

Union Calendar No. 185

115TH CONGRESS
1ST SESSION

H. R. 2246

[Report No. 115–255]

To repeal the mandatory flood insurance coverage requirement for commercial properties located in flood hazard areas and to provide for greater transfer of risk under the National Flood Insurance Program to private capital and reinsurance markets, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2017

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

JULY 25, 2017

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on April 28, 2017]

A BILL

To repeal the mandatory flood insurance coverage requirement for commercial properties located in flood hazard areas and to provide for greater transfer of risk under the National Flood Insurance Program to private capital and reinsurance markets, 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 “Taxpayer Exposure*
 5 *Mitigation Act of 2017”.*

6 **SEC. 2. OPT-OUT OF MANDATORY COVERAGE REQUIRE-**
 7 **MENT FOR COMMERCIAL PROPERTIES.**

8 *(a) AMENDMENTS TO FLOOD DISASTER PROTECTION*
 9 *ACT OF 1973.—The Flood Disaster Protection Act of 1973*
 10 *is amended—*

11 *(1) in section 3(a) (42 U.S.C. 4003(a))—*

12 *(A) in paragraph (10), by striking “and”*
 13 *at the end;*

14 *(B) in paragraph (11), by striking the pe-*
 15 *riod at the end and inserting “; and”; and*

16 *(C) by adding at the end the following new*
 17 *paragraph:*

18 *“(12) ‘residential improved real estate’ means*
 19 *improved real estate that—*

20 *“(A) is primarily used for residential pur-*
 21 *poses, as defined by the Federal entities for lend-*
 22 *ing regulation; and*

23 *“(B) secures financing or financial assist-*
 24 *ance provided through a federally related single*

1 *family loan program, as defined by the Federal*
 2 *entities for lending regulation.”; and*

3 *(2) in section 102 (42 U.S.C. 4012a)—*

4 *(A) in subsection (b)—*

5 *(i) in paragraph (1)(A)—*

6 *(I) by inserting “residential” be-*
 7 *fore “improved real estate”; and*

8 *(II) by inserting “residential” be-*
 9 *fore “building or mobile home”;*

10 *(ii) in paragraph (2)—*

11 *(I) by inserting “residential” be-*
 12 *fore “improved real estate”; and*

13 *(II) by inserting “residential” be-*
 14 *fore “building or mobile home”; and*

15 *(iii) in paragraph (3)—*

16 *(I) in subparagraph (A), by in-*
 17 *serting “residential” before “improved*
 18 *real estate”; and*

19 *(II) in the matter after and below*
 20 *subparagraph (B), by inserting “resi-*
 21 *dential” before “building or mobile*
 22 *home”;*

23 *(B) in subsection (c)(3), by striking “, in*
 24 *the case of any residential property, for any*
 25 *structure that is a part of such property” and*

1 inserting “for any structure that is part of a res-
2 idential property”;

3 (C) in subsection (e)—

4 (i) in paragraph (1)—

5 (I) by inserting “residential” be-
6 fore “improved real estate”; and

7 (II) by inserting “residential” be-
8 fore “building or mobile home” each
9 place such term appears; and

10 (ii) in paragraph (5)—

11 (I) in subparagraph (A)—

12 (aa) by inserting “residen-
13 tial” before “improved real estate”
14 each place such term appears; and

15 (bb) by inserting “residen-
16 tial” before “building or mobile
17 home” each place such term ap-
18 pears;

19 (II) in subparagraph (B), by in-
20 serting “residential” before “building
21 or mobile home” each place such term
22 appears; and

23 (III) in subparagraph (C), by in-
24 serting “residential” before “building
25 or mobile home”; and

1 (D) in subsection (h)—

2 (i) by inserting “residential” before
3 “improved real estate” each place such term
4 appears; and

5 (ii) in the matter preceding paragraph
6 (1), by inserting “residential” before “build-
7 ing or mobile home”.

