

HR 2874

21st Century Flood Reform Act

Congress: 115 (2017–2019, Ended)

Chamber: House

Policy Area: Finance and Financial Sector

Introduced: Jun 12, 2017

Current Status: Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs. (Nov 15, 2017)

Latest Action: Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs. (Nov 15, 2017)

Official Text: <https://www.congress.gov/bill/115th-congress/house-bill/2874>

Sponsor

Name: Rep. Duffy, Sean P. [R-WI-7]

Party: Republican • **State:** WI • **Chamber:** House

Cosponsors

No cosponsors are listed for this bill.

Committee Activity

Committee	Chamber	Activity	Date
Banking, Housing, and Urban Affairs Committee	Senate	Referred To	Nov 15, 2017
Financial Services Committee	House	Reported By	Sep 11, 2017

Subjects & Policy Tags

Policy Area:

Finance and Financial Sector

Related Bills

Bill	Relationship	Last Action
115 S 3628	Related bill	Dec 31, 2018: Pursuant to the provisions of H. Con. Res. 148, enrollment corrections on S. 3628 have been made.
115 HR 7388	Related bill	Dec 21, 2018: On motion to suspend the rules and pass the bill Failed by the Yeas and Nays: (2/3 required): 148 - 226 (Roll no. 497). (text: CR H10560-10566)
115 S 3703	Related bill	Dec 4, 2018: Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.
115 S 3670	Related bill	Nov 28, 2018: Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.
115 HR 6402	Related bill	Jul 17, 2018: Referred to the House Committee on Financial Services.
115 HRES 616	Related bill	Nov 14, 2017: Motion to reconsider laid on the table Agreed to without objection.
115 HR 1558	Related bill	Aug 15, 2017: Placed on the Union Calendar, Calendar No. 196.
115 HR 2246	Related bill	Jul 25, 2017: Placed on the Union Calendar, Calendar No. 185.
115 HR 2875	Related bill	Jul 18, 2017: Placed on the Union Calendar, Calendar No. 166.
115 HR 1422	Related bill	Jul 14, 2017: Placed on the Union Calendar, Calendar No. 155.
115 HR 2565	Related bill	Jul 14, 2017: Placed on the Union Calendar, Calendar No. 156.
115 HR 2868	Related bill	Jul 11, 2017: Placed on the Union Calendar, Calendar No. 148.

21st Century Flood Reform Act

TITLE I--POLICYHOLDER PROTECTIONS AND INFORMATION

(Sec. 101) This bill amends the National Flood Insurance Act of 1968 to extend the National Flood Insurance Program (NFIP) through FY2022.

(Sec. 102) The bill changes annual minimums and limits on premium increases for specified policies subsidized through NFIP to: (1) increase the minimum from 5% to 5.5% for the second year after enactment, (2) increase the minimum from 5% to 6% for the third year, (3) increase the minimum from 5% to 6.5% for the fourth year and beyond, and (4) decrease the limit on annual premium increases from 18% to 15%.

(Sec. 103) The Federal Emergency Management Agency (FEMA) must provide financial assistance through state programs for low income families to purchase NFIP insurance.

(Sec. 104) FEMA must publish an annual explanation of flood insurance premiums and hold public meetings.

(Sec. 105) FEMA must incorporate in premium rates the differences in coastal and riverine (inland) flood risk.

(Sec. 106) FEMA's implementation of monthly premium payment schedules is exempted from rulemaking. FEMA may implement this schedule as a pilot program. The Government Accountability Office (GAO) must report on the costs associated with monthly payment of premiums. FEMA must annually report on these costs.

(Sec. 107) FEMA must clearly communicate to policyholders their property's full flood risk, the history of flood claims on their property, and the effect of filing further claims.

(Sec. 108) FEMA must make data on historical claims, required coverage, and previous damage available to the current owner of the property within 30 days of a request.

(Sec. 109) State or local governments must require a seller or lessor to disclose to a purchaser or lessee any previous flood damage or flood insurance claims, and any obligation to purchase flood insurance. This requirement, whether by statute or regulation, must be adopted for the area to qualify for participation in NFIP.

