes with its challenges and agree that further reforms are necessary to protect the long-term financial viability of the program. It took several catastrophic weather events to force the NFIP into negative fiscal standing and returning it to solid footing cannot happen overnight. We believe that many of the reforms included in both the Biggert-Waters Flood Insurance Reform Act and the Homeowner Flood Insurance Affordability Act of 2014 will help slowly return the program to solvency. To that end, outlined below are the multifamily industry's priorities as we move towards reform and reauthorization of the NFIP this year. We believe these proposals could offer significant improvements to the efficiency, affordability, and long-term health of the NFIP.

- **Long-Term Authorization** – Prior to the enactment of Biggert-Waters in 2012, the NFIP had been operating on a series of short-term extensions that began in

2008. The stop-gap measures continually created an environment of uncertainty for multifamily property owners and managers who rely on this program for coverage in the absence of a high level of private sector participation. More broadly, during a time of economic recovery, real estate transactions across both the residential and commercial sectors could not legally be secured without this critical protection in place. NMHC/NAA strongly urge Congress to prevent disruption in the marketplace and pass a long-term reauthorization of the NFIP that maintains the government's backstop before it is set to expire on September 30, 2017. We also urge Congress to protect the ability of all property owners to enter the NFIP market should they so choose or should there be no private market readily available for sufficient, affordable coverage.

- **Mapping** - It is common for apartment owners to have their properties misclassified as being in high-risk flood zones, or Special Flood Hazard Areas (SFHA). Yet, the process for property owners to challenge those designations and the maps on which they are based is overly complex and financially burdensome. The onus is wrongly placed on the property owner to prove the maps inaccurate, incur engineering and surveying expenses and vast amounts of time to appeal under the current system. Inaccurate maps not only have financial repercussions for existing property owners but also have a chilling effect on development in inaccurately zoned areas, which is problematic in a time of a rental housing shortage. NMHC/NAA encourage Congress to provide sufficient resources to coordinate and build upon efforts, like the U.S. Geological Service's 3D Elevation Program (3DEP) that could help move us towards structure-specific flood maps and thereby greatly enhance their accuracy. Additionally, we recommend Congress require FEMA improve the efficiency of the overall mapping process to reduce cycle time and costs and improve the mapping appeals process to make it more affordable, transparent, and less time-consuming for both communities and property owners.

- **Flood Risk Mitigation** –FEMA currently administers several mitigation grant programs in an effort to reduce damage, claims, and overall risk in the event of a natural disaster such as flooding. NMHC/NAA strongly support pre-disaster mitigation programs to lessen fiscal pressure upon the NFIP and taxpayers more broadly. That said, while apartment communities are not explicitly excluded from eligibility for existing FEMA funds, the grant programs are overwhelmingly focused on primary, single-family homes. Even further, FEMA has only recently focused attention on the importance of mitigation efforts for properties that cannot benefit from traditional mitigation techniques like building elevation. Consistent with the requirements under the Homeowner Flood Insurance Affordability Act of 2014, FEMA issued advisory guidelines to property owners on alternative methods of mitigation. Unfortunately, many of the recommendations made are impractical for apartment communities and the majority would not afford any flood insurance premium reduction despite the large cost of implementation. NMHC/NAA urge Congress to require FEMA to undertake further actuarial work and issue alternative guidance specific to multifamily property owners that is realistic and would result in premium reductions under the NFIP. Additionally, NMHC/NAA would ask that Congress direct FEMA to account for these alternative mitigation methods in eligibility for existing coverage and grant programs and to fully account for these efforts in premium savings. Further, NMHC/NAA urge Congress to expand the focus of existing mitigation programs to better include multifamily properties or consider establishing a multifamily specific mitigation grant program to address the unique challenges faced by apartment property owners.

- **Business Interruption Coverage** –Property owners fortunate enough to be able to purchase flood insurance through the private sector also frequently purchase Business Interruption coverage to help restart operations and defray the financial impacts surrounding the relocation of business services, resident relocations, and other expenses. For those property owners who are unable to secure adequate or affordable private sector coverage, NMHC/NAA urge Congress to support the creation of Business Interruption Coverage as an additional policy option under the NFIP for multifamily and commercial policies. This coverage would allow property owners to resume normal operations more quickly and get residents back into their homes after a disaster in a timelier manner.

- **Streamline and Enhance the Efficiency of NFIP Policies**— Current mandatory purchase requirements require multifamily property owners secure coverage for each structure on their properties that lie in an at-risk flood zone. Often, this means that multifamily owners must secure a separate NFIP policy for multiple buildings throughout the same apartment community, all of which require separate deductibles and policy renewals. NMHC/NAA urge Congress to provide a property owner the option to secure just one "umbrella" NFIP policy with combined coverage for each of their at-risk structures on a given property or throughout their portfolio. This change would greatly streamline and enhance the business efficiency of using the NFIP.

- **Align NFIP Single Family & Multifamily Claim Reimbursement**— Currently, commercial and multifamily property owners receive Actual Cash Value (ACV) for claim payments from FEMA while single-family homeowners receive Replacement Cost Value (RCV) for their losses. The discrepancy places commercial and multifamily property owners at a disadvantage because they often suffer the same, if not more, flood damage. NMHC/NAA encourage Congress to direct FEMA to move NFIP multifamily and commercial coverage from ACV to RCV claim reimbursement.

- **Provide Flexibility for High-Value Multifamily Properties**--Existing federal law requires apartment properties with federally regulated and insured mortgages in high-risk flood areas to purchase flood insurance. The current structure of the NFIP and the ambiguity surrounding the acceptability of private flood insurance property owners leads to cumbersome hurdles needing to be overcome during the financing process. Often, property owners must secure NFIP coverage as an initial policy before attaining a larger umbrella policy above that level to cover remaining risk. NMHC/NAA urge Congress to repeal the federal purchase requirement for high-value properties and give property owners needed flexibility to secure coverage that better meets their needs.

- **Foster a More Viable Private Flood Market**--NMHC/NAA believe that a more viable private flood insurance market would serve a benefit to both property owners through increased competition and enhanced market efficiencies while reducing financial demands on taxpayers. NMHC/NAA support passage of the Flood Insurance Market Parity and Modernization Act to bolster the private flood market. The bill would expand coverage options for at-risk property owners by clarifying that flood insurance offered by private carriers outside of the NFIP meets the mandatory purchase requirements in place today. Of particular note is the bill's language that ensures both private and NFIP coverage satisfies the federal government's requirement of "continuous coverage" and protects policyholders from seeing rate hikes should they wish to return to the NFIP coverage at a later date. NMHC/NAA encourage Congress to consider including the Flood Insurance Market Parity and Modernization Act in the overall flood insurance reauthorization package.

- **Outline Multifamily & Commercial Specific Requirements**--The needs of multifamily and commercial property owners are substantially different than homeowners and condominium associations. Federal regulators should afford greater flexibility so that private flood policies can be tailored to the unique needs of each insured and allow for one policy for multiple properties and buildings, RCV claim coverage, Business Interruption coverage, and coverage for property outside of the building such as security fences, parking lots, and equipment. Until such time of enactment of the Flood Insurance Market Parity and Modernization Act, NMHC/NAA urge Congress to require Federal banking regulators to issue guidance to lenders that addresses the acceptability of private flood insurance coverage specific to multifamily and commercial properties and existing federal coverage requirements.

We thank you for the opportunity to present the views of the multifamily industry as you begin deliberations to reauthorize and reform the NFIP. The NFIP serves an important purpose and is a valued and necessary risk management tool for apartment owners and managers. We stand ready to support the efforts of Congress to make the necessary improvements to the program to ensure its long-term success.

Sincerely,

Douglas M. Bibby
President
National Multifamily Housing Council

Robert Pinnegar
President & CEO
National Apartment Association

CC: Members, Financial Services Committee

RAA
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June 7, 2017

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Sean Duffy
Chairman
Subcommittee on Housing and Insurance
Committee on Financial Services
U.S. House of Representatives
2330 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairmen Hensarling and Duffy:

The Reinsurance Association of America (RAA) supports your May 24, 2017 discussion draft bills that would encourage private market choices and developments to benefit policyholders and taxpayers. From a reinsurance perspective, this letter generally highlights our priorities for reform. We also suggest a few enhancements to the current discussion draft language.

The RAA is the leading trade association of property and casualty reinsurers doing business in the United States. RAA membership is diverse, including reinsurance underwriters and intermediaries licensed in the U.S. and those that conduct business on a cross border basis. The RAA represents its members before state, federal and international bodies.

We appreciate that the discussion draft bills include reforms that would encourage private market developments. More specifically, we strongly support reforms included in the discussion draft entitled, "National Flood Insurance Program Integrity Improvement Act of 2017" that bolster FEMA's reinsurance authority. In the "National Flood Insurance Program Policyholder Protection and Information Act of 2017," we support the continuation of a glide path toward risk-based rates. We support provisions in the "Private Flood Insurance Market Development Act of 2017" such as the "Private Flood Insurance" section and the "Public Availability of Program Information" section that requires the release of property-specific loss information from NFIP claims. We also support the "The National Flood Insurance Program Mapping Fairness Act of 2017" provisions that would improve and streamline mapping and require FEMA to use enhanced risk assessment tools.

