

**Calendar No. 266**113<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**S. 1846**

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 SENATE OF THE UNITED STATES**

DECEMBER 17, 2013

Mr. MENENDEZ (for himself, Mr. BEGICH, Mr. BLUMENTHAL, Mr. BOOKER, Mr. CASEY, Mr. COCHRAN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mrs. HAGAN, Ms. HEITKAMP, Mr. HOEVEN, Mr. ISAKSON, Ms. KLOBUCHAR, Ms. LANDRIEU, Mr. MANCHIN, Mr. MARKEY, Mr. MERKLEY, Ms. MURKOWSKI, Mr. NELSON, Mr. REED, Mr. SCHATZ, Mr. SCHUMER, Mr. SCOTT, Mr. VITTER, Ms. WARREN, Mr. WHITEHOUSE, and Mr. WICKER) introduced the following bill; which was read the first time

DECEMBER 18, 2013

Read the second time and placed on the calendar

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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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Homeowner Flood In-  
3 surance Affordability Act of 2013”.

4 **SEC. 2. DEFINITIONS.**

5 As used in this Act, the following definitions shall  
6 apply:

7 (1) **ADJUSTED BASE FLOOD ELEVATION.**—For  
8 purposes of rating a floodproofed covered structure,  
9 the term “adjusted base flood elevation” means the  
10 base flood elevation for a covered structure on the  
11 applicable effective flood insurance rate map, plus 1  
12 foot.

13 (2) **ADMINISTRATOR.**—The term “Adminis-  
14 trator” means the Administrator of the Federal  
15 Emergency Management Agency.

16 (3) **AFFORDABILITY AUTHORITY BILL.**—The  
17 term “affordability authority bill” means a non-  
18 amendable bill that if enacted would only grant the  
19 Administrator the authority necessary to promulgate  
20 regulations in accordance with the criteria set forth  
21 in section 3(d)(2).

22 (4) **AFFORDABILITY STUDY.**—The term “af-  
23 fordability study” means the study required under  
24 section 100236 of the Biggert-Waters Flood Insur-  
25 ance Reform Act of 2012 (Public Law 112–141; 126  
26 Stat. 957).

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

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

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

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

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

1           (8) FLOODPROOFED ELEVATION.—The term  
 2           “floodproofed elevation” means the height of  
 3           floodproofing on a covered structure, as identified on  
 4           the Residential Basement Floodproofing Certificate  
 5           for the covered structure.

6           (9) NATIONAL FLOOD INSURANCE PROGRAM.—  
 7           The term “National Flood Insurance Program”  
 8           means the program established under the National  
 9           Flood Insurance Act of 1968 (42 U.S.C. 4001 et  
 10          seq.).

11 **SEC. 3. DELAYED IMPLEMENTATION OF FLOOD INSURANCE**  
 12                               **RATE INCREASES; DRAFT AFFORDABILITY**  
 13                               **FRAMEWORK.**

14          (a) DELAYED IMPLEMENTATION OF FLOOD INSUR-  
 15          ANCE RATE INCREASES.—

16           (1) GRANDFATHERED PROPERTIES.—Beginning  
 17           on the date of enactment of this Act, the Adminis-  
 18           trator may not implement section 1308(h) of the  
 19           National Flood Insurance Act of 1968 (42 U.S.C.  
 20           4015(h)).

21           (2) PRE-FIRM PROPERTIES.—Beginning on the  
 22           date of enactment of this Act, the Administrator  
 23           may not implement—

1 (A) section 1307(g)(1) of the National  
2 Flood Insurance Act of 1968 (42 U.S.C.  
3 4014(g)(1)); or

4 (B) section 1307(g)(3) of the National  
5 Flood Insurance Act of 1968 (42 U.S.C.  
6 4014(g)(3)) with respect to any policy described  
7 in that section, provided that the decision of the  
8 policy holder to permit a lapse in flood insur-  
9 ance coverage was as a result of the property  
10 covered by the policy no longer being required  
11 to retain such coverage.

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

15 (A) the date on which the Administrator  
16 proposes the draft affordability framework;

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

22 (C) the date on which the Administrator  
23 certifies in writing to Congress that the Federal  
24 Emergency Management Agency has imple-  
25 mented a flood mapping approach that, when

1 applied, results in technically credible flood haz-  
2 ard data in all areas where Flood Insurance  
3 Rate Maps are prepared or updated.

4 (b) PROPERTY SALE TRIGGER.—

5 (1) IN GENERAL.—Section 1307(g)(2) of the  
6 National Flood Insurance Act of 1968 (42 U.S.C.  
7 4014(g)(2)) is amended to read as follows:

8 “(2) any property purchased after the expira-  
9 tion of the 6-month period set forth under section  
10 3(a)(3) of the Homeowner Flood Insurance Afford-  
11 ability Act of 2013;”.