(Sec. 110) FEMA may create a community-wide flood insurance pilot program that covers all residential and non-residential properties and satisfies the mandatory purchase requirement. (Federal agencies that oversee mortgage lending must mandate the purchase of flood insurance for properties located in special flood hazard areas.)

(Sec. 111) FEMA must incorporate the replacement cost value of a structure insured under NFIP in its consideration of chargeable premium rates.

FEMA must conduct a study regarding risk rating redesign utilizing replacement cost and report the findings to Congress.

(Sec. 112) The flood insurance premium for a residential property having four or fewer residences is limited to no more than \$10,000 a year, subject to adjustments for future inflation.

(Sec. 113) In determining premium rates, FEMA shall offer a rate reduction if policyholders implement specified flood damage mitigation methods. Mitigation techniques that qualify for a rate reduction include methods that can be utilized on

a block or neighborhood scale, and the elevation of mechanical systems.

(Sec. 114) FEMA shall conduct a study of the feasibility of providing coverage for individual units in cooperative housing projects.

(Sec. 115) FEMA is directed to establish a pilot program for "Write Your Own" companies (companies that write and service federal standard flood insurance policies in their own name) to investigate preexisting structural conditions in properties that may result in a denial of a claim in the event of a flood loss under NFIP.

(Sec. 116) The bill establishes a Federal Flood Insurance Advisory Committee.

(Sec. 117) The bill directs federal lending regulation entities and FEMA to update interagency guidance regarding flood insurance.

(Sec. 118) The bill directs the GAO to report on claims adjustment practices under NFIP.

(Sec. 119) The bill directs the GAO to report on NFIP coverage of earth movement and subsidence caused by flooding.

TITLE II--INCREASING CONSUMER CHOICE THROUGH PRIVATE MARKET DEVELOPMENT

(Sec. 201) The bill revises the financial requirements that apply to flood insurance for home loans or loan guarantees by the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). Private flood insurance must meet any financial strength requirements set forth by Fannie Mae and Freddie Mac.

Private flood insurance may include policies issued by nonadmitted insurers (including surplus lines insurance) as long as the insurer is eligible to provide insurance in the home state of the insured and complies with the laws and regulations of that state. (Currently, private flood insurance must provide coverage at least as broad as coverage provided by NFIP.)

FEMA must consider any period during which a property was continuously covered by private flood insurance to be a period of continuous insurance coverage, including for the purposes of NFIP subsidies.

Mutual aid societies may sell private flood insurance, subject to state law. The bill defines a mutual aid society as an organization of members who share a common set of ethical or religious beliefs. This coverage satisfies the mandatory purchase requirement.

(Sec. 202) The required purchase of flood insurance is limited to residential properties (currently, the requirement applies to all types of property).

(Sec. 203) FEMA must allow a Write Your Own company to sell private flood insurance.

(Sec. 204) FEMA must provide data related to NFIP risks and premiums, including community-level data, through a publicly available data system.

(Sec. 205) If an NFIP policyholder switches to private flood insurance during the NFIP coverage period, FEMA must refund any unused NFIP premium. Properties that have received a claim payment for that period or Increased Cost of Compliance mitigation assistance are not eligible for a refund.

(Sec. 206) The GAO must report on the feasibility of reducing flood insurance premiums and eliminating the need for flood insurance coverage by authorizing flood damage savings accounts.

(Sec. 207) If determined feasible by the GAO, FEMA must establish a demonstration program for flood damage savings accounts.

TITLE III--MAPPING FAIRNESS

(Sec. 301) In establishing premium rates, FEMA must use, in part, applicable flood insurance rate maps and other appropriate risk assessment models, data, and tools.

(Sec. 302) FEMA denials of requests for updates to flood maps may be appealed. If an appeal is successful, FEMA must refund premiums and the policyholder may be permitted to cancel the policy.

(Sec. 303) The bill revises the appeal period for FEMA flood elevation determinations and, if no appeals are filed, makes a determination final.

(Sec. 304) This bill amends the Biggert-Waters Flood Insurance Reform Act of 2012 to revise the time period FEMA provides to communities for consultation regarding mapping changes.

(Sec. 305) FEMA must consult with the Department of Defense, the U.S. Geological Survey, and the National Oceanic and Atmospheric Administration to obtain information relevant to flood insurance mapping.

