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Hearing on

"No More Hikes: Small Business Survival Amidst Unaffordable Flood Insurance Rate Increases"

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Introduction

Chairman Vitter, Ranking Member Shaheen and Members of the Committee, thank you for the opportunity to testify today. My name is Kevin Robles, and I am a home builder and a small business owner from Tampa Bay, Florida.

I am also a Past President of the Tampa Bay Builders Association (TBBA), and a member of the National Association of Home Builders (NAHB). NAHB represents over 140,000 members who are involved in building single-family and multifamily housing, remodeling, and other aspects of residential and light commercial construction. Collectively, NAHB's members employ more than 1.26 million people and construct approximately 80 percent of all new housing in America each year.

Most of NAHB's builder members are small business owners constructing 10 or fewer homes annually, and typically have less than 12 direct employees. They know first-hand how flood insurance rate increases directly affect home owners, small businesses and communities.

NAHB has a long history of supporting the National Flood Insurance Program (NFIP), and we were strong advocates for enactment of the *Biggert-Waters Flood Insurance Reform Act of 2012* (BW-12).

Unfortunately, the BW-12 reauthorization resulted in dramatic rate increases which had a major negative impact on home sales. Congressional leadership, such as those here today, helped reform the program through the passage of the *Homeowner Flood Insurance Affordability Act of 2014* (HFIAA).

Although this law addressed many of the problems created by BW-12, affordability concerns and inaccuracies in the Flood Insurance Rate Maps (FIRMs) continue to create uncertainty for home buyers, home owners and small businesses.

Background

Since 1968, Congress has recognized the need to make affordable flood insurance available to home owners and small businesses. The NFIP provides flood insurance to more than 5.2 million policy holders in 22,000 participating communities nationwide. In Florida, we are particularly focused on the NFIP as 1.7 million policies come out of our state, which represents nearly 40% of all NFIP policies.

A strong partnership between FEMA and local governments require communities participating in the NFIP to adopt and enforce strict minimum building standards to ensure that all new construction in Special Flood Hazard Areas (SFHA) mapped by FEMA is designed and built in a flood-resilient manner. The partnership between FEMA and state and local governments under NFIP depends upon the availability of comprehensive, up-to-date FIRMs and a fiscally solvent federal program that allows local communities to direct development where it best suits their needs.

The home building industry depends upon the NFIP to be annually predictable, universally available, and fiscally viable. Since 1994, federal law has required a home buyer, purchasing a new or existing home with a mortgage from a lender backed by the federal government, to have flood insurance if the property is located within a SFHA.

Because of this direct link between mortgage financing and the NFIP, it is critical that a strong, viable flood insurance program exists to ensure home builders can continue to provide safe and affordable housing to consumers.

NAHB supports reforms of the NFIP to ensure its financial stability, but it is critical that Congress approaches this reauthorization with care. The NFIP is not simply about flood insurance premiums and payouts it is a comprehensive program that guides future development and mitigates against future loss. While a financially stable NFIP is in everyone's interests, the steps that Congress takes to ensure financial stability have the potential to greatly impact housing affordability and the ability of local communities to exercise control over their growth and development options.

Rate Increases

In 2012, Congress worked to ensure the fiscal soundness of the NFIP through the passage of the *Biggert-Waters Flood Insurance Reform Act of 2012* (BW-12). This law mandates that all policyholders eventually pay the full actuarial risk rate for their properties.

While most properties insured by the NFIP, including all new residential construction, already pay full-risk rates, just over 20% of existing NFIP policyholders receive subsidized rates that are generally between 40 and 45% of the full actuarial premium. Most of these subsidized structures are Pre-Flood Insurance Rate Maps (Pre-FIRM); that is, a property built before 1974 when the first FIRMs were established.