12 (2) PROTECTION OF SUBSIDY FOR PROPERTIES  
13 PURCHASED ON OR BEFORE EXPIRATION DATE.—  
14 Notwithstanding paragraph (1) or (3) of section  
15 1307(g) of the National Flood Insurance Act of  
16 1968 (42 U.S.C. 4014(g)(1) and (3)), the Adminis-  
17 trator may not reduce the risk premium rate subsidy  
18 for flood insurance for a property purchased on or  
19 before the expiration of the 6-month period set forth  
20 under subsection (a)(3) of this section based on the  
21 fact that—

22 (A) the property was not insured by the  
23 flood insurance program as of the date of en-  
24 actment of the Biggert-Waters Flood Insurance

1 Reform Act of 2012 (Public Law 112–141; 126  
2 Stat. 916); or

3 (B) on or before the expiration of that 6-  
4 month period, the policy for the property had  
5 lapsed in coverage as a result of the deliberate  
6 choice of the policy holder, provided that the  
7 decision of the policy holder to permit a lapse  
8 in coverage was as a result of the property no  
9 longer being required to retain such coverage.

10 (c) TREATMENT OF PRE-FIRM PROPERTIES.—Be-  
11 ginning on the date of enactment of this Act and ending  
12 upon the expiration of the 6-month period set forth under  
13 subsection (a)(3), the Administrator shall restore the risk  
14 premium rate subsidies for flood insurance estimated  
15 under section 1307(a)(2) of the National Flood Insurance  
16 Act of 1968 (42 U.S.C. 4014(a)(2)) for any property—

17 (1) with respect to which the Administrator  
18 may not, under subsection (a)(2)(A) of this section,  
19 implement section 1307(g)(1) of the National Flood  
20 Insurance Act of 1968;

21 (2) with respect to which the Administrator  
22 may not, under subsection (a)(2)(B) of this section,  
23 implement section 1307(g)(3) of the National Flood  
24 Insurance Act of 1968; or

1           (3) described in section 1307(g)(2) of the Na-  
2           tional Flood Insurance Act of 1968 (42 U.S.C.  
3           4014(g)(2)), as amended by this section.

4           (d) DRAFT AFFORDABILITY FRAMEWORK.—

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

12          (2) CRITERIA.—In carrying out the require-  
13          ments under paragraph (1), the Administrator shall  
14          consider the following criteria:

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

17                (B) Targeted assistance to flood insurance  
18                policy holders based on their financial ability to  
19                continue to participate in the National Flood  
20                Insurance Program.

21                (C) Individual or community actions to  
22                mitigate the risk of flood or lower the cost of  
23                flood insurance.



1           (D) The impact of increases in risk pre-  
2           mium rates on participation in the National  
3           Flood Insurance Program.

4           (E) The impact flood insurance rate map  
5           updates have on the affordability of flood insur-  
6           ance.

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

16          (e) CONGRESSIONAL CONSIDERATION OF FEMA AF-  
17          FORDABILITY AUTHORITIES.—

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

22           (2) CONSIDERATION IN THE HOUSE OF REP-  
23           RESENTATIVES.—

24           (A) PROCEEDING TO CONSIDERATION.—It  
25           shall be in order to move to proceed to consider

1 the affordability authority bill in the House. All  
2 points of order against the motion are waived.  
3 Such a motion shall not be in order after the  
4 House has disposed of a motion to proceed with  
5 respect to the affordability authority bill. The  
6 previous question shall be considered as ordered  
7 on the motion to its adoption without inter-  
8 vening motion. The motion shall not be debat-  
9 able. A motion to reconsider the vote by which  
10 the motion is disposed of shall not be in order.

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

22 (3) CONSIDERATION IN THE SENATE.—

23 (A) PLACEMENT ON THE CALENDAR.—  
24 Upon introduction in the Senate, an afford-

1           ability authority bill shall be immediately placed  
2           on the calendar.

3           (B) FLOOR CONSIDERATION.—Notwith-  
4           standing Rule XXII of the Standing Rules of  
5           the Senate, it is in order, at any time beginning  
6           on the day after the 6th day after the date of  
7           introduction of an affordability authority bill  
8           (even if a previous motion to the same effect  
9           has been disagreed to) to move to proceed to  
10          the consideration of the affordability authority  
11          bill and all points of order against consideration  
12          of the affordability authority bill are waived.  
13          The motion to proceed is not debatable. The  
14          motion is not subject to a motion to postpone.  
15          A motion to reconsider the vote by which the  
16          motion is agreed to or disagreed to shall not be  
17          in order. If a motion to proceed to the consider-  
18          ation of the affordability authority bill is agreed  
19          to, the affordability authority bill shall remain  
20          the unfinished business until disposed of.