We also offer the following suggested enhancements to the current discussion draft language to further the goal of flood reform to better protect taxpayers while providing greater choices for consumers.

In the discussion draft entitled, "National Flood Insurance Program Integrity Improvement Act of 2017," the "Independent Actuarial Review" section should be clarified to require the analysis to include the probability of catastrophic losses, and the impact of such losses on the program and the need for program premiums to be able to cover insurance expenses as well as losses. A provision requiring the program rate making to include the probability that actual catastrophic losses can exceed the average annual historical loss year would protect taxpayers and benefit the financial integrity of the program.

In the discussion draft entitled, "Private Flood Insurance Market Development Act of 2017," the "GAO Study of Flood Damage Savings Accounts" should include an evaluation of the implications of coordinating a flood damage savings account with private flood insurance. We believe the "Public Availability of Program Information" provisions should authorize the release of property specific NFIP loss and federal disaster assistance information, with the protection of non-public, individually identifiable information about property owners.

We suggest amending Part A of the National Flood Insurance Act to allow FEMA/NFIP to simultaneously exercise its current authority under Part B while updating Part A to authorize the Director to facilitate the participation of insurers on a risk-sharing basis. Part A pooling and risk sharing provisions would provide an opportunity for private insurers to partner with the federal government, further reducing the federal share of flood risk.

The above-mentioned reforms can further facilitate the development of a private market. The reinsurance market is interested and has the capacity to underwrite flood insurance risk, including extreme flood risk. Actions taken in recent years by some states, such as Florida, have demonstrated the interest and benefits of private insurers assuming a broad cross-section of risk, and the same would result from reforms included in your discussion draft legislation should they become law. Reinsurers stand ready to partner with both the private- and public-sectors as the flood market transitions.

We commend you for your leadership on flood insurance reform and look forward to working with you as legislation continues to develop. Thank you for your consideration of our position, and please contact me should you have any questions or need additional information.

Sincerely,

Franklin W. Nutter
President

CFA Consumer Federation of America

June 6, 2017

CFA Comments on Flood Insurance Discussion Draft

The House Financial Services Committee Discussion Draft flood insurance bill is an improvement over previous drafts but still has some very bad provisions. Here are some thoughts on specific provisions of the draft bill:

- The affordability provision, where the states determine affordability problems and submit the list of properties with such problems, is a good idea. The spreading of the cost of lowered program premiums to all policies in the state makes sense.
- Allowing commercial properties to opt out of coverage is a good idea. But properties opting out should be barred from receiving disaster relief for the amounts they should have insured.
- Clear communication of the flood risk is important and a good idea.
- Allowing greater private insurer participation is a good idea but there are problems with the approach in this draft legislation. First, the policy issued by private insurers does not have to be at least equal or equivalent to the NFIP coverage. Thus, sharp dealing companies could sell policies for 75% of the NFIP premium while lowering the coverage provided to 50% of that covered by NFIP policies, gaining market share but leaving homeowners underinsured and taxpayers at risk. Second, surplus lines carriers are allowed to write. I have written previously on the myriad problems with that (see below).
- Private competition and the removal of the Write Your Own (" WYO") NFIP servicing company non-compete clause, can destroy spread of risk for the NFIP as insurers cherry-pick the best risks and leave the riskier properties with NFIP. Regulators certainly understand the danger to economic viability of an insurer from adverse selection. Insurers would target customers with "overpriced" policies (and because of reserve rules currently imposed by Congress there will be many of these) that take into account the need of the NFIP to fairly price policies for everyone and also cover past losses. The NFIP then would increasingly be left with the highest risk policies, increasing the need for federal subsidies and/or higher NFIP prices to cover losses for a higher risk portfolio of properties. If prices were raised to make up for this shortfall, that would open the door for even greater cherry picking by the private insurers, creating a death spiral of higher losses and premium charges for the NFIP.
- The draft legislation appears to remove the 45-day notice of cancellation to consumers, which would allow private flood insurers to cancel a policy at will, either immediately or with very short notice. This, coupled with the fact that the NFIP does not offer coverage until after 30 days have passed since application, presents a real concern that consumers in flood prone areas could be made

uninsurable for a month at the whim of their surplus lines insurer, perhaps in advance of an approaching storm. A regulated private insurer would presumably not be able to get away with placing short notice provisions in its regulated policy form if you, the state regulators, are doing their job. But, as noted above, regulators are helpless in the case of surplus lines insurers since policy language is not regulated by the states for surplus lines carriers.

- Limiting WYO expenses to 25% of the premium is a good step toward eliminating the excessive WYO profits that have been well-documented in recent years.
- Encouraging states to create all-risk policies by allowing them to meet the program's mandatory purchase requirement is a good idea.

Problems with Surplus Lines

We support greater involvement of private insurers in the NFIP, but the draft's accession to the surplus lines approach proffered by HR 2901 is dangerous to consumers. This proposal poses many risks to consumers by allowing surplus lines carriers into the flood insurance market.

The draft legislation would allow surplus lines insurers to enter this market and possibly gain significant market share. However, these insurers are not regulated by the states in any meaningful way. Unlike consumers with auto or homeowner claim or other complaints who can seek a remedy from their state insurance department, consumers with flood insurance through a surplus lines insurer would be unable to seek effective assistance from their state since surplus lines carriers' claims and other practices are not regulated by the states. We remember, for example, that after the 1992 Los Angeles riots, surplus lines insurers not only went bankrupt but some simply walked away from claims, leaving many small businesses without coverage and forced into bankruptcy. The California Insurance Department reported that, in the wake of that event, one-quarter of small businesses, many of them minority- owned, were unable to reopen because of this surplus lines debacle.

Under the draft legislation, consumers would find themselves buying private market policies for which they receive virtually no protections from state insurance departments. State regulators cannot help a consumer of a surplus lines carrier who denies or delays payment on a legitimate flood claim. The states cannot make sure rates are not excessive, inadequate or unfairly discriminatory like they do in other lines of property/casualty insurance. If a surplus lines insurer sells policies with very low coverage at clearly excessive prices, insurance departments are handcuffed. As a former Texas Insurance Commissioner I can attest, that state regulation of forms frequently finds and removes misleading, unclear, unfair, illegal, and ambiguous clauses from policies prior to their use. That option is not available for the surplus lines policies that would ostensibly compete with NFIP. Presumably, legislation could be written to authorize more comprehensive state regulation of surplus lines, but this draft does nothing of the sort, and we know of no such legislation moving in the states.

A second serious problem from the policyholder viewpoint is that if a surplus lines insurer goes bankrupt, the consumer has no access to any state guarantee fund that pays claims in the event of an insurer's insolvency. How is a consumer to know about that or appreciate the true cost of taking that risk?

In short, the draft legislation should remove any and every provision that would allow flood policies to be sold by surplus lines carriers.

Contact: J. Robert Hunter, FCAS, MAAA, Director of Insurance, (703) 528-0062

STATEMENT ON BEHALF OF

THE COUNCIL OF INSURANCE AGENTS AND BROKERS (CIAB), THE INDEPENDENT INSURANCE AGENTS & BROKERS OF AMERICA (IIABA), NATIONAL ASSOCIATION OF INSURANCE AND FINANCIAL ADVISORS (NAIFA) AND THE NATIONAL ASSOCIATION OF PROFESSIONAL INSURANCE AGENTS (PIA)

BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES FINANCIAL SERVICES COMMITTEE

HEARING ENTITLED, "FLOOD INSURANCE REFORM: A TAXPAYER'S PERSPECTIVE"

JUNE 7, 2017

On behalf of CIAB, IIABA, NAIFA and PIA (collectively "Agent Trade Associations") we submit the following statement for the above referenced hearing commenting on Section 9 of the "National Flood Insurance Program Integrity Improvement Act of 2017" discussion draft. Section 9 would dramatically lower and cap the amount of compensation that insurers can receive for participating in the National Flood Insurance Program (NFIP) Write-Your-Own (WYO) public-private partnership. The Agent Trade Associations strongly oppose capping the expense allowance in this manner, as it would result in market disruption and consumer harm. There are other provisions of the "NFIP Integrity Improvement Act", as well as the other five legislative drafts[1] released last month, that the Agent Trade Associations individually and collectively have concerns with, as well as provisions that the Agent Trade Associations individually and collectively support which are not addressed in this statement.

The Agent Trade Associations together represent an expansive nationwide network of insurance agents and brokers, and their employees, in every State and congressional district. Insurance agents across the country are the "boots on the ground" sales force for flood insurance, working with the Write-Your-Own (WYO) program, the NFIP Direct program, and the private market to assist policyholders in making educated choices about the purchase of flood insurance policies for their homes and businesses.

