

Calendar No. 266

113TH CONGRESS
1ST SESSION

S. 1846

To delay the implementation of certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 17, 2013

Mr. MENENDEZ (for himself, Mr. BEGICH, Mr. BLUMENTHAL, Mr. BOOKER, Mr. CASEY, Mr. COCHRAN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mrs. HAGAN, Ms. HEITKAMP, Mr. HOEVEN, Mr. ISAKSON, Ms. KLOBUCHAR, Ms. LANDRIEU, Mr. MANCHIN, Mr. MARKEY, Mr. MERKLEY, Ms. MURKOWSKI, Mr. NELSON, Mr. REED, Mr. SCHATZ, Mr. SCHUMER, Mr. SCOTT, Mr. VITTER, Ms. WARREN, Mr. WHITEHOUSE, and Mr. WICKER) introduced the following bill; which was read the first time

DECEMBER 18, 2013

Read the second time and placed on the calendar

A BILL

To delay the implementation of certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Homeowner Flood In-
3 surance Affordability Act of 2013”.

4 **SEC. 2. DEFINITIONS.**

5 As used in this Act, the following definitions shall
6 apply:

7 (1) **ADJUSTED BASE FLOOD ELEVATION.**—For
8 purposes of rating a floodproofed covered structure,
9 the term “adjusted base flood elevation” means the
10 base flood elevation for a covered structure on the
11 applicable effective flood insurance rate map, plus 1
12 foot.

13 (2) **ADMINISTRATOR.**—The term “Adminis-
14 trator” means the Administrator of the Federal
15 Emergency Management Agency.

16 (3) **AFFORDABILITY AUTHORITY BILL.**—The
17 term “affordability authority bill” means a non-
18 amendable bill that if enacted would only grant the
19 Administrator the authority necessary to promulgate
20 regulations in accordance with the criteria set forth
21 in section 3(d)(2).

22 (4) **AFFORDABILITY STUDY.**—The term “af-
23 fordability study” means the study required under
24 section 100236 of the Biggert-Waters Flood Insur-
25 ance Reform Act of 2012 (Public Law 112–141; 126
26 Stat. 957).

1 (5) APPLICABLE FLOOD PLAIN MANAGEMENT
2 MEASURES.—The term “applicable flood plain man-
3 agement measures” means flood plain management
4 measures adopted by a community under section
5 60.3(c) of title 44, Code of Federal Regulations.

6 (6) COVERED STRUCTURE.—The term “covered
7 structure” means a residential structure—

8 (A) that is located in a community that
9 has adopted flood plain management measures
10 that are approved by the Federal Emergency
11 Management Agency and that satisfy the re-
12 quirements for an exception for floodproofed
13 residential basements under section 60.6(c) of
14 title 44, Code of Federal Regulations; and

15 (B) that was built in compliance with the
16 applicable flood plain management measures.

17 (7) DRAFT AFFORDABILITY FRAMEWORK.—The
18 term “draft affordability framework” means the
19 draft programmatic and regulatory framework re-
20 quired to be prepared by the Administrator and sub-
21 mitted to Congress under section 3(d) addressing
22 the issues of affordability of flood insurance sold
23 under the National Flood Insurance Program, in-
24 cluding issues identified in the affordability study.

1 (8) FLOODPROOFED ELEVATION.—The term
 2 “floodproofed elevation” means the height of
 3 floodproofing on a covered structure, as identified on
 4 the Residential Basement Floodproofing Certificate
 5 for the covered structure.

6 (9) NATIONAL FLOOD INSURANCE PROGRAM.—
 7 The term “National Flood Insurance Program”
 8 means the program established under the National
 9 Flood Insurance Act of 1968 (42 U.S.C. 4001 et
 10 seq.).

11 **SEC. 3. DELAYED IMPLEMENTATION OF FLOOD INSURANCE**
 12 **RATE INCREASES; DRAFT AFFORDABILITY**
 13 **FRAMEWORK.**

14 (a) DELAYED IMPLEMENTATION OF FLOOD INSUR-
 15 ANCE RATE INCREASES.—

16 (1) GRANDFATHERED PROPERTIES.—Beginning
 17 on the date of enactment of this Act, the Adminis-
 18 trator may not implement section 1308(h) of the
 19 National Flood Insurance Act of 1968 (42 U.S.C.
 20 4015(h)).