21          (C) CONSIDERATION.—All points of order  
22          against the affordability authority bill are  
23          waived. Consideration of the affordability au-  
24          thority bill and of all debatable motions and ap-  
25          peals in connection therewith shall be limited to

1 not more than 10 hours which shall be divided  
2 equally between the majority and minority lead-  
3 ers or their designees. A motion further to limit  
4 debate on the affordability authority bill is in  
5 order, and is not debatable.

6 (D) NO AMENDMENTS.—An amendment to  
7 the affordability authority bill, or a motion to  
8 postpone, or a motion to proceed to the consid-  
9 eration of other business, or a motion to com-  
10 mit or recommit the affordability authority bill,  
11 is not in order.

12 (E) VOTE ON PASSAGE.—If the Senate has  
13 voted to proceed to the affordability authority  
14 bill, the vote on passage of the affordability au-  
15 thority bill shall occur immediately following the  
16 conclusion of consideration of the affordability  
17 authority bill, and a single quorum call at the  
18 conclusion of the debate if requested in accord-  
19 ance with the rules of the Senate.

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

23 (5) CONSIDERATION BY THE OTHER HOUSE.—

1 (A) IN GENERAL.—If, before passing the  
2 affordability authority bill, one House receives  
3 from the other an affordability authority bill—

4 (i) the affordability authority bill of  
5 the other House shall not be referred to a  
6 committee; and

7 (ii) the procedure in the receiving  
8 House shall be the same as if no afford-  
9 ability authority bill had been received  
10 from the other House except that the vote  
11 on passage shall be on the affordability au-  
12 thority bill of the other House.

13 (B) REVENUE MEASURE.—This subsection  
14 shall not apply to the House of Representatives  
15 if the affordability authority bill received from  
16 the Senate is a revenue measure.

17 (6) COORDINATION WITH ACTION BY OTHER  
18 HOUSE.—

19 (A) TREATMENT OF AFFORDABILITY AU-  
20 THORITY BILL OF OTHER HOUSE.—If the Sen-  
21 ate fails to introduce or consider a affordability  
22 authority bill under this section, the afford-  
23 ability authority bill of the House shall be enti-  
24 tled to expedited floor procedures under this  
25 section.

1 (B) TREATMENT OF COMPANION MEAS-  
2 URES IN THE SENATE.—If following passage of  
3 the affordability authority bill in the Senate,  
4 the Senate then receives the affordability au-  
5 thority bill from the House of Representatives,  
6 the House-passed affordability authority bill  
7 shall not be debatable.

8 (C) VETOES.—If the President vetoes the  
9 affordability authority bill, debate on a veto  
10 message in the Senate under this section shall  
11 be 1 hour equally divided between the majority  
12 and minority leaders or their designees.

13 (7) RULES OF THE HOUSE OF REPRESENTA-  
14 TIVES AND SENATE.—This subsection is enacted by  
15 Congress—

16 (A) as an exercise of the rulemaking power  
17 of the Senate and the House of Representa-  
18 tives, respectively, and as such it is deemed a  
19 part of the rules of each House, respectively,  
20 but applicable only with respect to the proce-  
21 dure to be followed in that House in the case  
22 of an affordability authority bill, and it super-  
23 sedes other rules only to the extent that it is in-  
24 consistent with such rules; and

1 (B) with full recognition of the constitu-  
2 tional right of either House to change its rules  
3 at any time, in the same manner, and to the  
4 same extent as in the case of any other rule of  
5 that House.

6 (f) INTERAGENCY AGREEMENTS.—The Adminis-  
7 trator may enter into an agreement with another Federal  
8 agency to—

- 9 (1) complete the affordability study; or
- 10 (2) prepare the draft affordability framework.

11 (g) CLEAR COMMUNICATIONS.—The Administrator  
12 shall clearly communicate full flood risk determinations to  
13 individual property owners regardless of whether their pre-  
14 mium rates are full actuarial rates.

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

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

22 Notwithstanding the deadline under section  
23 100236(c) of the Biggert-Waters Flood Insurance Reform  
24 Act of 2012 (Public Law 112–141; 126 Stat. 957), not  
25 later than 2 years after the date of enactment of this Act,

1 the Administrator shall submit to the full Committee on  
2 Banking, Housing, and Urban Affairs and the full Com-  
3 mittee on Appropriations of the Senate and the full Com-  
4 mittee on Financial Services and the full Committee on  
5 Appropriations of the House of Representatives the af-  
6 fordability study and report required under such section.

