

**Reauthorization of the National Flood Insurance Program:
Protecting Communities from Flood Risk
Senate Committee on Banking, Housing, and Urban Affairs
June 16, 2022**

Opening Statements

Chairman Brown (D-OH) remarked that this hearing is a continuation of the discussion to reauthorize the NFIP. He talked about the recent flooding this week in Yellowstone National Park and said that flooding wrecks peoples' homes and small businesses. Brown continued that we need to make our families more resilient to future flooding and believed that the NFIP is critical. He said that the NFIP is more than flood insurance but helps prevent flooding as well through mitigation and flood mapping. He emphasized the need to permanently reauthorize the NFIP and explained that while there is money for flooding in the bipartisan infrastructure bill, it is not enough. Brown stated that there have been 21 short-term authorizations and believed it was possible to come to better solutions to the NFIP.

Ranking Member Toomey (R-PA) was encouraged by Brown's sentiment to work together to get a long-term plan in place and said that the NFIP is a heavily subsidized, broken program. Today, he said that the NFIP is \$20.5 billion in debt to the Treasury and questioned how we ended up in this situation. Toomey answered his question saying that the insurance has been cheaper than it needs to be and believed that Risk Rating 2.0 (RR 2.0) would be fairer. He reiterated his priorities for reauthorization including private reinsurance, protecting the transition to actuarially sound premiums, better targeted and means-tested subsidies, improving communication with homeowners and buyers, and prohibiting new construction in flood areas. Toomey recognized that the problems cannot be fixed overnight but that we should use reauthorization to fix some of the problems with the NFIP.

Witness Testimony

Ms. Jana N. Henderson, CFM, Office Of Mitigation Director/ State Hazard Mitigation Officer, Mississippi Emergency Management Agency, discussed several mitigation efforts that she works on in Mississippi including the NFIP. She said that local communities often lack the ability to fully implement the NFIP and are only able to enforce the basic NFIP standards. Henderson explained that local floodplain officials are elected each year which makes the program hard to enforce with so much change and added that it is impossible to reach every neighborhood in a timely manner. She discussed the lack of local capability due to how rural Mississippi is and added that rural and low-income communities continue to be underserved due to lack of resources. Henderson said it would be helpful to expand the CAP program and authorize this in the statute. She continued that what is required for flood insurance is not always aligned with floodplain management. Henderson stated that the reauthorization of the NFIP will allow the states to effectively help communities manage and mitigate their flood risk.

Dr. Peter Van Doren, *Senior Fellow, The Cato Institute*, dove into the history of NFIP and pointed to how public aid crowds out private relief and dampens incentives for private insurance and damage prevention which is why policymakers face the ‘Samaritan’s dilemma.’ He thought that NFIP is likely the best policy response that is politically attainable, but they need to return to the original intention that the NFIP charge unsubsidized, actuarially fair rates for covered structures. Van Doren noted that federal flood insurance arose as a policy device with two purposes: to reduce the use of post disaster congressional appropriations for disaster relief and to impose the cost of rebuilding on the owners through premiums. He thought Congress should recommit to those goals.

Mr. Jerry Theodorou, *Director, Finance, Insurance And Trade Policy Program*

R Street Institute, explained that R Street believes that a long-term reauthorization, instead of the current short-term sunsets, would afford Congress the opportunity to conduct a thorough review of the performance of the program and introduce much-needed reforms. He explained the objectives that created the NFIP and how these objectives have not been met. Theodorou discussed the development of a private insurance market saying that the private flood insurance market is dwarfed due to the NFIP and explained how private insurers are unable to compete with the NFIP. He believed that the private market can be encouraged by NFIP pricing if NFIP rates were risk-based. Theodorou said that FEMA subsidies should be replaced with means testing and turned to RR 2.0 saying that it equips the NFIP with sharper tools by incorporating more flood risk variables. He discussed properties with numerous losses saying that these homes have cost the NFIP \$12 billion. Theodorou stated that Congress must reauthorize the NFIP long-term by September 30.

