

TESTIMONY OF

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ON BEHALF OF THE

NATIONAL ASSOCIATION OF HOME BUILDERS

BEFORE THE

UNITED STATES SENATE
SUBCOMMITTEE ON ECONOMIC POLICY,
COMMITTEE ON BANKING, HOUSING AND URBAN
AFFAIRS

HEARING ON

NATIONAL FLOOD INSURANCE REPETITIVE LOSSES

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Chairman Bunning, Ranking Member Schumer and members of the Economic Policy Subcommittee, I am pleased to appear before you today on behalf of the National Association of Home Builders (NAHB) to share our views concerning repetitive losses in the National Flood Insurance Program and Congressional efforts to reauthorize the program. We appreciate the invitation to appear before the Subcommittee on this important issue.

My name is Steve Feldmann and I am the Director of Community Affairs for The Fischer Group. The Fischer Group is one of the largest home builders in the nation and focused exclusively in the Northern Kentucky and Greater Cincinnati Region. The Fischer Group has been providing high-quality, affordable housing, and the joys of homeownership, for over twenty years.

Mr. Chairman, NAHB represents more than 215,000 member firms involved in home building, remodeling, multifamily construction, property management, housing finance, building product manufacturing and other aspects of residential and light commercial construction. The Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP) plays a critical role in directing the use of flood-prone areas and managing the risk of flooding for residential properties. The availability and the affordability of flood insurance gives homebuyers and homeowners the opportunity to live in a home of their choice in a location of their choice, even when the home lies within a floodplain. The home building industry depends upon the NFIP to be annually predictable, universally available, and fiscally viable.

A strong, viable national flood insurance program enables the members of the housing industry to continue to provide safe, decent, affordable housing to consumers, in a design of their choice and in a location of their choice. The choices American consumers make when they are buying homes are some of the most critical aspects of the home buying process. Through decisions about where to live, where to shop and how to get around town, consumers apply the power of the marketplace to shape the nation's communities. The NFIP, by enabling the choice of purchasing a home in a floodplain, allows consumer preferences to shape towns and cities into communities that maximize quality of life and economic development.

Without the NFIP, many communities would be unable to provide affordable housing to many of their citizens. Despite a decade of unprecedented prosperity, many communities are seeing a growing gap between the supply and demand for housing. Families across the economic spectrum are finding it increasingly difficult to find a home that meets their needs. One of the leading causes of the housing affordability problem is the shortage of buildable land. By guaranteeing affordable flood insurance, the NFIP allows communities to use land that would otherwise be too costly due to high flood insurance premiums. Through the NFIP, flood insurance policies remain available and affordable and residential structures can be constructed in floodplains as long as they are built to withstand flooding. Therefore the NFIP provides the means by which communities can address housing needs by making homeownership in areas prone to flooding safe, affordable and practical.

The NFIP provides flood insurance to approximately 4.4 million policyholders, enabling them to protect their properties and investments against flood losses while living in a home of their choice in a location of their choice. Further, the NFIP creates a strong partnership with state and local governments by requiring them to enact and enforce floodplain management measures, including building requirements that are designed to ensure occupant safety and reduce future flood damage. This partnership, which depends upon the availability of comprehensive, up-to-date flood maps, ensures that state and local governments can create policies that reflect the needs of local communities, enabling them to direct development where it best suits the needs of their constituents and consumers.

Unfortunately, the solvency and stability of the NFIP is threatened by an extremely small percentage of properties that have suffered multiple, costly flood damage. Approximately 48,000 currently insured properties, deemed “severe repetitive loss properties”, have incurred two or more floods within a 10-year period. An even smaller subset of the severe repetitive loss properties, which number approximately 10,000, have had four or more claims that cumulatively exceed the value of the property. These properties, which make up only one percent of the current policies, cost the NFIP approximately \$200 million annually and account for approximately 25% to 30% of the claims paid by the program. The vast majority of severe repetitive loss properties were built before implementation of floodplain management standards and are eligible for subsidized flood insurance that is below the actuarial risk rate.

