

113TH CONGRESS
1ST SESSION

H. R. 3511

To delay the implementation of certain provisions of the Biggert-Waters
Flood Insurance Reform Act of 2012, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2013

Mr. CAPUANO (for himself, Ms. WATERS, Mr. JONES, Mr. HINOJOSA, Mr. LYNCH, Mr. KEATING, and Mr. TIERNEY) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To delay the implementation of certain provisions of the
Biggert-Waters Flood Insurance Reform Act of 2012,
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 “Keeping Flood Insur-
5 ance Affordable Act of 2013”.

6 **SEC. 2. DEFINITIONS.**

7 As used in this Act, the following definitions shall
8 apply:

1 (1) ADJUSTED BASE FLOOD ELEVATION.—For
2 purposes of rating a floodproofed covered structure,
3 the term “adjusted base flood elevation” means the
4 base flood elevation for a covered structure on the
5 applicable effective flood insurance rate map, plus 1
6 foot.

7 (2) ADMINISTRATOR.—The term “Adminis-
8 trator” means the Administrator of the Federal
9 Emergency Management Agency.

10 (3) AFFORDABILITY AUTHORITY BILL.—The
11 term “affordability authority bill” means a non-
12 amendable bill that if enacted would only grant the
13 Administrator the authority necessary to promulgate
14 regulations in accordance with the criteria set forth
15 in section 3(d)(2).

16 (4) AFFORDABILITY STUDY.—The term “af-
17 fordability study” means the study required under
18 section 100236 of the Biggert-Waters Flood Insur-
19 ance Reform Act of 2012 (Public Law 112–141; 126
20 Stat. 957).

21 (5) APPLICABLE FLOOD PLAIN MANAGEMENT
22 MEASURES.—The term “applicable flood plain man-
23 agement measures” means flood plain management
24 measures adopted by a community under section
25 60.3(c) of title 44, Code of Federal Regulations.

1 (6) COVERED STRUCTURE.—The term “covered
2 structure” means a residential structure—

3 (A) that is located in a community that
4 has adopted flood plain management measures
5 that are approved by the Federal Emergency
6 Management Agency and that satisfy the re-
7 quirements for an exception for floodproofed
8 residential basements under section 60.6(c) of
9 title 44, Code of Federal Regulations; and

10 (B) that was built in compliance with the
11 applicable flood plain management measures.

12 (7) DRAFT AFFORDABILITY FRAMEWORK.—The
13 term “draft affordability framework” means the
14 draft programmatic and regulatory framework re-
15 quired to be prepared by the Administrator and sub-
16 mitted to Congress under section 3(d) addressing
17 the issues of affordability of flood insurance sold
18 under the National Flood Insurance Program, in-
19 cluding issues identified in the affordability study.

20 (8) FLOODPROOFED ELEVATION.—The term
21 “floodproofed elevation” means the height of
22 floodproofing on a covered structure, as identified on
23 the Residential Basement Floodproofing Certificate
24 for the covered structure.

1 (9) NATIONAL FLOOD INSURANCE PROGRAM.—
 2 The term “National Flood Insurance Program”
 3 means the program established under the National
 4 Flood Insurance Act of 1968 (42 U.S.C. 4001 et
 5 seq.).

6 **SEC. 3. DELAYED IMPLEMENTATION OF FLOOD INSURANCE**
 7 **RATE INCREASES; DRAFT AFFORDABILITY**
 8 **FRAMEWORK.**

9 (a) DELAYED IMPLEMENTATION OF FLOOD INSUR-
 10 ANCE RATE INCREASES.—

11 (1) GRANDFATHERED PROPERTIES.—Beginning
 12 on the date of enactment of this Act, the Adminis-
 13 trator may not increase risk premium rates for flood
 14 insurance for any property located in an area subject
 15 to the premium adjustment required under section
 16 1308(h) of the National Flood Insurance Act of
 17 1968 (42 U.S.C. 4015(h)).

18 (2) PRE-FIRM PROPERTIES.—Beginning on the
 19 date of enactment of this Act, the Administrator
 20 may not reduce the risk premium rate subsidies for
 21 flood insurance for any property—

22 (A) described under section 1307(g)(1) of
 23 the National Flood Insurance Act of 1968 (42
 24 U.S.C. 4014(g)(1)); or

1 (B) described under 1307(g)(3) of the Na-
2 tional Flood Insurance Act of 1968 (42 U.S.C.
3 4014(g)(3)), provided that the decision of the
4 policy holder to permit a lapse in flood insur-
5 ance coverage was as a result of the property
6 no longer being required to retain such cov-
7 erage.