Agents generally serve as the first point of contact for a consumer to explain the necessity for flood insurance.[2] The sale, servicing and underwriting of NFIP policies is complicated; and where the purchase of flood insurance is not required by statute, regulation or otherwise by mortgage lender, property owners are often reluctant to purchase flood insurance as they have often been erroneously led

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[1] i.e. The "NFIP Policyholder Protection and Information Act of 2017" Discussion Draft; the "Private Flood Insurance Market Development Act of 2017" discussion draft; the "NFIP Mapping Fairness Act of 2017" discussion draft; the "Flood Risk Mitigation Act of 2017" discussion draft; and the "NFIP Administrative Reform Act of 2017" discussion draft.

[2] For more information on the agent role in selling and servicing flood insurance, see a March 16, 2017 statement submitted on behalf of CIAB, IIABA, NAIFA and PIA to the U.S. House of Representatives Committee on Financial Services Subcommittee on Housing and Insurance related to a hearing entitled "Flood Insurance Reform: A Community Perspective."

to believe they are "not in a flood zone" and therefore do not need flood insurance when, in fact, more than 20% of floods occur outside the Special Flood Hazard Area.

The NFIP primarily relies on the private insurance market to administer flood insurance through the WYO program, and the majority of flood insurance policies currently in effect are written through this public-private partnership. The WYO program began in 1983 as a way to reach more property owners who needed flood insurance. WYO companies are reimbursed by the government for the expense of administering flood insurance policies; this is called the WYO expense allowance. Currently, WYO companies receive 30.9% of policyholder premiums.[3]

WYO compensation is calculated from policyholder premium before various federal fees and surcharges are added including the Reserve Fund Assessment, Probation Surcharge, HFIAA Surcharge and Federal Policy Fee. These fees can sometimes account for between 25% and 50% of consumer policy cost. From their reimbursement WYOs pay about half to agents and also pay vendors and state premium taxes, keeping the remainder after costs. The expense ratio is derived by the Federal Insurance and Mitigation Administration (FIMA) on an annual basis from an average of five private industry property and casualty expense ratios, with consideration given to the complexity of the NFIP compared to private insurance.[4]

Agent commissions are not paid directly by the government but instead are paid by WYO companies from the expense allowance. WYO companies negotiate compensation rates in private contractual agreements with independent insurance agencies, based on the company's business model. Compensation paid to agents for the sale of flood insurance policies through the WYO program varies based on the experience level of the agent or broker servicing the account, regional variations in agent and broker compensation, whether or not the policy is a new policy or a renewal, and how much business the agent or broker produces for the WYO, among other factors. This process ensures that WYO companies have the ability to choose the compensation structure that is most efficient and effective so they can contract with the best and most qualified agents and brokers, who are the most knowledgeable about the intricacies of the NFIP. Captive agent compensation also varies and is based on similar factors. Of note, like the WYO reimbursement rate, commissions are calculated on the premium amount before various fees and surcharges are applied, meaning commissions are only earned on 50% to 75% of the policy amount.

Section 9 of the "NFIP Integrity Improvement Act" as currently written would amend 42 U.S.C. §4081 to set the allowance paid to the WYO companies at no more than 25%. The Agent Trade Associations strongly opposes capping the expense allowance in this manner.

The Agent Trade Associations believe that such a draconian cap would have the immediate effect of severely disrupting the flood insurance market, and would ultimately result in a mass exodus of WYO companies from the NFIP. This would lead to fewer WYO companies partnering with the NFIP, limiting the main delivery mechanism for flood insurance and resulting in less consumer choice. There are more than 1,300 active property insurers in the U.S., but only about 70 insurers currently participate in the WYO program. Due to frequent program changes and the rising cost and complexity of administering the

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[3] The Write-Your-Own (WYO) companies may also receive additional compensation for such things as processing claims. This compensation is equal to 0.9% of written premium and in some cases 1.5% of incurred claims loss. Agents do not receive additional compensation for assisting consumers with the claims process.

[4] The WYO compensation is part of a contract between Federal Insurance and Mitigation Administration (FIMA) and all the insurance companies that participate in the WYO program. FIMA is currently working on a multiyear update of the NFIP's financial control plan and WYO contract in order to streamline and modernize oversight of the WYO program. The Agent Trade Associations support this effort.

program, among other issues, every year insurers are dropping from the program. In fact, since 2004, the number of insurance companies participating in the WYO program has decreased by more than 35%.

Additionally, such a dramatic cut to the WYO reimbursement rate would mean that WYO companies would have no choice but to dramatically cut the remuneration that agents and brokers receive resulting in less agents and brokers willing and able to sell and service flood insurance. This would only serve to limit consumer access to qualified expert assistance and harm consumers. Limiting consumer choice in this manner would be particularly damaging to states where NFIP policy counts are lower and per policy operating costs are higher, as seen recently in health insurance markets as a result of certain provisions of the Patient Protection and Affordable Care Act (ACA). These ACA provisions had the unintended consequence of driving insurance companies and agents from the market and limiting consumer access to insurance and expert advice.

Finally, there is no factual basis for a 25% cap unlike the current method used for determining the WYO allowance. As previously noted, FIMA derives the WYO allowance from an average of five private industry property and casualty expense ratios, which are based on annual expense and cost data. Arbitrarily cutting the WYO compensation and capping the expense allowance will only serve to limit the delivery mechanism for flood insurance harming consumers.

In conclusion, the WYO program is an important public-private partnership that effectively delivers flood insurance to nearly five million consumers, and the Agent Trade Associations oppose capping WYO compensation as proposed in the "NFIP Integrity Improvement Act" as it would disrupt the flood insurance markets and limit consumer choice. The Agent Trade Associations thank you for the opportunity to submit a statement for today's hearing, and look forward to working with the Committee on solutions for addressing the vital issue outlined above as well as other proposed reforms to the NFIP.

Credit Union National Association
CUNA

Jim Nussle
President & CEO

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601 Pennsylvania Avenue NW
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June 6, 2017

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

On behalf of America's credit unions, thank you for holding the hearing tomorrow entitled Flood Insurance Reform: A Taxpayer's Perspective. The Credit Union National Association (CUNA) represents America's credit unions and their 110 million members.

Many credit unions offer mortgages to members around the country, including in areas covered by flood insurance requirements, and CUNA strongly supports your efforts to reauthorize the National Flood Insurance Program (NFIP) later this year. We also recognize that continuing reforms may be necessary to improve the actuarial footing of the NFIP and to ensure stability in the housing market in affected areas. At the same time, it is vital that flood insurance premiums remain affordable so that families in parts of the country where flood insurance is required are not shut out of the opportunity to own a home.

We appreciate the thoughtful set of legislative discussion drafts produced by your committee, each aimed at addressing a different aspect of the flood insurance program. In particular, we would support changes to decrease from 18 to 15 percent the cap on annual rate increases and to limit the chargeable risk premium for any single family residence to $10,000 per year. We also support efforts to increase the transparency of the NFIP, including requiring the FEMA Administrator to advise the public on its methodology for determining annual risk premium rates for NFIP coverage, as well as various proposals to improve and streamline the flood mapping process.

On the other hand, we have reservations about a proposal to increase the civil money penalties on federally regulated lenders for failure to comply with the NFIP's mandatory purchase requirements from $2,000 to $5,000. We believe the burden associated with compliance with flood insurance regulations is already too high, particularly for smaller lenders, and any increase in civil money penalties would increase this burden even further.

A strong, sustainable, and affordable NFIP will serve the best interests of our nation's housing market for years to come, and we commend your work to reauthorize this vital program in a fiscally responsible way. On behalf of America's credit unions and their 110 million members, thank you for your consideration of our views.

Sincerely,

Jim Nussle

Jim Nussle
President & CEO

MITCHELL J. LANDRIEU, MAYOR
CITY OF NEW ORLEANS

June 7, 2017

The Honorable Jeb Hensarling
Chairman - U.S. House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member - U.S. House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

As the House Financial Services Committee prepares to consider legislation to reauthorize the National Flood Insurance Program (NFIP), I wanted to emphasize to you how important flood insurance is to millions of homeowners across the Nation. In fact, a sustainable and affordable flood insurance program is fundamental to the economies of many states, including my home state of Louisiana.

Louisiana is a maritime state blessed with numerous navigable waterways and a beautiful, but fragile, coastline. Our proximity to all of these bodies of water only heightens our awareness of the threats of catastrophic flooding and the negative impacts that these flood events can have on our citizens and their way of life. In the city of New Orleans, nearly half of the households are covered by flood insurance, and any interruption of coverage or sales under the NFIP could cause major economic issues not only for homeowners, but also for contractors, banks and realtors who live and work in this region.

I urge you to provide a long-term solution that reauthorizes the NFIP and provides affordability to policyholders, strengthens the mapping process, and supports community - led mitigation efforts. We hope that your Committee can craft a bill that can be enacted before the current authorization expires at the end of September. Failing that, Congress should act in a bipartisan manner to pass a clean, long-term extension of the current program.

Regarding the bill currently under consideration by your Committee, I am concerned that in its current form, the proposal does not adequately address the three key principles that I mentioned above. Specifically, the draft bill makes flood insurance less affordable by eliminating grandfathering, fails to authorize nationwide investments in modern mapping technology, and ignores efforts by local communities to lower risk and premiums through various mitigation programs.