21 (2) PRE-FIRM PROPERTIES.—Beginning on the
 22 date of enactment of this Act, the Administrator
 23 may not implement—

1 (A) section 1307(g)(1) of the National
2 Flood Insurance Act of 1968 (42 U.S.C.
3 4014(g)(1)); or

4 (B) section 1307(g)(3) of the National
5 Flood Insurance Act of 1968 (42 U.S.C.
6 4014(g)(3)) with respect to any policy described
7 in that section, provided that the decision of the
8 policy holder to permit a lapse in flood insur-
9 ance coverage was as a result of the property
10 covered by the policy no longer being required
11 to retain such coverage.

12 (3) EXPIRATION.—The prohibitions set forth
13 under paragraphs (1) and (2) shall expire 6 months
14 after the later of—

15 (A) the date on which the Administrator
16 proposes the draft affordability framework;

17 (B) the date on which any regulations pro-
18 posed pursuant to the authority that the Ad-
19 ministrator is granted in the affordability au-
20 thority bill, if such bill is enacted, become final;
21 or

22 (C) the date on which the Administrator
23 certifies in writing to Congress that the Federal
24 Emergency Management Agency has imple-
25 mented a flood mapping approach that, when

1 applied, results in technically credible flood haz-
2 ard data in all areas where Flood Insurance
3 Rate Maps are prepared or updated.

4 (b) PROPERTY SALE TRIGGER.—

5 (1) IN GENERAL.—Section 1307(g)(2) of the
6 National Flood Insurance Act of 1968 (42 U.S.C.
7 4014(g)(2)) is amended to read as follows:

8 “(2) any property purchased after the expira-
9 tion of the 6-month period set forth under section
10 3(a)(3) of the Homeowner Flood Insurance Afford-
11 ability Act of 2013;”.

12 (2) PROTECTION OF SUBSIDY FOR PROPERTIES
13 PURCHASED ON OR BEFORE EXPIRATION DATE.—
14 Notwithstanding paragraph (1) or (3) of section
15 1307(g) of the National Flood Insurance Act of
16 1968 (42 U.S.C. 4014(g)(1) and (3)), the Adminis-
17 trator may not reduce the risk premium rate subsidy
18 for flood insurance for a property purchased on or
19 before the expiration of the 6-month period set forth
20 under subsection (a)(3) of this section based on the
21 fact that—

22 (A) the property was not insured by the
23 flood insurance program as of the date of en-
24 actment of the Biggert-Waters Flood Insurance

1 Reform Act of 2012 (Public Law 112–141; 126
2 Stat. 916); or

3 (B) on or before the expiration of that 6-
4 month period, the policy for the property had
5 lapsed in coverage as a result of the deliberate
6 choice of the policy holder, provided that the
7 decision of the policy holder to permit a lapse
8 in coverage was as a result of the property no
9 longer being required to retain such coverage.

10 (c) TREATMENT OF PRE-FIRM PROPERTIES.—Be-
11 ginning on the date of enactment of this Act and ending
12 upon the expiration of the 6-month period set forth under
13 subsection (a)(3), the Administrator shall restore the risk
14 premium rate subsidies for flood insurance estimated
15 under section 1307(a)(2) of the National Flood Insurance
16 Act of 1968 (42 U.S.C. 4014(a)(2)) for any property—

17 (1) with respect to which the Administrator
18 may not, under subsection (a)(2)(A) of this section,
19 implement section 1307(g)(1) of the National Flood
20 Insurance Act of 1968;

21 (2) with respect to which the Administrator
22 may not, under subsection (a)(2)(B) of this section,
23 implement section 1307(g)(3) of the National Flood
24 Insurance Act of 1968; or

1 (3) described in section 1307(g)(2) of the Na-
2 tional Flood Insurance Act of 1968 (42 U.S.C.
3 4014(g)(2)), as amended by this section.

4 (d) DRAFT AFFORDABILITY FRAMEWORK.—

5 (1) IN GENERAL.—The Administrator shall pre-
6 pare a draft affordability framework that proposes
7 to address, via programmatic and regulatory
8 changes, the issues of affordability of flood insur-
9 ance sold under the National Flood Insurance Pro-
10 gram, including issues identified in the affordability
11 study.

12 (2) CRITERIA.—In carrying out the require-
13 ments under paragraph (1), the Administrator shall
14 consider the following criteria:

15 (A) Accurate communication to consumers
16 of the flood risk associated with their property.

17 (B) Targeted assistance to flood insurance
18 policy holders based on their financial ability to
19 continue to participate in the National Flood
20 Insurance Program.

21 (C) Individual or community actions to
22 mitigate the risk of flood or lower the cost of
23 flood insurance.

