

# History of Private Flood Insurance Legislation

After Congress passed the Biggert-Waters Flood Insurance Reform Act of 2012 ([BW12](#)), banking and insurance industry members voiced concern regarding how the Act defined private flood insurance. At the same time, other industries and consumer groups voiced concerns over the scheduled increases in NFIP premiums due to reductions in rate subsidies. One of the intents of BW12 was to increase the private market's participation in providing primary flood insurance so as to shift some of the financial burden off of the government; however, due to the wording of the definition, banks indicated it was unclear if they actually could accept the private policies. The legislation also requires Farm Credit Administration (FCA), Federal Deposit Insurance Corporation (FDIC), Federal Reserve System (FRS), National Credit Union Administration (NCUA) and Office of the Comptroller of Currency (OCC), the five federal banking agencies responsible for regulating the lenders, to issue a regulation that provides guidance for accepting private flood insurance to fulfill the mandatory purchase requirement for loans in areas having special flood hazards.

## 2014

The concerns regarding the increasing rates for home owners due to the reduction of the government subsidized rates drove Congress to revise the rate increase schedule. The Senate voted on a bill to [delay](#) certain provisions of BW12 and Sen. Heller (R-NV) offered the [Heller Amendment](#), to revise the confusing BW12 definition.

### Legislative Activity

- Heller Amendment fails by one vote ([49-50](#))
  - All Republicans, except Sen. Murkowski (R-AK), vote for the Amendment
  - All Democrats, except Sen. Hagan (D-NC), Sen. Heinrich (D-NM), Sen. Tester (D-MT), and Sen. Warner (D-VA), vote against the Amendment
- The House does not consider a similar amendment during their discussions of the delay bill that eventually becomes law, [H.R. 3370](#), the Homeowner Flood Insurance Affordability Act of 2014

### Regulatory Activity

- **January:** after issuing a joint notice in October 2013, public comments submitted to banking agencies on their joint request for comments on a proposed rule to provide guidance on accepting private flood insurance
- 51 or 81 comments specifically address private flood insurance, with most reflective of the continuing need for clarification and concerns related to the underlying definition
- No actions taken to issue a regulation based on the solicited comments

## 2015

The Flood Insurance Modernization and Market Parity Act is filed in both the House and Senate as [H.R. 2901](#) (Ross-Murphy) and [S. 1679](#) (Heller-Tester) and is based on the 2014 Heller Amendment. The insurance and banking industry trade associations, as well as the NAIC, work to develop support for the legislation with both chambers.

### Legislative Activity

- No action taken by either Chamber

### Regulatory Activity

- No regulatory activity

## 2016

With [44](#) cosponsors H.R. 2901 (Ross-Murphy) and with [10](#) cosponsors S. 1679 (Heller-Tester) remain alive for discussion during the second term of the 114<sup>th</sup> Congressional session. H.R. 2901 has a hearing before the Housing & Insurance Subcommittee, Chaired by Rep. Luetkemeyer (R-MO). NAPSLO testifies, along with PA Insurance Commissioner Miller. The Senate does not hold a specific flood hearing for S. 1679. Industry encourages Congress to take actions on the bill well in advance of the 2017 expiration of the National Flood Insurance Program (NFIP).

### Voting Activity

- **March 2:** House Financial Services Committee unanimously passes H.R. 2901 by a vote of [53-0](#)
- **April 28:** House of Representatives unanimously passes H.R. 2901 by a vote of [419-0](#)
- Senate does not consider S. 1679

### Regulatory Activity

- Banking agencies revise proposed rule and reissue request for comments

## 2017

With the start of the 115<sup>th</sup> Congressional session, [21](#) cosponsors support [H.R. 1422](#), the Private Flood Insurance Market Development Act of 2017 (Ross-Castro), and [2](#) cosponsors support [S. 563](#), the Flood Insurance Market Parity and Modernization Act (Heller-Tester), which are the same bills as H.R. 2901 and S. 1679 in the previous session. The NFIP is set to expire on September 30. The Senate conducts flood insurance hearings but does not focus on S. 563. The

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reauthorization of the NFIP becomes tied to the Continuing Resolution to fund the government, which also was set to expire on September 30<sup>th</sup>, the end of the federal Fiscal Year.

