

110TH CONGRESS  
1ST SESSION

# S. 1890

To allow individuals to opt-out of the National Flood Insurance Program,  
and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 26, 2007

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

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## A BILL

To allow individuals to opt-out of the National Flood  
Insurance Program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Flood Insurance  
5 Choice Act of 2007”.

6 **SEC. 2. RIGHT TO OPT-OUT.**

7 Section 102(c) of the Flood Disaster Protection Act  
8 of 1973 (42 U.S.C. 4012a(c)) is amended by adding at  
9 the end the following:

10 “(3) INDIVIDUAL OPT-OUT.—

“(A) IN GENERAL.—Notwithstanding any other provision of this Act, or the National Flood Insurance Act of 1968, any individual homeowner who satisfies the requirements under subparagraph (B) shall not be required to purchase flood insurance on any property, including any property in an area that has been identified by the Administrator as an area having special flood hazards.

“(B) REQUIREMENTS.—The requirements referred to in subparagraph (A) are as follows:

“(i) WRITTEN CERTIFICATION TO THE ADMINISTRATOR AND COMMUNITY.—The individual homeowner shall certify, in writing, to the Administrator and the State, community, or local official responsible for zoning and building codes over the area in which such property is located that the individual—

“(I) elects not to participate in the flood insurance program under the National Flood Insurance Act of 1968; and

“(II) understands and willfully accepts any and all adverse con-

1 sequence that attach to such an elec-  
2 tion, including—

3 “(aa) denial of any Federal  
4 financial assistance under this  
5 Act or the National Flood Insur-  
6 ance Act of 1968;

7 “(bb) denial of any Federal  
8 financial assistance for acquisi-  
9 tion or construction purposes  
10 under this Act or the National  
11 Flood Insurance Act of 1968;

12 “(cc) denial of any Federal  
13 financial assistance under sec-  
14 tions 404, 408, and 425 of the  
15 Robert T. Stafford Disaster Re-  
16 lief and Emergency Assistance  
17 Act for damage as a result, in  
18 whole or in part, of a flood; or

19 “(dd) loss of value to the  
20 property.

21 “(ii) RECORDING OF CERTIFI-  
22 CATION.—

23 “(I) IN GENERAL.—The indi-  
24 vidual homeowner shall file the certifi-  
25 cation required under clause (i) with

1 the appropriate State or local agency  
2 responsible for recording deeds, liens,  
3 or mortgages of real property in which  
4 the property that is the subject of  
5 such certification is located.

6 “(II) EFFECT OF RECORDING.—

7 The recording of the certification  
8 under clause (i) shall—

9 “(aa) attach to the property  
10 that is the subject of such certifi-  
11 cation; and

12 “(bb) bind the current  
13 owner of the property and all fu-  
14 ture owners of the property, in-  
15 cluding successor in interests, as-  
16 signs, or heirs, who at any time  
17 hold title to all or any portion of  
18 such property.

19 “(III) VOLUNTARY RELEASE.—

20 “(aa) IN GENERAL.—The  
21 current owner and any future  
22 owner, the personal representa-  
23 tive of any such owner, the estate  
24 of any deceased owner, or any  
25 qualified heir of a deceased

1 owner (as such term is defined in  
2 section 2032A(e) of the Internal  
3 Revenue Code) may voluntarily  
4 file a document terminating the  
5 effect of the certification required  
6 under clause (i) with the appro-  
7 priate State or local agency re-  
8 sponsible for recording, deeds,  
9 liens, or mortgages of real prop-  
10 erty in which the affected real  
11 property interest is located.

12 “(bb) EFFECT.—The effect  
13 of filing any termination under  
14 item (aa) shall be to void the cer-  
15 tification under clause (i).

16 “(C) BASE FLOOD ELEVATION REQUIRE-  
17 MENTS.—An individual homeowner that has  
18 elected not to purchase flood insurance under  
19 this paragraph with respect to property owned  
20 by such individual shall not be required to com-  
21 ply with any base flood elevation requirements  
22 under this Act or the National Flood Insurance  
23 Act of 1968 for such property.”.