8 (b) AMENDMENTS TO NATIONAL FLOOD INSURANCE
9 ACT OF 1968.—The National Flood Insurance Act of 1968
10 is amended—

11 (1) in section 1364(a) (42 U.S.C. 4104a(a))—

12 (A) in paragraph (1), by inserting “residen-
13 tial” before “improved real estate”;

14 (B) in paragraph (2), by inserting “resi-
15 dential” before “improved real estate”; and

16 (C) in paragraph (3)(A), by inserting “resi-
17 dential” before “building”;

18 (2) in section 1365 (42 U.S.C. 4104b)—

19 (A) in subsection (a)—

20 (i) by inserting “residential” before
21 “improved real estate”; and

22 (ii) by inserting “residential” before
23 “building”;

24 (B) in subsection (b)(2)—

1 (i) by inserting “residential” before
 2 “building” each place such term appears;
 3 and

4 (ii) by inserting “residential” before
 5 “improved real estate” each place such term
 6 appears;

7 (C) in subsection (d), by inserting “residen-
 8 tial” before “improved real estate” each place
 9 such term appears; and

10 (D) in subsection (e)—

11 (i) by inserting “residential” before
 12 “improved real estate”; and

13 (ii) by inserting “residential” before
 14 “building” each place such term appears;
 15 and

16 (3) in section 1370 (42 U.S.C. 4121)—

17 (A) in paragraph (8), by inserting “residen-
 18 tial” before “improved real estate”;

19 (B) by redesignating paragraphs (14) and
 20 (15) as paragraphs (15) and (16), respectively;
 21 and

22 (C) by inserting after paragraph (13) the
 23 following new paragraph:

24 “(14) the term ‘residential improved real estate’
 25 means improved real estate that—

1 “(A) is primarily used for residential pur-
 2 poses, as defined by the Federal entities for lend-
 3 ing regulation; and

4 “(B) secures financing or financial assist-
 5 ance provided through a federally related single
 6 family loan program, as defined by the Federal
 7 entities for lending regulation;”.

8 (c) *RULE OF CONSTRUCTION.*—This section and the
 9 amendments made by this section may not be construed to
 10 prohibit the Administrator of the Federal Emergency Man-
 11 agement Agency from offering flood insurance coverage
 12 under the National Flood Insurance Program for eligible
 13 non-residential properties, other residential multifamily
 14 properties, or structures financed with commercial loans,
 15 or to prohibit the purchase of such coverage for such eligible
 16 properties.

17 **SEC. 3. RISK TRANSFER REQUIREMENT.**

18 Subsection (e) of section 1345 of the National Flood
 19 Insurance Act of 1968 (42 U.S.C. 4081(e)) is amended—

20 (1) by striking “(e) *RISK TRANSFER.*—The Ad-
 21 ministrator” and inserting the following:

22 “(e) *RISK TRANSFER.*—

23 “(1) *AUTHORITY.*—The Administrator”; and

24 (2) by adding at the end the following new para-
 25 graph:

1 “(2) *REQUIRED RISK TRANSFER COVERAGE.*—

2 “(A) *REQUIREMENT.*—Not later than the
3 expiration of the 18-month period beginning
4 upon the date of the enactment of this paragraph
5 and at all times thereafter, the Administrator
6 shall annually cede a portion of the risk of the
7 flood insurance program under this title to the
8 private reinsurance or capital markets, or any
9 combination thereof, and at rates and terms that
10 the Administrator determines to be reasonable
11 and appropriate, in an amount that—

12 “(i) is sufficient to maintain the abil-
13 ity of the program to pay claims; and

14 “(ii) manages and limits the annual
15 exposure of the flood insurance program to
16 flood losses in accordance with the probable
17 maximum loss target established for such
18 year under subparagraph (B).

19 “(B) *PROBABLE MAXIMUM LOSS TARGET.*—
20 The Administrator shall for each fiscal year, es-
21 tablish a probable maximum loss target for the
22 national flood insurance program that shall be
23 the maximum probable loss under the national
24 flood insurance program that is expected to occur
25 in such fiscal year.