8 (3) CERTAIN SUBSIDIZED RATE PROPERTIES.—
9 Beginning on the date of enactment of this Act, the
10 Administrator may not reduce the risk premium rate
11 subsidies for flood insurance for any property—

12 (A) described under section 1307(a)(2)(A)
13 of the National Flood Insurance Act of 1968
14 (42 U.S.C. 4014(a)(2)(A)) and the appraised
15 value of which does not exceed \$1,000,000, ex-
16 cept that for any owner of such a non-primary
17 residence this subparagraph shall apply to only
18 one such property; or

19 (B) described under section 1307(a)(2)(D)
20 of the National Flood Insurance Act of 1968
21 (42 U.S.C. 4014(a)(2)(D)), except that—

22 (i) any single business may insure
23 only a single property with risk premium
24 rate subsidies provided pursuant to this
25 subparagraph; and

1 (ii) notwithstanding section 1306(b)
2 (42 U.S.C. 4013(b)), in making insurance
3 coverage available for any property with
4 risk premium rate subsidies provided pur-
5 suant to this subparagraph, coverage shall
6 be made available with respect to any sin-
7 gle such building up to an aggregate liabil-
8 ity of \$1,000,000, and coverage shall be
9 made available up to a total of \$1,000,000
10 aggregate liability for contents owned by
11 the building owner and \$1,000,000 aggre-
12 gate liability for each unit within the build-
13 ing for contents owned by the tenant.

14 (4) EXPIRATION.—The prohibitions set forth
15 under paragraphs (1), (2), and (3) shall expire 6
16 months after the later of—

17 (A) the date on which the Administrator
18 proposes the draft affordability framework;

19 (B) the date on which any regulations pro-
20 posed pursuant to the authority that the Ad-
21 ministrator is granted in the affordability au-
22 thority bill, if such bill is enacted, become final;
23 or

24 (C) the date on which the Administrator
25 certifies in writing to Congress that the Federal

1 Emergency Management Agency has imple-
2 mented a flood mapping approach that utilizes
3 sound scientific and engineering methodologies
4 to determine varying levels of flood risk in all
5 areas participating in the National Flood Insur-
6 ance Program.

7 (b) PROPERTY SALE TRIGGER.—Section 1307(g)(2)
8 of the National Flood Insurance Act of 1968 (42 U.S.C.
9 4014(g)(2)) is amended to read as follows:

10 “(2) any property purchased after the expira-
11 tion of the 6-month period set forth under section
12 3(a)(3) of the Keeping Flood Insurance Affordable
13 Act of 2013;”.

14 (c) TREATMENT OF PRE-FIRM PROPERTIES.—Be-
15 ginning on the date of enactment of this Act and ending
16 upon the expiration of the 6-month period set forth under
17 subsection (a)(3), the Administrator shall restore the risk
18 premium rate subsidies for flood insurance estimated
19 under section 1307(a)(2) of the National Flood Insurance
20 Act of 1968 (42 U.S.C. 4014(a)(2)) for any property de-
21 scribed in subparagraphs (A) and (B) of subsection (a)(2)
22 of this Act and in section 1307(g)(2) of the National
23 Flood Insurance Act of 1968 (42 U.S.C. 4014(g)(2)).

24 (d) DRAFT AFFORDABILITY FRAMEWORK.—

1 (1) IN GENERAL.—The Administrator shall pre-
2 pare a draft affordability framework that proposes
3 to address, via programmatic and regulatory
4 changes, the issues of affordability of flood insur-
5 ance sold under the National Flood Insurance Pro-
6 gram, including issues identified in the affordability
7 study.

8 (2) CRITERIA.—In carrying out the require-
9 ments under paragraph (1), the Administrator shall
10 consider the following criteria:

11 (A) Accurate communication to consumers
12 of the flood risk associated with their property.

13 (B) Targeted assistance to flood insurance
14 policy holders based on their financial ability to
15 continue to participate in the National Flood
16 Insurance Program.