I very much appreciate the thoughtful work that you and your colleagues have put in on this very important issue. Mayors across the country stand ready to work with you to craft a reauthorization of the NFIP that will meet the critically important needs of our citizens. Should you have any questions, or need any further information from me, please do not hesitate to contact me or my staff.

Sincerely,

Mitch

Mitchell J. Landrieu
Mayor, City of New Orleans

cc: U.S. Senator Bill Cassidy
U.S. Senator John N. Kennedy
U.S. Rep. Steve Scalise
U.S. Rep. Cedric Richmond

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June 6, 2017

The Honorable Jeb Hensarling
Chairman
House Financial Services Committee
2228 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
House Financial Services Committee
2221 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

On behalf of the more than 1.2 million members of the National Association of REALTORS® (NAR), thank you for holding this hearing entitled "Flood Insurance Reform: A Taxpayers Perspective" to examine the proposed draft legislation to reform and reauthorize the National Flood Insurance Program (NFIP). The NFIP is set to expire in less than four months and REALTORS® urge Congress to act quickly to avoid any lapse in program authority while continuing to work toward a long-term reauthorization and reform measure. Experience has shown that 1,300 home sales could be delayed or lost each day that the NFIP fails to be reauthorized.

On May 25, 2017, Housing and Insurance Subcommittee Chairman Duffy released six draft bills to reform the NFIP. NAR has reviewed these drafts and our section-by-section analysis can be found attached to this letter. Overall, the bill reflects many NAR member priorities. NAR supports many of the bill provisions including a 5-year reauthorization, $1 billion investment in pre-flood mitigation, streamlining the processes for community flood map appeals and claim determinations, and opening the door to a more robust private flood insurance market. Specifically, the bill includes a number of provisions requested by NAR, including providing increased-cost-of-compliance grants for pre-flood mitigation, requiring FHA to consider private flood insurance, and requiring that NFIP account for coastal and inland locations when developing NFIP rates.

At the same time, as our analysis outlines, we believe there are several areas where the drafts can be strengthened and clarified. We would like to highlight three main areas of concern here.

1. NFIP must be directed, and funds authorized, to obtain building elevation data in order to calculate full risk rates and develop property-specific flood maps. NFIP should also provide property owners and prospective buyers, information about their flood risk, cost, premiums, and mitigation options as North Carolina has done through its Flood Risk Information System (FRIS).
2. Grandfathering must be preserved for property owners who have built to flood standards in place at the time of mapping. Elevating a home can easily cost tens of thousands of dollars. Homeowners must have some assurance that their substantial mitigation investments will not be lost when the NFIP updates the flood map a few years later.
3. While NAR welcomes the $10,000 cap on annual premium rates included in the draft legislation and supports the continued gradual phase-in toward full risk rates, there are various new surcharges and fee increases contained in different parts of the six drafts. NAR members need to know the full cost of flood insurance and respectfully requests additional information to understand the full affordability picture in order to evaluate the bill.

REALTORS® appreciate the many concrete steps the committee has taken to put the NFIP on a path to fiscal solvency while also giving property owners more options for flood insurance coverage. The current drafts contain many positive changes that are supported by NAR members and in many instances were recommended by REALTORS® through our experiences working with clients in the field on a daily basis. We stand ready to work with Congress to address the concerns outlined in the following pages, and look forward to seeing an on time, long-term reauthorization of the NFIP before September 30th of this year.

Sincerely,

William E. Brown

William E. Brown
2017 President, National Association of REALTORS®

cc: Members of the House Financial Services Committee

Enclosure:
NAR Comments on NFIP Reform Draft Bills Dated June 6, 2017

NAR COMMENTS ON NFIP REFORM DRAFT BILLS DATED JUNE 6, 2017

TOPLINE SUMMARY

- *NAR supports many of the bill provisions. These discussion drafts reflect many NAR member priorities, including:*
    - *5-year reauthorization of the National Flood Insurance Program (NFIP);*
    - *$1 billion investment in mitigating and reducing property risk prior to a flood;*
    - *Streamlines the processes for community flood map appeals and NFIP claim determinations; and*
    - *Includes the Flood Insurance Market Parity and Modernization Act (HR 1422), which would encourage the development of private flood insurance options in addition to NFIP.*
- *The bill also includes language requested by NAR:*
    - *<u>Consideration of Coastal and Inland Locations</u>. Creates a new NFIP rate table for coastal A zones separate from inland A-zones. Milliman Inc., an actuarial consulting firm, found that by using national averages to determine rates, NFIP rates over-price inland risks while underpricing risks closer to the coast. This provision would require FEMA to consider the locational differences in its rating methods, thereby reducing the extreme degree of cross subsidization in the program.*
    - *<u>Increased Cost of Compliance (ICC) Grants</u>. Reforms the ICC mitigation program to double the amount of coverage available and allows property owners to access the ICC funds to reduce risk prior to flooding.*
    - *<u>Streamlining of the Community Flood Map and Appeals Process</u>. This bill includes a number of provisions from the Fairness in Flood Insurance Act (HR 3297 last Congress) in order to help level the playing field between the NFIP and smaller communities when it comes to official map appeals.*
    - *<u>Strengthens the Flood Insurance Market Parity and Modernization Act (HR 1422)</u> in order to clarify that the provisions apply to federal mortgage insurers including FHA.*
- *However, NAR members have some questions and concerns about the following provisions:*
    - *<u>Grandfathering</u>. The bill is unclear whether and to what extent grandfathering would continue after four years, and this provision requires clarification. NAR members believe that homeowners who have built to code in a high risk zone and invested tens of thousands of dollars in elevating or mitigating their structures should have some stability and predictability to their mitigation investments when FEMA updates the maps.*
    - *<u>Building specific flood maps</u>. While the bill does take several steps toward state flood mapping programs like North Carolina's, the Technical Mapping Advisory Council (TMAC) has recommended that the NFIP go further and fully transition to building specific risk frequency maps. NAR recommends strengthening the bill to obtain the elevation data needed in order to calculate full risk rates for pre-flood insurance rate map properties so there is effective and full disclosure prior to property sales. NFIP rating methods should be based on a broader range of modern risk assessment tools, but NAR urges Congress not to create or impose new home flood scores or labels, which could distort real estate markets and stigmatize properties.*
    - *NFIP rate cap and fees. While NAR supports a gradual phase in and cap on full risk premiums in order to avoid sticker shock and surprises, there are a number of new surcharges and fee increases which could increase the total cost of flood insurance. NAR requests an analysis of the total cost for a range of NFIP policyholders in order to better understand the affordability picture under this bill.*
- *NAR has specific language to strengthen or clarify these provisions to ensure stability in real estate markets.*

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NAR SECTION-BY-SECTION COMMENTS

SUMMARY OF KEY PROVISIONS OF FLOOD INSURANCE REFORM
21st Century Flood Reform

Reauthorize the National Flood Insurance Program (NFIP) for five (5) years, place the NFIP on sound financial footing, and institute new programmatic reforms that:
Support --NAR strongly supports a 5-year reauthorization of the NFIP. Up to 40,000 home sales are at stake each month that NFIP authority lapses.

1. **Address Consumer Cost and Affordability**
2. **Provide Greater Private Market Access, Competition, and Consumer Choice**
3. **Encourage Flood Mapping Reforms and Fairness**
4. **Enhance Mitigation Efforts for Properties that Flood Frequently**
5. **Strengthen Taxpayer Protections**
6. **Incorporate NFIP Claims Processing and Superstorm Sandy Reforms**

Affordability and Consumer Costs – *Current and future policyholders must be protected from sticker shock and unpredictable rate increases.*

➢ **Limit Annual Premium Increases.**
Decrease from 18 to 15 percent the cap on annual rate increases and increase the minimum average chargeable risk premium, within a single risk classification, from 5 percent to 8 percent.
Support –NAR supports gradual NFIP rate increases to full risk actuarial rates for properties built before the first flood insurance rate map (pre-FIRM).

Limit the chargeable risk premium of any single family residential property to $10,000 per year, adjusted for inflation every five years; and
Support with modification -- NAR supports a limit on the chargeable risk premium rate to avoid sticker shock and surprises. However, as currently drafted, homeowners would not qualify for this limitation unless a valid NFIP elevation certificate has been filed within the proceeding calendar year. According to GAO, 97 percent of the nearly 1 million pre-FIRM homeowners do not have one of these certificates and each one costs $500-$2000.[1] It is unclear how many of the rest (roughly 3.5 million) have obtained a certificate within the last year. Further, the critical piece of information on each certificate is the recorded elevation of the structure; there are more cost effective ways to obtain this data than requiring as many as 5 million new land surveys paid for by policyholders.

For example, states including North Carolina and Minnesota obtain structural elevation data using light detection and ranging (LiDAR) technology from airplanes. These states collect this data for entire neighborhoods at one time rather than going property by property. Going property by property is time consuming, more expensive and often less accurate. NAR would support expanding the $10,000 limit to include any structure with elevation data, whether from an elevation certificate (not just those obtained within 1 year), LiDAR data collected by a federal, state or local authority, or any other source as specified by NFIP. NAR would further like to work with Congress to provide NFIP with the authority and funding necessary to obtain the elevation data needed to fill in the gaps so all pre-FIRM homeowners would be able to take advantage of this provision.