1 **SEC. 3. ENSURING THAT COMMUNITIES ARE NOT AD-**  
 2 **VERSELY AFFECTED BY INDIVIDUALS WHO**  
 3 **OPT-OUT.**

4 (a) LAND USE CONTROLS.—Section 1315(a) of the  
 5 National Flood Insurance Act of 1968 (42 U.S.C.  
 6 4022(a)) is amended—

7 (1) by redesignating paragraph (2) as para-  
 8 graph (3); and

9 (2) by inserting after paragraph (1) the fol-  
 10 lowing new paragraph:

11 “(2) NO PENALTY FOR AREAS WHERE INDIVID-  
 12 UALS OPT-OUT.—The prohibition described under  
 13 paragraph (1) shall not be construed to apply to any  
 14 area that has complied with requirements under that  
 15 paragraph but for those individuals that have elected  
 16 to opt-out of the flood insurance program under sec-  
 17 tion 102(c)(3) of the Flood Disaster Protection Act  
 18 of 1973.”.

19 (b) FINANCIAL ASSISTANCE.—Section 202 of the  
 20 Flood Disaster Protection Act of 1973 (42 U.S.C. 4106)  
 21 is amended—

22 (1) by redesignating subsection (b) as sub-  
 23 section (c); and

24 (2) by inserting after subsection (a) the fol-  
 25 lowing new subsection:

1       “(b) NO PENALTY FOR AREAS WHERE INDIVIDUALS  
2   OPT-OUT.—

3               “(1) IN GENERAL.—The prohibition described  
4       under subsection (a) shall not be construed to apply  
5       to any community that has complied with require-  
6       ments under that subsection but for those individ-  
7       uals that have elected to opt-out of the flood insur-  
8       ance program under section 102(c)(3).

9               “(2) RULE OF CONSTRUCTION.—Nothing in  
10       this subsection shall be construed to require any  
11       Federal agency or officer to provide any financial as-  
12       sistance for acquisition or construction purposes to  
13       any individuals that have elected to opt-out of the  
14       flood insurance program under section 102(c)(3).”.

15       (c) MITIGATION ASSISTANCE.—Section 1366(c) of  
16   the National Flood Insurance Act of 1968 (42 U.S.C.  
17   4104c(c)) is amended by adding at the end the following  
18   new sentence: “A State or community shall not be consid-  
19   ered ineligible to receive financial assistance under this  
20   section for mitigation activities solely because individuals  
21   in that State or community have elected to opt-out of the  
22   flood insurance program under section 102(c)(3) of the  
23   Flood Disaster Protection Act of 1973.”.

1 **SEC. 4. DENIAL OF RELIEF UNDER STAFFORD ACT.**

2 Title IV of the Robert T. Stafford Disaster Relief and  
3 Emergency Assistance Act (42 U.S.C. 5170 et seq.) is  
4 amended by adding at the end the following:

5 **“SEC. 427. DENIAL OF ASSISTANCE FOR INDIVIDUALS WHO**  
6 **HAVE OPTED-OUT OF THE FLOOD INSURANCE**  
7 **PROGRAM.**

8 “(a) IN GENERAL.—No individual or household shall  
9 receive any assistance under section 404, 408, or 425,  
10 with respect to property owned by that individual or  
11 household, if such assistance is needed as a result, in  
12 whole or in part, of a flood, and such individual or house-  
13 hold has elected with respect to such property to opt-out  
14 of the flood insurance program under section 102(c)(3)  
15 of the Flood Disaster Protection Act of 1973.

16 “(b) DEFINITION OF FLOOD.—As used in this sec-  
17 tion, the term ‘flood’ has the same meaning as in section  
18 1370 of the National Flood Insurance Act of 1968 (42  
19 U.S.C. 4121).”

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