

National Flood Insurance Program (NFIP)

Despite Needed Reforms, Minimal Progress Made to Date

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Executive Summary

- The existing National Flood Insurance Program (NFIP) was scheduled to expire on July 31, but a last-minute extension has the program running through November 30, 2018. The current authorization represents another incremental extension in lieu of a formal reauthorization that was supposed to take place in September 2017.
- Each standing structure within specified flood zones with two walls and a roof must have a *separate* NFIP policy, regardless of common ownership or number of liens on the property. Under federal law, flood insurance is mandatory in high-risk flood areas (Special Flood Hazard Areas or SFHAs). If the property is not in a high-risk area, federal law does not require flood insurance
- Commercial property owners and loan servicers face a harsh compliance burden in maintaining both the compulsory NFIP coverage (capped at \$500,000) mandated by statute based on flood maps and the replacement-value policy mandated by a building's loan documents. CREFC is seeking an "opt-out" from the NFIP for CRE and multifamily borrowers who maintain suitable private coverage.
- For commercial properties, the current market for private coverage is considered to be competitive. However, in the aftermath of severe market losses from several storms, including two 100-year storms, certain areas in the U.S. have been left with limited private options – most notably in the residential flood insurance market.
- With election year politics in play, programmatic reforms have proven too tough a political lift thus far in 2018 due to the fear of increased private carrier coverage cherry-picking properties, leaving only high-risk policies in the NFIP pool. Other reforms would have caused premiums to increase next year – a politically charged issue.

NFIP Quick Facts

- NFIP first expired Sept 30, 2017. It has been extended a handful of times along with government funding since then (currently until November 30, 2018).
- Commercial real estate policies under the NFIP are capped at \$500,000 and do not include business interruption coverage.
- In the fall of 2017, Congress voted to forgive \$16 billion of the program's more than \$24 billion total debt and the program is currently operating at a \$1.4 billion annual shortfall.
- The Senate Banking Committee has yet to formally consider a long-term flood insurance reauthorization bill. The House passed a five-year reauthorization bill in November 2017.
- If the program is not reauthorized by year-end, a new bill will need to be introduced in the next Congress (January 2019)

- *Next Anticipated Steps:* Likely another short-term reauthorization into the new Congress (beginning in January 2019). Members and staff continue to work behind the scenes on agreeable reforms, but no agreement has materialized between members, with parochial concerns outweighing party loyalty.

Resources

- [Congressional Research Service Introduction to the National Flood Insurance Program \(NFIP\)](#)
- [FEMA Flood Insurance Homepage](#)
- [FEMA Flood Map Resource Center](#)
- [Government Accountability Office 2017 Report to Congress on NFIP](#)
- [H.R. 2874 – The 21st Century Flood Reform Act](#)

For further information, see CREFC's Resource Center at: <https://www.crefc.org/library>

Potential Solutions

- A House bill ([H.R. 2874](#), which easily passed the chamber in 2017), would have reauthorized the program for five additional years and made substantive reforms to the program that could have affected CRE, including:
 - Providing for a commercial property opt-out provision allowing properties that have secured replacement-value policies to forego the mandatory purchase policies under NFIP.
 - The Ross-Castor Flood Insurance Market Parity and Modernization Act ([H.R. 1422](#)) to provide greater private market access, competition, and consumer choice.
- While the Senate has yet to consider [H.R. 2874](#), Chairman Mike Crapo (R-ID) and the Ranking Member Sherrod Brown (D-OH) of the Banking Committee have introduced legislation that would extend the program for six additional years, and includes the following features:
 - Would not provide for the House-passed provisions on commercial opt-out from mandatory purchase of NFIP policies; and
 - Allows for coverage of business interruption claims.
- CREFC expects yet another short-term reauthorization once the current extension ends on November 30, 2018 to carry the program into the next Congress beginning January 2019. Members of Congress likely will then reintroduce a long-term reauthorization with needed reforms.

CREFC Policy & Strategy

CREFC has advocated on Capitol Hill for a multiyear extension of the program with needed reforms to put the platform back on sound financial footing.

- Reauthorization bills should provide for a multiyear (three years minimum and ten years optimal) program that stabilizes the NFIP.
- Reauthorization bills should also include an opt-out of the NFIP for commercial building owners to eliminate duplicative policies required by *both* the NFIP and underlying loan documents.

Additional Background & History

- The National Flood Insurance Program (NFIP) was created in 1968 to provide flood insurance for property owners. Policies are sold directly and through an agent network called “write your own.”
- The national Flood Disaster Protection Act (FDPA) mandates borrowers who own property in flood areas buy the mandatory coverage under the NFIP. The program was designed to protect homeowners, not commercial property owners.
- Allowing commercial properties to opt-out from mandatory purchase requirement would allow regulators, FEMA, and lenders to focus limited resources on homeowners. Secured lenders will, as a credit matter, continue to obtain flood determinations and confirm coverage under either NFIP and/or private flood insurance. Just as lenders evaluate other types of insurance, they will require flood coverage that is commensurate with the risk.
- The NFIP has never been a commercial risk program and its products do not adequately address the needs of medium and large commercial ventures such as multiple perils, multiple properties, settlement at replacement cost value, and business interruption coverage, which are all needed to facilitate swift recovery after any property loss. The commercial market has already responded to these needs and, as a result, *only 5% of all NFIP policies insure non-residential properties.*
- The costs associated with FDPA/NFIP compliance are a burden to large commercial loans, particularly with multiple structures in various locations (e.g., reporting assets, determining insurable value, and proper insurance coverage on each, all of which require significant insurance expertise) and far outweigh the benefits to lenders, borrowers, or the Treasury. The commercial opt-out would also reduce duplicative compliance efforts by all participants on large syndicated loans.

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