1 (D) The impact of increases in risk pre-
2 mium rates on participation in the National
3 Flood Insurance Program.

4 (E) The impact flood insurance rate map
5 updates have on the affordability of flood insur-
6 ance.

7 (3) DEADLINE FOR SUBMISSION.—Not later
8 than 18 months after the date on which the Admin-
9 istrator submits the affordability study, the Admin-
10 istrator shall submit to the full Committee on Bank-
11 ing, Housing, and Urban Affairs and the full Com-
12 mittee on Appropriations of the Senate and the full
13 Committee on Financial Services and the full Com-
14 mittee on Appropriations of the House of Represent-
15 atives the draft affordability framework.

16 (e) CONGRESSIONAL CONSIDERATION OF FEMA AF-
17 FORDABILITY AUTHORITIES.—

18 (1) NO REFERRAL.—Upon introduction in ei-
19 ther House of Congress, an affordability authority
20 bill shall not be referred to a committee and shall
21 immediately be placed on the calendar.

22 (2) CONSIDERATION IN THE HOUSE OF REP-
23 RESENTATIVES.—

24 (A) PROCEEDING TO CONSIDERATION.—It
25 shall be in order to move to proceed to consider

1 the affordability authority bill in the House. All
2 points of order against the motion are waived.
3 Such a motion shall not be in order after the
4 House has disposed of a motion to proceed with
5 respect to the affordability authority bill. The
6 previous question shall be considered as ordered
7 on the motion to its adoption without inter-
8 vening motion. The motion shall not be debat-
9 able. A motion to reconsider the vote by which
10 the motion is disposed of shall not be in order.

11 (B) CONSIDERATION.—The affordability
12 authority bill shall be considered as read. All
13 points of order against the affordability author-
14 ity bill and against its consideration are waived.
15 The previous question shall be considered as or-
16 dered on the affordability authority bill to its
17 passage without intervening motion except 10
18 hours of debate equally divided and controlled
19 by the proponent and an opponent. A motion to
20 reconsider the vote on passage of the afford-
21 ability authority bill shall not be in order.

22 (3) CONSIDERATION IN THE SENATE.—

23 (A) PLACEMENT ON THE CALENDAR.—
24 Upon introduction in the Senate, an afford-

1 ability authority bill shall be immediately placed
2 on the calendar.

3 (B) FLOOR CONSIDERATION.—Notwith-
4 standing Rule XXII of the Standing Rules of
5 the Senate, it is in order, at any time beginning
6 on the day after the 6th day after the date of
7 introduction of an affordability authority bill
8 (even if a previous motion to the same effect
9 has been disagreed to) to move to proceed to
10 the consideration of the affordability authority
11 bill and all points of order against consideration
12 of the affordability authority bill are waived.
13 The motion to proceed is not debatable. The
14 motion is not subject to a motion to postpone.
15 A motion to reconsider the vote by which the
16 motion is agreed to or disagreed to shall not be
17 in order. If a motion to proceed to the consider-
18 ation of the affordability authority bill is agreed
19 to, the affordability authority bill shall remain
20 the unfinished business until disposed of.

21 (C) CONSIDERATION.—All points of order
22 against the affordability authority bill are
23 waived. Consideration of the affordability au-
24 thority bill and of all debatable motions and ap-
25 peals in connection therewith shall be limited to

1 not more than 10 hours which shall be divided
2 equally between the majority and minority lead-
3 ers or their designees. A motion further to limit
4 debate on the affordability authority bill is in
5 order, and is not debatable.

6 (D) NO AMENDMENTS.—An amendment to
7 the affordability authority bill, or a motion to
8 postpone, or a motion to proceed to the consid-
9 eration of other business, or a motion to com-
10 mit or recommit the affordability authority bill,
11 is not in order.

12 (E) VOTE ON PASSAGE.—If the Senate has
13 voted to proceed to the affordability authority
14 bill, the vote on passage of the affordability au-
15 thority bill shall occur immediately following the
16 conclusion of consideration of the affordability
17 authority bill, and a single quorum call at the
18 conclusion of the debate if requested in accord-
19 ance with the rules of the Senate.

20 (4) AMENDMENT.—The affordability authority
21 bill shall not be subject to amendment in either the
22 House of Representatives or the Senate.

23 (5) CONSIDERATION BY THE OTHER HOUSE.—

1 (A) IN GENERAL.—If, before passing the
2 affordability authority bill, one House receives
3 from the other an affordability authority bill—

4 (i) the affordability authority bill of
5 the other House shall not be referred to a
6 committee; and

7 (ii) the procedure in the receiving
8 House shall be the same as if no afford-
9 ability authority bill had been received
10 from the other House except that the vote
11 on passage shall be on the affordability au-
12 thority bill of the other House.

