

113TH CONGRESS  
1ST SESSION

# H. R. 3511

To delay the implementation of certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2013

Mr. CAPUANO (for himself, Ms. WATERS, Mr. JONES, Mr. HINOJOSA, Mr. LYNCH, Mr. KEATING, and Mr. TIERNEY) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To delay the implementation of certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012, 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 “Keeping Flood Insur-  
5 ance Affordable Act of 2013”.

6 **SEC. 2. DEFINITIONS.**

7 As used in this Act, the following definitions shall  
8 apply:

1           (1) ADJUSTED BASE FLOOD ELEVATION.—For  
2 purposes of rating a floodproofed covered structure,  
3 the term “adjusted base flood elevation” means the  
4 base flood elevation for a covered structure on the  
5 applicable effective flood insurance rate map, plus 1  
6 foot.

7           (2) ADMINISTRATOR.—The term “Adminis-  
8 trator” means the Administrator of the Federal  
9 Emergency Management Agency.

10          (3) AFFORDABILITY AUTHORITY BILL.—The  
11 term “affordability authority bill” means a non-  
12 amendable bill that if enacted would only grant the  
13 Administrator the authority necessary to promulgate  
14 regulations in accordance with the criteria set forth  
15 in section 3(d)(2).

16          (4) AFFORDABILITY STUDY.—The term “af-  
17 fordability study” means the study required under  
18 section 100236 of the Biggert-Waters Flood Insur-  
19 ance Reform Act of 2012 (Public Law 112–141; 126  
20 Stat. 957).

21          (5) APPLICABLE FLOOD PLAIN MANAGEMENT  
22 MEASURES.—The term “applicable flood plain man-  
23 agement measures” means flood plain management  
24 measures adopted by a community under section  
25 60.3(c) of title 44, Code of Federal Regulations.

1           (6) COVERED STRUCTURE.—The term “covered  
2 structure” means a residential structure—

3           (A) that is located in a community that  
4 has adopted flood plain management measures  
5 that are approved by the Federal Emergency  
6 Management Agency and that satisfy the re-  
7 quirements for an exception for floodproofed  
8 residential basements under section 60.6(c) of  
9 title 44, Code of Federal Regulations; and

10          (B) that was built in compliance with the  
11 applicable flood plain management measures.

12          (7) DRAFT AFFORDABILITY FRAMEWORK.—The  
13 term “draft affordability framework” means the  
14 draft programmatic and regulatory framework re-  
15 quired to be prepared by the Administrator and sub-  
16 mitted to Congress under section 3(d) addressing  
17 the issues of affordability of flood insurance sold  
18 under the National Flood Insurance Program, in-  
19 cluding issues identified in the affordability study.

20          (8) FLOODPROOFED ELEVATION.—The term  
21 “floodproofed elevation” means the height of  
22 floodproofing on a covered structure, as identified on  
23 the Residential Basement Floodproofing Certificate  
24 for the covered structure.

1           (9) NATIONAL FLOOD INSURANCE PROGRAM.—  
2           The term “National Flood Insurance Program”  
3           means the program established under the National  
4           Flood Insurance Act of 1968 (42 U.S.C. 4001 et  
5           seq.).

6 **SEC. 3. DELAYED IMPLEMENTATION OF FLOOD INSURANCE**  
7                           **RATE INCREASES; DRAFT AFFORDABILITY**  
8                           **FRAMEWORK.**

9           (a) DELAYED IMPLEMENTATION OF FLOOD INSUR-  
10 ANCE RATE INCREASES.—

11           (1) GRANDFATHERED PROPERTIES.—Beginning  
12           on the date of enactment of this Act, the Adminis-  
13           trator may not increase risk premium rates for flood  
14           insurance for any property located in an area subject  
15           to the premium adjustment required under section  
16           1308(h) of the National Flood Insurance Act of  
17           1968 (42 U.S.C. 4015(h)).

18           (2) PRE-FIRM PROPERTIES.—Beginning on the  
19           date of enactment of this Act, the Administrator  
20           may not reduce the risk premium rate subsidies for  
21           flood insurance for any property—

22                           (A) described under section 1307(g)(1) of  
23                           the National Flood Insurance Act of 1968 (42  
24                           U.S.C. 4014(g)(1)); or

1 (B) described under 1307(g)(3) of the Na-  
2 tional Flood Insurance Act of 1968 (42 U.S.C.  
3 4014(g)(3)), provided that the decision of the  
4 policy holder to permit a lapse in flood insur-  
5 ance coverage was as a result of the property  
6 no longer being required to retain such cov-  
7 erage.

