

COMMUNITY EMPOWERMENT FOR MITIGATED  
PROPERTIES ACT OF 2017

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NOVEMBER 21, 2017.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

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Mr. SHUSTER, from the Committee on Transportation and  
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 1735]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1735) to direct the Administrator of the Federal Emergency Management Agency to issue guidance regarding implementation of certain buy-outs or the acquisition of property for open space as a flood mitigation measure, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 2, line 5, strike “a buy-out or”.

Page 2, line 10, strike “a buy-out or” and insert “an”.

Page 2, line 13, strike “buy-out or”.

Page 2, line 15, strike “buy-out or”.

Page 2, line 17, strike “buy-out or”.

Page 2, line 21, strike “buy-out or”.

Page 2, line 23, strike “model”.

Page 3, line 5, after “project,” insert “consistent with section 404 (including related regulations, standards, and guidance) and”.

Page 3, line 21, strike “location of a buy-out or” and insert “property subject to the”.

Page 4, line 5, insert “and” after the semicolon.

Page 4, strike lines 6 through 8, and insert the following:

(C) the applicable Regional Administrator of the Federal Emergency Management Agency.

Amend the title so as to read:

A bill to direct the Administrator of the Federal Emergency Management Agency to issue guidance regarding the acquisition of property for open space as a flood mitigation measure, and for other purposes.

#### PURPOSE OF LEGISLATION

H.R. 1735, as amended, directs the Administrator of the Federal Emergency Management Agency (FEMA) to issue guidance regarding the acquisition of property for open space as a flood mitigation measure.

#### BACKGROUND AND NEED FOR LEGISLATION

##### *Federal Emergency Management Agency: History*

FEMA was established in 1979 by Executive Order 12148 by President Jimmy Carter in response to a number of massive disasters in the 1960’s and 1970’s. As a result of individual states trying to manage these disasters, the National Governors Association and others made a proposal to streamline and cut the number of agencies states were required to work with following a disaster. Prior to the creation of FEMA, the federal government’s emergency response mechanisms were scattered among many agencies throughout government. The creation of FEMA helped to centralize these authorities and the coordination of the federal government’s response to a disaster. The Disaster Relief Act of 1974 (Public Law 93–288), which constituted the statutory authority for most federal disaster response activities, especially of FEMA, was later amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, also known as the Stafford Act (P.L. 100–707).

Following more than two decades as an independent agency, the Homeland Security Act of 2002 (Public Law 107–296) created the Department of Homeland Security (DHS) and placed FEMA within DHS, dispersing FEMA’s functions among various offices and direc-

torates within DHS. In 2006, following Hurricanes Katrina and Rita and the intensive Congressional investigations and oversight, Congress enacted the Post-Katrina Emergency Management Reform Act of 2006 (P.L. 109–295), which addressed key response roles and authorities and reconstituted FEMA within DHS.

#### *Disaster mitigation*

Disaster mitigation includes actions taken to reduce loss of life and property by lessening the impact of disasters. Effective mitigation acts to minimize the potential loss from a disaster based on identifying and understanding the risks in a given area or community. Mitigation can encompass a wide variety of activities, including preparation and planning, elevating or moving structures prone to flooding, hardening structures to mitigate effects of hurricanes or earthquakes, and establishing building codes and zoning ordinances.

Mitigation not only saves lives but has been shown to also reduce disaster costs by minimizing damage from a disaster. For example, pursuant to a requirement of the Disaster Mitigation Act of 2000, the Congressional Budget Office (CBO) completed an analysis of the reduction in federal disaster assistance as a result of mitigation efforts.<sup>1</sup> That study examined mitigation projects funded from 2004 to mid-2007. CBO found that of the nearly \$500 million invested through Pre-Disaster Mitigation (PDM) grants, future losses were reduced by \$1.6 billion for an overall ratio of 3 to 1. In essence, for every dollar invested in mitigation, \$3 was saved. CBO's analysis reaffirmed a prior study commissioned by FEMA and conducted by the Multihazard Mitigation Council of the National Institute of Building Sciences that concluded, in 2005 that each dollar spent on mitigation saves \$4 in future losses due to disasters.<sup>2</sup>

Federal programs such as FEMA's Hazard Mitigation Grant Program (HMGP) and PDM help provide some of the investment needed to help communities undertake disaster mitigation. HMGP provides grants to state and local governments to rebuild after a disaster in ways that are cost-effective and that reduce the risk of future damage, hardship, and loss from all hazards. FEMA also provides grants under HMGP to assist families in reducing the risk to their homes from future disasters, through such steps as elevating the home or purchasing the home to remove it from the floodplain.

#### *Community empowerment for Mitigated Properties Act of 2017*

H.R. 1735, as amended, addresses a prevalent source for complaints and miscommunications among municipal authorities in flood prone regions where numerous properties have been purchased, razed, and are maintained as open space. It is of critical importance that all entities involved at the county and community level receive effective communication as to why the State, in partnership with FEMA, is undertaking flood mitigation property buyouts and how the land can be used and maintained in the future.

