

114TH CONGRESS
1ST SESSION

H. R. 3297

To reform the National Flood Insurance Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2015

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

A BILL

To reform 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 “Fairness in Flood In-
5 surance Act of 2015”.

6 **SEC. 2. APPEALS OF PROJECTED SPECIAL FLOOD HAZARD**
7 **AREAS.**

8 (a) BURDEN OF PROOF.—

9 (1) APPEALS TO FEMA.—Section 1363 of the
10 National Flood Insurance Act of 1968 (42 U.S.C.

1 4104) is amended by adding at the end the following
2 new subsection:

3 “(h) BURDEN OF PROOF.—In any appeal to the Ad-
4 ministrator, or any judicial review of a final administrative
5 determination, regarding the designation of flood elevation
6 determinations or the identification of special flood hazard
7 areas, the Administrator shall have the burden of proving,
8 by clear and convincing evidence, that the elevations pro-
9 posed by the Administrator or the designation of an identi-
10 fied special flood hazard area, as the case may be, is sci-
11 entifically and technically correct.”.

12 (2) DETERMINATIONS BY SCIENTIFIC RESOLU-
13 TION PANEL.—Subsection (c) of section 1363A of
14 the National Flood Insurance Act of 1968 (42
15 U.S.C. 4104–1(c)) is amended—

16 (A) by redesignating paragraphs (3) and
17 (4) as paragraphs (4) and (5), respectively; and

18 (B) by inserting after paragraph (2) the
19 following new paragraph:

20 “(3) BURDEN OF PROOF.—The Scientific Reso-
21 lution Panel may not resolve a dispute submitted
22 under this section in favor of the Administrator un-
23 less the Panel determines, by clear and convincing
24 evidence, that the data and determinations of the

1 Administrator involved in the dispute are scientif-
2 ically and technically correct.”.

3 (b) DEADLINE FOR APPEALS.—

4 (1) IN GENERAL.—Section 1363 of the Na-
5 tional Flood Insurance Act of 1968 (42 U.S.C.
6 4104) is amended—

7 (A) in subsection (b), by striking “ninety-
8 day” and inserting “6-month”; and

9 (B) in subsections (c) and (d), by striking
10 “ninety days” each place such term appears
11 and inserting “6 months”.

12 (2) APPLICABILITY.—The amendment made by
13 paragraph (1) shall apply with respect to second
14 newspaper publications of notifications of the Ad-
15 ministrator of the Federal Emergency Management
16 Agency referred to in section 1363(b) of the Na-
17 tional Flood Insurance Act of 1968 that occur after
18 the date of the enactment of this Act.

19 (c) REIMBURSEMENT FOR COSTS OF APPEAL.—

20 (1) APPLICABILITY; IMPLEMENTATION.—Sub-
21 section (f) of section 1363 of the National Flood In-
22 surance Act of 1968 (42 U.S.C. 4104(f)) is amend-
23 ed—

24 (A) by striking the first sentence and in-
25 serting the following: “When, incident to any

1 appeal that is successful, in whole or part, re-
2 garding the designation of any aspect of a flood
3 map, including elevation or designation of a
4 special flood hazard area, the community,
5 owner, or lessee of real property, as the case
6 may be, incurs expense in connection with the
7 appeal, including for legal services and services
8 provided by surveyors, engineers, and scientific
9 experts, the Administrator shall reimburse such
10 individual or community for reasonable ex-
11 penses to an extent measured by the ratio of
12 the successful portion of the appeal as com-
13 pared to the entire appeal. Any successful ap-
14 peal shall be entitled to such reimbursement
15 and reimbursement shall not be contingent
16 upon filing within the 6-month periods referred
17 to in subsections (c) and (d).” ; and

18 (B) by striking the last sentence and in-
19 serting the following: “The Administrator shall
20 issue guidance to implement this subsection,
21 which shall not be subject to the notice and
22 comment requirements under section 553 of
23 title 5, United States Code.”.

24 (2) DEADLINE.—The Administrator of the Fed-
25 eral Emergency Management Agency shall issue the

1 guidance referred to in the last sentence of section
2 1363 of the National Flood Insurance Act of 1968
3 (42 U.S.C. 4104(f)), as amended by paragraph
4 (1)(B) of this subsection, not later than the expira-
5 tion of the 6-month period beginning on the date of
6 the enactment of this Act.

