

108TH CONGRESS  
1ST SESSION

# H. R. 670

To amend the National Flood Insurance Act of 1968 to provide for identification, mitigation, and purchase of properties insured under the national flood insurance program that suffer repetitive losses.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2003

Mr. BAKER introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the National Flood Insurance Act of 1968 to provide for identification, mitigation, and purchase of properties insured under the national flood insurance program that suffer repetitive losses.

1       *Be it enacted by the Senate and House of Representa-*

2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Flood Loss Mitigation

5       Act of 2003”.

1 **SEC. 2. MITIGATION FOR AND PURCHASE OF CERTAIN RE-**2 **PETITIVE LOSS STRUCTURES.**

3 The National Flood Insurance Act of 1968 is amend-  
4 ed by inserting after section 1361 (42 U.S.C. 4102) the  
5 following new section:

6 **“MITIGATION FOR AND PURCHASE OF CERTAIN**7 **REPETITIVE LOSS STRUCTURES**

8 **“SEC. 1362. (a) AUTHORITY.—**To the extent  
9 amounts are made available for use under this section, the  
10 Director may, subject to the limitations of this section—

11 (1) carry out mitigation activities that reduce  
12 flood damages to qualified repetitive loss structures  
13 (as such term is defined in subsection (e)); and

14 (2) purchase qualified repetitive loss struc-  
15 tures, but only for public or open space use that is  
16 consistent with sound land management and use  
17 policies.

18 **“(b) LIMITATIONS.—**The Director shall establish lim-  
19 itations on the use of amounts made available under this  
20 section for mitigation and purchase of structures, which  
21 shall—

22 (1) be designed to encourage owners of struc-  
23 tures to maintain participation in the national flood  
24 insurance program; and

1               “(2) include limitations that prohibit use of  
2               such amounts for mitigation or purchase of any  
3               qualified repetitive loss structure if—

4               “(A) as a result of such action, the owner  
5               of the structure will not be able to purchase a  
6               replacement residence;

7               “(B) any of the flooding that resulted in  
8               designation of the structure as a qualified re-  
9               petitive loss structure was a result (in whole or  
10               in part) of third party development;

11               “(C) such action will interfere with, im-  
12               pair, or disrupt the preservation or maintenance  
13               of historically or architecturally significant  
14               properties or areas or identifiable neighbor-  
15               hoods or areas of cultural cohesiveness;

16               “(D) in purchasing the structure, the  
17               owner relied upon flood insurance rate maps of  
18               the Federal Emergency Management Agency  
19               that were current at the time and did not indi-  
20               cate that the property was located in an area  
21               having special flood hazards; or

22               “(E) the Director otherwise determines, in  
23               the discretion of the Director, that amounts  
24               under this section should not be used for miti-  
25               gation or purchase of such structure.

1       “(c) PRIORITY FOR WORST-CASE PROPERTIES.—In  
2 determining the properties for which to take action under  
3 this section, the Director shall give priority to qualified  
4 repetitive loss structures on the basis of the amount of  
5 losses to the National Flood Insurance Fund that such  
6 structures have caused or will cause.

7       “(d) BORROWING.—

8           “(1) ISSUANCE OF OBLIGATIONS.—Subject to  
9 the provisions of this subsection, the Director may  
10 issue and sell such notes or other obligations to the  
11 Secretary of the Treasury as the Director deter-  
12 mines are necessary to provide funds to carry out  
13 this section.

14           “(2) TERMS AND CONDITIONS.—Obligations  
15 under this subsection shall be issued in the forms  
16 and denominations, bearing the maturities, and sub-  
17 ject to the terms and conditions that the Secretary  
18 of the Treasury may prescribe.

19           “(3) NOTIFICATION TO CONGRESS.—At least 25  
20 days before the issuance or sale of a note or other  
21 obligation under paragraph (1), the Director shall  
22 notify, in writing, the Senate and the House of Rep-  
23 resentatives of the intention of such issuance or sale  
24 and the dollar amount of such notes or obligations.

1                     “(4) PURCHASE OF OBLIGATIONS.—The Sec-  
2             retary of the Treasury shall purchase any obligations  
3             issued under this subsection. For such purpose, the  
4             Secretary of the Treasury may use as a public debt  
5             transaction the proceeds from the sale of any securi-  
6             ties issued under chapter 31 of title 31. The pur-  
7             poses for which securities may be issued under such  
8             chapter are extended to include any purchase of obli-  
9             gations issued under this subsection.

10                    “(5) LIMITATION ON AMOUNT.—The Secretary  
11             of the Treasury may not at any time purchase any  
12             obligations under this subsection if the purchase  
13             would increase the aggregate principal amount of  
14             the outstanding holdings of obligations under this  
15             subsection by the Secretary to an amount greater  
16             than \$300,000,000.

17                    “(6) RESALE AUTHORITY.—The Secretary of  
18             the Treasury may sell any obligations issued under  
19             this subsection at the times and prices and upon the  
20             terms and conditions that the Secretary of the  
21             Treasury shall determine.

