

115TH CONGRESS
1ST SESSION

H. R. 2170

To amend the National Flood Insurance Act of 1968 to allow the repair, expansion, and construction, without elevation, of agricultural structures located in special flood hazard zones, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2017

Mr. LAMALFA (for himself, Mr. GARAMENDI, Mr. ABRAHAM, Mr. COMER, Mr. COOK, Mr. COSTA, Mr. DENHAM, Mr. KING of Iowa, Mr. KNIGHT, Ms. MATSUI, Mr. MCCLINTOCK, Mr. MCNERNEY, Mr. NUNES, Mr. ROHRABACHER, Mr. ROUZER, Mr. ROYCE of California, Mr. VALADAO, and Mrs. MIMI WALTERS of California) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the National Flood Insurance Act of 1968 to allow the repair, expansion, and construction, without elevation, of agricultural structures located in special flood hazard zones, 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 and Agriculture
5 Risk Management Cost Reduction Act of 2017”.

1 **SEC. 2. REQUIREMENTS FOR STATE AND LOCAL LAND USE**
2 **CONTROLS.**

3 Subsection (a) of section 1315 of the National Flood
4 Insurance Act of 1968 (42 U.S.C. 4022(a)) is amended
5 by adding at the end the following new paragraph:

6 “(3) ALLOWABLE LOCAL VARIANCES FOR CER-
7 TAIN AGRICULTURAL STRUCTURES.—

8 “(A) REQUIREMENT.—Notwithstanding
9 any other provision of this Act—

10 “(i) the land use and control meas-
11 ures adopted pursuant to paragraph (1)
12 may not, for purposes of such paragraph,
13 be considered to be inadequate or incon-
14 sistent with the comprehensive criteria for
15 land management and use under section
16 1361 because such measures provide that,
17 in the case of any agricultural structure
18 that is located in an area having special
19 flood hazards, a variance from compliance
20 with the requirements to elevate or
21 floodproof such a structure and meeting
22 the requirements of subparagraph (B) may
23 be granted; and

24 “(ii) the Administrator may not sus-
25 pend a community from participation in
26 the national flood insurance program, or

1 place such a community on probation
2 under such program, because such land
3 use and control measures provide for such
4 a variance.

5 This subparagraph shall not limit the ability of
6 the Administrator to take enforcement action
7 against a community that does not adopt ade-
8 quate variance criteria or establish proper en-
9 forcement mechanisms.

10 “(B) VARIANCE; CONSIDERATIONS.—The
11 requirements of this subparagraph with respect
12 to a variance are as follows:

13 “(i) The variance is granted by an of-
14 ficial from a duly constituted State or local
15 zoning authority, or other authorized pub-
16 lic body responsible for regulating land de-
17 velopment or occupancy in flood-prone
18 areas.

19 “(ii) In the case of new construction,
20 such official has determined—

21 “(I) that neither floodproofing
22 nor elevation of the new structure to
23 the base flood elevation is practicable;
24 and

1 “(II) that the structure is not lo-
2 cated in—

3 “(aa) a designated regu-
4 latory floodway;

5 “(bb) an area riverward of a
6 levee or other flood control struc-
7 ture; or

8 “(cc) an area subject to high
9 velocity wave action or seaward
10 of flood control structures.

11 “(iii) In the case of existing struc-
12 tures—

13 “(I) if such structure is substan-
14 tially damaged or in need of substan-
15 tial repairs or improvements, such of-
16 ficial has determined that neither
17 floodproofing nor elevation to the base
18 flood elevation is practicable; and

19 “(II) if such structure is located
20 within a designated regulatory flood-
21 way, such official has determined that
22 the repair or improvement does not
23 result in any increase in base flood
24 levels during the base flood discharge.

1 “(iv) Such official has determined
2 that the variance will not result in in-
3 creased flood heights, additional threats to
4 public safety, extraordinary public expense,
5 create nuisances, cause fraud on or victim-
6 ization of the public, or conflict with exist-
7 ing local laws or ordinances.

8 “(v) Not more than one claim pay-
9 ment exceeding \$1,000 has been made for
10 the structure under flood insurance cov-
11 erage under this title within any period of
12 10 consecutive years at any time prior to
13 the granting of the variance.

14 “(C) DEFINITIONS.—For purposes of this
15 paragraph, the following definitions shall apply:

16 “(i) AGRICULTURAL STRUCTURE.—
17 The term ‘agricultural structure’ has the
18 meaning given such term in paragraph
19 (2)(D), except that such term includes not
20 more than one single-family dwelling lo-
21 cated on the same property as the agricul-
22 tural operation, but only if such dwelling is
23 occupied by the owner or operator of the
24 operation.

1 “(ii) FLOODPROOFING.—The term
2 ‘floodproofing’ means, with respect to a
3 structure, any combination of structural
4 and non-structural additions, changes, or
5 adjustments to the structure that reduce
6 or eliminate flood damage to real estate or
7 improved real property, water and sanitary
8 facilities, structures, or their contents.”.

9 **SEC. 3. PREMIUM RATES.**

10 Section 1308 of the National Flood Insurance Act of
11 1968 (42 U.S.C. 4015) is amended by adding at the end
12 the following new subsection:

13 “(n) PREMIUM RATES FOR CERTAIN AGRICULTURAL
14 STRUCTURES WITH VARIANCES.—Notwithstanding any
15 other provision of this Act, the chargeable premium rate
16 for coverage under this title for any structure provided a
17 variance pursuant to section 1315(a)(3) shall be the same
18 as the rate that otherwise would apply to such structure
19 if the structure had been dry floodproofed.”.

