

Senate Bill Would Extend National Flood Insurance Program for 10 Years

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U.S. Senators Bill Cassidy (R-La.) and Kristen Gillibrand (D-N.Y.) have released draft legislation to reauthorize the National Flood Insurance Program (NFIP) for 10 years. The NFIP is currently set to expire on Sept. 30, 2017. The legislation, the Flood Insurance Affordability & Sustainability Act of 2017, would reauthorize the NFIP until 2027, which the sponsors say is needed to avoid uncertainty in both the insurance and housing markets. The Cassidy-Gillibrand legislation promises to address flood insurance affordability, coverage limits and solvency issues while encouraging increased mitigation and gradual private sector involvement. It also seeks to strengthen flood mapping and claims handling. “The National Flood Insurance Program gives essential coverage for many,” said Cassidy. “This legislation extends this critical program, ensuring that Louisiana families have what they need to recover if ever flooded.” “New Yorkers deserve the peace of mind that if a storm damages their property, they won’t go bankrupt trying to fix it and that the National Flood Insurance Program will be there to help,” Gillibrand. The draft bill was released the same day that the Government Accountability Office (GAO) issued a flood insurance report highlighting similar issues and recommendations. The GAO report also urged Congress to consider forgiving the current debt of the NFIP but the Cassidy-Gillibrand proposal skips that recommendation. Gradual Privatization In terms of encouraging private sector involvement, the legislation promises to remove barriers to the entrance of private insurers into the flood insurance market. “Such market entrance by private insurers should be gradual and preserve the availability and affordability of flood insurance coverage for all consumers while continuing the investment in floodplain mapping and management,” according to the senators’ summary. It seeks to gradually phase-in private coverage by initially expanding eligibility to certain risk classifications (i.e. business properties, second homes, and severe repetitive loss properties) for which rates are now on a path to full actuarial rates. In addition, the bill notes that the Homeowner Flood Insurance Affordability Act assesses a \$250 surcharge on nonresidential and secondary home properties, which the proposal says creates space for a private insurer to offer a competitive flood insurance product. The Cassidy-Gillibrand measure would allow NFIP

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policyholders to purchase a private flood insurance policy and switch back to NFIP coverage without losing continuous coverage or grandfathering status. This has been cited as an obstacle to private sales as has NFIP's not being able to share its claims data, a situation the bill seeks to correct. Within two years after the law is enacted, FEMA would be required to measure the level of risk underwritten by private insurers in comparison to the risk underwritten by the NFIP. It would modernize coverage limits to align with actual replacement costs of residential and non-residential structures. It would increase coverage limits from \$250,000 to \$500,000 for residential structures and \$500,000 to \$1,000,000 for multifamily and businesses structures to mitigate financial loss and enhance coverage for the replacement value of structures in competitive property markets. The bill further calls for creation of a pilot risk-sharing program with Write Your Own companies. It instructs FEMA to engage in NFIP risk-sharing pilot programs where WYO companies or other qualified insurers assume a first-loss position of claims at or below \$50,000 and the NFIP operating in a secondary loss position. In the area of affordability, the legislation: Provides for affordability vouchers for certain owner-occupied households for which flood insurance premiums and fees would result in housing costs exceeding 40 percent of household income. Provides greater investment in flood mitigation and resiliency of approximately \$400 million annually. Increases cost of compliance (ICC) coverage. Currently, ICC claims payments must be used to fund up to \$30,000 in compliance costs associated with state or local floodplain management laws or ordinances, which typically require structure elevation. The authors contend this limit of \$30,000 is inadequate to elevate most structures and thus increases ICC coverage to \$75,000 with \$30,000 of ICC payments allowed to occur outside policy limits. Provides a \$500 premium credit to help policyholders pay for elevation certificates. Instructs FEMA to develop mitigation credits that deliver savings in excess of 10 percent of the current risk premium rate for a property. Instructs FEMA to develop an agreed value insurance pilot option for insureds in addition to the traditional stochastic model used to quantify flood loss in monetary terms. The agreed value policy would use FEMA's existing water depth probability that waters will reach or exceed a given depth of a structure relative to Base Flood Elevation. Savings to the policyholder is achieved by pre-determining the amount paid out in claims (avoiding costly overhead expenditures) according to the depth of water damage to a structure. To address the solvency of NFIP, which is \$24.6 billion in debt, the legislation would: Clarify FEMA's authority to cede NFIP risk in the capital markets through insurance-linked securities (ILS) and stipulates that FEMA shall annually cede a portion of the flood insurance program's risk to the private reinsurance and/or capital markets. FEMA has already begun buying reinsurance — it procured \$1 billion in January.. Protect revenues for flood mapping and mitigation activities. Certain NFIP fees and surcharges that fund activities that benefit the overall flood insurance market will be levied on private flood insurance policies. Reauthorize the NFIP flood mapping

program at a funding level of \$500 million annually. It would also encourage the use of high-resolution mapping technology. In the claims area, the Cassidy-Gillibrand proposal would require NFIP administrators to make determinations on flood claims within 30 days of the initial filing, followed by any payment owed under the claim. It also expands the duties of the Flood Insurance Advocate to provide a contact for policyholders to discuss the status of their claim appeals and any claims denials. FEMA would be required to conduct yearly reviews of all private entities participating in the NFIP that provide services related to policies or claims, including adjusting, engineering and legal services to ensure they are complying with all policies and procedures and to prevent fraud.