(Sec. 306) The bill revises the duties of the Technical Mapping Advisory Council and FEMA to provide for the development of alternative flood insurance rate maps by states and communities for use in NFIP.

TITLE IV--PROTECTING CONSUMERS AND INDIVIDUALS THROUGH IMPROVED MITIGATION

(Sec. 401) The bill revises the NFIP community rating program to require (currently, allows) FEMA to provide premium credits in communities that protect natural and beneficial floodplain functions.

(Sec. 402) The bill requires a community that participates in NFIP and has been repeatedly flooded to: (1) assess the continuing risks to community areas repeatedly damaged by floods; and (2) develop and implement a publicly available, community-specific plan for mitigating continuing flood risks to such areas.

FEMA must, upon request, provide a community with data to assist in preparation of the required plan.

In making decisions with respect to awarding mitigation grants under the Act, FEMA may consider the extent to which a community has complied with these requirements and is working to remedy problems with repeatedly flooded areas.

A community that does not comply with these requirements shall be subject to sanctions.

(Sec. 403) FEMA must make additional coverage available under its Increased Cost of Compliance program. Currently, the program provides coverage to insure the cost of mitigating future flood damage to an NFIP-insured structure that has been substantially or repetitively damaged by floods.

TITLE V--PROGRAM INTEGRITY

(Sec. 501) The bill makes FEMA responsible for ensuring NFIP is financially sound. FEMA must commission an annual independent actuarial review of the financial status of NFIP.

(Sec. 502) The premium surcharge amount on flood insurance is changed to: (1) increase annual surcharges for all primary residences, (2) reduce annual surcharges for certain non-owner occupied residential properties, and (3) increase

annual surcharges for all other non-primary residences.

(Sec. 503) FEMA must institute a uniform rate of assessment for all policyholders when increasing premiums.

During the phase-in period of the required reserve ratio for the NFIP reserve fund, FEMA must increase the annual assessment by at least one percentage point if the required amount was not collected the previous year.

(Sec. 504) This bill revises NFIP classifications of properties incurring multiple flood losses and coverage for properties that have incurred multiple flood losses.

For properties with two flood insurance claims, FEMA must raise premiums by at least 10% annually if the premiums do not reflect full risk.

For properties with three or more claims, FEMA must raise premiums by at least 15% annually if the premiums do not reflect full risk.

Certain multiple loss properties are subject to minimum deductibles.

FEMA must undertake efforts to validate the accuracy of claim history data.

FEMA must deny coverage to a property owner that does not implement flood mitigation measures if the property is an extreme repetitive loss property (a property with cumulative claims that exceed 150% of the maximum coverage amount).

Multiple loss properties are not eligible for subsidized premium rates that apply to properties newly mapped into areas with special flood hazards.

FEMA must communicate to policyholders the availability of flood mitigation assistance and the effect on premiums of filing further claims for multiple-loss properties.

The bill revises the Flood Mitigation Assistance program, including to make assistance available to additional multiple loss properties.

(Sec. 505) This bill eliminates NFIP coverage for properties that prospectively exceed specified lifetime levels of claim payments.

(Sec. 506) The allowance paid to Write Your Own companies is limited to 27.9% of the premium rate. FEMA must reduce the costs to companies participating in the Write Your Own program.

(Sec. 507) This bill amends the Flood Disaster Protection Act of 1973 to increase penalties for violations of the mandatory purchase requirement.

(Sec. 508) If a state allows all-perils policies to cover flood damage, property in that state is not subject to NFIP's mandatory purchase requirement.

(Sec. 509) The bill raises the maximum loan amount for the small loan exception to NFIP's mandatory purchase requirement from \$5,000 to \$25,000, adjusted for inflation.

A state or local government, or a private lender, may require flood insurance coverage for structures outside a special flood hazard area.

(Sec. 510) FEMA must approve claims under NFIP not later than 120 days after a policyholder submits proof of loss.

(Sec. 511) FEMA must annually cede a portion of the risk from NFIP to private reinsurance or capital markets. FEMA is also required to establish a probable maximum loss target for the program each fiscal year.

(Sec. 512) The GAO must report on options for simplifying NFIP.

(Sec. 513) The GAO must report on the mandatory purchase requirement.