Mr. Douglas E. Quinn, *Executive Director, American Policyholder Association*, explained that the APA is a nonprofit watchdog group that tracks and reports criminal fraud perpetrated by insurance companies as well as the engineers and third-party administrators they hire. He pointed to how he was a victim of fraud in the aftermath of Hurricane Sandy and advocated for Senator Menendez’s bipartisan NFIP Re Act because flood victims need a resilient flood insurance program that contains integrity and affordability. Quinn explained how NFIP Re provides cost savings by eliminating the fraud, waste, and abuse and noted the challenges of rising rates associated with RR 2.0. He also emphasized the importance of mitigation which is another essential element addressed in the NFIP Re Act.

Professor Sam Brody, *PhD, Texas A&M University, Director of the Institute for Disaster*

Resilient Texas, focused his comments today the broader role the NFIP can play towards more effectively reducing flood losses in the US. First, he noted the growing impact of flooding over the years and explained that NFIP focuses on economic recovery post-flood events more so than proactive mitigation to reduce the risk in the first place which continually restrains the federal fiscal coffers. Brody advocated for a more proactive and protective approach to flood risk

reduction by expanding FEMA's Community Rating System (CRS) which is a program that was established to focus on mitigation. He then dived into why CRS is so effective at reducing losses and noted that this program could meet this challenge without additional legislation, mandates, or regulatory requirements at the federal level.

Member Questions

Chairman Brown (D-OH) stated that lower income homeowners often have less resources and asked Henderson to talk about barriers lower income homeowners face. Henderson replied that the cost share seems to be a hindrance sometimes to the grants available. She continued that homeowners can participate in these programs to get out of a bad situation and named Swift Current as having 100% cost share. Henderson added that if lower income families participate in these programs, they have nothing after saying that their homes do not qualify so families are staying in their homes without any protection. Brown turned to Brody on environmental conditions and asked how we educate communities about CRS. Brody replied that CRS has several initiatives to tell the story of risk through better web face programs and better disclosure of flood risk. He emphasized that this awareness of risk was critical for homebuyers. Brown asked Brody about his recommendations for FEMA's mapping efforts to inform homeowners about the risk of flooding and asked if FEMA's non regulatory products under a risk map actually help. Brody answered that flood mapping is critical and thought more work could be done to ensure these products are interpretable and actionable, so they lead to more flood resilient behavior.

Ranking Member Toomey (R-PA) discussed repetitive loss properties and how this eats up a majority of the NFIP money. He asked Theodorou about how important it is to address this. Theodorou replied that the numbers speak for themselves with repetitive loss homes and said that this is allowed to continue because there are no incentives to stop this. He thought there should be incentives to prevent this and added that the grant programs for those least able to afford the insurance would help mitigate this problem. Toomey turned to Van Doren on grandfathering subsidies and understood that some homes are able to use their old risk rating even though it is outdated when maps are updated. He asked him to speak on the incentives there and how RR 2.0 moves away from grandfathering. Van Doren agreed that grandfathering is the source of the problem and said that the removal of grandfathering is a commitment problem, not a scientific problem.

Sen. Menendez (D-NJ) stated that the calls to raise premiums ignore the huge administrative costs of FEMA that could be reworked to help lower premiums. He asked Quinn if policyholders are getting their money's worth on the administrative costs that they are paying for. Quinn replied no and that policyholders are outraged over this. He found that this program is being built by politically connected firms. Menendez stated that the NFIP Re Act would help lower premiums and said that RR 2.0 premium methodology is taking place while Congress still does

not know the amount of premiums Americans will have to pay. He asked Quinn if working families can handle premium increases and what will happen if families drop their coverage. Quinn replied that a 20% drop in the NFIP would be devastating and believed that mitigation and affordable premiums are the solution. Menendez continued on mitigation saying that those with a mortgage must have flood premiums or they risk default and he worried about increased defaults as a result. He said that for every dollar the federal government spends on mitigation, it saves \$6. Menendez asked if Quinn would have wanted to mitigate the risk of his home. Quinn replied absolutely. Menendez said that FEMA has taken the rare step of asking for a permanent reauthorization of the NFIP and added that one of these provisions is to bar new small businesses and homes. He asked what impact this would have. Quinn could not imagine restricting small businesses like this and discussed the important role they play in communities.