7 **SEC. 3. REVISIONS OF EXISTING FLOOD INSURANCE MAPS;**
8 **APPEALS.**

9 (a) UPDATING OF MAPS.—Subsection (f) of section
10 1360 of the National Flood Insurance Act of 1968 (42
11 U.S.C. 4101(f)) is amended to read as follows:

12 “(f) UPDATING OF FLOOD MAPS.—

13 “(1) UPON NECESSITY OR REQUEST.—The Ad-
14 ministrator shall revise and update any floodplain
15 areas and flood-risk zones—

16 “(A) upon the determination of the Admin-
17 istrator, according to the assessment under sub-
18 section (e) of this section, that revision and up-
19 dating are necessary for the areas and zones;

20 “(B) upon the request from any State or
21 local government stating that specific floodplain
22 areas or flood-risk zones in the State or locality
23 need revision or updating, if sufficient technical
24 data justifying the request is submitted; or

1 “(C) upon the request from any owner or
2 lessee of real property located in a floodplain
3 area or flood-risk zone if sufficient technical
4 data justifying the request is submitted.

5 “(2) REQUEST BY STATE OR LOCAL GOVERN-
6 MENT.—When the Administrator revises and up-
7 dates any floodplain area or flood-risk zone pursuant
8 to a request from any State or local government, the
9 Administrator shall provide to that State or local
10 government a Letter of Map Revision, Letter of Map
11 Revision Based on Fill, or physical map revision, as
12 appropriate, that includes a description of any revi-
13 sions or modifications to such floodplain area or
14 flood-risk zone.

15 “(3) REQUEST BY OWNER OR LESSEE.—When
16 the Administrator revises and updates any floodplain
17 area or flood-risk zone pursuant to a request from
18 any owner or lessee of real property, the Adminis-
19 trator shall provide to that owner or lessee a Letter
20 of Map Amendment, Letter of Map Amendment
21 Based on Fill, Letter of Map Revision, or Letter of
22 Map Revision Based on Fill, as appropriate, that in-
23 cludes a description of any revisions or modifications
24 to such floodplain area or flood-risk zone.

1 “(4) REVISION OF FLOOD MAPS.—Any updates
2 of flood maps, notifications of flood map changes,
3 and compendia of flood map changes required by
4 this section shall reflect any changes made pursuant
5 to paragraphs (2) and (3) occurring since the most
6 recent such update, notification, or compendia, re-
7 spectively.”.

8 **SEC. 4. APPEALS REGARDING EXISTING FLOOD MAPS.**

9 (a) IN GENERAL.—Section 1360 of the National
10 Flood Insurance Act of 1968 (42 U.S.C. 4101) is amended
11 by adding at the end the following new subsection:

12 “(k) APPEALS OF EXISTING MAPS.—

13 “(1) RIGHT TO APPEAL.—A State or local gov-
14 ernment, or the owner or lessee of real property,
15 who has made a formal request to the Administrator
16 to update a flood map that the Administrator has
17 denied may at any time appeal such a denial as pro-
18 vided in this subsection.

19 “(2) BASIS FOR APPEAL.—The basis for appeal
20 under this subsection shall be the possession of
21 knowledge or information that—

22 “(A) the base flood elevation level or des-
23 ignation of any aspect of a flood map is sci-
24 entifically or technically inaccurate; or

1 “(B) factors exist that mitigate the risk of
2 flooding, including ditches, banks, walls, vegeta-
3 tion, levees, lakes, dams, reservoirs, basin, re-
4 tention ponds, and other natural or manmade
5 topographical features.

6 “(3) APPEALS PROCESS.—

7 “(A) ADMINISTRATIVE ADJUDICATION.—
8 An appeal under this subsection shall be deter-
9 mined by a final adjudication on the record,
10 and after opportunity for an administrative
11 hearing.

12 “(B) RIGHTS UPON ADVERSE DECISION.—
13 If an appeal pursuant to subparagraph (A) does
14 not result in a decision in favor of the State,
15 local government, owner, or lessee, such party
16 may appeal the adverse decision to—

17 “(i) the Scientific Resolution Panel
18 provided for in section 1363A, which shall
19 recommend a non-binding decision to the
20 Administrator; or

21 “(ii) the Federal district court of ap-
22 propriate jurisdiction.

23 An appeal by a State or local government, or
24 the owner or lessee of real property, pursuant

1 to clause (i) shall not preclude such party from
2 further appealing pursuant to clause (ii).

