

S 2238

Bunning-Bereuter-Blumenaur Flood Insurance Reform Act of 2004

Congress: 108 (2003–2005, Ended)

Chamber: Senate

Policy Area: Emergency Management

Introduced: Mar 25, 2004

Current Status: Became Public Law No: 108-264.

Latest Action: Became Public Law No: 108-264. (Jun 30, 2004)

Law: 108-264 (Enacted Jun 30, 2004)

Official Text: <https://www.congress.gov/bill/108th-congress/senate-bill/2238>

Sponsor

Name: Sen. Bunning, Jim [R-KY]

Party: Republican • **State:** KY • **Chamber:** Senate

Cosponsors (9 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Dole, Elizabeth [R-NC]	R · NC		Mar 25, 2004
Sen. Hagel, Chuck [R-NE]	R · NE		Mar 25, 2004
Sen. Sarbanes, Paul S. [D-MD]	D · MD		Mar 25, 2004
Sen. Schumer, Charles E. [D-NY]	D · NY		Mar 25, 2004
Sen. Shelby, Richard C. [R-AL]	R · AL		Mar 25, 2004
Sen. Mikulski, Barbara A. [D-MD]	D · MD		Apr 5, 2004
Sen. Miller, Zell [D-GA]	D · GA		Apr 5, 2004
Sen. Allard, Wayne [R-CO]	R · CO		Apr 7, 2004
Sen. Johnson, Tim [D-SD]	D · SD		Apr 22, 2004

Committee Activity

Committee	Chamber	Activity	Date
Banking, Housing, and Urban Affairs Committee	Senate	Hearings By (subcommittee)	Mar 25, 2004

Subjects & Policy Tags

Policy Area:

Emergency Management

Related Bills

Bill	Relationship	Last Action
108 HCONRES 458	Related bill	Jun 22, 2004: Message on Senate action sent to the House.
108 HR 253	Related bill	Dec 9, 2003: Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.

(This measure has not been amended since it was passed by the Senate on June 15, 2004. The summary of that version is repeated here.)

Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 - **Title I: Amendments to Flood Insurance Act of 1968** - (Sec. 101) Amends the National Flood Insurance Act of 1968 to extend the national flood insurance program through September 30, 2008.

(Sec. 102) Establishes a pilot program under which the Director of the Federal Emergency Management Agency (FEMA) may provide financial assistance to States and communities for taking actions to mitigate flood damage to severe repetitive loss properties and losses to the National Flood Insurance Fund (the Fund) from such properties.

Defines "severe repetitive loss property" to mean: (1) in the case of property consisting of one to four residences, property that is covered under a contract for flood insurance under the Act that has incurred flood-related damage for which four or more separate claims payments exceeding \$5,000 each or totalling more than \$20,000 have been made or for which at least two separate claims payments have been made that cumulatively exceed the value of the property; and (2) in the case of property consisting of five or more residences, whatever the Director by regulation provides.

Authorizes amounts provided to a State or community to be used only: (1) to carry out mitigation activities that reduce flood damages to such properties, including elevation, relocation, demolition, and flood-proofing of structures, minor physical localized flood control projects, and the demolition and rebuilding of properties to at least Base Flood Elevation or greater, if required by any local ordinance; and (2) to purchase such properties, subject to specified limitations.

Prohibits the Director, in any fiscal year, from providing assistance to a State or community in an amount exceeding three times the amount that the State or community certifies it will contribute from non-Federal funds for carrying out eligible activities. Permits the Director to adjust the contribution required to not less than ten percent of the cost of the activities for each property for which grant amounts are provided if, for such year: (1) the State has an approved State mitigation plan meeting the hazard mitigation planning requirements under the Robert T. Stafford Disaster Relief and Emergency Assistance Act that specify how the State intends to reduce the number of such properties; and (2) the Director determines that the State has taken actions to reduce the number of such properties.

Requires the Director: (1) upon selecting a State or community to receive assistance to carry out eligible activities, to notify property owners that their property meets the definition of a severe repetitive loss property, that they may receive an offer of assistance, that there are implications of declining such offer, and that there is a right to appeal; and (2) to take such steps as are necessary to identify such properties and submit that information to the relevant States and communities.

Subjects the program for providing assistance for eligible activities for such properties to the following limitations: (1) the Director shall provide assistance for properties in the order that will result in the greatest amount of savings to the Fund in the shortest time in a manner consistent with a specified allocation formula; and (2) the Director shall provide assistance in a manner that permits States and communities to make offers to property owners for eligible activities as soon as practicable. Directs the relevant States and communities to consult with the property owner in determining the activities to receive assistance. Prohibits the Director from establishing a priority for funding eligible activities that gives preference to one type or category of eligible activity.