Prior to BW-12, FEMA continued to allow policyholders to pay less than the full actuarial rate if their home was built to meet previous flood risks, even if a more recent flood map placed them in a higher-risk zone. Here in Florida, a significant portion of the housing stock enrolled in the NFIP is "grandfathered" under this provision. Shortly after BW-12 was enacted, home owners and home builders started to see the unintended consequences of the legislation, especially on grandfathered or pre-FIRM properties.

First, any property that was sold was immediately subject to a full-risk rate, with the premium increasing by 25% each year until it reached the full actuarial rate. The potential buyer would get an unwelcome surprise at settlement, one that could even prevent the sale if the rate increase was high enough to affect the buyer's ability to qualify for financing. Additionally, pre-FIRM and grandfathered properties were subject to a similar phase-in to the full-risk rate over five years, with premiums increasing by 20% annually.

Remodelers were also experiencing problems with changes enacted through BW-12. Once renovations on insured pre-FIRM properties exceeded a "substantial improvement" threshold, full-rate premiums would be triggered.

Traditionally the substantial improvement threshold of a renovation was 50% or more of the market value of the structure, and was based on a wide range of factors including zoning and building code standards. BW-12 lowered the threshold to 30%. Instead of applying only to substantial improvements, the new threshold applied to very simple remodeling jobs such as installing new appliances or updating bathrooms or kitchens.

Once the 30% threshold was met, home owners were required to pay an increase of 25% of the full-risk rate per year. They were also required to bring their property into compliance with their communities' current regulations, which could be extremely expensive.

Some builders saw rates increase as much as tenfold over what the home owners were previously paying. For example, in 2011, a couple in Pennsylvania bought a future retirement home as an investment. When they learned about the changes in BW-12, the owners sought an elevation certificate. They learned that the full-risk rate of the home had increased from $3,300 annually to over $59,000 a year. Even with the phase-in of rates, this sharp increase made the home unaffordable, and instead of an investment property the couple found themselves financially underwater.

NAHB believes a financially stable NFIP is in the nation's best interest. But we were alarmed by the impact these extreme rate increases had on the housing industry and the overall economy. The immediate adjustment of flood insurance premium rates to actuarial rates at the time of purchase deterred prospective home buyers from purchasing pre-FIRM properties.

Additionally, because the NFIP's mandatory purchase requirement stipulates that properties with federally-backed mortgages located within the SFHAs must be covered by flood insurance, NAHB is concerned that any new drastic increase in rates, like during BW-12, would prevent prospective home buyers from qualifying for a mortgage under normal mortgage underwriting standards.

Using NAHB's Household Priced-Out Model, we estimate that if rates increase, like they did during BW-12, nearly two million households could be priced out of the market because they would no longer be able to qualify for a traditional residential mortgage.

During the time of BW-12 over 17 million Americans live in the 100-year SFHA. According to the U.S. Department of Housing and Urban Development (HUD), over 40% of those households were categorized as being Low- to Median-Income (LMI). Rate increases would have the most direct impact on low-income home owners who could be stuck paying premiums they cannot afford, while trying to sell a property that others have difficulty qualifying to purchase. It's a lose-lose situation, especially considering today's tight credit conditions, which are already preventing many prospective home buyers from qualifying for a mortgage.

About a quarter of my consumers are active or retired military, and this situation particularly hit home when I heard about members of the military unable to afford to purchase their dream home, or stuck with an unaffordable home they couldn't sell because of flood insurance rate increases.

This also has a direct impact on NAHB's small business owners. Although the brunt of the effects of increased rates are experienced by those who own or purchase older properties, the trickle-down effects prevent "move-up buyers" from purchasing newly constructed homes that are more resilient and built to higher building standards. If those "move-up buyers" are unable to sell their current properties, there are fewer potential buyers for the homes that builders construct, which in turn puts their businesses in jeopardy.

Legislative Fixes

Fortunately, Congress, specifically the leadership here today, acted quickly to address the many unintended consequences of BW-12 by enacting *The Homeowner Flood Insurance Affordability Act of 2014* (HFIAA). This reform bill provided major relief for many of the strains BW-12 placed on the housing industry.