8 (3) CERTAIN SUBSIDIZED RATE PROPERTIES.—

9 Beginning on the date of enactment of this Act, the  
10 Administrator may not reduce the risk premium rate  
11 subsidies for flood insurance for any property—

12 (A) described under section 1307(a)(2)(A)  
13 of the National Flood Insurance Act of 1968  
14 (42 U.S.C. 4014(a)(2)(A)) and the appraised  
15 value of which does not exceed \$1,000,000, ex-  
16 cept that for any owner of such a non-primary  
17 residence this subparagraph shall apply to only  
18 one such property; or

19 (B) described under section 1307(a)(2)(D)  
20 of the National Flood Insurance Act of 1968  
21 (42 U.S.C. 4014(a)(2)(D)), except that—

22 (i) any single business may insure  
23 only a single property with risk premium  
24 rate subsidies provided pursuant to this  
25 subparagraph; and

1                   (ii) notwithstanding section 1306(b)  
2                   (42 U.S.C. 4013(b)), in making insurance  
3                   coverage available for any property with  
4                   risk premium rate subsidies provided pur-  
5                   suant to this subparagraph, coverage shall  
6                   be made available with respect to any sin-  
7                   gle such building up to an aggregate liabil-  
8                   ity of \$1,000,000, and coverage shall be  
9                   made available up to a total of \$1,000,000  
10                  aggregate liability for contents owned by  
11                  the building owner and \$1,000,000 aggre-  
12                  gate liability for each unit within the build-  
13                  ing for contents owned by the tenant.

14                  (4) EXPIRATION.—The prohibitions set forth  
15                  under paragraphs (1), (2), and (3) shall expire 6  
16                  months after the later of—

17                         (A) the date on which the Administrator  
18                         proposes the draft affordability framework;

19                         (B) the date on which any regulations pro-  
20                         posed pursuant to the authority that the Ad-  
21                         ministrator is granted in the affordability au-  
22                         thority bill, if such bill is enacted, become final;  
23                         or

24                         (C) the date on which the Administrator  
25                         certifies in writing to Congress that the Federal

1           Emergency Management Agency has imple-  
2           mented a flood mapping approach that utilizes  
3           sound scientific and engineering methodologies  
4           to determine varying levels of flood risk in all  
5           areas participating in the National Flood Insur-  
6           ance Program.

7           (b) PROPERTY SALE TRIGGER.—Section 1307(g)(2)  
8 of the National Flood Insurance Act of 1968 (42 U.S.C.  
9 4014(g)(2)) is amended to read as follows:

10           “(2) any property purchased after the expira-  
11           tion of the 6-month period set forth under section  
12           3(a)(3) of the Keeping Flood Insurance Affordable  
13           Act of 2013;”.

14           (c) TREATMENT OF PRE-FIRM PROPERTIES.—Be-  
15           ginning on the date of enactment of this Act and ending  
16           upon the expiration of the 6-month period set forth under  
17           subsection (a)(3), the Administrator shall restore the risk  
18           premium rate subsidies for flood insurance estimated  
19           under section 1307(a)(2) of the National Flood Insurance  
20           Act of 1968 (42 U.S.C. 4014(a)(2)) for any property de-  
21           scribed in subparagraphs (A) and (B) of subsection (a)(2)  
22           of this Act and in section 1307(g)(2) of the National  
23           Flood Insurance Act of 1968 (42 U.S.C. 4014(g)(2)).

24           (d) DRAFT AFFORDABILITY FRAMEWORK.—

1           (1) IN GENERAL.—The Administrator shall pre-  
2           pare a draft affordability framework that proposes  
3           to address, via programmatic and regulatory  
4           changes, the issues of affordability of flood insur-  
5           ance sold under the National Flood Insurance Pro-  
6           gram, including issues identified in the affordability  
7           study.

8           (2) CRITERIA.—In carrying out the require-  
9           ments under paragraph (1), the Administrator shall  
10          consider the following criteria:

11                 (A) Accurate communication to consumers  
12                 of the flood risk associated with their property.

13                 (B) Targeted assistance to flood insurance  
14                 policy holders based on their financial ability to  
15                 continue to participate in the National Flood  
16                 Insurance Program.

17                 (C) Individual or community actions to  
18                 mitigate the risk of flood or lower the cost of  
19                 flood insurance.

20                 (D) The impact of increases in risk pre-  
21                 mium rates on participation in the National  
22                 Flood Insurance Program.

23                 (E) The impact flood insurance rate map  
24                 updates have on the affordability of flood insur-  
25                 ance.