1 “(C) *CONSIDERATIONS.*—*In establishing the*
2 *probable maximum loss target under subpara-*
3 *graph (B) for each fiscal year and carrying out*
4 *subparagraph (A), the Administrator shall con-*
5 *sider—*

6 “(i) *the probable maximum loss targets*
7 *for other United States public natural ca-*
8 *tastrophe insurance programs, including as*
9 *State wind pools and earthquake programs;*

10 “(ii) *the probable maximum loss tar-*
11 *gets of other risk management organiza-*
12 *tions, including the Federal National Mort-*
13 *gage Association and the Federal Home*
14 *Loan Mortgage Corporation;*

15 “(iii) *catastrophic, actuarial, and*
16 *other appropriate data modeling results of*
17 *the national flood insurance program port-*
18 *folio;*

19 “(iv) *the availability of funds in the*
20 *National Flood Insurance Fund established*
21 *under section 1310 (42 U.S.C. 4017);*

22 “(v) *the availability of funds in the*
23 *National Flood Insurance Reserve Fund es-*
24 *tablished under section 1310A (42 U.S.C.*
25 *4017a);*

1 “(vi) the availability of borrowing au-
 2 thority under section 1309 (42 U.S.C.
 3 4016);

4 “(vii) the ability of the Administrator
 5 to repay outstanding debt;

6 “(viii) amounts appropriated to the
 7 Administrator to carry out the national
 8 flood insurance program;

9 “(ix) reinsurance, capital markets, ca-
 10 tastrophe bonds, collateralized reinsurance,
 11 resilience bonds, and other insurance-linked
 12 securities, and other risk transfer opportu-
 13 nities; and

14 “(x) any other factor the Adminis-
 15 trator determines appropriate.

16 “(D) *MULTI-YEAR CONTRACTS.*—Nothing in
 17 this paragraph may be construed to prevent or
 18 prohibit the Administrator from complying with
 19 the requirement under subparagraph (A) regard-
 20 ing ceding risk through contracts having a dura-
 21 tion longer than one year.”.

22 **SEC. 4. COMMUNITY FLOOD MAPS.**

23 (a) *TECHNICAL MAPPING ADVISORY COUNCIL.*—Sec-
 24 tion 100215 of the Biggert-Waters Flood Insurance Reform
 25 Act of 2012 (42 U.S.C. 4101a) is amended—

1 (1) in subsection (c)—

2 (A) in paragraph (5)(B), by striking “and”
3 at the end;

4 (B) by redesignating paragraph (6) as
5 paragraph (9); and

6 (C) by inserting after paragraph (5) the fol-
7 lowing new paragraphs:

8 “(6) recommend to the Administrator methods or
9 actions to make the flood mapping processes more effi-
10 cient;

11 “(7) recommend to the Administrator methods or
12 actions to minimize any cost, data, and paperwork
13 requirements of the flood mapping processes;

14 “(8) assist communities, and in particular
15 smaller communities, in locating the resources re-
16 quired to participate in the development of flood ele-
17 vations and flood hazard area designations; and”;
18 and

19 (2) by adding at the end the following new sub-
20 section:

21 “(m) *COMMUNITY FLOOD MAPS.*—

22 “(1) *STANDARDS AND PROCEDURES.*—In addi-
23 tion to the other duties of the Council under this sec-
24 tion, not later than the expiration of the 12-month pe-
25 riod beginning on the date of the enactment of this

1 subsection, the Council shall recommend to the Ad-
2 ministrator standards and requirements for chief ex-
3 ecutive officers, or entities designated by chief execu-
4 tive officers, of States and communities participating
5 in the National Flood Insurance Program to use in
6 mapping flood hazards located in States and commu-
7 nities that choose to develop alternative maps to the
8 flood insurance rate maps developed by the Agency.
9 The recommended standards and requirements shall
10 include procedures for providing notification and ap-
11 peal rights to individuals within the communities of
12 the proposed flood elevation determinations.