3 “(C) BURDEN OF PROOF.—In any appeal
4 under this subsection, the Administrator shall
5 bear the burden of proving, by clear and con-
6 vincing evidence, that the elevations proposed
7 by the Administrator or the designation of any
8 aspect of the special flood hazard area, as the
9 case may be, is scientifically and technically
10 correct.

11 “(4) RELIEF.—

12 “(A) WHOLLY SUCCESSFUL APPEALS.—In
13 the case of a successful appeal resulting in a
14 policyholder’s property being removed from a
15 special flood hazard area, such policyholder may
16 cancel the policy at any time within the current
17 policy year, and the Administrator shall provide
18 such policyholder a refund in the amount of any
19 premiums paid for such policy year, plus any
20 premiums paid for flood insurance coverage
21 that the policyholder was required to purchase
22 or maintain during the 2-year period preceding
23 such policy year.

24 “(B) PARTIALLY SUCCESSFUL APPEALS.—

25 In the case of any appeal in which mitigating

1 factors were determined to have reduced, but
2 not eliminated, the risk of flooding, the Admin-
3 istrator shall reduce the amount of flood insur-
4 ance coverage required to be maintained for the
5 property concerned by the ratio of the success-
6 ful portion of the appeal as compared to the en-
7 tire appeal. The Administrator shall refund to
8 the policyholder any payments made in excess
9 of the amount necessary for such new coverage
10 amount, effective from the time when the miti-
11 gating factor was created or the beginning of
12 the second policy year preceding the determina-
13 tion of the appeal, whichever occurred later.

14 “(C) ADDITIONAL RELIEF.—The Adminis-
15 trator may provide additional refunds in excess
16 of the amounts specified in subparagraphs (A)
17 and (B) if the Administrator determines that
18 such additional amounts are warranted.

19 “(5) RECOVERY OF COSTS.— When, incident to
20 any appeal which is successful in whole or part re-
21 garding the designation of the base flood elevation
22 or any aspect of the flood map, including elevation
23 or designation of a special flood hazard area, the
24 community, or the owner or lessee of real property,
25 as the case may be, incurs expense in connection

1 with the appeal, including legal services and services
2 provided by surveyors, engineers, and scientific ex-
3 perts, the Administrator shall reimburse such indi-
4 vidual or community for reasonable expenses to an
5 extent measured by the ratio of the successful por-
6 tion of the appeal as compared to the entire appeal.
7 The Administrator may use such amounts from the
8 National Flood Insurance Fund established under
9 section 1310 as may be necessary to carry out this
10 paragraph.

11 “(6) GUIDANCE.—The Administrator shall
12 issue guidance to implement this subsection, which
13 shall not be subject to the notice and comment re-
14 quirements under section 553 of title 5, United
15 States Code.”.

16 (b) DEADLINE.—The Administrator of the Federal
17 Emergency Management Agency shall issue the guidance
18 referred to section 1361(k)(6) of the National Flood In-
19 surance Act of 1968 (42 U.S.C. 4101(k)(6)), as added by
20 the amendment made by subsection (a) of this section, not
21 later than the expiration of the 6-month period beginning
22 on the date of the enactment of this Act.

1 **SEC. 5. CONSIDERATION OF FLOOD MITIGATION FACTORS**
2 **IN ESTABLISHING FLOOD HAZARD AREAS.**

3 Section 1360 of the National Flood Insurance Act of
4 1968 (42 U.S.C. 4101), as amended by the preceding pro-
5 visions of this Act, is further amended by adding at the
6 end the following new subsection:

7 “(1) CONSIDERATION OF FLOOD MITIGATION FAC-
8 TORS.—In identifying, designating, and establishing any
9 areas having special flood hazards, including in reviewing,
10 revising, or updating of such areas, the Administrator and
11 the Technical Mapping Advisory Council established under
12 section 100215 of the Biggert-Waters Flood Insurance
13 Reform Act of 2012 (42 U.S.C. 4101a) shall take into
14 consideration any factors that mitigate against flood risk,
15 including ditches, banks, walls, vegetation, levees, lakes,
16 dams, reservoirs, basin, and retention ponds, and the ex-
17 tent to which such factors mitigate against flood risk.”.

18 **SEC. 6. CONSIDERATION OF COASTAL AND INLAND LOCA-**
19 **TIONS IN PREMIUM RATES.**

20 (a) ESTIMATES OF PREMIUM RATES.—Clause (i) of
21 section 1307(a)(1)(A) of the National Flood Insurance
22 Act of 1968 (42 U.S.C. 4014(a)(1)(A)(i)) is amended by
23 inserting “, taking into consideration differences between
24 properties located in coastal areas and properties located
25 inland,” after “the risk involved”.

