

115TH CONGRESS  
1ST SESSION

# S. 563

To amend the Flood Disaster Protection Act of 1973 to require that certain buildings and personal property be covered by flood insurance, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 8, 2017

Mr. HELLER (for himself and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To amend the Flood Disaster Protection Act of 1973 to require that certain buildings and personal property be covered by flood insurance, 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 Insurance Mar-  
5 ket Parity and Modernization Act”.

6 **SEC. 2. PRIVATE FLOOD INSURANCE.**

7 (a) MANDATORY PURCHASE REQUIREMENT.—

8 (1) AMOUNT AND TERM OF COVERAGE.—Sec-  
9 tion 102 of the Flood Disaster Protection Act of

1 1973 (42 U.S.C. 4012a) is amended by striking  
2 “Sec. 102. (a)” and all that follows through the end  
3 of subsection (a) and inserting the following:

4 “SEC. 102. (a) AMOUNT AND TERM OF COVERAGE.—

5 After the expiration of sixty days following the date of en-  
6 actment of this Act, no Federal officer or agency shall ap-  
7 prove any financial assistance for acquisition or construc-  
8 tion purposes for use in any area that has been identified  
9 by the Administrator as an area having special flood haz-  
10 ards and in which the sale of flood insurance has been  
11 made available under the National Flood Insurance Act  
12 of 1968 (42 U.S.C. 4001 et seq.), unless the building or  
13 mobile home and any personal property to which such fi-  
14 nancial assistance relates is covered by flood insurance:  
15 *Provided*, That the amount of flood insurance (1) in the  
16 case of Federal flood insurance, is at least equal to the  
17 development or project cost of the building, mobile home,  
18 or personal property (less estimated land cost), the out-  
19 standing principal balance of the loan, or the maximum  
20 limit of Federal flood insurance coverage made available  
21 with respect to the particular type of property, whichever  
22 is less; or (2) in the case of private flood insurance, is  
23 at least equal to the development or project cost of the  
24 building, mobile home, or personal property (less esti-  
25 mated land cost), the outstanding principal balance of the

1 loan, or the maximum limit of Federal flood insurance cov-  
 2 erage made available with respect to the particular type  
 3 of property, whichever is less: *Provided further*, That if  
 4 the financial assistance provided is in the form of a loan  
 5 or an insurance or guaranty of a loan, the amount of flood  
 6 insurance required need not exceed the outstanding prin-  
 7 cipal balance of the loan and need not be required beyond  
 8 the term of the loan. The requirement of maintaining flood  
 9 insurance shall apply during the life of the property, re-  
 10 gardless of transfer of ownership of such property.”.

11 (2) REQUIREMENT FOR MORTGAGE LOANS.—

12 Subsection (b) of section 102 of the Flood Disaster  
 13 Protection Act of 1973 (42 U.S.C. 4012a(b)) is  
 14 amended—

15 (A) by striking the subsection designation  
 16 and all that follows through the end of para-  
 17 graph (5) and inserting the following:

18 “(b) REQUIREMENT FOR MORTGAGE LOANS.—

19 “(1) REGULATED LENDING INSTITUTIONS.—

20 Each Federal entity for lending regulation (after  
 21 consultation and coordination with the Financial In-  
 22 stitutions Examination Council established under the  
 23 Federal Financial Institutions Examination Council  
 24 Act of 1974 (12 U.S.C. 3301 et seq.)) shall by regu-  
 25 lation direct regulated lending institutions not to

1 make, increase, extend, or renew any loan secured  
2 by improved real estate or a mobile home located or  
3 to be located in an area that has been identified by  
4 the Administrator as an area having special flood  
5 hazards and in which flood insurance has been made  
6 available under the National Flood Insurance Act of  
7 1968 (42 U.S.C. 4001 et seq.), unless the building  
8 or mobile home and any personal property securing  
9 such loan is covered for the term of the loan by flood  
10 insurance: *Provided*, That the amount of flood insur-  
11 ance (A) in the case of Federal flood insurance, is  
12 at least equal to the outstanding principal balance of  
13 the loan or the maximum limit of Federal flood in-  
14 surance coverage made available with respect to the  
15 particular type of property, whichever is less; or (B)  
16 in the case of private flood insurance, is at least  
17 equal to the outstanding principal balance of the  
18 loan or the maximum limit of Federal flood insur-  
19 ance coverage made available with respect to the  
20 particular type of property, whichever is less.