1           (3) DEADLINE FOR SUBMISSION.—Not later  
2 than 18 months after the date on which the Admin-  
3 istrator submits the affordability study, the Admin-  
4 istrator shall submit to the full Committee on Bank-  
5 ing, Housing, and Urban Affairs and the full Com-  
6 mittee on Appropriations of the Senate and the full  
7 Committee on Financial Services and the full Com-  
8 mittee on Appropriations of the House of Represent-  
9 atives the draft affordability framework.

10       (e) CONGRESSIONAL CONSIDERATION OF FEMA AF-  
11 FORDABILITY AUTHORITIES.—

12           (1) NO REFERRAL.—Upon introduction in ei-  
13 ther House of Congress, an affordability authority  
14 bill shall not be referred to a committee and shall  
15 immediately be placed on the calendar.

16           (2) CONSIDERATION IN THE HOUSE OF REP-  
17 RESENTATIVES.—

18           (A) PROCEEDING TO CONSIDERATION.—It  
19 shall be in order to move to proceed to consider  
20 the affordability authority bill in the House. All  
21 points of order against the motion are waived.  
22 Such a motion shall not be in order after the  
23 House has disposed of a motion to proceed with  
24 respect to the affordability authority bill. The  
25 previous question shall be considered as ordered

1 on the motion to its adoption without inter-  
2 vening motion. The motion shall not be debat-  
3 able. A motion to reconsider the vote by which  
4 the motion is disposed of shall not be in order.

5 (B) CONSIDERATION.—The affordability  
6 authority bill shall be considered as read. All  
7 points of order against the affordability author-  
8 ity bill and against its consideration are waived.  
9 The previous question shall be considered as or-  
10 dered on the affordability authority bill to its  
11 passage without intervening motion except 10  
12 hours of debate equally divided and controlled  
13 by the proponent and an opponent. A motion to  
14 reconsider the vote on passage of the afford-  
15 ability authority bill shall not be in order.

16 (3) CONSIDERATION IN THE SENATE.—

17 (A) PLACEMENT ON THE CALENDAR.—  
18 Upon introduction in the Senate, an afford-  
19 ability authority bill shall be immediately placed  
20 on the calendar.

21 (B) FLOOR CONSIDERATION.—Notwith-  
22 standing Rule XXII of the Standing Rules of  
23 the Senate, it is in order, at any time beginning  
24 on the day after the 6th day after the date of  
25 introduction of an affordability authority bill

1 (even if a previous motion to the same effect  
2 has been disagreed to) to move to proceed to  
3 the consideration of the affordability authority  
4 bill and all points of order against consideration  
5 of the affordability authority bill are waived.  
6 The motion to proceed is not debatable. The  
7 motion is not subject to a motion to postpone.  
8 A motion to reconsider the vote by which the  
9 motion is agreed to or disagreed to shall not be  
10 in order. If a motion to proceed to the consider-  
11 ation of the affordability authority bill is agreed  
12 to, the affordability authority bill shall remain  
13 the unfinished business until disposed of.

14 (C) CONSIDERATION.—All points of order  
15 against the affordability authority bill are  
16 waived. Consideration of the affordability au-  
17 thority bill and of all debatable motions and ap-  
18 peals in connection therewith shall be limited to  
19 not more than 10 hours which shall be divided  
20 equally between the majority and minority lead-  
21 ers or their designees. A motion further to limit  
22 debate on the affordability authority bill is in  
23 order, and is not debatable.

24 (D) NO AMENDMENTS.—An amendment to  
25 the affordability authority bill, or a motion to

1           postpone, or a motion to proceed to the consid-  
2           eration of other business, or a motion to com-  
3           mit or recommit the affordability authority bill,  
4           is not in order.

5           (E) VOTE ON PASSAGE.—If the Senate has  
6           voted to proceed to the affordability authority  
7           bill, the vote on passage of the affordability au-  
8           thority bill shall occur immediately following the  
9           conclusion of consideration of the affordability  
10          authority bill, and a single quorum call at the  
11          conclusion of the debate if requested in accord-  
12          ance with the rules of the Senate.

13          (4) AMENDMENT.—The affordability authority  
14          bill shall not be subject to amendment in either the  
15          House of Representatives or the Senate.

16          (5) CONSIDERATION BY THE OTHER HOUSE.—

17           (A) IN GENERAL.—If, before passing the  
18           affordability authority bill, one House receives  
19           from the other an affordability authority bill—

20           (i) the affordability authority bill of  
21           the other House shall not be referred to a  
22           committee; and

23           (ii) the procedure in the receiving  
24           House shall be the same as if no afford-  
25           ability authority bill had been received

1 from the other House except that the vote  
2 on passage shall be on the affordability au-  
3 thority bill of the other House.