20 **SEC. 4. LEVEE-IMPACTED AREAS.**

21 Section 1360 of the National Flood Insurance Act of
22 1968 (42 U.S.C. 4101) is amended by adding at the end
23 the following new subsection:

24 “(k) LEVEE-IMPACTED AREAS.—

1 “(1) IN GENERAL.—Subject only to full imple-
2 mentation of subparagraphs (A)(iii) and (B) of sec-
3 tion 100216(b)(1) of the Biggert-Waters Flood In-
4 surance Reform Act of 2012 (42 U.S.C.
5 4101b(b)(1)) and notwithstanding any other provi-
6 sion of law, if a community that applies to the Ad-
7 ministrator for the remapping of a levee-impacted
8 area in which the pertinent levee system fails to
9 meet the National Flood Insurance Program’s min-
10 imum design, operation, and maintenance standards
11 required for levee accreditation on a flood insurance
12 rate map—

13 “(A) the Administrator shall establish
14 flood risk zones for those areas on such maps
15 to be known as AL zones; and

16 “(B) flood insurance shall be made avail-
17 able to properties located within such zones at
18 actuarial rates based upon the risk associated
19 with structures within the applicable AL zones.

20 “(2) TRANSITION.—Before the Administrator
21 has developed actuarial rates for the various AL
22 zones, covered structures within the portions of the
23 community located within the levee-impacted area
24 shall be eligible for rates associated with areas of
25 moderate flood hazards.”.

1 **SEC. 5. MULTIPLE AGRICULTURAL STRUCTURE POLICY**
2 **PILOT PROGRAM.**

3 (a) **AUTHORITY.**—The Administrator of the Federal
4 Emergency Management Agency (in this section referred
5 to as the “Administrator”) shall carry out a pilot program
6 under this section that provides for the sale of contracts
7 for flood insurance coverage under the National Flood In-
8 surance Act of 1968 that cover multiple non-residential
9 agricultural structures, as such term is defined in section
10 1315(a)(2)(D) of such Act (42 U.S.C. 4022(a)(2)(D)),
11 under a single flood insurance policy.

12 (b) **AVAILABILITY IN REGULAR PROGRAM COMMU-**
13 **NITIES.**—The Administrator may provide coverage under
14 the pilot program only for properties located in commu-
15 nities for which a flood insurance rate map is in effect
16 and in which the full limits of coverage under the National
17 Flood Insurance Act of 1968 are available .

18 (c) **LIMIT OF COVERAGE.**—Coverage provided under
19 the pilot program shall not exceed \$500,000 aggregate li-
20 ability per policy for coverage of structures and \$500,000
21 aggregate liability per policy for coverage of contents.

22 (d) **APPLICABLE WAITING PERIODS.**—Coverage pro-
23 vided under the pilot program shall comply with sub-
24 section (c) of section 1306 of the National Flood Insur-
25 ance Act of 1968 (42 U.S.C. 4013(c)).

1 (e) SUBSTANTIAL CONFORMANCE WITH GENERAL
2 POLICY FORM.—

3 (1) REQUIREMENTS.—Coverage provided under
4 the pilot program shall be consistent with, and as
5 substantially identical as possible to, the terms, con-
6 ditions, and exclusions found in the General Prop-
7 erty Form of the Standard Flood Insurance Policy,
8 as set forth in Appendix A(2) to Part 61 of title 44,
9 Code of Federal Regulations.

10 (2) IMPLEMENTATION.—Notwithstanding any
11 applicable rulemaking requirements, to the extent
12 necessary to implement the pilot program under this
13 section, the Administrator may issue endorsements
14 to the General Policy Form of the Standard Flood
15 Insurance Policy, as set forth in the Appendix re-
16 ferred to in paragraph (1), except that no such en-
17 dorsement may be issued before the expiration of the
18 6-month period beginning upon publication of such
19 endorsement in the Federal Register.

20 (f) EXCLUSIVE USE OF DIRECT SERVICING
21 AGENT.—Notwithstanding any other provision of law, or
22 arrangements entered into under section 1340 of the Na-
23 tional Flood Insurance Act of 1968 (42 U.S.C. 4071), the
24 Administrator shall sell contracts for coverage under the
25 pilot program under this section only through the facilities

1 of the Administrator's direct serving agent for the national
2 flood insurance program.

3 (g) LIMITATION ON REFORMATION OF EXISTING
4 POLICIES.—The Administrator may not sell a contract for
5 coverage under the pilot program under this section for
6 a structure that covers any period during which the struc-
7 ture is covered under another contract for insurance cov-
8 erage made available under the National Flood Insurance
9 Act of 1968.

10 (h) RULE OF CONSTRUCTION.—Nothing in this sec-
11 tion may be construed to limit or restrict the Administra-
12 tor's authority to provide, by regulation, for general terms
13 and conditions of flood insurance for multiple structures
14 under one flood insurance policy pursuant to sections
15 1305 and 1306 of the National Flood Insurance Act of
16 1968 (42 U.S.C. 4012, 4013).

17 (i) IMPLEMENTATION.—The Administrator may not
18 sell any policy for flood insurance coverage under the pilot
19 program under this section before the expiration of the
20 6-month period beginning upon publication in the Federal
21 Register of notice describing the pilot program and setting
22 forth the general terms and conditions of endorsements
23 to be sold under the program.

24 (j) TERMINATION.—The pilot program under this
25 section shall terminate upon, and the Administrator may

1 not sell any policy for flood insurance coverage under the
2 pilot program after, the expiration of the 6-year period
3 beginning upon the date of the enactment of this Act.

4 (k) REPORT TO CONGRESS.—Not later than the expi-
5 ration of the 5-year period beginning on the date of the
6 enactment of this Act, the Administrator shall submit a
7 report to the Congress describing and evaluating the pilot
8 program under this section.

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