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[1] GAO. "Flood Insurance: Comprehensive Reform Could Improve Solvency" dated April 2017, page 18.

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- **Flood Insurance Affordability Program.**
  Authorize states to voluntarily create a state flood insurance affordability program that identify and validate eligible owner-occupants of single family 1-4 unit residences who are unable to pay their chargeable risk premium due to family income. Eligibility, validated using existing Federal income eligibility programs as a guideline, is limited to policyholders with incomes below the threshold of the greater of 150 percent of the state poverty level or 60 percent of the state area median income. At a date certain, as defined by FEMA, the state would forward its validated list to FEMA consisting of all eligible policyholders for whom the state is seeking assistance, along with the recommended type of assistance for each policy. Assistance can be in the form of either (1) capping the amount of chargeable risk premium paid, or (2) limiting the amount of premium increase on an annualized basis. FEMA would calculate the value of the aggregate subsidy cost for eligible policyholders within the state, the cost of which would be recouped through an equally distributed surcharge on all other policyholders within that state.
  Support with requested information – NAR supports reasonable approaches to keep NFIP premiums affordable for lower-income households. However, NAR notes that additional new fees and surcharges are introduced or increased by other parts of the bill. An evaluation of the total cost of flood insurance including the fees for a range of typical policyholders is needed to help evaluate these and other provisions.

- **Opt-Out of Mandatory Coverage Requirement for Commercial Properties.**
  Eliminate the NFIP's mandatory purchase requirement for all commercial properties, while preserving the eligibility of commercial properties voluntarily to purchase NFIP coverage if they so choose.
  Questions –NAR members agree that NFIP's one-policy-per-building program does not make sense for larger commercial loan portfolios consisting of dozens if not hundreds of buildings typically covered by a single private flood insurance policy. However, what is the current take up rate of flood insurance among small-to-mid-sized commercial property owners? What is that rate likely to be without a purchase requirement in high-risk flood zones? NAR members would support setting an asset value threshold above which the opt-out would apply based on that analysis and the inclusion of a definition of what is considered a "commercial" property so that multi-family residential properties are not inadvertently included in the opt-out.

- **Disclosure of Premium Methodology.**
  Require the FEMA Administrator to develop a transparent public process to explain and engage with the public on its methodology to determine annual risk premium rates for NFIP coverage. Annual public forums in each of FEMA's Federal regions are required.
  Support – NAR supports similar language in the FY17 Appropriations Bill Report.

- **Use of Replacement Cost in Determining Premium Rates.**
  Require the FEMA Administrator to incorporate up-to-date replacement cost, by structure, when calculating annual chargeable premium rates, as opposed to the current practice that relied upon a national average, with a phase-in of geographic areas over a 1-3 year period.
  Support – NAR supports better aligning NFIP rates with property risk. NFIP currently

uses a national average to determine rates so lower value properties are overcharged while higher value properties are undercharged. This provision would reduce cross subsidization in the NFIP.

- **Consideration of Coastal and Inland Locations in Premium Rates.**
  Require the FEMA Administrator, when calculating annual chargeable premium rates, to consider the differences in properties located in local coastal and inland areas.
  Support – NAR requested this provision based on a Milliman actuarial study showing how NFIP policyholders over-pay due to their location. Breaking the A-zone rate table into two tables, i.e., one for coastal A-zones and a separate one for inland A-zones, could improve fairness in the NFIP. NAR notes this provision was included in the NAR-supported Fairness in Flood Insurance Act (H.R. 3297) introduced by Rep. Griffith (R-VA) in the last Congress.

- **Monthly Installment Payment of Premiums.**
  Authorize the FEMA Administrator to adopt policies and procedures to finalize implementation of the monthly installment payment of premiums provision initially required by the Homeowner Flood Insurance Affordability Act of 2014.
  Support with clarification -- NAR supports reasonable approaches to increase the affordability of NFIP premiums but it is unclear how this provision would interact with the escrowing of premiums.

- **Enhanced Clear Communication of Flood Risks.**
  Require the FEMA Administrator to clearly communicate to all policyholders full flood risks of their property, the number and dollar value of claims that have been filed over the life of a property, and the effect that filing any future claims would have on the cost of insurance for that property.
  Support with modification -- NAR supports requiring NFIP to disclose the current full risk rate as well as claims information to pre-FIRM property owners, but as noted above, NFIP lacks the elevation data needed for 97 percent of pre-FIRM structures. Without this data, the NFIP cannot calculate the full risk rates that are to be disclosed under this provision. NAR supports providing NFIP with the authority and funding needed to obtain this data, through LiDAR or other sources, in order to implement this provision effectively and fully.

- **Availability of Flood Insurance Information Upon Request.**
  Require the FEMA Administrator to make available, upon request of a policyholder, specific data and information related to the policyholder's property or structure, which includes any historical information, claims payments, flood damages, and whether the property may be required to purchase flood insurance due to previous receipt of federal disaster assistance.
  Support with modification – NAR supports requiring the NFIP to disclose property flood risk information to owners but believes this information should be made available also to buyers, and both should have more timely access than 30 days. NAR supports requiring the NFIP to adopt and expand North Carolina's Flood Risk Information System (FRIS) to include comprehensive flood risk and cost information for every building in the NFIP.

- **Premium Rates for Certain Mitigated Properties.**
  Authorize the FEMA Administrator to provide policyholders who are not eligible for preferred risk rate method premiums with credits on how they can reduce their risk premium rates through approved actions to mitigate the flood risk of their property, including innovative mitigation techniques for buildings in dense urban environments and the elevation of mechanical systems.
  Support – NAR supports providing NFIP rate discounts as well as incentives (grants, loans,

etc.) for property owners who reduce or mitigate their properties' risks of flooding.

- **Study of Flood Insurance Coverage for Units in Cooperative Housing.**
  Require the FEMA Administrator to conduct a study on the feasibility of offering NFIP coverage of individual dwelling units in cooperative housing developments.
  Support – NAR supports expanding coverage based on a study of the feasibility of offering coverage to individual co-op units.

Private Market Development and Consumer Choice – *Consumers need real choices on private market alternatives to the NFIP so they have the option to take their business elsewhere or stay in the government's program.*

- **Establish Private Market for Flood Insurance.**
  Using the text of the Ross-Castor Flood Insurance Market Parity and Modernization Act [H.R. 1422], provide greater private market access, competition and consumer choice. Amend the Flood Disaster Protection Act of 1973 to clarify that flood insurance offered by a private carrier outside of the NFIP can satisfy that Act's mandatory purchase requirement. Define acceptable private flood insurance as a policy providing flood insurance coverage that is issued by an insurance company that is licensed, admitted, or otherwise approved to engage in the business of insurance in the state or jurisdiction in which the insured property is located, or an insurance company that is eligible as a non-admitted insurer to provide insurance in the state or jurisdiction where the property to be insured is located.
  Support --NAR has endorsed HR 1422 and strongly supports including it in the bill. Most importantly, this section would clarify that the NFIP continuous coverage requirement can be met with private flood insurance so property owners can move back and forth freely without losing NFIP grandfathering. NAR also notes that the bill has been strengthened based on NAR member feedback to close a loophole in current law so federal mortgage insurers including FHA must comply. NAR also believes it is reasonable to limit these provisions to the 22,000 NFIP communities where flood insurance is required for a mortgage.

- **Equivalency Fee for Private Flood Insurance.**
  Apply to private flood insurance policies a fee equivalent to the current federal policy fee already in place on NFIP policies for the purpose of carrying out NFIP flood mapping activities
  Support – NAR supports continued funding essential for accurate flood maps.

- **Elimination of Non-Compete Requirement.**
  Eliminate the regulatory restriction that currently prevents insurers participating in the NFIP's Write Your Own (WYO) Program from selling both NFIP and private flood insurance policies.
  Neutral – NAR has no expertise or opinion on which private insurers should be allowed to enter the market for flood insurance.

- **Public Availability of Program Information.**
  Require FEMA to develop an open-source data system to allow public access of all information related to assessing flood risk or identifying and establishing flood elevations

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and premiums, including, where available, data relating to risk on individual properties and loss ratio information and other information identifying losses under the program. Personally identifiable information shall not be made available; the information provided shall be based on data that identifies properties at the zip code or census block level, and shall include the name of the community and state in which the property is located.
Support with modification– NAR supports providing the public with the risk information needed to make informed decisions. However, North Carolina has created an effective digital display environment prompted by dynamic query of a spatial, relational database. Rather than re-inventing the wheel, NAR would recommend adopting NC's approach and expanding it nationwide. NAR has language to achieve this.