<sup>1</sup>"Potential Cost Savings from the Pre-Disaster Mitigation Program," Congressional Budget Office, September 2007.

<sup>2</sup>"Natural Hazard Mitigation Saves: An Independent Study to Assess the Future Savings from Mitigation Activities," Multihazard Mitigation Council, National Institute of Building Sciences, 2005.

Currently FEMA works with State grantees and county governments are provided with the details of properties identified for buyout. H.R. 1735, as amended, ensures that municipal authorities receive the same details. This legislation requires FEMA to provide guidance to States on providing local governments with a framework for the upkeep of these properties and how to facilitate memorandums of understanding between local governing bodies regarding property maintenance and upkeep standards, consistent with the requirements of the local community and neighborhood, as well as the Hazard Mitigation Assistance Program.

#### HEARINGS AND ROUNDTABLES

The Subcommittee on Economic Development, Public Buildings, and Emergency Management, held the following hearings and roundtable discussions on subjects related to matters contained in H.R. 1735, as amended, during the 114th and 115th Congresses:

*“Rebuilding after the Storm: Lessening Impacts and Speeding Recovery”* held on January 27, 2015. The purpose of the hearing was to launch an assessment of the rising costs of disasters, the cost effectiveness of disaster assistance, strategies to reduce disaster losses, and the appropriate roles of government and the private sector, and to consider reforms to save lives through improved alerts and warning systems and search and rescue.

*“What is Driving the Increasing Costs and Rising Losses from Disasters?”* held on March 18, 2015. The purpose of the roundtable was to examine and discuss data related to disaster costs, the trends observed over time, and the projections for the future given the policies in place today.

*“The State of Pennsylvania and FEMA Region III are Leaders in Mitigating Disaster Costs and Losses”* held on May 28, 2015. The purpose of the roundtable was to examine disaster costs and losses, focus on hazards impacting Pennsylvania and the region, and identify best practices for mitigating and avoiding disaster impacts.

*“Federal Disaster Assistance: Roles, Programs, and Coordination”* held on June 17, 2015. The purpose of the roundtable was to examine and discuss federal disaster assistance programs, the requirements and effectiveness of those programs, and coordination among various agencies and stakeholders.

*“Controlling the Rising Cost of Federal Responses to Disaster”* held on May 12, 2016. The purpose of the hearing was to explore potential solutions and the principles that should be driving solutions to lower the overall costs of disasters and to help avoid devastating losses.

*“Building a 21st Century Infrastructure for America: Mitigating Damage and Recovering Quickly from Disasters”* held on April 27, 2017. The purpose of the hearing was to examine how to protect infrastructure against future disaster damage, how to lower the overall disaster costs, and to identify challenges facing FEMA in responding to, recovering from, and mitigating against disasters, both natural and man-made.

## LEGISLATIVE HISTORY AND CONSIDERATION

On March 27, 2017, Congressman Brian Babin (R–TX) introduced H.R. 1735, a bill to ensure the upkeep of property within communities where hazard mitigation funds were used to purchase the entity.

On July 27, 2017, the Committee on Transportation and Infrastructure met in open session to consider H.R. 1735. The Committee considered an amendment offered by Congressman Lou Barletta (R–PA), which was agreed to by voice vote. The Committee ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present.

## COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with consideration of H.R. 1735, as amended, or ordering the measure reported. A motion to order H.R. 1735, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

## COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 1735, as amended, from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 16, 2017.*

Hon. BILL SHUSTER,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1735, the Community Empowerment for Mitigated Properties Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Robert Reese.

Sincerely,

KEITH HALL,  
*Director.*

Enclosure.

*H.R. 1735—Community Empowerment for Mitigated Properties Act of 2017*

H.R. 1735 would require the Federal Emergency Management Agency (FEMA) to update its guidance on acquiring property for open space as a disaster mitigation measure. Under current law, FEMA provides grants to states and localities to buy structures (and the underlying land) that are at risk of severe flooding. FEMA most recently issued guidance for this process in 2007.

Based on the cost of creating similar guidance, CBO estimates that implementing H.R. 1735 would have no significant effect on the federal budget.

Enacting H.R. 1735 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 1679 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 1679 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Robert Reese. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to ensure that FEMA provides guidance to States on providing notification to local governments on mitigation property buyout activities and facilitating memorandums of understanding for the use and maintenance of the resulting open space.

ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill, as amended, includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 1735, as amended, establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Govern-

ment Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, 115th Cong. (2017), the Committee finds that enacting H.R. 1735, as amended, does not direct the completion of a specific rule making within the meaning of section 551 of title 5, United States Code.

#### FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 1735, as amended, does not preempt any state, local, or tribal law.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

#### APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

#### SECTION-BY-SECTION ANALYSIS OF LEGISLATION

##### *Section 1. Short title*

This section designates the short title as the “Community Empowerment for Mitigated Properties Act of 2017.”

##### *Section 2. Guidance on hazard mitigation assistance*

This section articulates the guidance the Administrator shall issue regarding the acquisition of property under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 1735, as amended, makes no changes in existing law.