22                    “(7) TREATMENT.—All purchases, redemptions,  
23             and sales of obligations under this subsection by the  
24             Secretary of the Treasury shall be treated as public  
25             debt transactions of the United States.

## 1        “(e) QUALIFIED REPETITIVE LOSS STRUCTURE.—

2 For purposes of this section (and sections 1310(g) and  
3 1316(b)), the term ‘qualified repetitive loss structure’  
4 means a structure that has incurred such flood-related  
5 damage as the Director shall, by regulation, provide in ac-  
6 cordance with the purposes of such sections.

7        “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
8 is authorized to be appropriated for costs of activities  
9 under this section \$100,000,000 for fiscal year 2004,  
10 \$75,000,000 for fiscal year 2005, \$50,000,000 for fiscal  
11 year 2006, and \$25,000,000 for fiscal year 2007.”.

12 **SEC. 3. TREATMENT OF SAVINGS.**

13        Section 1310 of the National Flood Insurance Act of  
14 1968 (42 U.S.C. 4017) is amended—

15            (1) in subsection (a)—

16              (A) in paragraph (7), by striking “and” at  
17 the end;

18              (B) in paragraph (8), by striking the pe-  
19 riod at the end and inserting “; and”; and

20              (C) by adding at the end the following new  
21 paragraph:

22              “(9) for use under subsection (g) of this sec-  
23 tion.”; and

24              (2) by adding at the end the following new sub-  
25 section:

## 1       “(g) USE OF MITIGATION SAVINGS.—

2           “(1) DETERMINATION.—For each fiscal year,  
3           the Director shall make a determination of the por-  
4           tion of the amounts in the fund that are attributable  
5           to savings from mitigation activities and purchases  
6           under section 1362 of qualified repetitive loss struc-  
7           tures (as such term is defined in subsection (e) of  
8           such section).9           “(2) USE FOR MITIGATION.—In each fiscal  
10          year, an amount in the fund equal to the amount de-  
11          termined under paragraph (1) of this subsection  
12          shall be available (in accordance with subsection (f))  
13          only for mitigation activities for, and purchase of,  
14          qualified repetitive loss structures under section  
15          1362, except as provided in paragraph (3).16           “(3) USE FOR MAPPING.—After a determina-  
17          tion by the Director that 75 percent of the number  
18          of qualified repetitive loss structures that existed  
19          upon the enactment of the Flood Loss Mitigation  
20          Act of 2003 have been provided mitigation that suf-  
21          ficiently reduces the risk of losses from flooding, or  
22          have been purchased for public or open space use  
23          that is consistent with sound land management and  
24          use policies, the Director may use up to 75 percent  
25          of the amount reserved in each fiscal year under

1       paragraph (2) of this subsection for costs of map-  
2       ping activities under section 1360.”.

3       **SEC. 4. INELIGIBILITY FOR NATIONAL FLOOD INSURANCE**  
4                   **PROGRAM.**

5       Section 1316 of the National Flood Insurance Act of  
6       1968 (42 U.S.C. 4023) is amended—

7               (1) by striking the section heading and insert-  
8       ing the following:

9               “PROHIBITION OF COVERAGE FOR CERTAIN  
10                   PROPERTIES”;

11               (2) by inserting “(a) PROPERTIES IN VIOLA-  
12               TION OF STATE OR LOCAL LAW.—” after “1316.”;  
13       and

14               (3) by adding at the end the following new sub-  
15       sections:

16       “(b) QUALIFIED REPETITIVE LOSS STRUCTURES.—  
17       In the case of a qualified repetitive loss structure (as such  
18       term is defined in section 1362(e)) that was the subject  
19       of an offer to purchase or to provide mitigation activities  
20       funded under section 1362 that was refused by the owner  
21       of the property, the Director may—

22               “(1) deny the provision of any new flood insur-  
23       ance coverage under this title for such property and  
24       may cancel any existing coverage for such property;  
25       or

1               “(2) notwithstanding section 1308(e) or any  
2               other provision of this title, increase the chargeable  
3               risk premium rate for any new flood insurance cov-  
4               erage under this title for such property to an  
5               amount that is not more than the applicable esti-  
6               mated risk premium rate for the property under sec-  
7               tion 1307(a)(1).

8               “(c) PROPERTIES FOR WHICH FRAUDULENT CLAIMS  
9 HAVE BEEN MADE.—The Director may deny the provi-  
10 sion of any new flood insurance coverage under this title,  
11 and may cancel any existing coverage, for a property if  
12 the Director determines that the owner of the property  
13 has made fraudulent claims for losses to the property  
14 under coverage provided under this title.

15               “(d) APPEALS.—Any owner of a property who is ag-  
16 grieved by a determination of the Director under sub-  
17 section (b) or (c) may appeal such determination by filing,  
18 with the Director, a request for an appeal within 90 days  
19 after receiving notice of such determination. Upon receiv-  
20 ing the request, the Director shall select, from a list of  
21 independent third parties compiled by the Director for  
22 such purpose, a party to hear such appeal. The determina-  
23 tion made on appeal by such third party shall be consid-

1 ered a final determination of the Director for purposes of  
2 review under chapter 7 of title 5, United States Code.”.

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