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### EXEMPT CERTAIN COASTAL BARRIER PROPERTY FROM FINANCIAL ASSISTANCE AND FLOOD INSURANCE LIMITATIONS

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OCTOBER 29, 2003.—Ordered to be printed

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Mr. INHOFE, from the Committee on Environment and Public Works, submitted the following

### REPORT

[to accompany S. 1643]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 1643) to exempt certain coastal barrier property from financial assistance and flood insurance limitations under the Coastal Barriers Resources Act and the National Flood Insurance Act of 1968, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

#### GENERAL STATEMENT AND BACKGROUND

Coastal barriers are unique land areas that form the bridge between low-lying coastal areas and seawater. They perform functions supporting fragile ecosystems and serve as prized recreational areas for the public. Because of their inherent beauty and hydrological values, coastal barriers are under significant development pressures. However, coastal barriers are composed of unstable elements and are susceptible to storm damage and chronic erosion.

Recognizing the environmental and economic risks associated with developing coastal barriers, Congress enacted the Coastal Barrier Resources Act (CBRA) in 1982. The law established a prohibi-

tion against Federal spending, primarily Federal flood insurance assistance and Federal infrastructure spending, in areas denoted in designated CBRA units. No prohibitions exist against private expenditures in CBRA units and individuals who chose to build and invest in these hazard-prone areas will incur the full cost of that risk. Approximately 590,000 acres were established as CBRA units along the Atlantic and Gulf coasts of the United States.

The U.S. Fish and Wildlife Service (USFWS) manages the CBRA program and provides information to the public, as well as city, State, and local officials on questions pertaining to the delineations of CBRA units. The Service also maintains the official maps outlining the individual units. Congress enacts periodic revisions to official unit maps that replace previous maps.

In 1990, Congress passed the Coastal Barrier Improvement Act, which extended CBRA units into the Great Lakes, Puerto Rico, and the U.S. Virgin Islands. The 1990 statute also established designations of “otherwise protected areas” (OPAs) into the unit system. Properties located within an OPA unit are ineligible for Federal flood insurance.

The 2000 Coastal Barrier Resources Reauthorization Act made a series of programmatic changes to the USFWS operation of the program. The statute also renamed the unit system as the “John H. Chafee Coastal Barrier Resources System.”

In 1998, the USFWS field staff worked with a developer on Edisto Island to determine which lots in the Jeremy Cay Subdivision were inside and outside of the M-09 unit of the John H. Chafee Coastal Barrier Resources System. The determinations were made in good faith with the mapping tools available at the time.

Using higher-precision mapping tools, the USFWS recently discovered that four lots (lots 15, 16, 25, and 29) within the Jeremy Cay Subdivision on Edisto Island, South Carolina, initially determined to be completely outside or predominantly outside of the M-09 unit, are actually inside the M-09 unit boundary. As a result, these lots no longer qualify for Federal funding, including Federal flood insurance.

In this case, USFWS does not advocate a revised map that modifies the System boundary as the agency does not believe that this is an issue of original intent not accurately captured on the map. The USFWS supports the adoption of S. 1643, a bill that would exempt the four misidentified properties from the Federal flood insurance restrictions that apply to properties located within the System.

#### OBJECTIVES OF THE LEGISLATION

This legislation will exempt four lots (lots 15, 16, 25, and 29) within the Jeremy Cay Subdivision on Edisto Island, South Carolina from the Federal flood insurance restrictions that apply to properties located within the John H. Chafee Coastal Barrier Resources System. This exemption is necessary due to the USFWS’s previous incorrect determinations that the four lots were completely outside or predominantly outside of the M-09 unit (disqualifying them from Federal funding, including Federal flood insurance) when the lots are actually inside the M-09 unit boundary. S. 1643 applies to the relevant properties (lots 15, 16, 25, and 29)

totaling 3.87 acres and no additional land. S. 1643 refers to the properties as they are identified and depicted on the map M-09/M-09P dated January 24, 2003.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Financial Assistance; Flood Insurance*

This section exempts the four lots (lots 15, 16, 25, and 29) within the Jeremy Cay Subdivision on Edisto Island, South Carolina, from the Federal flood insurance restrictions that apply to properties located within the John H. Chafee Coastal Barrier Resources System. These properties are depicted on the M-09/M-09P unit map. S. 1643 makes technical corrections to the Coastal Barrier Resources Act that is cited in the legislation changing "Section 6" to "Section 5" and also changing "map" to "reference map."

#### LEGISLATIVE HISTORY

S. 1643 was introduced on September 23, 2003, by Senator Hollings, and was referred to the Committee on Environment and Public Works. On October 15, 2003, the committee met to consider the bill.

#### ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 1643 on October 15, 2003. The committee agreed to an amendment by Senator Crapo making technical corrections to the Coastal Barrier Resources Act, changing "Section 6" to "Section 5" and also changing "map" to "reference map." The committee favorably reported the bill by voice vote as amended.

#### REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee finds that S. 1643 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

#### MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the committee finds that S. 1643 would impose no Federal intergovernmental unfunded mandates on State, local, or tribal governments.

#### COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 24, 2003.*

Hon. JAMES M. INHOFE, *Chairman,*

*Committee on Environment and Public Works,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1643, a bill to exempt certain coastal barrier property from financial assistance and flood insurance limitations under the Coastal Barrier Resources Act and the National Flood Insurance Act of 1968.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis who can be reached at 226-2860.

Sincerely,

DOUGLAS HOLTZ-EAKIN

*S. 1643, A bill to exempt certain coastal barrier property from financial assistance and flood insurance limitations under the Coastal Barrier Resources Act and the National Flood Insurance Act of 1968, as ordered reported by the Senate Committee on Environment and Public Works on October 15, 2003*

CBO estimates that enacting S. 1643 would have no significant impact on the Federal budget. The bill could affect direct spending, but we expect that net changes in direct spending would be negligible.

S. 1643 would exempt four specified housing lots located within the Edisto Complex of the South Carolina Unit of the Coastal Barriers Resource System from existing Federal laws that prevent the owners from obtaining coverage under the national flood insurance program. CBO expects that enacting the bill would enable the owners to obtain such insurance beginning in fiscal year 2004 or 2005. Therefore, we estimate that enacting the bill would result in a negligible increase in insurance premium collections to the national flood insurance fund. Collections would be partially offset by new mandatory spending for underwriting and administrative expenses. The Federal Government could incur additional costs for losses caused by any future floods affecting those properties, but CBO has no basis for predicting such events.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on State, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### CHANGES IN EXISTING LAW

Section 12 of rule XXVI of the Standing Rules of the Senate requires the committee to publish changes in existing law made by the bill as reported. Passage of this bill will not change existing law.