4 (B) REVENUE MEASURE.—This subsection  
5 shall not apply to the House of Representatives  
6 if the affordability authority bill received from  
7 the Senate is a revenue measure.

8 (6) COORDINATION WITH ACTION BY OTHER  
9 HOUSE.—

10 (A) TREATMENT OF AFFORDABILITY AU-  
11 THORITY BILL OF OTHER HOUSE.—If the Sen-  
12 ate fails to introduce or consider a affordability  
13 authority bill under this section, the afford-  
14 ability authority bill of the House shall be enti-  
15 tled to expedited floor procedures under this  
16 section.

17 (B) TREATMENT OF COMPANION MEAS-  
18 URES IN THE SENATE.—If following passage of  
19 the affordability authority bill in the Senate,  
20 the Senate then receives the affordability au-  
21 thority bill from the House of Representatives,  
22 the House-passed affordability authority bill  
23 shall not be debatable.

24 (C) VETOES.—If the President vetoes the  
25 affordability authority bill, debate on a veto

1 message in the Senate under this section shall  
2 be 1 hour equally divided between the majority  
3 and minority leaders or their designees.

4 (7) RULES OF THE HOUSE OF REPRESENTA-  
5 TIVES AND SENATE.—This subsection is enacted by  
6 Congress—

7 (A) as an exercise of the rulemaking power  
8 of the Senate and the House of Representa-  
9 tives, respectively, and as such it is deemed a  
10 part of the rules of each House, respectively,  
11 but applicable only with respect to the proce-  
12 dure to be followed in that House in the case  
13 of an affordability authority bill, and it super-  
14 sedes other rules only to the extent that it is in-  
15 consistent with such rules; and

16 (B) with full recognition of the constitu-  
17 tional right of either House to change its rules  
18 at any time, in the same manner, and to the  
19 same extent as in the case of any other rule of  
20 that House.

21 (f) INTERAGENCY AGREEMENTS.—The Adminis-  
22 trator may enter into an agreement with another Federal  
23 agency to—

- 24 (1) complete the affordability study; or  
25 (2) prepare the draft affordability framework.

1 (g) CLEAR COMMUNICATIONS.—The Administrator  
2 shall clearly communicate full flood risk determinations to  
3 individual property owners regardless of whether their pre-  
4 mium rates are full actuarial rates.

5 (h) RULE OF CONSTRUCTION.—Nothing in this sec-  
6 tion shall be construed to provide the Administrator with  
7 the authority to provide assistance to homeowners based  
8 on affordability that was not available prior to the enact-  
9 ment of the Biggert-Waters Flood Insurance Reform Act  
10 of 2012 (Public Law 112–141; 126 Stat. 916).

11 **SEC. 4. AFFORDABILITY STUDY AND REPORT.**

12 Notwithstanding the deadline under section  
13 100236(c) of the Biggert-Waters Flood Insurance Reform  
14 Act of 2012 (Public Law 112–141; 126 Stat. 957), not  
15 later than 2 years after the date of enactment of this Act,  
16 the Administrator shall submit to the full Committee on  
17 Banking, Housing, and Urban Affairs and the full Com-  
18 mittee on Appropriations of the Senate and the full Com-  
19 mittee on Financial Services and the full Committee on  
20 Appropriations of the House of Representatives the af-  
21 fordability study and report required under such section.

22 **SEC. 5. AFFORDABILITY STUDY FUNDING.**

23 Section 100236(d) of the Biggert-Waters Flood In-  
24 surance Reform Act of 2012 (Public Law 112–141; 126  
25 Stat. 957) is amended by striking “not more than

1 \$750,000” and inserting “such amounts as may be nec-  
2 essary”.

3 **SEC. 6. FUNDS TO REIMBURSE HOMEOWNERS FOR SUC-**  
4 **CESSFUL MAP APPEALS.**

5 (a) IN GENERAL.—Section 1363(f) of the National  
6 Flood Insurance Act of 1968 (42 U.S.C. 4104(f)) is  
7 amended by striking the second sentence and inserting the  
8 following: “The Administrator may use such amounts  
9 from the National Flood Insurance Fund established  
10 under section 1310 as may be necessary to carry out this  
11 subsection.”.

12 (b) CONFORMING AMENDMENT.—Section 1310(a) of  
13 the National Flood Insurance Act of 1968 (42 U.S.C.  
14 4017(a)) is amended—

15 (1) in paragraph (6), by striking “and” at the  
16 end;

17 (2) in paragraph (7), by striking the period at  
18 the end and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(8) for carrying out section 1363(f).”.

