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Selected Issues for National Flood Insurance Program (NFIP) Reauthorization and Reform

NFIP Reauthorization

The National Flood Insurance Program (NFIP) is the main source of primary flood insurance coverage in the United States, with more than five million policies in over 22,000 communities. Fifteen short-term NFIP reauthorizations have been enacted since the end of FY2017, and the NFIP is currently authorized until September 30, 2020. Unless reauthorized or amended by Congress, the following will occur on September 30, 2020: (1) The authority to provide *new* flood insurance contracts will expire; however, insurance contracts entered into before the expiration would continue until the end of their policy term (up to one year); and (2) the authority for the NFIP to borrow funds from the Treasury will be reduced from \$30.425 billion to \$1 billion.

The National Flood Insurance Program Reauthorization Act of 2019 (H.R. 3167), a bill for the long-term reauthorization of the NFIP, has been reported (H.Rept. 116-262) by the House Financial Services Committee. H.R. 3167 would reauthorize the NFIP until September 30, 2024, and allow for a retroactive effective date in the event of a lapse. One bill has been introduced in the Senate, on July 18, 2019, to reauthorize the expiring provisions of the NFIP: the National Flood Insurance Program Reauthorization and Reform Act of 2019 (S. 2187). A companion bill, H.R. 3872, was introduced in the House on July 22, 2019. S. 2187 and H.R. 3872 would also reauthorize the NFIP until September 30, 2024. H.R. 3872 would allow for continuous operation during any lapse in appropriations, by allowing amounts in the Reserve Fund to be used to enter into and renew contracts for flood insurance. Thus, all of these bills make provision to reduce the impact of a government shutdown on the NFIP.

Premiums and Affordability

The statute directs that NFIP flood insurance rates should reflect the true flood risk to the property. However, Congress has directed FEMA to subsidize flood insurance for certain categories of properties. Currently, properties that pay less than the full risk-based rate are determined by the date when the structure was built relative to the date of adoption of the **Flood Insurance Rate Map (FIRM)**, regardless of other possible reasons, such as the flood risk or the ability of the policyholder to pay. Congress has directed FEMA to subsidize flood insurance for properties built before the community's first FIRM (the *pre-FIRM subsidy*). FEMA also *grandfathers* properties at their rate from past FIRMs to updated FIRMs through a cross-subsidy. Under existing law, pre-FIRM subsidies are being phased out, while grandfathering is retained indefinitely.

Reforming the premium structure to reflect full risk-based rates could place the NFIP on a more financially sustainable path, risk-based price signals could give policyholders a

clearer understanding of their true flood risk, and a reformed rate structure could encourage more private insurers to enter the market. However, charging risk-based premiums may mean that insurance for some properties is considered unaffordable. Under the current statute, rate increases for primary residences are restricted to 5%-18% per year. Other categories of pre-FIRM properties are required to have their premium increased by 25% per year until they reach full risk-based rates. FEMA does not currently have the authority or funding to implement an affordability program. An NFIP-funded affordability program would require either raising flood insurance rates for NFIP policyholders or diverting resources from other existing uses of NFIP funds, such as flood mitigation assistance or floodplain management.

H.R. 3167 would repeal a surcharge added by the Homeowner Flood Insurance Affordability Act of 2014 (P.L. 113-89), which is \$25 for primary residences and \$250 for all other properties. H.R. 3167 would also create a five-year affordability demonstration program to determine the effectiveness of providing means-tested discounted rates for NFIP policies. The discounted premium rates would only be available to owner-occupants of 1-4 unit residences which are the primary residence of a household whose income does not exceed 80% of the **area median income (AMI)**. The discount would cover the chargeable premium rate in excess of 2% of the annual AMI for the area in which the property is located.

S. 2187 would prohibit FEMA from increasing the amount which policyholders are required to pay in NFIP premiums, fees, and surcharges by more than 9% per year during the five-year period beginning on the date of enactment. S. 2187 would also require FEMA to establish an Affordability Assistance Fund. This fund would be credited with the amounts saved as a direct result of restricting the reimbursement of Write-Your-Own (WYO) companies (the private insurance companies who are paid to write and service NFIP policies) to no more than 22.46% of the aggregate amount of premiums charged by the company. Financial assistance from the Affordability Assistance Fund would be used for vouchers, grants, or premium credits to a household, if (1) housing costs exceed 30% of the household's adjusted gross income for the year and the total assets owned by the household are not greater than 22% of the median income of the state in which the household is located; or (2) the total household income is less than 120% of the AMI and the amount of the premiums, surcharges, and fees for an annual flood insurance policy exceeds 1% of the coverage limit of that policy.

