



ASSOCIATION OF STATE FLOODPLAIN MANAGERS, INC.

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Dear Representative,

The Association of State Floodplain Managers (ASFPM) opposes HR 2874 as it currently written. It does little to correct important deficiencies in the NFIP and impairs the program's ability to function as the nation's primary comprehensive flood-risk management program. Specifically, the bill:

- Proposes an unworkable approach to flood insurance affordability (because states will not adopt it) that would create new state-by-state cross-subsidies in the program;
- Fails to recognize national flood mapping needs and priorities and instead focuses on issues that are not significant nationally, nor does it recognize important collaborations already taking place;
- Pushes unneeded measures to stimulate private flood insurance, which will not ultimately reduce taxpayer costs. It also weakens consumer protections for those buying private flood insurance that are needed to ensure they are purchasing a comparable product to an NFIP policy, and diminishes the other benefits provided through the NFIP;
- Exempts a whole class of structures from the mandatory purchase requirement which will result in more small businesses failing after a major disaster;
- Fails to address mitigation resource needs generated by repetitive-flood loss properties in an efficient and impactful way, and does not effectively enhance the fastest and most efficient mitigation program—Increased Cost of Compliance (ICC);
- Does not include a meaningful, long-term financial framework to address high loss years like 2017; and
- Does not consider any potential lessons learned from the 2017 hurricane season, which will likely lead to the highest NFIP loss year on record and the highest taxpayer-funded disaster cost year.

ASFPM does acknowledge the bill has some policy proposals that will be helpful, including a national disclosure requirement (Sec 109), community-based pilot program (Sec 110), demonstration program for flood savings accounts (Sec 207), community accountability for repetitively flooded areas (Sec 402), and enforcement of the mandatory purchase requirement (Sec 508). Unfortunately, the negative aspects of this bill far outweigh these incremental positive changes identified above.

The balance of this letter highlights ASFPM's concerns with each title of HR 2874.

Dedicated to reducing flood risk and losses in the nation.

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TITLE 1: POLICYHOLDER PROTECTIONS AND INFORMATION

This title proposes an unworkable affordability program (Sec 103) that will require nothing to help flood insurance affordability, but has the potential to create a new in-state cross subsidy within the program. ASFPM has strongly and consistently for decades called for the eventual end of subsidies so policyholders understand their true risk via their premium. Affordability in the NFIP needs to be addressed programmatically. And it needs to be done in a way that is means tested and paid for (i.e. a subsidy paid for through a congressional appropriation) instead of a cross-subsidy within the NFIP program paid for by other policyholders in the state through a new surcharge. And by not handling affordability programmatically, low- and moderate-income property owners who cannot afford the flood insurance will drop it and increase their dependency on taxpayer funded disaster assistance.

Section 112 proposes an artificial cap on premiums regardless of flood risk, which may dictate a premium much higher. This is an unacceptable, unpaid-for-subsidy in the NFIP. Even the well-intentioned Section 108 on the availability of flood information upon request is flawed as it only requires flood insurance information from FEMA. This bill fails to subject private insurers to the same requirements. And if private flood insurance does indeed become more widespread, it is important that FEMA and private insurers are subject to the same data submission requirements to ensure that the nation has full information about the number of properties having adequate flood insurance. This would be best handled by FEMA and private companies submitting claims data to a common underwriting database/exchange that has a public access feature. An example is the Comprehensive Loss Underwriting Exchange, which provides claims information reports containing up to seven years of personal-auto and personal-property claims history available to other insurers and the public. Having data on private sector coverage is important information for FEMA's management of flood disaster risk in the nation. Already, in the aftermath of this season's hurricanes we are seeing problems in areas where there is heavy private flood insurance penetration and little or no data on flood claims or policies from private insurers.

TITLE II: INCREASING CONSUMER CHOICE THROUGH PRIVATE MARKET DEVELOPMENT

As ASFPM has commented many times before, the urgency and need to pass additional measures to stimulate the private market is based on the flawed assumption that the 2012 legislation did not provide such a boost. It did. Interestingly the same locations where the private market has made the most inroads are the places that Hurricanes Harvey, Irma and Maria impacted. For example, Puerto Rico had over 55,000 NFIP policies in 2012, and prior to these recent hurricanes had just over 5,000 NFIP policies, with many others currently being covered by private policies.