21 **SEC. 7. FLOOD PROTECTION SYSTEMS.**

22 (a) ADEQUATE PROGRESS ON CONSTRUCTION OF  
23 FLOOD PROTECTION SYSTEMS.—Section 1307(e) of the  
24 National Flood Insurance Act of 1968 (42 U.S.C.  
25 4014(e)) is amended—

1           (1) in the first sentence, by inserting “or recon-  
2           struction” after “construction”;

3           (2) by amending the second sentence to read as  
4           follows: “The Administrator shall find that adequate  
5           progress on the construction or reconstruction of a  
6           flood protection system, based on the present value  
7           of the completed flood protection system, has been  
8           made only if (1) 100 percent of the cost of the sys-  
9           tem has been authorized, (2) at least 60 percent of  
10          the cost of the system has been appropriated, (3) at  
11          least 50 percent of the cost of the system has been  
12          expended, and (4) the system is at least 50 percent  
13          completed.”; and

14          (3) by adding at the end the following: “Not-  
15          withstanding any other provision of law, in deter-  
16          mining whether a community has made adequate  
17          progress on the construction, reconstruction, or im-  
18          provement of a flood protection system, the Adminis-  
19          trator shall consider all sources of funding, including  
20          Federal, State, and local funds.”.

21          (b) COMMUNITIES RESTORING DISACCREDITED  
22 FLOOD PROTECTION SYSTEMS.—Section 1307(f) of the  
23 National Flood Insurance Act of 1968 (42 U.S.C.  
24 4014(f)) is amended by amending the first sentence to  
25 read as follows: “Notwithstanding any other provision of

1 law, this subsection shall apply to riverine and coastal lev-  
2 ees that are located in a community which has been deter-  
3 mined by the Administrator of the Federal Emergency  
4 Management Agency to be in the process of restoring flood  
5 protection afforded by a flood protection system that had  
6 been previously accredited on a Flood Insurance Rate Map  
7 as providing 100-year frequency flood protection but no  
8 longer does so, and shall apply without regard to the level  
9 of Federal funding of or participation in the construction,  
10 reconstruction, or improvement of the flood protection sys-  
11 tem.”.

12 **SEC. 8. TREATMENT OF FLOODPROOFED RESIDENTIAL**  
13 **BASEMENTS.**

14 Notwithstanding the Biggert-Waters Flood Insurance  
15 Reform Act of 2012 (Public Law 112–141; 126 Stat.  
16 916), the amendments made by that Act, or any other pro-  
17 vision of law, the Administrator shall rate a covered struc-  
18 ture using the elevation difference between the  
19 floodproofed elevation of the covered structure and the ad-  
20 justed base flood elevation of the covered structure.

21 **SEC. 9. DESIGNATION OF FLOOD INSURANCE ADVOCATE.**

22 (a) IN GENERAL.—The Administrator shall designate  
23 a Flood Insurance Advocate to advocate for the fair treat-  
24 ment of policy holders under the National Flood Insurance  
25 Program and property owners in the mapping of flood

1 hazards, the identification of risks from flood, and the im-  
2 plementation of measures to minimize the risk of flood.

3 (b) DUTIES AND RESPONSIBILITIES.—The duties  
4 and responsibilities of the Flood Insurance Advocate des-  
5 ignated under subsection (a) shall be to—

6 (1) educate property owners and policyholders  
7 under the National Flood Insurance Program on—

8 (A) individual flood risks;

9 (B) flood mitigation;

10 (C) measures to reduce flood insurance  
11 rates through effective mitigation; and

12 (D) the flood insurance rate map review  
13 and amendment process;

14 (2) assist policy holders under the National  
15 Flood Insurance Program and property owners to  
16 understand the procedural requirements related to  
17 appealing preliminary flood insurance rate maps and  
18 implementing measures to mitigate evolving flood  
19 risks;

20 (3) assist in the development of regional capac-  
21 ity to respond to individual constituent concerns  
22 about flood insurance rate map amendments and re-  
23 visions;

24 (4) coordinate outreach and education with  
25 local officials and community leaders in areas im-

1       pacted by proposed flood insurance rate map amend-  
2       ments and revisions; and

3               (5) aid potential policy holders under the Na-  
4       tional Flood Insurance Program in obtaining and  
5       verifying accurate and reliable flood insurance rate  
6       information when purchasing or renewing a flood in-  
7       surance policy.

8       (c) AUTHORIZATION OF APPROPRIATIONS.—There  
9       are authorized to be appropriated for each fiscal year such  
10      sums as may be necessary to carry out the duties and re-  
11      sponsibilities of the Flood Insurance Advocate.

○