HFIAA reinstated the title of grandfathered properties, and the sale of pre-FIRM properties no longer triggered an immediate increase to full-risk rates. HFIAA also gave home owners a break by providing refunds to eligible pre-FIRM property owners whose NFIP insurance rate premiums had already increased.

Thanks to Congressional leadership, FEMA is now required to notify communities and their congressional delegations before updating FIRM maps under HFIAA. This is very important for owners of pre-FIRM properties who are selling their homes. Now they will be informed if they have been remapped into a new floodplain and will be able to inform the home buyer of any additional NFIP requirements.

Under HFIAA, Congress also created the Flood Insurance Advocate, an office within FEMA responsible for ensuring that NFIP policyholders and property owners understand FEMA's process for appealing a preliminary FIRM maps.

Under BW-12, policyholders and communities had to use their own personal funds to challenge FIRM maps. If the FIRM maps were proven to be erroneous, the policyholder or community would not be refunded the full expense of challenging the FIRM map. Therefore, many FIRM maps went unchallenged. Under HFIAA, FEMA is required to fully reimburse policyholders, or communities by removing a prior reimbursement cap of $250,000 under BW-12 for successful challenges of erroneous FIRM maps.

To preserve grandfathered properties under the NFIP, Congress mandated a surcharge across all NFIP policies to offset the cost of continuing to subsidize their premium rates. Although the surcharge increases rates slightly, it is intended to bring the NFIP to a point of solvency while pre-FIRM rates gradually come to full-actuarial rates.

NAHB has estimated that in 2014 HFIAA resulted in:

- $755 million more in new constriction (from existing home owners who wouldn't lose value when they sell, and therefore will have more to spend on their next homes, a share of which will be new), plus
- $361 million a year in additional remodeling (from eliminating the extra cost of increased insurance some home owners have been required to pay on certain remodeling jobs)

Additionally, HFIAA increased the "substantial improvement" threshold to its traditional amount of 50% or more of the market value of a structure. If it were not for HFIAA, NAHB estimates that the move from 50% to the 30% threshold in BW-12 would have placed up to $8.5 billion in annual remodeling activity at risk because it would have deterred property owners from making necessary and appropriate renovations for fear of triggering the NFIP's requirement to elevate the entire structure to current flood elevation standards. This change will help existing home owners stay in their homes and make necessary repairs and upgrades without fear of triggering unreasonable and costly elevation requirements.

Mapping Challenges Moving Forward

It is equally important to discuss the accuracy of FIRMs. For flood maps to be fair and accurate, they have to take into account all flood control efforts, like levees and dams. In many cases, FEMA has neglected to factor in privately funded flood control structures, or any flood control structures that were not built by the U.S. Army Corps of Engineers. Consequently, many properties are being mapped into higher rate-zones unnecessarily, which results in home owners being forced to purchase unneeded flood insurance or pay higher than necessary premiums because their homes have been inaccurately mapped as being below the Base Flood Elevation (BFE).

FEMA has a long history of inaccurate flood mapping. There have been reported cases of FEMA drawing in rivers or streams where none exist or mistakenly using data from one community for another. Inaccurate mapping has resulted in homes unnecessarily being drawn into flood maps or placed into higher rate zones. It typically takes years for those mistakes to be fixed, often requiring a lengthy and costly appeals process for the community and home owner, and forcing the owner to pay escalated premiums until the problem is resolved.

Through the strong leadership of both chambers, FEMA has been directed to implement a number of mapping initiatives. During the map modernization effort, FEMA was able to digitize, update, and modernize many of the nation’s aging flood maps. While FEMA was successful in digitizing most of the FIRMs, not all were based on updated hydrologic data. As a result, a National Academy of Sciences report faulted some of the maps because of a lack of reliable topographical data. Because of these data deficiencies, there are large discrepancies between the 100-year floodplain areas mapped decades ago, the areas shown within the 100-year floodplain on the newer maps and the actual 100-year floodplain today.