Anecdotally, ASFPM is hearing from industry sources that the heavy losses sustained this year will result in huge private flood insurance premium increases next year and a high likelihood that private insurers may exit certain geographic areas altogether. It would be irresponsible at

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this time to pass additional measures to stimulate the private market without any analysis of performance from private insurers. There are many questions to be answered: How do private insurers perform in terms of claims handling? Did private policies contain the requisite equivalent coverage to ICC like "Ordinance or Law"? If not, why not? Was there failure by states or others to evaluate the private policies to ensure they were consistent with existing law? Were coverage amounts adequate to meet the mandatory purchase requirement? ASFPM suggests that another NFIP hearing must be held to examine and identify any lessons learned from this historic hurricane season.

ASFPM has also commented many times before that we do not fundamentally have any issues with private flood insurance. However, private flood insurance, especially to meet the federal mandatory purchase requirement, must be on a level playing field with the NFIP and not destroy the other comprehensive flood risk management benefits the NFIP provides, such as: a comprehensive flood mapping inventory, a robust mitigation component, and the most widely adopted and implemented building and land-use standards. Unfortunately, none of our recommendations to ensure this balance were included in this bill.

For example, ASFPM has recommended an "equivalency fee" that is equivalent to the Federal Policy Fee assessed on NFIP policies which is specifically used to pay for flood mapping and floodplain management. Currently the Federal policy fee pays for about 50% of the flood mapping budget and 100% of the floodplain management budget of the NFIP. This revenue stream would be reduced as NFIP policies migrate toward private policies. The user fee (it clearly passes the litmus test of what constitutes a proper user fee and is not a tax) would ensure that private insurers are sharing in the costs of maintaining the flood maps that they ultimately depend on for every private flood policy that meets the mandatory purchase requirement and to target their marketing. It is only fair that private policies pay an equivalent policy fee to support the mapping and floodplain management functions that benefit them. Finally we note that the CEO and Founder of The Flood Insurance Agency, Evan Hecht, testified in the House Financial Services Committee this past March that such a fee would be appropriate.

Consumers are left vulnerable because the proposed legislation would remove any requirement that private policies provide coverage "at least as broad as" the NFIP coverage and it would allow for high deductible, low coverage policies to meet the mandatory purchase requirement. Such policies could be worthless to property owners who wouldn't have the means to pay the deductible, leading property owners to simply walk away from their homes. Today the private market is growing with these consumer protections in place.

ASFPM also opposes any erosion of the mandatory purchase requirement for classes of properties. Any implementation complexities that lenders might have should be handled by rule and not by exempting a whole class of structures. This bill would exempt all commercial structures from the mandatory purchase requirement, which would result in many small businesses being much more vulnerable to disaster losses and closing their businesses.

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In short, we simply think the approach to enhancing private sector involvement in flood insurance in the House bill and substitute is the wrong approach. ASFPM would note, however, that FEMA has proposed a credible path forward in its recent reform proposal forwarded by OMB Director Mulvaney to modernize NFIP "Part A" authorities and allow for the creative use of risk pools and reinsurance agreements. Unfortunately, this idea is not in the House bill.

TITLE III: MAPPING FAIRNESS

More resources are needed to comprehensively map all flood-risk areas in the nation. We have only mapped 1.2 million miles of 3.5 million miles of streams, rivers and coastlines. We do not have a complete national LIDAR dataset (elevation data), and we have not even begun to map all of the flood risks that were required under the National Flood Mapping Program authorized by Congress in 2012. None of the proposed reforms in Title III address this issue. The title also seems to propose solutions to issues that are not widespread problems, such as flood map appeals (FEMA already has a robust system in place to handle appeals and less than 5% of FEMA map panels are appealed nationally) or communities producing their own maps. FEMA's Cooperating Technical Partner program is very popular with states and communities and works well to engage them in mapping their own areas.