17 (C) Individual or community actions to
18 mitigate the risk of flood or lower the cost of
19 flood insurance.

20 (D) The impact of increases in risk pre-
21 mium rates on participation in the National
22 Flood Insurance Program.

23 (E) The impact flood insurance rate map
24 updates have on the affordability of flood insur-
25 ance.

1 (3) DEADLINE FOR SUBMISSION.—Not later
2 than 18 months after the date on which the Admin-
3 istrator submits the affordability study, the Admin-
4 istrator shall submit to the full Committee on Bank-
5 ing, Housing, and Urban Affairs and the full Com-
6 mittee on Appropriations of the Senate and the full
7 Committee on Financial Services and the full Com-
8 mittee on Appropriations of the House of Represent-
9 atives the draft affordability framework.

10 (e) CONGRESSIONAL CONSIDERATION OF FEMA AF-
11 FORDABILITY AUTHORITIES.—

12 (1) NO REFERRAL.—Upon introduction in ei-
13 ther House of Congress, an affordability authority
14 bill shall not be referred to a committee and shall
15 immediately be placed on the calendar.

16 (2) CONSIDERATION IN THE HOUSE OF REP-
17 RESENTATIVES.—

18 (A) PROCEEDING TO CONSIDERATION.—It
19 shall be in order to move to proceed to consider
20 the affordability authority bill in the House. All
21 points of order against the motion are waived.
22 Such a motion shall not be in order after the
23 House has disposed of a motion to proceed with
24 respect to the affordability authority bill. The
25 previous question shall be considered as ordered

1 on the motion to its adoption without inter-
2 vening motion. The motion shall not be debat-
3 able. A motion to reconsider the vote by which
4 the motion is disposed of shall not be in order.

5 (B) CONSIDERATION.—The affordability
6 authority bill shall be considered as read. All
7 points of order against the affordability author-
8 ity bill and against its consideration are waived.
9 The previous question shall be considered as or-
10 dered on the affordability authority bill to its
11 passage without intervening motion except 10
12 hours of debate equally divided and controlled
13 by the proponent and an opponent. A motion to
14 reconsider the vote on passage of the afford-
15 ability authority bill shall not be in order.

16 (3) CONSIDERATION IN THE SENATE.—

17 (A) PLACEMENT ON THE CALENDAR.—
18 Upon introduction in the Senate, an afford-
19 ability authority bill shall be immediately placed
20 on the calendar.

21 (B) FLOOR CONSIDERATION.—Notwith-
22 standing Rule XXII of the Standing Rules of
23 the Senate, it is in order, at any time beginning
24 on the day after the 6th day after the date of
25 introduction of an affordability authority bill

(even if a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the affordability authority bill and all points of order against consideration of the affordability authority bill are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the affordability authority bill is agreed to, the affordability authority bill shall remain the unfinished business until disposed of.

(C) CONSIDERATION.—All points of order against the affordability authority bill are waived. Consideration of the affordability authority bill and of all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours which shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate on the affordability authority bill is in order, and is not debatable.

(D) NO AMENDMENTS.—An amendment to the affordability authority bill, or a motion to

1 postpone, or a motion to proceed to the consid-
2 eration of other business, or a motion to com-
3 mit or recommit the affordability authority bill,
4 is not in order.

5 (E) VOTE ON PASSAGE.—If the Senate has
6 voted to proceed to the affordability authority
7 bill, the vote on passage of the affordability au-
8 thority bill shall occur immediately following the
9 conclusion of consideration of the affordability
10 authority bill, and a single quorum call at the
11 conclusion of the debate if requested in accord-
12 ance with the rules of the Senate.

13 (4) AMENDMENT.—The affordability authority
14 bill shall not be subject to amendment in either the
15 House of Representatives or the Senate.

16 (5) CONSIDERATION BY THE OTHER HOUSE.—

17 (A) IN GENERAL.—If, before passing the
18 affordability authority bill, one House receives
19 from the other an affordability authority bill—

20 (i) the affordability authority bill of
21 the other House shall not be referred to a
22 committee; and

23 (ii) the procedure in the receiving
24 House shall be the same as if no afford-
25 ability authority bill had been received

1 from the other House except that the vote
2 on passage shall be on the affordability au-
3 thority bill of the other House.