These severe repetitive loss properties significantly impact the national flood insurance program, drive up the cost of premiums for all policyholders, and allow the system to teeter on an unstable actuarial foundation. Because of the frequency and expense of the claims on these severe repetitive loss properties, FEMA oftentimes does not have funds to keep the NFIP solvent. Insolvency threatens the future of the NFIP and the ability of the program to provide affordable flood insurance and service its 4.4 million policyholders. The Nation cannot afford to have this program collapse. By focusing on improving and mitigating potential damage to these severe repetitive loss properties, FEMA can ensure a viable, long-term program.

As this subcommittee, and the Congress as a whole considers legislation to reauthorize the NFIP, NAHB urges you to fully weigh the following principles:

FIVE YEAR REAUTHORIZATION OF THE NFIP

NAHB recognizes the importance of the NFIP in enabling consumer choice by protecting life and property in flood-prone areas. Although Congress recently extended FEMA's statutory authority to issue flood insurance policies until March 31, 2004, a lapse in authority after that date, as experienced in early 2003, will have severe repercussions for a vast number of landowners. Allowing FEMA's authority to limp from one short-term authorization to the next does not instill confidence or consistency for policyholders, future homebuyers or industries that depend on a viable national flood insurance program. Congress should reauthorize the NFIP for a full five years. The uninterrupted availability of affordable flood insurance is vital to allowing the home

building industry to continue to deliver safe, decent, affordable housing to consumers in a location of their choice.

ALL PROPERTIES MUST REMAIN ELIGIBLE FOR FLOOD INSURANCE

Congress must ensure that all properties located within a FEMA-designated flood plain, including severe repetitive loss properties, remain eligible for flood insurance. NAHB recognizes the need to address the problem that severe repetitive loss properties pose to the long-term health of the NFIP. However, these properties must be allowed to remain eligible for flood insurance. H.R. 253, the *Flood Insurance Reform Act of 2003*, as passed by the House of Representatives during the last session of Congress, in attempting to address severe repetitive loss properties, ensures that, at a minimum, severe repetitive loss properties are allowed to remain eligible for flood insurance. NAHB soundly agrees with this policy.

NARROWLY DEFINE SEVERE REPETITIVE LOSS PROPERTIES

Severe repetitive loss properties, which represent a disproportionate number of claims to the NFIP, must be addressed in order to ensure the long-term viability of the NFIP. NAHB believes that the NFIP reauthorization legislation, however, must narrowly define severe repetitive loss properties to only include those that pose the most severe flooding risks. By narrowing the scope of targeted properties, FEMA is directed to address the most problematic properties first, which will quickly lead to significant savings to the NFIP.

Unfortunately, the definition of severe repetitive loss properties in H.R. 253 contains a threshold that is too low and does not truly reflect the cost of flood damage in many areas. In such instances, minor flooding can produce claims that exceed the threshold simply because the carpet or electrical systems were damaged by an inch of water. These are not the properties that we believe should be targeted.

At a minimum, severe repetitive loss properties should be defined according to existing law, which states that,

The term “repetitive loss structure” means a structure covered by a contract for flood insurance ... that has incurred flood-related damage on 2 occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each such flood event. (42 U.S.C. 4121(a)(7))

If an authorization bill is to target the most severe properties, that universe, by definition, should be smaller than the pool established by current law. Therefore, the current definition, as stated above, should serve as the baseline for the definition of “severe repetitive loss properties.”

ENCOURAGE THE REDEVELOPMENT OF AFFECTED PROPERTIES

Congress should encourage FEMA, with the participation of state and local governments, to facilitate and provide funding for the redevelopment of affected

properties in accordance with FEMA standards. Oftentimes, FEMA proposes to a property owner an offer to buy-out a severe repetitive loss property. The offer serves two purposes: 1) the buy-out allows the landowner an opportunity to relocate to an area with reduced or zero flooding risks and 2) it allows FEMA the ability to remove a repetitive claim, high cost property from the flood insurance roles. Given that the vast majority of these properties were built before implementation of floodplain management standards, many of these properties are not sufficiently flood-proof. It makes good policy sense for FEMA to mitigate (i.e. elevate, relocate, demolish, flood proof, and/or construct small flood control projects) or purchase these properties to reduce their flood risk or remove them from the insurance roles.

