

107TH CONGRESS
1ST SESSION

H. R. 2545

To amend the National Flood Insurance Act of 1968 to provide for identification, mitigation, and purchase of properties insured under the national flood insurance program that suffer repetitive losses.

IN THE HOUSE OF REPRESENTATIVES

JULY 18, 2001

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

A BILL

To amend the National Flood Insurance Act of 1968 to provide for identification, mitigation, and purchase of properties insured under the national flood insurance program that suffer repetitive losses.

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 Loss Mitigation
5 Act of 2001”.

1 **SEC. 2. MITIGATION FOR AND PURCHASE OF CERTAIN RE-**
2 **PETITIVE LOSS STRUCTURES.**

3 The National Flood Insurance Act of 1968 is amend-
4 ed by inserting after section 1361 (42 U.S.C. 4102) the
5 following new section:

6 “MITIGATION FOR AND PURCHASE OF CERTAIN
7 REPETITIVE LOSS STRUCTURES

8 “SEC. 1362. (a) AUTHORITY.—To the extent
9 amounts are made available for use under this section, the
10 Director may, subject to the limitations of this section—

11 “(1) carry out mitigation activities that reduce
12 flood damages to qualified repetitive loss structures
13 (as such term is defined in subsection (e)); and

14 “(2) purchase qualified repetitive loss struc-
15 tures, but only for public or open space use that is
16 consistent with sound land management and use
17 policies.

18 “(b) LIMITATIONS.—The Director shall establish lim-
19 itations on the use of amounts made available under this
20 section for mitigation and purchase of structures, which
21 shall—

22 “(1) be designed to encourage owners of struc-
23 tures to maintain participation in the national flood
24 insurance program; and

1 “(2) include limitations that prohibit use of
2 such amounts for mitigation or purchase of any
3 qualified repetitive loss structure if—

4 “(A) as a result of such action, the owner
5 of the structure will not be able to purchase a
6 replacement residence;

7 “(B) any of the flooding that resulted in
8 designation of the structure as a qualified re-
9 petitive loss structure was a result (in whole or
10 in part) of third party development;

11 “(C) such action will interfere with, im-
12 pair, or disrupt the preservation or maintenance
13 of historically or architecturally significant
14 properties or areas or identifiable neighbor-
15 hoods or areas of cultural cohesiveness;

16 “(D) in purchasing the structure, the
17 owner relied upon flood insurance rate maps of
18 the Federal Emergency Management Agency
19 that were current at the time and did not indi-
20 cate that the property was located in an area
21 having special flood hazards; or

22 “(E) the Director otherwise determines, in
23 the discretion of the Director, that amounts
24 under this section should not be used for miti-
25 gation or purchase of such structure.

1 “(c) PRIORITY FOR WORST-CASE PROPERTIES.—In
2 determining the properties for which to take action under
3 this section, the Director shall give priority to qualified
4 repetitive loss structures on the basis of the amount of
5 losses to the National Flood Insurance Fund that such
6 structures have caused or will cause.

7 “(d) BORROWING.—

8 “(1) ISSUANCE OF OBLIGATIONS.—Subject to
9 the provisions of this subsection, the Director may
10 issue and sell such notes or other obligations to the
11 Secretary of the Treasury as the Director deter-
12 mines are necessary to provide funds to carry out
13 this section.

14 “(2) TERMS AND CONDITIONS.—Obligations
15 under this subsection shall be issued in the forms
16 and denominations, bearing the maturities, and sub-
17 ject to the terms and conditions that the Secretary
18 of the Treasury may prescribe.

19 “(3) NOTIFICATION TO CONGRESS.—At least 25
20 days before the issuance or sale of a note or other
21 obligation under paragraph (1), the Director shall
22 notify, in writing, the Senate and the House of Rep-
23 resentatives of the intention of such issuance or sale
24 and the dollar amount of such notes or obligations.

1 “(4) PURCHASE OF OBLIGATIONS.—The Sec-
2 retary of the Treasury shall purchase any obligations
3 issued under this subsection. For such purpose, the
4 Secretary of the Treasury may use as a public debt
5 transaction the proceeds from the sale of any securi-
6 ties issued under chapter 31 of title 31. The pur-
7 poses for which securities may be issued under such
8 chapter are extended to include any purchase of obli-
9 gations issued under this subsection.

10 “(5) LIMITATION ON AMOUNT.—The Secretary
11 of the Treasury may not at any time purchase any
12 obligations under this subsection if the purchase
13 would increase the aggregate principal amount of
14 the outstanding holdings of obligations under this
15 subsection by the Secretary to an amount greater
16 than \$300,000,000.

17 “(6) RESALE AUTHORITY.—The Secretary of
18 the Treasury may sell any obligations issued under
19 this subsection at the times and prices and upon the
20 terms and conditions that the Secretary of the
21 Treasury shall determine.