TITLE VI--ADMINISTRATIVE REFORMS

(Sec. 601) Fraudulent or false statements in connection with a flood insurance claim under NFIP make a person subject to civil enforcement, penalties, and suspension from the program. The bill directs FEMA to refer evidence of this activity to the Department of Justice.

(Sec. 602) FEMA is directed to revise the appeals process for policyholders seeking review of a flood insurance claim denial by their insurer. A decision shall be provided to the policyholder.

(Sec. 603) Claims under NFIP must be approved or denied no later than 90 days after the claim is made, with provisions for an extension in extraordinary cases.

(Sec. 604) The bill gives FEMA litigation oversight and strategy authority in litigation conducted by Write Your Own companies.

(Sec. 605) FEMA may not hire in connection with NFIP any disbarred or suspended attorney.

(Sec. 606) FEMA may rely upon technical assistance reports when adjusting claims made under NFIP only if the reports are final and meet professional standards. Technical assistance reports must be made available to policyholders upon request when used in claim determinations.

(Sec. 607) Every policy issued under NFIP must include documents describing the type of loss covered, a summary of the costs of the policy, and an explanation of the policy's parameters.

(Sec. 608) FEMA is authorized to credit reserve funds to the National Flood Insurance Fund.

(Sec. 609) FEMA is directed to ensure sufficient staff for the Flood Insurance Advocate.

(Sec. 610) The Fair Labor Standards Act of 1938 is amended to exempt from maximum hours requirements any employee who: (1) adjusts or evaluates claims resulting from or relating to a major disaster for at least a minimum weekly amount during the two-year period after the disaster; and (2) is employed as an adjuster or evaluator by an employer not engaged in underwriting, selling, or marketing property, casualty, or liability insurance policies or contracts.

Actions Timeline

- **Nov 15, 2017:** Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.
- **Nov 14, 2017:** Considered under the provisions of rule H. Res. 616. (consideration: CR H9209-9238)
- **Nov 14, 2017:** The resolution provides for one hour of general debate and closed rule for H.R. 2874. Also, the resolution provides for consideration of the conference report to accompany H.R. 2810.
- **Nov 14, 2017:** DEBATE - The House proceeded with one hour of debate on H.R. 2874.
- **Nov 14, 2017:** The previous question was ordered pursuant to the rule.
- **Nov 14, 2017:** Mr. Pascrell moved to recommit with instructions to the Committee on Financial Services. (text: CR H9236)
- **Nov 14, 2017:** DEBATE - The House proceeded with 10 minutes of debate on the motion to recommit with instructions. The instructions contained in the motion seek to require the bill to be reported back to the House with an amendment to establish the effective date to take place after the first day that the Administrator of the Federal Emergency Management Agency and the Inspector General of the Federal Emergency Management Agency have certified that final resolution has been reached on all claims for losses resulting from Hurricane Sandy in 2012 that were covered by flood insurance made available under the National Flood Insurance Program.
- **Nov 14, 2017:** On motion to recommit with instructions Failed by the Yeas and Nays: 190 - 236 (Roll no. 629).
- **Nov 14, 2017:** Passed/agreed to in House: On passage Passed by the Yeas and Nays: 237 - 189 (Roll no. 630). (text: CR H9209-9226)
- **Nov 14, 2017:** On passage Passed by the Yeas and Nays: 237 - 189 (Roll no. 630). (text: CR H9209-9226)
- **Nov 14, 2017:** Motion to reconsider laid on the table Agreed to without objection.
- **Nov 13, 2017:** Rules Committee Resolution H. Res. 616 Reported to House. The resolution provides for one hour of general debate and closed rule for H.R. 2874. Also, the resolution provides for consideration of the conference report to accompany H.R. 2810.
- **Sep 11, 2017:** Reported (Amended) by the Committee on Financial Services. H. Rept. 115-304.
- **Sep 11, 2017:** Placed on the Union Calendar, Calendar No. 217.
- **Jun 15, 2017:** Committee Consideration and Mark-up Session Held.
- **Jun 15, 2017:** Ordered to be Reported (Amended) by the Yeas and Nays: 30 - 26.
- **Jun 12, 2017:** Introduced in House
- **Jun 12, 2017:** Referred to the House Committee on Financial Services.