

115TH CONGRESS  
1ST SESSION

# H. R. 2246

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.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2017

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

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## 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”.

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

3 (a) AMENDMENTS TO FLOOD DISASTER PROTECTION  
4 ACT OF 1973.—The Flood Disaster Protection Act of  
5 1973 is amended—

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

7 (A) in paragraph (7), by inserting “resi-  
8 dential” before “improved real estate”; and

9 (B) in paragraph (8), by inserting “resi-  
10 dential” before “building”; and

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

12 (A) in subsection (b)—

13 (i) in paragraph (1)(A)—

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

16 (II) by inserting “residential” be-  
17 fore “building or mobile home”;

18 (ii) in paragraph (2)—

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

21 (II) by inserting “residential” be-  
22 fore “building or mobile home”; and

23 (iii) in paragraph (3)—

24 (I) in subparagraph (A), by in-  
25 serting “residential” before “improved  
26 real estate”; and

1 (II) in the matter after and  
2 below subparagraph (B), by inserting  
3 “residential” before “building or mo-  
4 bile home”;

5 (B) in subsection (c)(3), by striking “, in  
6 the case of any residential property, for any  
7 structure that is part of such property” and in-  
8 serting “for any structure that is part of a resi-  
9 dential property”;

10 (C) in subsection (e)—

11 (i) in paragraph (1)—

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

14 (II) by inserting “residential” be-  
15 fore “building or mobile home” each  
16 place such term appears; and

17 (ii) in paragraph (5)—

18 (I) in subparagraph (A)—

19 (aa) by inserting “residen-  
20 tial” before “improved real es-  
21 tate” each place such term ap-  
22 pears; and

23 (bb) by inserting “residen-  
24 tial” before “building or mobile

1 home” each place such term ap-  
2 pears;

3 (II) in subparagraph (B), by in-  
4 serting “residential” before “building  
5 or mobile home” each place such term  
6 appears; and

7 (III) in subparagraph (C), by in-  
8 serting “residential” before “building  
9 or mobile home”; and

10 (D) in subsection (h)—

11 (i) by inserting “residential” before  
12 “improved real estate” each place such  
13 term appears; and

14 (ii) in the matter preceding paragraph  
15 (1), by inserting “residential” before  
16 “building or mobile home”.

17 (b) AMENDMENTS TO NATIONAL FLOOD INSURANCE

18 ACT OF 1968.—The National Flood Insurance Act of  
19 1968 is amended—

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

21 (A) in paragraph (1), by inserting “resi-  
22 dential” before “improved real estate”;

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

1 (C) in paragraph (3)(A), by inserting “res-  
2 idential” before “building”;

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

4 (A) in subsection (a)—

5 (i) by inserting “residential” before  
6 “improved real estate”; and

7 (ii) by inserting “residential” before  
8 “building”;

9 (B) in subsection (b)(2)—

10 (i) by inserting “residential” before  
11 “building” each place such term appears;  
12 and

13 (ii) by inserting “residential” before  
14 “improved real estate” each place such  
15 term appears;

16 (C) in subsection (d), by inserting “resi-  
17 dential” before “improved real estate” each  
18 place such term appears; and

19 (D) in subsection (e)—

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

22 (ii) by inserting “residential” before  
23 “building” each place such term appears;  
24 and

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

1 (A) in paragraph (8), by inserting “resi-  
2 dential” before “improved real estate”; and

3 (B) in paragraph (10)—

4 (i) by inserting “residential” after the  
5 opening quotation marks; and

6 (ii) by inserting “residential” before  
7 “building”.

8 (c) **RULE OF CONSTRUCTION.**—This section and the  
9 amendments made by this section may not be construed  
10 to prohibit the Administrator of the Federal Emergency  
11 Management Agency from offering flood insurance cov-  
12 erage under the National Flood Insurance Program for  
13 eligible non-residential properties or to prohibit the pur-  
14 chase of such coverage for such eligible properties.