7 **SEC. 5. AFFORDABILITY STUDY FUNDING.**

8 Section 100236(d) of the Biggert-Waters Flood In-  
9 surance Reform Act of 2012 (Public Law 112–141; 126  
10 Stat. 957) is amended by striking “not more than  
11 \$750,000” and inserting “such amounts as may be nec-  
12 essary”.

13 **SEC. 6. FUNDS TO REIMBURSE HOMEOWNERS FOR SUC-**  
14 **CESSFUL MAP APPEALS.**

15 (a) IN GENERAL.—Section 1363(f) of the National  
16 Flood Insurance Act of 1968 (42 U.S.C. 4104(f)) is  
17 amended by striking the second sentence and inserting the  
18 following: “The Administrator may use such amounts  
19 from the National Flood Insurance Fund established  
20 under section 1310 as may be necessary to carry out this  
21 subsection.”.

22 (b) CONFORMING AMENDMENT.—Section 1310(a) of  
23 the National Flood Insurance Act of 1968 (42 U.S.C.  
24 4017(a)) is amended—



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

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

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

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

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

8           (a) ADEQUATE PROGRESS ON CONSTRUCTION OF  
9   FLOOD PROTECTION SYSTEMS.—Section 1307(e) of the  
10 National Flood Insurance Act of 1968 (42 U.S.C.  
11 4014(e)) is amended—

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

14           (2) by striking the second sentence and insert-  
15           ing the following: “The Administrator shall find that  
16           adequate progress on the construction or reconstruc-  
17           tion of a flood protection system, based on the  
18           present value of the completed flood protection sys-  
19           tem, has been made only if (1) 100 percent of the  
20           cost of the system has been authorized, (2) at least  
21           60 percent of the cost of the system has been appro-  
22           priated, (3) at least 50 percent of the cost of the  
23           system has been expended, and (4) the system is at  
24           least 50 percent completed.”; and

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

8           (b) COMMUNITIES RESTORING DISACCREDITED  
9 FLOOD PROTECTION SYSTEMS.—Section 1307(f) of the  
10 National Flood Insurance Act of 1968 (42 U.S.C.  
11 4014(f)) is amended by striking the first sentence and in-  
12 serting the following: “Notwithstanding any other provi-  
13 sion of law, this subsection shall apply to riverine and  
14 coastal levees that are located in a community which has  
15 been determined by the Administrator of the Federal  
16 Emergency Management Agency to be in the process of  
17 restoring flood protection afforded by a flood protection  
18 system that had been previously accredited on a Flood In-  
19 surance Rate Map as providing 100-year frequency flood  
20 protection but no longer does so, and shall apply without  
21 regard to the level of Federal funding of or participation  
22 in the construction, reconstruction, or improvement of the  
23 flood protection system.”.

1 **SEC. 8. TREATMENT OF FLOODPROOFED RESIDENTIAL**  
2 **BASEMENTS.**

3 In implementing section 1308(h) of the National  
4 Flood Insurance Act of 1968 (42 U.S.C. 4015(h)), the Ad-  
5 ministrator shall rate a covered structure using the ele-  
6 vation difference between the floodproofed elevation of the  
7 covered structure and the adjusted base flood elevation of  
8 the covered structure.

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

10 (a) IN GENERAL.—The Administrator shall designate  
11 a Flood Insurance Advocate to advocate for the fair treat-  
12 ment of policy holders under the National Flood Insurance  
13 Program and property owners in the mapping of flood  
14 hazards, the identification of risks from flood, and the im-  
15 plementation of measures to minimize the risk of flood.

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

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

21 (A) individual flood risks;

22 (B) flood mitigation;

23 (C) measures to reduce flood insurance  
24 rates through effective mitigation; and

25 (D) the flood insurance rate map review  
26 and amendment process;

1           (2) assist policy holders under the National  
2 Flood Insurance Program and property owners to  
3 understand the procedural requirements related to  
4 appealing preliminary flood insurance rate maps and  
5 implementing measures to mitigate evolving flood  
6 risks;

7           (3) assist in the development of regional capac-  
8 ity to respond to individual constituent concerns  
9 about flood insurance rate map amendments and re-  
10 visions;

11           (4) coordinate outreach and education with  
12 local officials and community leaders in areas im-  
13 pacted by proposed flood insurance rate map amend-  
14 ments and revisions; and

15           (5) aid potential policy holders under the Na-  
16 tional Flood Insurance Program in obtaining and  
17 verifying accurate and reliable flood insurance rate  
18 information when purchasing or renewing a flood in-  
19 surance policy.

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



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