➢ **Refund of Premiums Upon Cancellation of Policy Because of Replacement with Private Flood Insurance.**
Require FEMA to allow policyholders who cancel their NFIP policies during the middle of the policy term to receive a pro-rata refund on their premiums if the policy is replaced with private flood insurance (excluding properties that have received any taxpayer-funded mitigation assistance through the NFIP's Increased Cost of Compliance program).
Support – NAR would support a reasonable provision, including some version of this one, to reduce regulatory barriers to private flood insurance options in addition to NFIP.

➢ **Flood Damage Savings Account Demonstration Program.**
Require the FEMA Administrator to submit to Congress a plan for the implantation of a demonstration program to establish voluntary flood damage savings accounts that takes into consideration the analysis, conclusions, and recommendations developed by the Comptroller General of the United States.
Support – NAR supports a pilot to explore reasonable alternatives to NFIP flood insurance.

➢ **GAO Study of Flood Damage Savings Accounts.**
Require the Comptroller General of the United States to conduct a study assessing the feasibility and effectiveness of establishing voluntary flood damage savings accounts to reduce flood insurance premiums and eliminate the need for purchase of flood insurance coverage.
Support – NAR supports a study to explore reasonable alternatives to NFIP flood insurance.

Reform the Flood Mapping Process – *Communities need increased accuracy and fairness of flood mapping.*

➢ **Allow for the Acceptance of Community Flood Maps.**
Using the text of the Luetkemeyer Taxpayer Exposure Mitigation Act [H.R. 2246], allow localities to elect to use their own resources to develop their own alternatives to NFIP flood maps. Require the FEMA Administrator and the Technical Mapping Advisory Council to develop minimum standards for flood maps developed by communities for those areas, subject to certification and approval by FEMA.
Support with addition -- NAR supports encouraging state flood mapping programs like North Carolina's, but it is unclear whether and to what extent any additional states would have the resources or technical expertise to take advantage of this provision. The Technical

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Mapping Advisory Council (TMAC) has recommended that NFIP go further and transition to building-specific risk assessments. NAR would support strengthening this provision to include TMAC's recommendations and provide the authority, funding and flexibility to enable more states and communities to implement more accurate and cost effective mapping strategies.

- **Use of Other Risk Assessment Tools in Determining Premium Rates.**
  Require the FEMA Administrator to use other risk assessment tools, including risk assessment scores, in addition to applicable flood rate maps when determining annual chargeable premium rates.
  Modification required – NAR agrees with the intent of this provision to authorize and encourage NFIP to adopt a broader range of risk rating tools like the private sector uses. However, the provision specifically refers to "risk assessment scores" and requires the issuance of regulations for their use. NAR members are concerned that this language could be misconstrued by the NFIP to create and impose flood scores or labels on homes. NAR has extensive experience and research on home scoring in the energy efficiency context and these scores often distort and stigmatize the market. NAR shares the goal of modernizing NFIP's rating methods and would like to work with Congress to strengthen this provision, but at a minimum, would recommend striking the term "risk assessment scores" from the provision due to the potential for unintended consequences.

- **Streamlining of Flood Map Process.**
  Require the FEMA Administrator to consult with the Technical Mapping Advisory Council to (1) optimize NFIP mapping through a more efficient process; (2) minimize any cost, data, and paperwork requirements; and, (3) assist communities, particularly small communities, in locating resources to appeal flood elevations and flood hazard designations. The FEMA Administrator is to report to Congress within one year of enactment regarding the streamlining efforts outlined in this provision.
  Support – NAR supports streamlining the flood mapping process so smaller communities and property owners can spend less on map appeals. NAR notes that this provision was included in the NAR-supported "Fairness in Flood Insurance Act" introduced by Rep. Morgan Griffith (R-VA) last Congress.

- **Appeals Regarding Existing Flood Maps.**
  Create a new appeals process for States, local governments, or the owners or lessees of real property for whom FEMA has denied a request to update their FEMA-created map to appeal that decision based on new information regarding base flood elevation levels or other flood mitigating factors. The initial appeals process would be through an agency administrative process, with the possibility of a further appeal to the Scientific Resolution Panel. In cases where the appeal is wholly or partially successful, affected policyholders can cancel an impacted policy and are entitled to a refund on their premiums. Moreover, the appellant is entitled to recover reasonable costs for the successful appeal, not to include legal or contingency fees.
  Support – NAR supports streamlining the flood mapping process so smaller communities and property owners can spend less on map appeals. NAR notes that a similar version of this provision was included in the NAR-supported "Fairness in Flood Insurance Act" introduced by Rep. Griffith (R-VA) last Congress.

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- **Appeals and Publication of Projected Special Flood Hazard Areas.**
  Clarify that the owner or lessee of real estate adversely affected by the FEMA Administrator's determination of flood elevations and special hazard areas may appeal such determination no later than 90 days after the date of the second publication of a flood insurance rate map. Moreover, this provision clarifies that the FEMA Administrator's determination will become final if there are no appeals during the 90 day period following that second publication.
  Questions and Concerns – Based on NAR member experience, it often takes more than 90 days for a community to conduct the data analysis needed to appeal the technical or scientific integrity of the flood maps. Further, this data analysis, which is paid for entirely by the community, generally improves the accuracy of the flood map. Why impose an arbitrary 90-day limit if communities are willing to pay for the data analysis necessary to ensure map accuracy? It is also not clear if this limitation would apply to letters of map change, which can be brought at any time and are necessary to remove low-risk structures from the high-risk floodplain due to the low resolution of NFIP maps.

  NAR would support clarifying that these provisions do not apply to letters of map change. NAR also supports replacing this provision with one that directs NFIP to prioritize flood map updates for those communities which provide better mapping data. Right now, it can take years before FEMA will consider data provided by a community, which does not recognize these contributions or incentivize other communities to share in the mapping cost. NAR believes that those communities should jump to the front of the line if they decide to make investments in accurate flood mapping.

- **Communication and Outreach Regarding Map Changes.**
  Give FEMA the ability to expedite the required community notification layover period for communities that wish to accelerate their mapping approval process.
  Support – This clarifies that communities have 30 days to consult with FEMA upon notification of a flood mapping update.

Updates and Reforms to the NFIP's Mitigation of Properties that Flood Frequently – *Expanded mitigation efforts should focus on high-risk homes, especially pre-disaster to prevent problems before they occur.*

- **Community Accountability for Repetitively Flooded Areas.**
  Using the text of the Royce-Blumenauer Repeatedly Flooded Communities Preparation Act [H.R. 1558], require covered flood prone areas to develop a community-specific plan for mitigating continuing flood risks if they have 50 or more repetitive loss structures or 5 or more severe or extreme repetitive loss structures. Such communities: (1) must map and identify repeatedly flooded properties and infrastructure to determine the specific areas that should be priorities for voluntary buyouts, drainage improvements, or other mitigation efforts; and, (2) develop a community plan to address those identified areas, along with submitting a plan to the FEMA Administrator. Communities that fail to develop or make sufficient progress in executing their plan would be subject to certain sanctions, as determined by FEMA.
  Support – NAR supports HR 1558 and this provision as a reasonable approach to address repeatedly flooding properties, which represent 1 percent of NFIP policies but 30 percent of the claims according to the GAO.

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- **Provides CRS Credits to the Maximum Number of Communities Practicable.**
  Require FEMA to provide communities that have joined its Community Rating System program with appropriate credits in calculating their annual chargeable premium rates when those communities implement or benefit from measures that protect natural and beneficial floodplain functions.
  Support – NAR supports strengthening CRS to provide flood insurance discounts to more communities based on communitywide efforts to reduce and mitigate flood risk.

- **Increased Cost of Compliance Coverage.**
  Authorize the FEMA Administrator to supplement its existing Increase Cost of Compliance (ICC) program (which is typically mandatory for many policyholders) coverage of up to $30,000 with the option of allowing policyholders to purchase additional enhanced ICC coverage of up to $60,000, as priced accordingly by NFIP. Like the existing ICC coverage, this enhanced ICC coverage would be used to comply with local and State floodplain management requirements by covering the cost of mitigating a building that has been substantially or repetitively damaged by floods. Additionally, the allowable uses of ICC coverage would be expanded to cover certain pre-disaster mitigation costs for certain at-risk properties identified by State or local governments.
  Support – NAR supports doubling the amount of ICC available and expanding access for pre-flood mitigation. NAR notes that this provision is similar to NAR-supported language provided by Rep. Tom MacArthur (R-NJ).

- **Create Pilot Program For the Voluntary Removal of Flood-Prone Properties.**
  Authorize the FEMA Administrator to establish a pilot program to provide financial assistance for States and local communities to purchase and acquire properties located in participating communities from eligible low-income owners that have incurred substantial damage from a flood event. The pilot program limits FEMA to providing such assistance only when it determines that doing so would be cost-effective and in the best interests of the National Flood Insurance Fund. A property cannot be acquired unless it is currently participating in the NFIP, subject to a binding agreement with FEMA regarding the acquisition, and is the primary residence of its owner who has an income no greater than 120 percent of the median family income for the area. Communities are eligible to participate if they are participating in the NFIP and have: (1) a high concentration of multiple-loss properties; (2) a significant number of older Pre-FIRM properties; (3) identified locations where acquisitions should be a priority mitigation action; (4) a large number of policyholders facing annual increases on their existing NFIP insurance; or, (5) areas susceptible to flooding due to changing future conditions. States must also have a state or local agency in place with the capacity to implement the acquisition process, take ownership of acquired properties, and limit the property's future uses to conservation or recreation. The NFIP would be required to conduct a rigorous study and evaluation and report to Congress no later than December 31, 2021 prior to the pilot sunset on December 31, 2022.
  Support – NAR supports a voluntary pilot for states/communities to offer additional incentives and voluntary buyouts at fair market prices to low income owners of substantially damaged properties.