13 (B) REVENUE MEASURE.—This subsection
14 shall not apply to the House of Representatives
15 if the affordability authority bill received from
16 the Senate is a revenue measure.

17 (6) COORDINATION WITH ACTION BY OTHER
18 HOUSE.—

19 (A) TREATMENT OF AFFORDABILITY AU-
20 THORITY BILL OF OTHER HOUSE.—If the Sen-
21 ate fails to introduce or consider a affordability
22 authority bill under this section, the afford-
23 ability authority bill of the House shall be enti-
24 tled to expedited floor procedures under this
25 section.

1 (B) TREATMENT OF COMPANION MEAS-
2 URES IN THE SENATE.—If following passage of
3 the affordability authority bill in the Senate,
4 the Senate then receives the affordability au-
5 thority bill from the House of Representatives,
6 the House-passed affordability authority bill
7 shall not be debatable.

8 (C) VETOES.—If the President vetoes the
9 affordability authority bill, debate on a veto
10 message in the Senate under this section shall
11 be 1 hour equally divided between the majority
12 and minority leaders or their designees.

13 (7) RULES OF THE HOUSE OF REPRESENTA-
14 TIVES AND SENATE.—This subsection is enacted by
15 Congress—

16 (A) as an exercise of the rulemaking power
17 of the Senate and the House of Representa-
18 tives, respectively, and as such it is deemed a
19 part of the rules of each House, respectively,
20 but applicable only with respect to the proce-
21 dure to be followed in that House in the case
22 of an affordability authority bill, and it super-
23 sedes other rules only to the extent that it is in-
24 consistent with such rules; and

1 (B) with full recognition of the constitu-
2 tional right of either House to change its rules
3 at any time, in the same manner, and to the
4 same extent as in the case of any other rule of
5 that House.

6 (f) INTERAGENCY AGREEMENTS.—The Adminis-
7 trator may enter into an agreement with another Federal
8 agency to—

- 9 (1) complete the affordability study; or
- 10 (2) prepare the draft affordability framework.

11 (g) CLEAR COMMUNICATIONS.—The Administrator
12 shall clearly communicate full flood risk determinations to
13 individual property owners regardless of whether their pre-
14 mium rates are full actuarial rates.

15 (h) RULE OF CONSTRUCTION.—Nothing in this sec-
16 tion shall be construed to provide the Administrator with
17 the authority to provide assistance to homeowners based
18 on affordability that was not available prior to the enact-
19 ment of the Biggert-Waters Flood Insurance Reform Act
20 of 2012 (Public Law 112–141; 126 Stat. 916).

21 **SEC. 4. AFFORDABILITY STUDY AND REPORT.**

22 Notwithstanding the deadline under section
23 100236(c) of the Biggert-Waters Flood Insurance Reform
24 Act of 2012 (Public Law 112–141; 126 Stat. 957), not
25 later than 2 years after the date of enactment of this Act,

1 the Administrator shall submit to the full Committee on
2 Banking, Housing, and Urban Affairs and the full Com-
3 mittee on Appropriations of the Senate and the full Com-
4 mittee on Financial Services and the full Committee on
5 Appropriations of the House of Representatives the af-
6 fordability study and report required under such section.

7 **SEC. 5. AFFORDABILITY STUDY FUNDING.**

8 Section 100236(d) of the Biggert-Waters Flood In-
9 surance Reform Act of 2012 (Public Law 112–141; 126
10 Stat. 957) is amended by striking “not more than
11 \$750,000” and inserting “such amounts as may be nec-
12 essary”.

13 **SEC. 6. FUNDS TO REIMBURSE HOMEOWNERS FOR SUC-**
14 **CESSFUL MAP APPEALS.**

15 (a) IN GENERAL.—Section 1363(f) of the National
16 Flood Insurance Act of 1968 (42 U.S.C. 4104(f)) is
17 amended by striking the second sentence and inserting the
18 following: “The Administrator may use such amounts
19 from the National Flood Insurance Fund established
20 under section 1310 as may be necessary to carry out this
21 subsection.”.

22 (b) CONFORMING AMENDMENT.—Section 1310(a) of
23 the National Flood Insurance Act of 1968 (42 U.S.C.
24 4017(a)) is amended—

1 (1) in paragraph (6), by striking “and” at the
2 end;

3 (2) in paragraph (7), by striking the period at
4 the end and inserting “; and”; and

5 (3) by adding at the end the following:

6 “(8) for carrying out section 1363(f).”.