15 **SEC. 3. RISK TRANSFER REQUIREMENT.**

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

18 (1) by striking “(e) **RISK TRANSFER**,—The Ad-  
19 ministrator” and inserting the following:

20 “(e) **RISK TRANSFER.**—

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

22 (2) by adding at the end the following new  
23 paragraph:

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

1           “(A) REQUIREMENT.—Not later than the  
2           expiration of the 18-month period beginning  
3           upon the date of the enactment of this para-  
4           graph and at all times thereafter, the Adminis-  
5           trator shall annually cede a portion of the risk  
6           of the flood insurance program under this title  
7           to the private reinsurance or capital markets, or  
8           any combination thereof, and at rates and  
9           terms that the Administrator determines to be  
10          reasonable and appropriate, in an amount  
11          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 prob-  
17                   able maximum loss target established for  
18                   such year under subparagraph (B).

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

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

6           “(i) the probable maximum loss tar-  
7 gets for other United States public natural  
8 catastrophe insurance programs, including  
9 as State wind pools and earthquake pro-  
10 grams;

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

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

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

23           “(v) the availability of funds in the  
24 National Flood Insurance Reserve Fund



1 established under section 1310A (42  
2 U.S.C. 4017a);

3 “(vi) the availability of borrowing au-  
4 thority under section 1309 (42 U.S.C.  
5 4016);

6 “(vii) the ability of the Administrator  
7 to repay outstanding debt;

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

11 “(ix) reinsurance, capital markets, ca-  
12 tastrophe bonds, collateralized reinsurance,  
13 resilience bonds, and other insurance-  
14 linked securities, and other risk transfer  
15 opportunities; and

16 “(x) any other factor the Adminis-  
17 trator determines appropriate.

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

1 **SEC. 4. PRIVATE OR COMMUNITY FLOOD MAPS.**

2 Section 100215 of the Biggert-Waters Flood Insur-  
3 ance Reform Act of 2012 (42 U.S.C. 4101a) is amended  
4 by adding at the end the following new subsection:

5 “(m) PRIVATE OR COMMUNITY FLOOD MAPS.—

6 “(1) STANDARDS AND PROCEDURES.—In addi-  
7 tion to the other duties of the Council under this  
8 section, not later than the expiration of the 12-  
9 month period beginning on the date of the enact-  
10 ment of this subsection, the Council shall develop  
11 and establish a set of standards, guidelines, and pro-  
12 cedures for—

13 “(A) State and local governments, feder-  
14 ally or State recognized Metropolitan Planning  
15 Organizations (MPOs), federally or State recog-  
16 nized Councils of Local Governments, and fed-  
17 erally or State recognized Rural Transportation  
18 Planning Organizations to use in mapping flood  
19 risks and developing alternative maps to the  
20 flood insurance rate maps developed by the  
21 Agency; and

22 “(B) certification, by the Administrator  
23 and within 90 days of submission, of such maps  
24 for use under the National Flood Insurance  
25 Program in the case of any area covered by a  
26 flood insurance rate map developed or approved

1 by the Administrator which has not been up-  
2 dated or reissued for 36 months or longer.

3 “(2) TREATMENT.—Upon certification of a map  
4 pursuant to paragraph (1)(B), such map—

5 “(A) shall be considered the flood insur-  
6 ance rate map in effect for all purposes of the  
7 National Flood Insurance Program, with re-  
8 spect to the area covered by the map; and

9 “(B) may not be revised, updated, or re-  
10 placed pursuant to the standards, guidelines,  
11 and procedures established pursuant to para-  
12 graph (1) before the expiration of the 36-month  
13 period beginning upon such certification.

14 “(3) EXEMPTION FROM RULEMAKING.—Until  
15 such time as the Administrator promulgates regula-  
16 tions implementing paragraphs (1) and (2) of this  
17 subsection, the Administrator may adopt policies  
18 and procedures, notwithstanding any other provi-  
19 sions of law, necessary to implement such para-  
20 graphs without undergoing notice and comment rule-  
21 making and without conducting regulatory analyses  
22 otherwise required by statute, regulation, or execu-  
23 tive order.”.

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