22 “(7) TREATMENT.—All purchases, redemptions,
23 and sales of obligations under this subsection by the
24 Secretary of the Treasury shall be treated as public
25 debt transactions of the United States.

1 “(e) QUALIFIED REPETITIVE LOSS STRUCTURE.—
2 For purposes of this section (and sections 1310(g) and
3 1316(b)), the term ‘qualified repetitive loss structure’
4 means a structure that has incurred such flood-related
5 damage as the Director shall, by regulation, provide in ac-
6 cordance with the purposes of such sections.

7 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
8 is authorized to be appropriated for costs of activities
9 under this section \$100,000,000 for fiscal year 2002,
10 \$75,000,000 for fiscal year 2003, \$50,000,000 for fiscal
11 year 2004, and \$25,000,000 for fiscal year 2005.”.

12 **SEC. 3. TREATMENT OF SAVINGS.**

13 Section 1310 of the National Flood Insurance Act of
14 1968 (42 U.S.C. 4017) is amended—

15 (1) in subsection (a)—

16 (A) in paragraph (7), by striking “and” at
17 the end;

18 (B) in paragraph (8), by striking the pe-
19 riod at the end and inserting “; and”; and

20 (C) by adding at the end the following new
21 paragraph:

22 “(9) for use under subsection (g) of this sec-
23 tion.”; and

24 (2) by adding at the end the following new sub-
25 section:

1 “(g) USE OF MITIGATION SAVINGS.—

2 “(1) DETERMINATION.—For each fiscal year,
3 the Director shall make a determination of the por-
4 tion of the amounts in the fund that are attributable
5 to savings from mitigation activities and purchases
6 under section 1362 of qualified repetitive loss struc-
7 tures (as such term is defined in subsection (e) of
8 such section).

9 “(2) USE FOR MITIGATION.—In each fiscal
10 year, an amount in the fund equal to the amount de-
11 termined under paragraph (1) of this subsection
12 shall be available (in accordance with subsection (f))
13 only for mitigation activities for, and purchase of,
14 qualified repetitive loss structures under section
15 1362, except as provided in paragraph (3).

16 “(3) USE FOR MAPPING.—After a determina-
17 tion by the Director that 75 percent of the number
18 of qualified repetitive loss structures that existed
19 upon the enactment of the Flood Loss Mitigation
20 Act of 2001 have been provided mitigation that suf-
21 ficiently reduces the risk of losses from flooding, or
22 have been purchased for public or open space use
23 that is consistent with sound land management and
24 use policies, the Director may use up to 75 percent
25 of the amount reserved in each fiscal year under

1 paragraph (2) of this subsection for costs of map-
2 ping activities under section 1360.”.

3 **SEC. 4. INELIGIBILITY FOR NATIONAL FLOOD INSURANCE**
4 **PROGRAM.**

5 Section 1316 of the National Flood Insurance Act of
6 1968 (42 U.S.C. 4023) is amended—

7 (1) by striking the section heading and insert-
8 ing the following:

9 “PROHIBITION OF COVERAGE FOR CERTAIN
10 PROPERTIES”;

11 (2) by inserting “(a) PROPERTIES IN VIOLA-
12 TION OF STATE OR LOCAL LAW.—” after “1316.”;
13 and

14 (3) by adding at the end the following new sub-
15 sections:

16 “(b) QUALIFIED REPETITIVE LOSS STRUCTURES.—
17 In the case of a qualified repetitive loss structure (as such
18 term is defined in section 1362(e)) that was the subject
19 of an offer to purchase or to provide mitigation activities
20 funded under section 1362 that was refused by the owner
21 of the property, the Director may—

22 “(1) deny the provision of any new flood insur-
23 ance coverage under this title for such property and
24 may cancel any existing coverage for such property;
25 or

1 “(2) notwithstanding section 1308(e) or any
2 other provision of this title, increase the chargeable
3 risk premium rate for any new flood insurance cov-
4 erage under this title for such property to an
5 amount that is not more than the applicable esti-
6 mated risk premium rate for the property under sec-
7 tion 1307(a)(1).

8 “(c) PROPERTIES FOR WHICH FRAUDULENT CLAIMS
9 HAVE BEEN MADE.—The Director may deny the provi-
10 sion of any new flood insurance coverage under this title,
11 and may cancel any existing coverage, for a property if
12 the Director determines that the owner of the property
13 has made fraudulent claims for losses to the property
14 under coverage provided under this title.

15 “(d) APPEALS.—Any owner of a property who is ag-
16 grieved by a determination of the Director under sub-
17 section (b) or (c) may appeal such determination by filing,
18 with the Director, a request for an appeal within 90 days
19 after receiving notice of such determination. Upon receiv-
20 ing the request, the Director shall select, from a list of
21 independent third parties compiled by the Director for
22 such purpose, a party to hear such appeal. The determina-
23 tion made on appeal by such third party shall considered

- 1 a final determination of the Director for purposes of re-
- 2 view under chapter 7 of title 5, United States Code.”.

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