Requires the Director to allocate assistance based upon the percentage of the total number of such properties located

within a State. Directs that: (1) any funds allocated to a State that have not been obligated by the end of each fiscal year be redistributed to other States; and (2) of the total amount made available for assistance under this Act in any fiscal year, ten percent shall be made available to communities that contain one or more of such properties that are located in States that receive little or no assistance under the allocation formula.

Directs the State or community, upon making an offer to provide assistance for an activity, to notify each holder of a recorded interest on the property.

Allows a State or community to take action to purchase such a property only if: (1) the State or community enters into an agreement with the Director that assures that the property will be used in a manner that is consistent with requirements under the Stafford Act for acquired properties; (2) the Director provides assistance in a manner that permits States and communities to make offers to property owners to engage in eligible activities as soon as possible; and (3) the amount of purchase offer is not less than the greatest of the amount of the original price of the property when purchased by the holder of the current flood insurance policy, the total amount owed at the time the offer to purchase is made, and an amount equal to the fair market value of the property immediately before the most recent flood event affecting the property, or the current fair market value of the property. Provides that if a purchase offer is less than the cost of the homeowner-occupant to purchase a comparable replacement dwelling outside the flood hazard area in the same community, the Director shall make available an additional relocation payment to the homeowner-occupant to apply to the difference.

Provides for increased premiums of up to 150 percent of the current chargeable rate in cases of refusal to mitigate.

Allows any owner of such a property to appeal a determination of the Director to take action based only upon the following grounds: (1) as a result of such action, the owner of the property will not be able to purchase a replacement primary residence of comparable value and that is functionally equivalent; (2) based on independent information, the property owner believes that the price offered is not an accurate estimation of the property's value or that the amount of Federal funds offered for mitigation activities, when combined with funds from non-Federal sources, will not cover the actual cost of mitigation; (3) as a result of such action, the preservation or maintenance of any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places will be interfered with, impaired, or disrupted; (4) the flooding that resulted in the flood insurance claims for the property resulted from significant actions by a third party in violation of law; (5) in purchasing the property the owner relied upon FEMA flood insurance rate maps that were current at the time and did not indicate that the property was located in an area having special flood hazards; and (6) the owner of the property demonstrates that an alternative eligible activity is at least as cost effective as the initial offer of assistance.

Sets forth provisions regarding appeals procedure and reporting requirements.

Requires the Director to ensure that procedures developed for the distribution of funds to States and communities to carry out eligible activities under this Act: (1) require the Director to notify States and communities of the availability of funding and that participation in the pilot program is optional; (2) provide that the Director may assist States and communities in identifying such properties within States or communities; (3) allow each State and community to select properties to be the subject of eligible activities and the appropriate eligible activity to be performed; and (4) require each State or community to submit to the Director a list of such properties that the State or community would like to be the subject of eligible activities.

Authorizes the Director, upon determining that a fraudulent claim was made under flood insurance coverage for such a

property, to: (1) cancel the policy and deny the policyholder new flood insurance coverage for the property; or (2) refuse to renew the policy upon expiration and deny new flood insurance coverage.

Authorizes the Director to use amounts from the Fund to provide assistance in each of FY 2005 through 2009, subject to specified limitations. Terminates the Director's authority to provide assistance to any State or community after September 30, 2009.

(Sec. 103) Authorizes the Director to approve only mitigation plans that give priority for funding to such properties as are in the best interest of the Fund. Requires the Director to: (1) give first priority for funding to such properties as the Director determines are in the best interests of the Fund and for which matching amounts are available; and (2) take appropriate actions to encourage and improve participation in the national flood insurance program of owners of properties, including those that are not located in areas having special flood hazards (the 100-year floodplain) but that are located within flood prone areas.

Directs that the National Flood Mitigation Fund be credited, in each fiscal year, with amounts from the National Flood Insurance Fund not exceeding \$40 million. Limits the Director to using not more than five percent of sums made available to cover salaries, expenses, and other administrative costs. Bars the Director from using more than 7.5 percent of the available funds (currently, \$1.5 million) to provide planning assistance grants.

(Sec. 104) Authorizes the Director to provide funding for mitigation actions that reduce flood damages to individual properties for which one or more claim payments for losses have been made under flood insurance coverage where such activities are determined to be in the best interest of the Fund and cannot be funded under the program because certain requirements are not being met by the State or community in which the property is located, or the State or community does not have the capacity to manage such activities. Requires the Director to consult with the States in which such properties are located and provide assistance for properties in the order that will result in the greatest amount of savings to the Fund in the shortest period of time. Makes up to \$10 million in any fiscal year available for mitigation actions, except that amounts made available shall not be subject to offsetting collections through premium rates for flood insurance coverage.

(Sec. 105) Requires the national flood insurance program established by the community to enable the purchase of insurance to cover the cost of implementing measures that are consistent with land use and control measures for specified properties, including: (1) properties that are substantially damaged structures (currently, that have flood damage in which the cost of repairs equals or exceeds 50 percent of the value of the structure at the time of the flood event); and (2) properties for which an offer of mitigation assistance is made under the flood mitigation assistance program, the repetitive loss priority program and individual priority property program, the hazard mitigation grant program, the predisaster hazard mitigation program, and any programs authorized or for which funds are appropriated to address any unmet needs or for which supplemental funds are made available.