1 (b) ESTABLISHMENT OF CHARGEABLE PREMIUM
2 RATES.—Paragraph (1) of section 1308(b) of the Na-
3 tional Flood Insurance Act of 1968 (42 U.S.C.
4 4015(b)(1)) is amended by inserting “due to differences
5 between properties located in coastal areas and properties
6 located inland and” after “differences in risks”.

7 (c) RATE TABLES.—Not later than the expiration of
8 the 180-day period beginning on the date of the enactment
9 of this Act, the Administrator of the Federal Emergency
10 Management Agency shall revise and expand the rate ta-
11 bles for premiums under the National Flood Insurance
12 Program to implement the amendments made by this sec-
13 tion and reflect differences between properties located in
14 coastal areas and properties located inland.

15 **SEC. 7. STREAMLINING OF FLOOD MAP PROCESSES.**

16 The Administrator of the Federal Emergency Man-
17 agement Agency shall consult with the Technical Mapping
18 Advisory Council established under section 100215 of the
19 Biggert-Waters Flood Insurance Reform Act of 2012 (42
20 U.S.C. 4101a) regarding methods of or actions to—

- 21 (1) make the flood map processes of the Coun-
22 cil more efficient;
- 23 (2) minimize any cost, data, and paperwork re-
24 quirements of the Council; and

1 (3) assist communities, and in particular small-
2 er communities, in locating the resources required to
3 successfully appeal flood elevations and flood hazard
4 area designations.

5 Not later than the expiration of the 1-year period begin-
6 ning on the date of the enactment of this Act, the Admin-
7 istrator shall submit a report to the Committee on Finan-
8 cial Services of the House of Representatives and the
9 Committee on Banking, Housing, and Urban Affairs of
10 the Senate setting forth any recommendations for methods
11 or actions developed pursuant to the consultation required
12 under this section.

13 **SEC. 8. SUFFICIENT STAFFING FOR OFFICE OF FLOOD IN-**
14 **SURANCE ADVOCATE.**

15 (a) IN GENERAL.—Section 24 of the Homeowner
16 Flood Insurance Affordability Act of 2014 (42 U.S.C.
17 4033) is amended by adding at the end the following new
18 subsection:

19 “(c) STAFF.—The Administrator shall ensure that
20 the Flood Insurance Advocate has sufficient staff to carry
21 out all of the duties and responsibilities of the Advocate
22 under this section, which shall include providing direction
23 as necessary, including by direct conversations with insur-
24 ance agents.”.

1 (b) TIMING.—The Administrator of the Federal
2 Emergency Management Agency shall take such actions
3 as may be necessary to provide for full compliance with
4 section 24(c) of the Homeowner Flood Insurance Afford-
5 ability Act of 2014, as added by the amendment made by
6 subsection (a) of this section, not later than the expiration
7 of the 180-day period beginning on the date of the enact-
8 ment of this Act.

9 **SEC. 9. GAO STUDY ON ADEQUACY OF FLOOD MAPS.**

10 The Comptroller General of the United States shall
11 conduct a study to determine the scientific and technical
12 adequacy of the flood maps proposed and established pur-
13 suant to chapter III of the National Flood Insurance Act
14 of 1968 (42 U.S.C. 4101 et seq.) by the Administrator
15 of the Federal Emergency Management Agency. Not later
16 than the expiration of the 6-month period beginning on
17 the date of the enactment of this Act, the Comptroller
18 General shall submit a report to the Committee on Finan-
19 cial Services of the House of Representatives and the
20 Committee on Banking, Housing, and Urban Affairs of
21 the Senate a report setting forth the results and conclu-
22 sions of the study conducted pursuant to this section.

1 **SEC. 10. GAO STUDY OF EFFECTS OF CHANGING BASE**
2 **FLOOD.**

3 The Comptroller General of the United States shall
4 conduct a study regarding the effects on the National
5 Flood Insurance Program and otherwise of changing the
6 standard for designation of areas as special flood hazard
7 areas from having a 1 percent or greater chance of experi-
8 encing flooding in any given year to having a 10 percent
9 or greater chance of experiencing flooding in any given
10 year. Not later than the expiration of the 180-day period
11 beginning on the date of the enactment of this Act, the
12 Comptroller General shall submit to the Congress a report
13 setting forth the findings and conclusions of the study con-
14 ducted pursuant to this section.

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