Sen. Kennedy (R-LA) asked Theodorou and Van Doren if their think tanks have hired outside help to test the new FEMA algorithms. Neither had done so. Kennedy questioned why and said that FEMA has not shown these algorithms. He asked who owns the algorithms. Theodorou thought that FEMA owned the algorithm but was unsure. Kennedy continued that we are placing blind trust in the federal government as a result of FEMA not showing the algorithm. He discussed how FEMA is raising people's premiums year after year while the value of their home is going down. Kennedy believed that this is not right and wanted the NFIP fixed. He asked why FEMA repeatedly hired lawyers and engineers who act like thieves. Quinn replied that he did not know but that these people get paid well as a result of perpetrating fraud.

Toomey emphasized the need for reform and one of them should be to require FEMA to show their algorithms. He said that if FEMA has a flawed methodology and as a result, the premiums are too high, he asked how private insurance would help play a role here. Theodorou replied that if private insurance could compete, it would better adjust premiums. Toomey thought that there is a mechanism that does work: a competitive, private market. Theodorou agreed with Toomey that competition lowered prices and believed that there should be private sector participation in flood insurance. He pointed out that there was private sector participation when flood insurance first began. Toomey asked why the private market was driven out of this space. Theodorou said that the program was taken out of HUD and put under FEMA, so the private market was taken out and just acted as a servicing agent that did not bear any risk. Van Doren pointed to the 2012 reforms and how cross subsidies are unsustainable unless entry is restricted. He said that when FEMA faced competition, their own data showed that their policies were overcharged, and FEMA's 2.0 is FEMA's response to private competition.

Sen. Tester (D-MT) asked what the most important thing is to get recovery on track, referring to the recent flooding in Montana. Henderson replied that the area needs to be coordinating with federal and state floodplain administrators. She said right now is the time to talk to them about mitigation and recovery. Brody agreed with Henderson and said that doing damage assessment

and making that information available is critical along with mitigation to prevent a future flooding event. He supported recovery and mitigation to avoid raising insurance rates. Tester discussed getting the NFIP solvent and worried about rates going up if rates are privatized. He asked if rates would really go down with privatization. Van Doren replied that under RR 2.0, rates would mostly go up rather than down and mentioned means-testing as a possible solution.

Brown referred to repetitive losses that Toomey noted at low value properties and asked if we should re-examine how we calculate mitigation assistance and cost share requirements given how these properties often do not qualify for help, Henderson replied that there are a lot of communities that have repetitive flooding but do not have insurance. She said that these families are willing to move but do not have the funds which is why mitigation grants are so important. Henderson also discussed local partnership grants like the CDBG, but localities are slower to offer mitigation grants, so the CDBG money is usually gone. Brown discussed the Swift Current program which aims to speed up mitigation and asked if the pilot program will be able to reach survivors of flooding faster. Henderson answered that the program is great but that the timing has been off in Mississippi. She said that the one issue she has experienced is around the delay of information and funds to families. Henderson thought that the program is great if the intent of it happens. Brown asked about the benefits of real estate disclosure and asked about the Texas Real Estate Disclosure law. Brody replied that getting this information out to renters and home buyers at the right time is really important. He added that the real estate industry supports this disclosure because they want transparency. Brody wanted an interested party to be able to see a complete risk disclosure analysis including when and the amount of flooding that occurred if there was a damage assessment or insurance claim whenever someone is looking for a place to rent or buy. Brown lastly asked Quinn about the raised rates he experienced as a result of RR 2.0, despite elevating his home 10 feet, and asked if consumers have enough information to understand how mitigation affects rates in the new system. Quinn thought that people had a vague understanding and that more could be done to educate homeowners on mitigation and how that can impact their insurance premiums. He said that he has made sure that his home will never flood again.