21 “(2) FEDERAL AGENCY LENDERS.—

22 “(A) IN GENERAL.—A Federal agency  
23 lender may not make, increase, extend, or  
24 renew any loan secured by improved real estate  
25 or a mobile home located or to be located in an

1 area that has been identified by the Adminis-  
2 trator as an area having special flood hazards  
3 and in which flood insurance has been made  
4 available under the National Flood Insurance  
5 Act of 1968 (42 U.S.C. 4001 et seq.), unless  
6 the building or mobile home and any personal  
7 property securing such loan is covered for the  
8 term of the loan by flood insurance in accord-  
9 ance with paragraph (1). Each Federal agency  
10 lender may issue any regulations necessary to  
11 carry out this paragraph. Such regulations shall  
12 be consistent with and substantially identical to  
13 the regulations issued under paragraph (1).

14 “(B) REQUIREMENT TO ACCEPT FLOOD IN-  
15 SURANCE.—Each Federal agency lender shall  
16 accept flood insurance as satisfaction of the  
17 flood insurance coverage requirement under  
18 subparagraph (A) if the flood insurance cov-  
19 erage meets the requirements for coverage  
20 under that subparagraph.

21 “(3) GOVERNMENT-SPONSORED ENTERPRISES  
22 FOR HOUSING.—The Federal National Mortgage As-  
23 sociation and the Federal Home Loan Mortgage  
24 Corporation shall implement procedures reasonably  
25 designed to ensure that, for any loan that is—

1           “(A) secured by improved real estate or a  
2           mobile home located in an area that has been  
3           identified, at the time of the origination of the  
4           loan or at any time during the term of the loan,  
5           by the Administrator as an area having special  
6           flood hazards and in which flood insurance is  
7           available under the National Flood Insurance  
8           Act of 1968 (42 U.S.C. 4001 et seq.), and

9           “(B) purchased or guaranteed by such en-  
10          tity,

11         the building or mobile home and any personal prop-  
12         erty securing the loan is covered for the term of the  
13         loan by flood insurance in the amount provided in  
14         paragraph (1). The Federal National Mortgage As-  
15         sociation and the Federal Home Loan Mortgage  
16         Corporation shall accept flood insurance as satisfac-  
17         tion of the flood insurance coverage requirement  
18         under paragraph (1) if the flood insurance coverage  
19         provided meets the requirements for coverage under  
20         that paragraph and any requirements established by  
21         the Federal National Mortgage Association or the  
22         Federal Home Loan Corporation, respectively, relat-  
23         ing to the financial strength of private insurance  
24         companies from which the Federal National Mort-  
25         gage Association or the Federal Home Loan Mort-

1 gage Corporation will accept private flood insurance,  
2 provided that such requirements shall not affect or  
3 conflict with any State law, regulation, or procedure  
4 concerning the regulation of the business of insur-  
5 ance.

6 “(4) APPLICABILITY.—

7 “(A) EXISTING COVERAGE.—Except as  
8 provided in subparagraph (B), paragraph (1)  
9 shall apply on the date of enactment of the Rie-  
10 gle Community Development and Regulatory  
11 Improvement Act of 1994 (12 U.S.C. 4701 et  
12 seq.).

13 “(B) NEW COVERAGE.—Paragraphs (2)  
14 and (3) shall apply only with respect to any  
15 loan made, increased, extended, or renewed  
16 after the expiration of the 1-year period begin-  
17 ning on the date of enactment of the Riegle  
18 Community Development and Regulatory Im-  
19 provement Act of 1994 (12 U.S.C. 4701 et  
20 seq.). Paragraph (1) shall apply with respect to  
21 any loan made, increased, extended, or renewed  
22 by any lender supervised by the Farm Credit  
23 Administration only after the expiration of the  
24 period under this subparagraph.

