

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.

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## 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

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## 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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