- **Creates Pilot Program for Investigation of Preexisting Structural Conditions.**
  Authorize the FEMA Administrator to create a pilot NFIP program to authorize Write Your Own (WYO) insurance companies to inspect pre-existing structural conditions of insured and pre-insured properties that could result in a denial of a flood insurance claim. A report

covering any such conditions would be filed with the FEMA Administrator to create a pre-disaster baseline of the conditions that might affect the resolution of future NFIP claims. The NFIP is required to conduct a rigorous study and evaluation and report to Congress no later than December 31, 2021 prior to the pilot sunset on December 31, 2022.
Modification requested –NAR worked with Rep. Nydia Velasquez (D-NY) to modify this provision so it is purely voluntary on the part of the property owner. NAR supports the compromise language as reflected in Sec. 4 of the Congresswoman's "NFIP Reauthorization and Improvement Act" (HR 1423). However, the bill would add a new paragraph 4 that would "sunset" NFIP coverage after 2022 for property owners who volunteer for one of these inspections. This sunset provision is punitive and should be deleted.

Strengthen Taxpayer Protections – *Taxpayers deserve an NFIP that operates in an actuarial sound manner to cover its long-term expected losses.*

- **Independent Actuarial Review.**
  Assign the FEMA Administrator the statutory responsibility to ensure that the NFIP remains financially sound. Require the FEMA Administrator to provide for an annual independent actuarial study of the NFIP to analyze the financial position of the program based on its long-term estimated losses. Require the FEMA Administrator to transmit the results of that report to Congress, along with the FEMA Administrator's determination of whether there exists an actuarial budget deficit for the NFIP for the year covered in the report and any recommended changes to the program to ensure that the program remains financially sound. Additionally, require the FEMA Administrator to submit quarterly reports to Congress on the changing policyholder composition and risk profile of the NFIP.
  Support – NAR supports reasonable measures including an actuarial review of NFIP solvency.

- **Risk Transfer Requirement.**
  Using the text of the Luetkemeyer Taxpayer Exposure Mitigation Act [H.R. 2246], require the FEMA Administrator to use risk transfer tools, such as reinsurance, catastrophe bonds, collateralized reinsurance, resilience bonds, and other insurance-linked securities, to reduce direct taxpayer exposure to insurance losses.
  Support with clarification – NAR supports use of risk transfer tools including reinsurance, provided that NFIP rates do not increase exponentially to cover the cost. NAR notes that this provision was adopted from the Taxpayer Exposure Mitigation Act and the intent there was to not raise NFIP rates in order to pay for the use of risk transfer tools.

- **Adjustments to the Grimm-Waters Act Affordability Surcharge.**
  Restructure the surcharge originally created by the Homeowner Flood Insurance Affordability Act of 2014 to: (1) increase annual surcharges from $25 to $40 for all primary residences; (2) reduce annual surcharge from $250 to $125 for non-owner occupied residential properties that are currently subject to Preferred Risk Policy premium rates; and, (3) increase the annual surcharge from $250 to $275 for all other non-primary residences.
  Additional information requested – NAR again notes the other surcharges and fees introduced or increased in other parts of this bill. NAR members are concerned about the potential sticker shock or surprises when adding all the fees on top of the base rate. It would

be helpful to have an evaluation of the total cost of flood insurance including the fees for a range of typical policyholders in order to help evaluate these and other provisions prior to committee mark up.

- **National Flood Insurance Reserve Fund Compliance.**
  Require the FEMA Administrator to increase the current National Flood Insurance Reserve Fund assessment rate by 1 percent each year until the NFIP achieves its statutorily mandated reserve ratio phase-in requirement of not less than 7.5 percent.
  Additional information requested – This is one of the fee increases referenced in the previous comment. Our understanding is that NFIP is already collecting nearly 7.5 percent each year and counting the revenue from the affordability surcharges, it would take only 2-3 years for NFIP to meet this new requirement. Again, it would be helpful to have examples for a range of typical policyholders of what the total cost of flood insurance would be under this bill including this and the other fees.

- **Simplify FEMA's Designation and Treatment of Multiple Loss Properties.**
  Enhance and consolidate the NFIP's ability to manage and track properties with a history of multiple claims by defining a new "multiple-loss property" term to cover all at-risk properties. Multiple-loss property would encompass three types of properties: (1) a revised definition of repetitive-loss property, meaning a property with two more claims of any amount; (2) a revised definition of severe repetitive loss property, meaning a property with 4 or more separate claims payments at \$5,000 each and the cumulative amount of such claims payments exceeding \$20,000, or at least 2 separate claims payments with the cumulative amount of such claims payments exceeding the value of the structure; and, (3) a new definition of "extreme repetitive-loss property," meaning a property that has incurred flood damage for which at least 2 separate claims have been made with the cumulative amount of such claims payments exceeding 150 percent of the maximum coverage amount available for the structure. As part of the continued availability of NFIP coverage, multiple-loss properties would be required to submit additional data required by the FEMA Administrator to better ascertain the property's specific risk, be subject to a minimum deductible of \$5,000, and, for any multiple-loss properties not currently paying full risk rates, be subject to a subsidy phase-out at an annual rate of 15 percent per year. Multiple-loss properties would also be eligible for prioritized mitigation assistance through the Flood Mitigation Assistance program, with up to a 100 percent cost share subject to the availability of funds. Owners of a designated extreme-repetitive loss property that refuse offers of mitigation following future losses would be ineligible to purchase future NFIP insurance until the property has been mitigated. Additionally, FEMA must validate the reasonable accuracy of claim history data for any multiple-loss properties.
  Support – NAR supports reasonable efforts to address repeatedly flooding properties, which represent 1 percent of NFIP policies but 30 percent of the claims according to the GAO.

- **Elimination of Coverage for Properties with Excessive Lifetime Claims.**
  Prospectively prohibit the availability of NFIP coverage of any multiple-loss property with lifetime losses so excessive that the aggregate amount in claims payments, made after enactment of this Act, exceeds twice the amount of the replacement value of the structure.
  Support – NAR supports reasonable approaches to address the risks posed by repeatedly flooding properties.

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- **Addressing Tomorrow's High-Risk Structures Today.**
  Pursuant to his fiduciary duty and responsibility to ensure that the NFIP remain financially sound, require the FEMA Administrator to no longer make available NFIP coverage for certain high-risk properties after January 1, 2021, that have other available private flood insurance options. The high-risk properties covered by this prohibition include any new structures added to today's high-risk special flood hazard areas, as well 1-4 unit residential structures where the replacement cost of the building (exclusive of the real estate upon which the structure is located) exceeds $1 million. To ensure the availability of coverage, the FEMA Administrator has the authority to make insurance coverage via the NFIP for such properties upon a determination that there exists a counter-cyclical market condition where the private flood insurance market is either not available or affordable in a certain geographic area, subject to a 10 percent surcharge. Such determinations shall be made by the state insurance regulator, subject to certain conditions, and be effective for no longer than 12 months or when such counter-cyclical market conditions no longer exist. The state insurance regulator may make multiple or back-to-back determinations depending on the local conditions of the insurance market. Additionally, once a policyholder is paying full risk actuarial rates for their property on or after January 1, 2021, the FEMA Administrator is prohibited from taking actions that create hidden risks for the NFIP by lowering rates for that property below their full risk actuarial rates in the future.
  Clarifications requested –
  1. *Currently grandfathered properties. As currently drafted, it is unclear if this provision would apply to all grandfathering after year four or any new grandfathering. NAR understands that it was not the intent to include all grandfathering with this provision. It would also not be consistent with recent statements by Chairman Duffy that "If you're grandfathered today or in the next four years, you'll stay grandfathered.".*[2] *Nevertheless, NAR recommends removing this provision from the other four-year provisions, and clarifying how existing grandfathering is to be addressed under the bill. NAR also notes that there are significant challenges as to how FEMA would implement and enforce compliance with this provision. NAR would welcome the opportunity to work with the Committee on further clarification.*
  2. *Future grandfathering after four years. NAR members are concerned that existing homeowners who have built and maintained to code in an A zone would no longer be eligible for grandfathering after the four years if the area is later remapped into the V zone or the base flood elevation increases. A structural elevation project can easily cost tens of thousands of dollars. Homeowners should have some assurance that if they make significant investments in reducing or mitigating their property's risk of flooding, those investments would not be sunk if the map is updated a few short years later. NAR notes that Congress recently added a newly-mapped procedure, which in effect grandfathers X zone properties that are re-mapped into an A or V zone. In year 1, these properties pay the Preferred Risk Rate and each year, FEMA raises the rate by a multiplier until property is paying full risk rates. It is unclear why Congress could not expand this practice to properties that were built to code in an A or V zone before the date of enactment of this bill.*

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[2] Warmbrodt, Zachary. "Republicans tackle flood insurance bills with clashes looming over affordability, debt," Politico dated May 25, 2017.