7 **SEC. 7. FLOOD PROTECTION SYSTEMS.**

8 (a) ADEQUATE PROGRESS ON CONSTRUCTION OF
9 FLOOD PROTECTION SYSTEMS.—Section 1307(e) of the
10 National Flood Insurance Act of 1968 (42 U.S.C.
11 4014(e)) is amended—

12 (1) in the first sentence, by inserting “or recon-
13 struction” after “construction”;

14 (2) by striking the second sentence and insert-
15 ing the following: “The Administrator shall find that
16 adequate progress on the construction or reconstruc-
17 tion of a flood protection system, based on the
18 present value of the completed flood protection sys-
19 tem, has been made only if (1) 100 percent of the
20 cost of the system has been authorized, (2) at least
21 60 percent of the cost of the system has been appro-
22 priated, (3) at least 50 percent of the cost of the
23 system has been expended, and (4) the system is at
24 least 50 percent completed.”; and

1 (3) by adding at the end the following: “Not-
2 withstanding any other provision of law, in deter-
3 mining whether a community has made adequate
4 progress on the construction, reconstruction, or im-
5 provement of a flood protection system, the Adminis-
6 trator shall consider all sources of funding, including
7 Federal, State, and local funds.”.

8 (b) COMMUNITIES RESTORING DISACCREDITED
9 FLOOD PROTECTION SYSTEMS.—Section 1307(f) of the
10 National Flood Insurance Act of 1968 (42 U.S.C.
11 4014(f)) is amended by striking the first sentence and in-
12 serting the following: “Notwithstanding any other provi-
13 sion of law, this subsection shall apply to riverine and
14 coastal levees that are located in a community which has
15 been determined by the Administrator of the Federal
16 Emergency Management Agency to be in the process of
17 restoring flood protection afforded by a flood protection
18 system that had been previously accredited on a Flood In-
19 surance Rate Map as providing 100-year frequency flood
20 protection but no longer does so, and shall apply without
21 regard to the level of Federal funding of or participation
22 in the construction, reconstruction, or improvement of the
23 flood protection system.”.

1 **SEC. 8. TREATMENT OF FLOODPROOFED RESIDENTIAL**
 2 **BASEMENTS.**

3 In implementing section 1308(h) of the National
 4 Flood Insurance Act of 1968 (42 U.S.C. 4015(h)), the Ad-
 5 ministrator shall rate a covered structure using the ele-
 6 vation difference between the floodproofed elevation of the
 7 covered structure and the adjusted base flood elevation of
 8 the covered structure.

9 **SEC. 9. DESIGNATION OF FLOOD INSURANCE ADVOCATE.**

10 (a) IN GENERAL.—The Administrator shall designate
 11 a Flood Insurance Advocate to advocate for the fair treat-
 12 ment of policy holders under the National Flood Insurance
 13 Program and property owners in the mapping of flood
 14 hazards, the identification of risks from flood, and the im-
 15 plementation of measures to minimize the risk of flood.

16 (b) DUTIES AND RESPONSIBILITIES.—The duties
 17 and responsibilities of the Flood Insurance Advocate des-
 18 ignated under subsection (a) shall be to—

19 (1) educate property owners and policyholders
 20 under the National Flood Insurance Program on—

21 (A) individual flood risks;

22 (B) flood mitigation;

23 (C) measures to reduce flood insurance
 24 rates through effective mitigation; and

25 (D) the flood insurance rate map review
 26 and amendment process;

1 (2) assist policy holders under the National
2 Flood Insurance Program and property owners to
3 understand the procedural requirements related to
4 appealing preliminary flood insurance rate maps and
5 implementing measures to mitigate evolving flood
6 risks;

7 (3) assist in the development of regional capac-
8 ity to respond to individual constituent concerns
9 about flood insurance rate map amendments and re-
10 visions;

11 (4) coordinate outreach and education with
12 local officials and community leaders in areas im-
13 pacted by proposed flood insurance rate map amend-
14 ments and revisions; and

15 (5) aid potential policy holders under the Na-
16 tional Flood Insurance Program in obtaining and
17 verifying accurate and reliable flood insurance rate
18 information when purchasing or renewing a flood in-
19 surance policy.

20 (c) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated for each fiscal year such
22 sums as may be necessary to carry out the duties and re-
23 sponsibilities of the Flood Insurance Advocate.

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