4 (B) REVENUE MEASURE.—This subsection
5 shall not apply to the House of Representatives
6 if the affordability authority bill received from
7 the Senate is a revenue measure.

8 (6) COORDINATION WITH ACTION BY OTHER
9 HOUSE.—

10 (A) TREATMENT OF AFFORDABILITY AU-
11 THORITY BILL OF OTHER HOUSE.—If the Sen-
12 ate fails to introduce or consider a affordability
13 authority bill under this section, the afford-
14 ability authority bill of the House shall be enti-
15 tled to expedited floor procedures under this
16 section.

17 (B) TREATMENT OF COMPANION MEAS-
18 URES IN THE SENATE.—If following passage of
19 the affordability authority bill in the Senate,
20 the Senate then receives the affordability au-
21 thority bill from the House of Representatives,
22 the House-passed affordability authority bill
23 shall not be debatable.

24 (C) VETOES.—If the President vetoes the
25 affordability authority bill, debate on a veto

1 message in the Senate under this section shall
2 be 1 hour equally divided between the majority
3 and minority leaders or their designees.

4 (7) RULES OF THE HOUSE OF REPRESENTA-
5 TIVES AND SENATE.—This subsection is enacted by
6 Congress—

7 (A) as an exercise of the rulemaking power
8 of the Senate and the House of Representa-
9 tives, respectively, and as such it is deemed a
10 part of the rules of each House, respectively,
11 but applicable only with respect to the proce-
12 dure to be followed in that House in the case
13 of an affordability authority bill, and it super-
14 sedes other rules only to the extent that it is in-
15 consistent with such rules; and

16 (B) with full recognition of the constitu-
17 tional right of either House to change its rules
18 at any time, in the same manner, and to the
19 same extent as in the case of any other rule of
20 that House.

21 (f) INTERAGENCY AGREEMENTS.—The Adminis-
22 trator may enter into an agreement with another Federal
23 agency to—

- 24 (1) complete the affordability study; or
25 (2) prepare the draft affordability framework.

1 (g) CLEAR COMMUNICATIONS.—The Administrator
2 shall clearly communicate full flood risk determinations to
3 individual property owners regardless of whether their pre-
4 mium rates are full actuarial rates.

5 (h) RULE OF CONSTRUCTION.—Nothing in this sec-
6 tion shall be construed to provide the Administrator with
7 the authority to provide assistance to homeowners based
8 on affordability that was not available prior to the enact-
9 ment of the Biggert-Waters Flood Insurance Reform Act
10 of 2012 (Public Law 112–141; 126 Stat. 916).

11 **SEC. 4. AFFORDABILITY STUDY AND REPORT.**

12 Notwithstanding the deadline under section
13 100236(c) of the Biggert-Waters Flood Insurance Reform
14 Act of 2012 (Public Law 112–141; 126 Stat. 957), not
15 later than 2 years after the date of enactment of this Act,
16 the Administrator shall submit to the full Committee on
17 Banking, Housing, and Urban Affairs and the full Com-
18 mittee on Appropriations of the Senate and the full Com-
19 mittee on Financial Services and the full Committee on
20 Appropriations of the House of Representatives the af-
21 fordability study and report required under such section.

22 **SEC. 5. AFFORDABILITY STUDY FUNDING.**

23 Section 100236(d) of the Biggert-Waters Flood In-
24 surance Reform Act of 2012 (Public Law 112–141; 126
25 Stat. 957) is amended by striking “not more than

1 \$750,000” and inserting “such amounts as may be nec-
 2 essary”.

3 **SEC. 6. FUNDS TO REIMBURSE HOMEOWNERS FOR SUC-**
 4 **CESSFUL MAP APPEALS.**

5 (a) IN GENERAL.—Section 1363(f) of the National
 6 Flood Insurance Act of 1968 (42 U.S.C. 4104(f)) is
 7 amended by striking the second sentence and inserting the
 8 following: “The Administrator may use such amounts
 9 from the National Flood Insurance Fund established
 10 under section 1310 as may be necessary to carry out this
 11 subsection.”.

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

15 (1) in paragraph (6), by striking “and” at the
 16 end;

17 (2) in paragraph (7), by striking the period at
 18 the end and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(8) for carrying out section 1363(f).”.