(Sec. 106) Changes the chargeable rate under the program to not less than the applicable estimated risk premium rate for the area with respect to any property: (1) the construction or substantial improvement of which the Director determines has been started after December 31, 1974, or after the effective date of the initial rate map published for the area, whichever is later; and (2) that is leased from the Government and that the Director determines is located on the river-facing side of any dike, levee, or other riverine flood control structure or seaward of any seawall or other coastal flood control structure. Provides that these rates are not conditioned on any other factor.

(Sec. 107) Provides that for purposes of flood insurance and floodplain management activities under the program,

geospatial digital flood hazard data distributed by FEMA or printed products derived from that data are interchangeable and legally equivalent for the determination of the location of one in 100-year and one in 500-year floodplains if all other geospatial data shown on the printed product meets FEMA accuracy standards.

(Sec. 108) Provides that the placement of any mobile home on a site shall not affect the eligibility of any community to participate in the program if: (1) the mobile home was previously located on the site and was relocated because of flooding; and (2) such replacement is conducted not later than the expiration of the 180-day period that begins upon the subsidence of the body of water that flooded to a level considered lower than flood levels.

(Sec. 109) Directs the Director to accelerate the identification of risk zones within flood- and mudslide-prone areas to make known the degree of hazard within each such zone at the earliest possible date.

Title II: Miscellaneous Provisions - (Sec. 202) Requires the Director to: (1) develop specified supplemental and acknowledgment forms and a flood insurance claims handbook; (2) establish an appeals process through which holders of a flood insurance policy may appeal decisions with respect to claims, proofs of loss, and loss estimates of any insurance agent or adjuster or any FEMA employee or contractor; (3) report to Congress on the use of cost of compliance coverage in connection with flood insurance policies; and (4) establish minimum training and education requirements for all insurance agents who sell flood insurance policies.

(Sec. 208) Directs the Comptroller General to study and report to Congress on the adequacy of the scope of coverage provided under flood insurance policies, the adequacy of payments to flood victims, and the practices of FEMA and insurance adjusters in estimating losses.

(Sec. 209) Provides that if the Director determines that the holder of a flood insurance policy issued under the Act is paying a lower premium than is required due to an error in the floodplain determination, the Director may only prospectively charge the higher premium rate.

(Sec. 210) Directs the Director to report to specified congressional committees on any changes or modifications made to the fee schedule or fee payment arrangements between FEMA and insurance adjusters who provide flood insurance policy services.

Actions Timeline

- **Jun 30, 2004:** Signed by President.
- **Jun 30, 2004:** Became Public Law No: 108-264.
- **Jun 23, 2004:** Presented to President.
- **Jun 21, 2004:** Mr. Green (WI) moved to suspend the rules and pass the bill.
- **Jun 21, 2004:** Considered under suspension of the rules. (consideration: CR H4590-4598)
- **Jun 21, 2004:** DEBATE - The House proceeded with forty minutes of debate on S. 2238.
- **Jun 21, 2004:** Passed/agreed to in House: On motion to suspend the rules and pass the bill Agreed to by voice vote.(text: CR H4590-4595)
- **Jun 21, 2004:** On motion to suspend the rules and pass the bill Agreed to by voice vote. (text: CR H4590-4595)
- **Jun 21, 2004:** Motion to reconsider laid on the table Agreed to without objection.
- **Jun 21, 2004:** Pursuant to the provisions of H. Con. Res. 458, enrollment corrections on S. 2238 have been made.
- **Jun 16, 2004:** Received in the House.
- **Jun 16, 2004:** Message on Senate action sent to the House.
- **Jun 16, 2004:** Held at the desk.
- **Jun 15, 2004:** Measure laid before Senate by unanimous consent. (consideration: CR S6809-6821; text of measure as reported in Senate: CR S6809-6813)
- **Jun 15, 2004:** Passed/agreed to in Senate: Passed Senate with amendments by Unanimous Consent.(text: CR S6816-6821)
- **Jun 15, 2004:** Passed Senate with amendments by Unanimous Consent. (text: CR S6816-6821)
- **May 13, 2004:** Committee on Banking, Housing, and Urban Affairs. Reported by Senator Shelby with amendments. With written report No. 108-262.
- **May 13, 2004:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 513.
- **Mar 30, 2004:** Committee on Banking, Housing, and Urban Affairs. Ordered to be reported without amendment favorably.
- **Mar 25, 2004:** Introduced in Senate
- **Mar 25, 2004:** Committee on Banking, Housing, and Urban Affairs Subcommittee on Economic Policy. Hearings held.
- **Mar 25, 2004:** Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.

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