1           “(C) CONTINUED EFFECT OF REGULA-  
2           TIONS.—Notwithstanding any other provision of  
3           this subsection, the regulations to carry out  
4           paragraph (1), as in effect immediately before  
5           the date of enactment of the Riegle Community  
6           Development and Regulatory Improvement Act  
7           of 1994 (12 U.S.C. 4701 et seq.), shall con-  
8           tinue to apply until the regulations issued to  
9           carry out paragraph (1) as amended by section  
10          522(a) of such Act take effect.

11          “(5) RULE OF CONSTRUCTION.—Except as oth-  
12          erwise specified, any reference to flood insurance in  
13          this section shall be considered to include Federal  
14          flood insurance and private flood insurance. Nothing  
15          in this subsection shall be construed to supersede or  
16          limit the authority of a Federal entity for lending  
17          regulation, the Federal Housing Finance Agency, a  
18          Federal agency lender, the Federal National Mort-  
19          gage Association, or the Federal Home Loan Mort-  
20          gage Corporation to establish requirements relating  
21          to the financial strength of private insurance compa-  
22          nies from which the entity or agency will accept pri-  
23          vate flood insurance, provided that such require-  
24          ments shall not affect or conflict with any State law,



1 regulation, or procedure concerning the regulation of  
2 the business of insurance.”; and

3 (B) by striking paragraph (7) and insert-  
4 ing the following new paragraph:

5 “(7) DEFINITIONS.—In this section:

6 “(A) FLOOD INSURANCE.—The term ‘flood  
7 insurance’ means—

8 “(i) Federal flood insurance; and

9 “(ii) private flood insurance.

10 “(B) FEDERAL FLOOD INSURANCE.—the  
11 term ‘Federal flood insurance’ means an insur-  
12 ance policy made available under the National  
13 Flood Insurance Act of 1968 (42 U.S.C. 4001  
14 et seq.).

15 “(C) PRIVATE FLOOD INSURANCE.—The  
16 term ‘private flood insurance’ means an insur-  
17 ance policy that—

18 “(i) is issued by an insurance com-  
19 pany that is—

20 “(I) licensed, admitted, or other-  
21 wise approved to engage in the busi-  
22 ness of insurance in the State in  
23 which the insured building is located,  
24 by the insurance regulator of that  
25 State; or

1 “(II) eligible as a nonadmitted  
2 insurer to provide insurance in the  
3 home State of the insured, in accord-  
4 ance with sections 521 through 527 of  
5 the Dodd-Frank Wall Street Reform  
6 and Consumer Protection Act (15  
7 U.S.C. 8201 through 8206);

8 “(ii) is issued by an insurance com-  
9 pany that is not otherwise disapproved as  
10 a surplus lines insurer by the insurance  
11 regulator of the State in which the prop-  
12 erty to be insured is located; and

13 “(iii) provides flood insurance cov-  
14 erage that complies with the laws and reg-  
15 ulations of that State.

16 “(D) STATE.—The term ‘State’ means any  
17 State of the United States, the District of Co-  
18 lumbia, the Commonwealth of Puerto Rico,  
19 Guam, the Northern Mariana Islands, the Vir-  
20 gin Islands, and American Samoa.”.

21 (b) EFFECT OF PRIVATE FLOOD INSURANCE COV-  
22 ERAGE ON CONTINUOUS COVERAGE REQUIREMENTS.—  
23 Section 1308 of the National Flood Insurance Act of 1968  
24 (42 U.S.C. 4015) is amended by adding at the end the  
25 following:

1       “(n) EFFECT OF PRIVATE FLOOD INSURANCE COV-  
2 ERAGE ON CONTINUOUS COVERAGE REQUIREMENTS.—  
3 For purposes of applying any statutory, regulatory, or ad-  
4 ministrative continuous coverage requirement, including  
5 under section 1307(g)(1), the Administrator shall consider  
6 any period during which a property was continuously cov-  
7 ered by private flood insurance (as defined in section  
8 102(b)(7) of the Flood Disaster Protection Act of 1973  
9 (42 U.S.C. 4012a(b)(7))) to be a period of continuous cov-  
10 erage.”.

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