13 “(2) *EXEMPTION FROM RULEMAKING.*—Until
14 such time as the Administrator promulgates regula-
15 tions implementing paragraph (1) of this subsection,
16 the Administrator may, notwithstanding any other
17 provision of law, adopt policies and procedures nec-
18 essary to implement such paragraphs without under-
19 going notice and comment rulemaking and without
20 conducting regulatory analyses otherwise required by
21 statute, regulation, or executive order.”.

22 (b) *FEMA IDENTIFICATION OF FLOOD-PRONE*
23 *AREAS.*—Subsection (a) of section 1360 of the National
24 Flood Insurance Act of 1968 (42 U.S.C. 4101(a)) is amend-
25 ed—

1 (1) in paragraph (2), by striking the period at
2 the end and inserting “; and”;

3 (2) by redesignating paragraphs (1) and (2) as
4 subparagraphs (A), and (B), respectively, and re-
5 aligning such subparagraphs so as to be indented 4
6 ems from the left margin;

7 (3) by striking “is authorized to consult” and in-
8 serting the following: “is authorized—

9 “(1) to consult”;

10 (4) by adding at the end the following new para-
11 graph:

12 “(2) to receive proposed alternative maps from
13 communities developed pursuant to standards and re-
14 quirements recommended by the Technical Mapping
15 Advisory Council, as required by section 100215(m)
16 of the Biggert-Waters Flood Insurance Reform Act of
17 2012 (42 U.S.C. 4101a(m)) and adopted by the Ad-
18 ministrator as required by section 100216(c)(3) of
19 such Act (42 U.S.C. 4101b(c)(3)), so that the Admin-
20 istrator may—

21 “(A) publish information with respect to all
22 flood plain areas, including coastal areas located
23 in the United States, which have special flood
24 hazards, and

1 “(B) establish or update flood-risk zone data
 2 in all such areas, and make estimates with re-
 3 spect to the rates of probable flood caused loss for
 4 the various flood risk zones for each of these
 5 areas until the date specified in section 1319.”.

6 (c) NATIONAL FLOOD MAPPING PROGRAM.—Section
 7 100216 of the Biggert-Waters Flood Insurance Reform Act
 8 of 2012 (42 U.S.C. 4101b) is amended—

9 (1) in subsection (a), by inserting “prepared by
 10 the Administrator, or by a community pursuant to
 11 section 1360(a)(2) of the National Flood Insurance
 12 Act of 1968,” after “Program rate maps”;

13 (2) in subsection (c)—

14 (A) in paragraph (1)(B), by striking “and”
 15 at the end;

16 (B) in paragraph (2)(C), by striking the pe-
 17 riod at the end and inserting a semicolon; and

18 (C) by adding at the end the following new
 19 paragraphs:

20 “(3) establish and adopt standards and require-
 21 ments for development by States and communities of
 22 alternative flood insurance rate maps to be submitted
 23 to the Administrator pursuant to section 1360(a)(2)
 24 of the National Flood Insurance Act of 1968, taking
 25 into consideration the recommendations of the Tech-

1 *nical Mapping Advisory Council made pursuant to*
2 *section 100215(m) of this Act (42 U.S.C. 4101a(m));*
3 *and*

4 *“(4) in the case of proposed alternative maps re-*
5 *ceived by the Administrator pursuant to such section*
6 *1360(a)(2), not later than the expiration of the 6-*
7 *month period beginning upon receipt of such proposed*
8 *alternative maps—*

9 *“(A) determine whether such maps were de-*
10 *veloped in accordance with the standards and re-*
11 *quirements adopted pursuant to paragraph (3)*
12 *of this subsection; and*

13 *“(B) approve or disapprove such proposed*
14 *maps for use under National Flood Insurance*
15 *Program.”; and*

16 *(3) in subsection (d)(1), by inserting “max-*
17 *imum” before “30-day period” each place such term*
18 *appears in subparagraphs (B) and (C).*

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A BILL

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