Properties with Multiple Losses

An area of controversy involves NFIP coverage of properties that have suffered multiple flood losses. One concern is the cost to the program; another is whether the NFIP should continue to insure properties that are likely to have further losses. According to FEMA, all **repetitive loss (RL)** and **severe repetitive loss (SRL)** properties amount to approximately \$17 billion in claims over the history of the program, or approximately 30% of total claims paid. Some RL and SRL properties have been mitigated, and some are no longer insured by the NFIP. Reducing the number of RL and SRL properties, through mitigation or relocation, could reduce claims and improve the NFIP's financial position. H.R. 3167 would introduce a new definition of RL property, which would be broader than the current definition. H.R. 3167 would also define a new category of extreme repetitive loss properties: structures which have incurred flood damage for which at least two separate claims have been made with the cumulative amount of such claims payments exceeding 150% of the maximum coverage available for the structure. H.R. 3167 would also allow FEMA to consider the extent to which a community is working to remedy such repetitive loss communities when allocating mitigation assistance.

Private Flood Insurance

Private insurers play a major role in administering the NFIP, including selling and servicing policies and adjusting claims through the Write-Your-Own program, but the NFIP retains the direct financial risk of paying claims for these policies. Few private insurers compete with the NFIP in the primary residential flood insurance market. However, private insurer interest in providing flood coverage has increased in recent years, and private insurance is seen by some as a way of transferring flood risk from the federal government to the private sector.

Private flood insurance may offer some advantages over the NFIP, including more flexible policies, broader coverage, integrated coverage with homeowners' insurance, business interruption insurance, or lower-cost coverage. Private marketing might also increase the overall amount of flood coverage purchased. More people purchasing flood insurance, either NFIP or private, could help to reduce the amount of disaster assistance provided by the federal government. Increasing private insurance, however, may have some disadvantages compared to the NFIP.

Unlike the NFIP, private coverage availability would not be guaranteed to all floodplain residents, and consumer protections could vary in different states, leading to variable claims outcomes. In addition, private sector competition might increase the financial exposure and volatility of the NFIP, as private markets may seek out policies that offer the greatest likelihood of profit. In the most extreme case, the private market might "cherry-pick" the profitable, lower-risk NFIP policies that are "overpriced" either due to cross-subsidization or imprecise rate structures. This could leave the NFIP with a higher density of actuarially unsound policies that are directly subsidized or benefit from cross-subsidization. An increase in private flood insurance policies that "depopulates" the NFIP may also undermine the NFIP's ability to generate revenue, reducing the ability

or extending the time required to repay previously incurred debt.

The role of the NFIP has historically been broader than just providing insurance. As currently authorized, the NFIP also encompasses social goals to provide flood insurance in flood-prone areas to those who otherwise would not be able to obtain it, and to reduce government's cost after floods. The NFIP has tried to reduce the impact of floods through flood mapping and mitigation efforts. The majority of funding for floodplain mapping and management comes from the **Federal Policy Fee (FPF)**, which is paid by all NFIP policyholders. To the extent that the private flood insurance market grows and policies move from the NFIP to private insurers, FEMA would no longer collect the FPF on those policies and less money will be available for floodplain mapping and management.

H.R. 3167 would direct FEMA to consider private flood insurance that satisfies the mandatory purchase requirement as also satisfying the continuous coverage requirement to keep NFIP premium subsidies in place. The mandatory purchase requirement mandates that federally-regulated lending institutions require property owners in a Special Flood Hazard Area to purchase flood insurance as a condition of obtaining a mortgage. H.R. 3167 would also allow FEMA to provide current and historical property-specific information on NFIP coverage, flood damage assessments, and payment of claims to private insurers. This information would be provided on the condition that private insurers provide the same information to FEMA, homeowners, and home buyers. S. 2187 would establish that the total amount of reimbursement paid to WYO companies could not be greater than 22.46% of the aggregate amount of premiums charged by the company. S. 2187 would also require FEMA to develop a fee schedule based on recovering the actual costs of providing FIRMS and charge any private entity an appropriate fee for use of such maps. This requirement could provide a mechanism by which private insurance companies could contribute to the costs of floodplain mapping.

CRS Products About the NFIP

CRS Report R44593, *Introduction to the National Flood Insurance Program (NFIP)*.

CRS Report R46095, *The National Flood Insurance Program: Selected Issues and Legislation in the 116th Congress*.

CRS Report R45242, *Private Flood Insurance and the National Flood Insurance Program*.

CRS Insight IN10784, *National Flood Insurance Program Borrowing Authority*.

CRS Insight IN10835, *What Happens If the National Flood Insurance Program (NFIP) Lapses?*

CRS In Focus IF10988, *A Brief Introduction to the National Flood Insurance Program*.

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