### Legislative Activity

- **June 21:** House Financial Services Committee unanimously passes H.R. 1422 by a vote of [58-0](#)
- **September 28:** House of Representatives passes FAA reauthorization and includes H.R. 1422 as a provision; bill passes 244-171
- **September 28:** Senate rejects House FAA reauthorization due to attachment of S. 563 (H.R. 1422)
- **September 28:** House and Senate extend NFIP to December 8
- **November 14:** House passes comprehensive flood insurance package [H.R. 2874](#), The 21st Century Flood Reform Act, which combines seven flood insurance reform bills, including H.R. 1422 on a vote of [237-189](#)
- Senate does not take action
- **December 8:** House and Senate extend NFIP to December 22
- **December 22:** House and Senate extend NFIP, along with Continuing Resolution to fund the government, to January 19

### Regulatory Activity

- 60 comments are submitted by the January deadline and continue to reflect underlying issues and concerns with the definition and how a rule will provide clarification and guidance
- No additional action taken through the year

## 2018

H.R. 1422 (Ross-Castro) and S. 563 (Heller-Tester) continue in the second session of the 115<sup>th</sup> Congress. The bills are now associated with the NFIP reauthorization.

### Legislative Activity

- **January 19:** House passes short term extension of budget, including NFIP, to February 19; Senate fails to act, resulting in government shut-down
- **January 22:** House and Senate agree to 3-week extension of budget, including NFIP, to February 8
- **February 9:** After an hours-long government shutdown, NFIP is extended to March 23 as part of the fifth extension of the Continuing Resolution
- **March 23:** Expiration deadline extended to July 31 and separated from the budget process
- **July 31:** **NFIP extended to November 30**
- **November 30:** NFIP extended to December 7

- **December 6:** NFIP extended to December 21 along with a must pass Continue Resolution
- **December 21:** NFIP extended to May 31, 2019; a partial government shutdown begins.
- **December 26:** FEMA announces opinion that NFIP cannot issue new or renewal policies while there is a federal government shutdown, but opinion is retroactively reversed on December 28
- **December 31:** Congress concludes without any action on private flood insurance bills during the year.

### Regulatory Activity

- In October, banking agencies notify interested parties of their intent to issue a Final Rule on acceptance of private flood insurance for loans in areas with special flood hazards in the first quarter of 2019
- Interested parties provide [supplemental](#) comments to banking agencies and conduct meetings to ask for additional information and work to receive clarification on the agencies intent based on prior comments

## 2019

116<sup>th</sup> Congressional session begins. No bills consistent with the Flood Insurance Market Parity and Modernization Act filed as of July 2019. A Final Rule is issued but interested parties continue to discuss the likely need for legislative resolution in addition to any regulatory clarification.

### Legislative Activity

- **March 11:** standalone legislation to address continuous coverage filed as [H.R. 1666](#) (Castro-Luetkemeyer) to allow policyholders to move between NFIP and private flood insurance policies to meet requirement to have continuous coverage in order to return to NFIP subsidized rate; bill uses same provision proposed in previous private flood bills
- **May 30:** Congress extends the NFIP for two weeks to June 14. Both the House and Senate had passed extensions that would have taken the program through September 30, 2019, but the Senate version was tied to a disaster relief package, differing from the House version, necessitating a short extension until Congress returned from the Memorial Day recess
- **June 3:** Congress passes an NFIP extension to September 30, 2019 as part of national disaster relief package
- **June 12:** the House Financial Services Committee unanimously passes the NFIP Reform Act ([H.R. 3111](#)) and the NFIP Reauthorization Act ([H.R. 3167](#)), neither include private flood insurance provisions. Bills remain pending in House, none filled in Senate

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- **July 19:** S. 2187 NFIP Reauthorization and Reform Act filed by group of bipartisan Senators, to extend the program for five years and institute reforms, with no provision for revising the definition of private flood insurance, continuous coverage or other similar provisions supporting increased opportunities for private market alternatives

### Regulatory Activity

- **January 25:** banking agencies issue [Final Rule](#), consistent with second notice and proposal from January 2017, to be effective July 1, 2019, interested parties indicate they will continue to work with banking agencies and lenders, seeking additional clarifications and guidance, to determine impact of the Final Rule
- **July 1:** Final Rule takes effect