However, after a buy-out, these properties are ineligible for redevelopment because they fall under clause i and ii of section 404(b)(2)(B) of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (the Stafford Act) (42 U.S.C. 5170c(b)(2)(B)). Under the Act, any property acquired by FEMA with disaster assistance funds only can be used as open space, a recreational area or for wetlands management. This means that for every home purchased via the NFIP, a formerly buildable lot has been taken out of production.

In order to facilitate the responsible redevelopment of these properties, NAHB encourages FEMA to work with the affected state and local governments prior to offering buy-outs to plan for the redevelopment of these properties so that they meet local floodplain codes and regulations, as do newly constructed homes. If these properties are

allowed to be redeveloped to current flood plain standards, local governments can satisfy local housing needs while ensuring that the properties are less prone to future floods and costly insurance claims. Further, local governments, not FEMA, should be allowed to make the decision as to whether or not the properties should be redeveloped. NAHB believes that local communities are the best arbiters for land use decisions, not the federal government.

ENSURE PROPERTIES ARE PURCHASED AT FAIR MARKET VALUE

In cases where FEMA makes an offer to buy a property, the property owner must be paid fair market value for both the land and the structure. Any reauthorization proposal must honor the 5th Amendment to the U.S. Constitution, which states that no “private property be taken for public use without just compensation.” This principle is a long-held core belief of the members of NAHB. To that end, we are pleased that H.R. 253 adheres to this principle.

HIGHER PREMIUMS FOR SEVERE REPETITIVE LOSS PROPERTIES

In its efforts to address severe repetitive loss properties, FEMA, through the NFIP, should be granted the authority to charge a higher premium for those severe repetitive loss properties for which reasonable mitigation offers were refused. As stated earlier, the drain on the NFIP program from severe repetitive loss properties demands that the owners of these properties, in coordination with FEMA and local governments, take action to decrease the instances of flood damage. To that end, NAHB supports the

provision in H.R. 253 that authorizes FEMA to increase the flood insurance rates for severe repetitive loss property owners that refuse mitigation.

As set forth in H.R. 253, FEMA would have the authority to offer mitigation assistance (i.e. elevation, relocation, demolition, flood proofing of structures, and minor physical localized flood control projects or purchase) to the owners of severe repetitive loss properties. Under H.R. 253, if an owner of such a property refuses an offer of mitigation, and is ineligible for a waiver, FEMA may begin to charge higher flood insurance rates, up to the sound actuarial rates for that property. It is NAHB's hope that this provision will reduce federal expenditures for flood control and disaster assistance by encouraging severe repetitive loss property owners to agree to the mitigation offer and rehabilitate their properties so that flood damage is reduced.

NOTIFICATION OF ALL CURRENT POLICYHOLDERS

Given the sweeping changes to the NFIP that are being considered by this subcommittee, NAHB believes that any reauthorization legislation include a provision to require FEMA to notify all current policyholders of the changes to the program. It would be unfair to the 4.4 million policyholders, especially the approximately 46,000 severe repetitive loss property owners, to be caught unaware by changes to the NFIP without the opportunity to read and understand the policy changes. Unfortunately, H.R. 253 is silent on this issue.

Mr. Chairman, thank you for this opportunity to share the views of the National Association of Home Builders on this important issue. We look forward to continuing to work with you and your colleagues as you contemplate changes to the National Flood Insurance Program. We urge you to fully consider NAHB's position on the issue and how this program enables the home building industry to deliver safe, decent, affordable housing to consumers. I look forward to any questions you or other members of the subcommittee may have for me.