While FEMA is currently addressing this oversight through its RISKMAP program, continued congressional oversight is necessary. Most recently, BW-12 established the Technical Mapping Advisory Council (TMAC), a federal advisory committee that is charged with evaluating and developing recommendations for updating the mapping process. The council is expected to issue its report by the end of 2016.

Additionally, the NFIP must continue to allow state and local governments, not the federal government, to shape local land use policies and make decisions on how private property may be used. While officials at all levels of government must work together so that lives, homes, schools, businesses and public infrastructure are protected from the damages and costs incurred by flooding, the local communities must provide the first line of defense in terms of land use policies and practices.

If a local government deems an area fit for residential building, flood insurance and mitigation standards allow homebuyers and home owners the opportunity to live in a home of their choice in a location of their choice, even when the home lies in or near a floodplain.

Furthermore, a common misconception when discussing NFIP and mapping involves construction of new homes in floodplains. NFIP provisions require that all new construction and substantial improvements of residential structures within a SFHA on the community’s FIRM must have the lowest floor (including the basement) elevated to or above the BFE level. Additionally, new construction does not affect the solvency of the NFIP because home owners of newly constructed units are required to pay full-actuarial rates and do not receive a subsidy. In many commonly flooded areas, such as Florida, NAHB has been told that new construction built to the latest flood ordinance and building standards routinely outperforms the older existing housing stock during storm events. There is also an opportunity for home builders or landowners to elevate plots of land out of the floodplain.

Letter of Map Change Appeals Process

Landowners and local governments can file letters requesting map changes (LOMC) on a case-by-case basis as they relate to particular projects. However, this process can be both costly and time consuming. There are six different types of FEMA recognized LOMCs that can be further divided into two broad categories.

The first category is conditional letters of map amendment or revision (i.e., CLOMA, CLOMR, and CLOMR-F). These are statements from FEMA on whether or not a project, as designed, would either be located outside a SFHA or result in modifying a floodplain as depicted on an existing FIRM. The important factor here is conditional letters represent FEMA's opinion on projects not yet constructed. Once these structures or actions have actually been completed, FEMA still needs to take a separate administrative action to revise the map.

The second category is letters of map amendment or revision (i.e., LOMA, LOMR, and LOMR-F) that represent FEMA's acknowledgment of structures already built that require revisions to an existing FIRM. These LOMCs are corrections to an existing FIRM, and become part of the public record for that map. Subsequently, whenever FEMA decides to update or replace the existing FIRM, these LOMCs are to be incorporated into the new FIRM for the particular area.

I engaged in the LOMR process, and it took nearly $6,000 for every 8 inches of elevation, not including the survey work and the time and cost to go through the actual LOMR application process. For example, some of our members have said it has taken over 8 months and a quarter of a million dollars for FEMA to approve the map change. For a small business owner, it is nearly impossible to afford to compete for development in those areas, and many builders avoid them completely. However, in states like Florida, with large areas of FIRMs, it is extremely difficult to avoid building in or near a floodplain. Additionally, in states with short construction seasons, going through the lengthy LOMC process could create devastating costs and delays.

Despite best efforts and ambitious plans to update the nation's 92,222 FIRMS, many outdated and inaccurate maps remain in place. Efforts to update these maps must be carefully designed and implemented to account for the very real impacts they can have on communities and small business owners.

Conclusion

I would like to thank the Chairman and the Committee for the opportunity to testify today. The increasing cost of NFIP rates, and the lack of affordability and consistency in mapping, can have long-term problematic effects. We need to ensure that this reauthorization is done thoughtfully to prevent the affordability concerns we have seen in the past. NAHB looks forward to working with the Committee to ensure home owners and small businesses are protected.