21 **SEC. 7. FLOOD PROTECTION SYSTEMS.**

22 (a) ADEQUATE PROGRESS ON CONSTRUCTION OF
 23 FLOOD PROTECTION SYSTEMS.—Section 1307(e) of the
 24 National Flood Insurance Act of 1968 (42 U.S.C.
 25 4014(e)) is amended—

1 (1) in the first sentence, by inserting “or recon-
2 struction” after “construction”;

3 (2) by amending the second sentence to read as
4 follows: “The Administrator shall find that adequate
5 progress on the construction or reconstruction of a
6 flood protection system, based on the present value
7 of the completed flood protection system, has been
8 made only if (1) 100 percent of the cost of the sys-
9 tem has been authorized, (2) at least 60 percent of
10 the cost of the system has been appropriated, (3) at
11 least 50 percent of the cost of the system has been
12 expended, and (4) the system is at least 50 percent
13 completed.”; and

14 (3) by adding at the end the following: “Not-
15 withstanding any other provision of law, in deter-
16 mining whether a community has made adequate
17 progress on the construction, reconstruction, or im-
18 provement of a flood protection system, the Adminis-
19 trator shall consider all sources of funding, including
20 Federal, State, and local funds.”.

21 (b) COMMUNITIES RESTORING DISACCREDITED
22 FLOOD PROTECTION SYSTEMS.—Section 1307(f) of the
23 National Flood Insurance Act of 1968 (42 U.S.C.
24 4014(f)) is amended by amending the first sentence to
25 read as follows: “Notwithstanding any other provision of

1 law, this subsection shall apply to riverine and coastal lev-
 2 ees that are located in a community which has been deter-
 3 mined by the Administrator of the Federal Emergency
 4 Management Agency to be in the process of restoring flood
 5 protection afforded by a flood protection system that had
 6 been previously accredited on a Flood Insurance Rate Map
 7 as providing 100-year frequency flood protection but no
 8 longer does so, and shall apply without regard to the level
 9 of Federal funding of or participation in the construction,
 10 reconstruction, or improvement of the flood protection sys-
 11 tem.”.

12 **SEC. 8. TREATMENT OF FLOODPROOFED RESIDENTIAL**
 13 **BASEMENTS.**

14 Notwithstanding the Biggert-Waters Flood Insurance
 15 Reform Act of 2012 (Public Law 112–141; 126 Stat.
 16 916), the amendments made by that Act, or any other pro-
 17 vision of law, the Administrator shall rate a covered struc-
 18 ture using the elevation difference between the
 19 floodproofed elevation of the covered structure and the ad-
 20 justed base flood elevation of the covered structure.

21 **SEC. 9. DESIGNATION OF FLOOD INSURANCE ADVOCATE.**

22 (a) IN GENERAL.—The Administrator shall designate
 23 a Flood Insurance Advocate to advocate for the fair treat-
 24 ment of policy holders under the National Flood Insurance
 25 Program and property owners in the mapping of flood

1 hazards, the identification of risks from flood, and the im-
2 plementation of measures to minimize the risk of flood.

3 (b) DUTIES AND RESPONSIBILITIES.—The duties
4 and responsibilities of the Flood Insurance Advocate des-
5 ignated under subsection (a) shall be to—

6 (1) educate property owners and policyholders
7 under the National Flood Insurance Program on—

8 (A) individual flood risks;

9 (B) flood mitigation;

10 (C) measures to reduce flood insurance
11 rates through effective mitigation; and

12 (D) the flood insurance rate map review
13 and amendment process;

14 (2) assist policy holders under the National
15 Flood Insurance Program and property owners to
16 understand the procedural requirements related to
17 appealing preliminary flood insurance rate maps and
18 implementing measures to mitigate evolving flood
19 risks;

20 (3) assist in the development of regional capac-
21 ity to respond to individual constituent concerns
22 about flood insurance rate map amendments and re-
23 visions;

24 (4) coordinate outreach and education with
25 local officials and community leaders in areas im-

1 pacted by proposed flood insurance rate map amend-
2 ments and revisions; and

3 (5) aid potential policy holders under the Na-
4 tional Flood Insurance Program in obtaining and
5 verifying accurate and reliable flood insurance rate
6 information when purchasing or renewing a flood in-
7 surance policy.

8 (c) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated for each fiscal year such
10 sums as may be necessary to carry out the duties and re-
11 sponsibilities of the Flood Insurance Advocate.

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