

113TH CONGRESS
1ST SESSION

S. 667

To amend the National Flood Insurance Act of 1968 to allow the rebuilding, without elevation, of certain structures that are located in areas having special flood hazards and are substantially damaged by fire, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 8, 2013

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the National Flood Insurance Act of 1968 to allow the rebuilding, without elevation, of certain structures that are located in areas having special flood hazards and are substantially damaged by fire, 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 “Fire-Damaged Home
5 Rebuilding Act of 2013”.

1 **SEC. 2. REQUIREMENTS FOR STATE AND LOCAL LAND USE**
2 **CONTROLS.**

3 Section 1315(a) of the National Flood Insurance Act
4 of 1968 (42 U.S.C. 4022(a)) is amended by adding at the
5 end the following:

6 “(3) ALLOWABLE LOCAL VARIANCES FOR CER-
7 TAIN RESIDENTIAL STRUCTURES.—

8 “(A) DEFINITIONS.—In this paragraph—

9 “(i) the term ‘covered area’ means an
10 area having special flood hazards that—

11 “(I) is or will be protected by a
12 levee system—

13 “(aa) that meets or will
14 meet the requirements estab-
15 lished under section 65.10 of title
16 44, Code of Federal Regulations,
17 or any successor thereto; and

18 “(bb) with respect to which
19 adequate progress toward the re-
20 pair, replacement, or construction
21 of the levee system has been
22 made, provided that such
23 progress is acceptable to the Ad-
24 ministrator; and

25 “(II) absent the protection pro-
26 vided by the levee system, is subject

1 to significant base flood elevations of
2 not less than a reasonable height, as
3 determined by the Administrator;

4 “(ii) the term ‘eligible structure’
5 means a residential structure that—

6 “(I) is located in a covered area;

7 and

8 “(II) is substantially damaged by
9 a fire or other disaster, not including
10 a flood; and

11 “(iii) the term ‘substantially dam-
12 aged’, with respect to a structure, means a
13 structure that incurs substantial damage,
14 as that term is defined in section 59.1 of
15 title 44, Code of Federal Regulations, or
16 any successor thereto.

17 “(B) AUTHORIZATION FOR VARIANCES.—

18 Notwithstanding any other provision of this
19 title, the adequate land use and control meas-
20 ures required to be adopted in an area (or sub-
21 division thereof) pursuant to paragraph (1) may
22 permit an appropriate State or local authority
23 to grant a variance described in subparagraph
24 (C).

1 “(C) REQUIREMENTS FOR VARIANCES.—A
2 variance described in this subparagraph is a
3 variance from compliance with the adequate
4 land use and control measures required to be
5 adopted in an area (or subdivision thereof) pur-
6 suant to paragraph (1) that allows for the re-
7 pair and restoration of an eligible structure to
8 its predamaged condition without elevation of
9 the structure, after an appropriate State or
10 local authority determines that—

11 “(i) the repaired and restored struc-
12 ture will be located on the same site as the
13 structure was located before being substan-
14 tially damaged by a fire or other disaster,
15 not including a flood;

16 “(ii) the footprint of the repaired and
17 restored structure will not exceed the foot-
18 print of the original structure;

19 “(iii) the number of floors of the re-
20 paired and restored structure will not ex-
21 ceed the number of floors of the original
22 structure;

23 “(iv) the elevation of the repaired and
24 restored structure will be consistent with
25 existing construction in the neighborhood;

1 “(v) no claims payments have been
2 made under flood insurance coverage under
3 this title for damages to or loss of the
4 structure;

5 “(vi) the owner of the structure has
6 owned the structure continually from be-
7 fore the time of the damage described in
8 clause (i); and

9 “(vii) the repair and restoration of the
10 structure is for the purpose of occupancy
11 by the owner of the structure.

12 “(D) MAXIMUM NUMBER OF VARIANCES.—
13 During any calendar year, an appropriate State
14 or local authority may not grant more than 10
15 variances in accordance with this paragraph for
16 an area (or subdivision thereof).

17 “(E) PROHIBITION.—The Administrator
18 may not—

19 “(i) find that land use and control
20 measures are inadequate or inconsistent
21 with the comprehensive criteria for land
22 management and use under section 1361
23 because the land use and control measures
24 permit the granting of a variance in ac-
25 cordance with this paragraph; or

1 “(ii) suspend an area (or subdivision
2 thereof) from participation in the national
3 flood insurance program or place an area
4 (or subdivision thereof) on probation under
5 the national flood insurance program be-
6 cause the area has adopted land use and
7 control measures that permit the granting
8 of a variance in accordance with this para-
9 graph.”.

10 **SEC. 3. PREMIUM RATES.**

11 Section 1308 of the National Flood Insurance Act of
12 1968 (42 U.S.C. 4015) is amended by adding at the end
13 the following:

14 “(j) PROHIBITION ON LOWERING PREMIUM RATE
15 FOR STRUCTURES REBUILT PURSUANT TO CERTAIN
16 VARIANCES.—Notwithstanding any other provision of this
17 title, after the repair and restoration of a residential struc-
18 ture pursuant to a variance granted in accordance with
19 section 1315(a)(3), the chargeable premium rate for the
20 structure may not be lower than the rate that otherwise
21 would apply to the structure if the structure had not been
22 substantially damaged by a fire or other disaster, not in-
23 cluding a flood, and repaired and restored pursuant to the
24 variance.”.

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