TITLE IV: PROTECTING CONSUMERS AND INDIVIDUALS THROUGH IMPROVED MITIGATION

Notwithstanding Section 402 that requires a mitigation plan with actions to reduce risk and sanctions for not doing so, title IV does almost nothing to improve mitigation. Since 2004, ASFPM has proposed several reforms to the Increased Cost of Compliance element of the NFIP, including increasing the amount provided to bring damaged properties into compliance with local codes from the current \$30,000. Merely providing an elective increase to \$60,000 is insufficient. The mandatory minimum ICC amount should be \$60,000, and should be a required coverage on NFIP and private policies obtained to meet the mandatory purchase requirement.

As a nation, we must make a bold investment in mitigation. Back in 2003, Representatives Bereuter and Blumenauer introduced the bipartisan HR 253 (the Two Strikes and You're Out of the Taxpayer's Pocket Act), which not only focused on addressing repetitive loss properties (at that time there were 48,000), but proposed a bold \$400 million to do so through mitigation. Today, we have tripled the number of repetitive loss properties (more than 150,000 now) and more than 20,000 severe repetitive loss properties, generating outsized and repeated losses. The only feasible solution for these structures is mitigation, whether it be through ICC or a significant investment in mitigation grant programs. While we acknowledge the bill includes an incremental increase under the Flood Mitigation Assistance program to \$275 million, the proposed amount in HR 2874 does not come close to addressing this critical issue.

TITLE V: PROGRAM INTEGRITY

This section continues to assess an unfair and completely non-risk related surcharge imposed by the 2014 legislation to “pay for” the lowering of premium rates called for in the 2012 legislation and even increases it on some classes of properties. The surcharge should be eliminated.

The treatment of repetitive loss properties is cumbersome, confusing and ultimately will not achieve its intended goal. First, there is already much confusion by all entities (FEMA, community officials, property owners, etc.) with two classes of repetitive loss properties. HR 2874 now would create a third class that would increase the administrative burden.

Second, ASFPM has long believed in the principles that were initially set out in HR 253 back in 2003, which meant that that before a penalty kicks in, there must be an offer of mitigation if it is cost effective. While some multiple loss properties under Sec 1304a would be subject to an offer of mitigation, another group of multiple loss properties, those in Sec 505, are not afforded such an opportunity.

Third, the appeals process will likely result in few properties ever facing the penalty stated. We have seen this approach before when, in 2004, the appeals process for the Severe Repetitive Loss program essentially meant that zero properties ever went to full actuarial rates.

Fourth, is the penalty itself. ASFPM supports moving to full actuarial rates versus being ineligible for flood insurance (and if full actuarial rates do not reflect true flood risk, FEMA needs to add a loading factor to account for the repetitive nature of the flood risk for a particular structure). Again, insurance is better than no insurance from the standpoint of taxpayer costs, property owner protection and community blight. There must be a meaningful, well-funded mitigation effort or this entire process will not make a noticeable dent in the number of repetitive loss properties.

Finally, the most important reform in terms of program integrity is nonexistent in HR 2874. That is a long-term financial framework for the NFIP. If during the reauthorization period we have a repeat of the claims we have had in the past calendar year, even with the reforms proposed in HR 2874, we aren't farther along in terms of the financial stability of the program. The fact is that FEMA has implemented all of the financial risk management tools Congress has asked of it, and given the trends in large flood disasters, it will not be enough.

A long-term financial framework begins with clear guidance on what level of loss its rates should anticipate, known as a sufficiency standard. Developing one would help clarify the level of loss that should be funded by various sources, such as use of reserve funds, short-term borrowing, reinsurance or debt forgiveness. Any losses above this standard would be funded by taxpayers with debt forgiveness. Such a framework should be put into law and all existing debt be canceled. This balanced approach reflects current disaster trends and is certainly preferable to the \$8 billion annual cost of the federal crop insurance program (2014 data indicates \$6.3 billion annual subsidy) that taxpayers now provide.

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ASFPM and its 17,000 members work daily to reduce flood losses and protect the natural function of floodplains in the nation. We are the frontline state and local officials as well as engineers, planners and mappers who implement the NFIP. ASFPM has worked since the late 1970s to provide common sense public policy ideas each time the NFIP has been reauthorized to improve the performance of the program. Should you have any questions, please do not hesitate to contact Chad Berginnis at 608-828-3000 or cberginnis@floods.org, Merrie Inderfurth at merrie.inderfurth@gmail.com, or Larry Larson at larry@floods.org.

Respectfully,



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