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3. *New Construction. NAR understands that the intent of this provision is to address any new foundations laid four years from now, and not existing structures that have been substantially damaged, improved or rebuilt. However, the provision is unclear as drafted, and NAR would suggest adding a definition that clarifies this. It is also unclear if this provision would apply to all new construction in high-risk flood zones or just V zones to start. Clarification is needed on these points.*
4. *Countercyclical determination. NAR supports a provision allowing NFIP coverage to continue in geographic areas where the State Insurance Commissioner determines that private flood insurance is either unaffordable or not available. NAR generally believes that state insurance commissioners are best positioned to evaluate local insurance market conditions and protect consumers. However, NAR questions whether state insurance commissioners would be able to meet the provision's requirement as currently drafted and recommends streamlining this provision so states can make the determination as needed.*

- **Limitations on the Allowance for Write-Your-Own (WYO) Companies.**
  Establish that the allowance paid to companies participating in WYO Program, with respect to a policy for flood insurance coverage made available under the NFIP, shall not be greater than 25 percent of the chargeable premium for such coverage.
  Neutral - NAR does not have any expertise or opinion on adequate compensation for insurance companies that partner with the NFIP.

- **Enforcement of Mandatory Purchase Requirements.**
  Increase the civil money penalties on federally regulated lenders for failure to comply with the NFIP's mandatory purchase requirements from $2,000 to $5,000, and require an annual report from federal banking regulators and the GSEs on the compliance of covered lenders with existing mandatory purchase requirements.
  Support – NAR supports reasonable approaches to mandatory purchase enforcement.

- **Use of All-Perils Policies for the Satisfaction of Mandatory Purchase Requirements.**
  Provide for the satisfaction of the NFIP's mandatory purchase requirement for those properties located in a state that adopts a state-based requirement for mandatory "all-perils" coverage that includes flood insurance.
  Support – NAR supports the use of state-based "all perils" insurance alternatives to the NFIP for purposes of enforcement of mandatory flood insurance requirements.

- **Short Term, Small Dollar Loan Exception from Mandatory Purchase Requirements.**
  Update the existing exception from the NFIP's mandatory purchase requirement under the Flood Disaster Protection Act of 1973 for small dollar loans with a repayment term of 1 year or less from an original outstanding principal balance of $5,000 or less to an inflation-adjusted $25,000 or less. Additionally, reiterate that nothing in the law prohibits states, localities, and private lenders from requiring the purchase of flood insurance coverage for a structure that is located outside of an area designated by FEMA as a special flood hazard area.
  Support – NAR supports reasonable approaches to mandatory purchases requirements.

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Implement NFIP Claims Processing and Superstorm Sandy Reforms – *FEMA must find and fix fraudulent practices in the claims process, and ensure that every policyholder gets the full benefit of the insurance coverage that they purchased.*

- **Penalties for Fraud and False Statements.**
  Require the FEMA Administrator to prohibit false or fraudulent statements connected to the preparation, production, or submission of claims adjustment or engineering reports. Authorize the FEMA Administrator to develop penalties for such violations, including disbarment from participation in the NFIP.
  Support – NAR supports the reasonable consumer protections. NAR notes that this and other provisions below were taken from the "NFIP Reauthorization and Improvement Act" sponsored by Rep. Nydia Velazquez (D-NY).

- **Enhanced Policyholder Appeals Rights.**
  Codify the due process protections for policyholders established after Superstorm Sandy by FEMA for individuals wishing to appeal a full or partial denial of their NFIP claim by their insurance company, and require FEMA to provide policyholders with a written appeal decision that upholds or overturns the decision of the insurer.
  Support – NAR supports codifying NFIP improvements to the claims process made in light underpayments following Superstorm Sandy

- **Deadline for Approval of Claims.**
  Require the FEMA Administrator to make final determinations regarding the approval of a claim for payment or disapproval of the claim within 90 days of the claim being made. Authorize the FEMA Administrator to extend the 90-day deadline by an additional 15 days when extraordinary circumstances warrant more time.
  Support –NAR supports reasonable consumer protections.

- **Strengthen Write Your Own (WYO) Company Litigation Oversight.**
  Provide the FEMA Administrator with additional authorities and responsibilities for overseeing litigation conducted by WYO insurance companies acting on behalf of the NFIP. Require the FEMA Administrator to ensure WYO litigation expenses are reasonable, appropriate, and cost-effective, with the authority to deny any expenses that are contrary to those terms. Give the FEMA Administrator the authority to direct litigation strategy as necessary.
  Support – NAR supports the addition of reasonable consumer protections. NAR notes that subsection (b) refers to Section 1352(d) of the National Flood Insurance Act, but there does not appear to be a sub (d) under Section 1352 (Disbarred Attorneys) as added by this discussion draft.

- **Prohibition on Hiring Disbarred Attorneys.**
  Prohibit the FEMA Administrator from hiring any attorney in connection with the program who has been suspended or disbarred.
  Support – NAR supports reasonable consumer protections.

- **Underpayment of Claims by Write Your Own (WYO) Companies**
  Require the FEMA Administrator to align penalties for WYO insurance companies that knowingly underpay claims for losses covered to be commensurate with the NFIP's penalties applicable to overpayment of such claims.

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Support – NAR supports reasonable consumer protections.

- **Use of Technical Assistance Reports.**
  Require the FEMA Administrator to restrict the use of outside technical reports by WYO insurance companies' and the NFIP direct servicing agent's as part of specific NFIP claims investigations only to such reports that are final and are prepared in compliance with applicable state and federal laws regarding professional licensure and conduct. Defines "technical assistance report' to mean reports created for the purpose of furnishing technical assistance to an insurance claims adjuster assigned by NFIP, including those by engineers, surveyors, salvors, architects, and certified public accounts.
  Support – NAR supports reasonable consumer protections.

- **Improved Disclosure Requirement for Standard Flood Insurance Policies.**
  Require the FEMA Administrator to create a coverage disclosure sheet for policyholders, which outlines the coverage afforded by the NFIP's standard flood insurance policy, including a description of the type of loss that would be covered, a summary of costs associated with the policy, clear communications of the policy's full flood risk determinations. Require the disclosure to include an acknowledgement of the disclosure by the policyholder and the insurer selling the policy on behalf of the NFIP.
  Support with modification – NAR supports strengthening NFIP's disclosure of coverages under the standard policy. However, the 'required signatures' paragraph should be struck. If either the policyholder or the insurer fails to sign two separate forms (i.e., the disclosure sheet and the acknowledgement), the NFIP policy will not take effect and any claim would be denied. This is the kind of paperwork violation that offers limited if any benefit to policyholders or taxpayers but could cost the policyholder everything in the event of a flood.

- **Reserve Fund Amounts.**
  Authorize FEMA to transfer money from the Reserve Fund into the NFIP for the purposes of paying future claims.
  Support – NAR supports using the reserve fund for current claim payments.

- **Sufficient Staffing for Office of Flood Insurance Advocate.**
  Require the FEMA Administrator to ensure the Office of the Flood Insurance Advocate has sufficient staffing within 180 days after enactment.
  Support – NAR supports strengthening the Office of the Flood Insurance Advocate, which has effectively advocated for the fair treatment of policyholders and property owners under the NFIP since the office's creation under the Affordability Act. NAR notes this provision was adopted from NAR-supported Fairness in Flood Insurance Act sponsored by Rep. Griffith (R-VA) last Congress.

- **Technical Insurance Advisory Council.**
  Create a new Technical Insurance Advisory Council consisting of federal, state, and local experts to review the NFIP's insurance practices and propose new standards to FEMA.
  Support – NAR supports creation of a council to advise NFIP on technical insurance matters.

- **Interagency Guidance on Compliance.**
  Twelve months after enactment and every two years thereafter, require that federal banking agencies update the document entitled "Interagency Questions and Answers Regarding Flood Insurance,"

which address many flood insurance compliance questions in order to understand any conflicts with FEMA requirements or other industry practices and limitations.
Support – NAR supports reasonable approaches the enforcement of the mandatory purchase requirement.

- **GAO Study of Claims Adjustment Practices.**
  Require the Comptroller General of the United States to conduct a study assessing the policies and practices for adjustment of claims for losses under the NFIP to determine whether the current system impacts the quality of the claims and adversely impacts policyholders.
  Support – NAR supports a study to recommend improvements to NFIP claims adjustment practices.

- **GAO Study of Flood Insurance Coverage Treatment of Earth Movement.**
  Require the Comptroller General of the United States to conduct a study assessing the treatment of "earth movement and subsidence caused by flooding" on the NFIP and policyholders.
  Support – NAR supports a GAO study on the earth movement exclusion in the standard NFIP policy.