



## **ASSOCIATION OF STATE FLOODPLAIN MANAGERS, INC.**

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# **TESTIMONY**

## **Association of State Floodplain Managers, Inc.**

before the  
Subcommittee on Housing and Community Opportunities  
House Committee on Financial Services

## **Flood Insurance Reform and Modernization Act of 2007**

### **H.R. 1682**

presented by  
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The Association of State Floodplain Managers is pleased to respond to the Committee's request for our views on H.R. 1682, the Flood Insurance Reform and Modernization Act of 2007. We appreciate the work that went into last session's bill that passed the House, as reflected in many of the provisions in H.R. 1682.

### **Who We Are**

The Association of State Floodplain Managers, Inc. (ASFPM) and its 26 Chapters represent over 11,000 state and local officials and other professionals who are engaged in all aspects of floodplain management and hazard mitigation, including management, mapping, engineering, planning, community development, hydrology, forecasting, emergency response, water resources, and insurance. Many of our members worked with communities impacted by hurricanes Katrina and Rita or work with organizations that continue to support the rebuilding efforts. All ASFPM members are concerned with working to reduce our Nation's flood-related losses. Our state and local officials are the federal government's partners in implementing flood mitigation programs and working to achieve effectiveness in meeting our shared objectives. Many of our state members are designated by their governors to coordinate the National Flood Insurance Program and many others are involved in the administration of and participation in FEMA's mitigation programs. For more information on the Association, please visit <http://www.floods.org>.

### **Improving the National Flood Insurance Program**

ASFPM endorses legislation that will, over time, improve the financial stability of the NFIP. We wish to emphasize that FEMA reports that the program has been self-supporting for 20 years, since 1986. Prior to Hurricane Katrina, income from policyholders covered claims and all operating expenses, including salaries and expenses of the Federal employees who administer the NFIP and floodplain management programs. From time to time the NFIP exercised its authority to borrow from the U.S. Treasury when claims exceeded short-term income. Importantly, the program was praised for its ability to repay debts ahead of schedule and with interest. This is exactly the way the program was intended to function.

We recognize that even the original framers did not anticipate the truly catastrophic flooding associated Hurricane Katrina and the fiscal impact on the NFIP. However, we urge that the Committee keep in mind that the NFIP has multiple goals, and providing flood insurance that is reasonably priced in order to avoid direct government subsidy of flood damage is an important goal. A number of studies have concluded that if premiums rise too steeply or become too costly, many policyholders will find ways to avoid buying flood insurance. The consequence of having fewer people insured against known risks would be greater reliance on tax-payer funded disaster assistance and casualty loss tax deductions.

### **Results of FEMA's Evaluation of the NFIP**

ASFPM has long urged a comprehensive evaluation of the NFIP and are pleased that FEMA undertook such an effort which has resulted in the recent release of 14 reports. We understand that more than 100 recommendations were made by the independent researchers. FEMA has indicated that it has evaluated the recommendations and is determining priorities and plans of action. ASFPM applauds FEMA's willingness to have so many aspects of the program examined in this manner and look forward to FEMA's efforts to implement and improve the

NFIP. We will be reviewing the reports in light of ASFPM's recently completed "National Flood Programs and Policies in Review, 2007." This document contains our long-term policy positions on all aspects of floodplain management, including the NFIP. We suggest that the Committee request a briefing from FEMA on its plan of action, and monitor progress in the coming years.

### **ASFPM Comments on H.R. 1682**

H.R. 1682 contains a number of provisions that will move the NFIP towards greater financial stability, and some provisions that will enhance existing program authority to mitigate properties that have received repetitive claims. As noted below, ASFPM endorses many of the provisions, but recommends caution regarding the impact of some changes. We also have identified a number of changes that we believe are consistent with the Committee's intent to strengthen the NFIP.

- ▶▶ **Sec. 3. Study of Mandatory Purchase for Natural 100-Year Floodplain and Non-Federally Regulated Loans.** ASFPM supports imposing mandatory purchase of flood insurance in areas that are subject to what we call "residual risk." Residual risks are present in areas that would flood if not for the presence of measures such as levees, floodwalls, and flood control dams. Importantly, residual risk areas are at risk of catastrophic flooding when such flood control measures fail. Rather than a study, we urge that the mandatory purchase requirement be implemented immediately, and that FEMA be directed to work with other federal, state and local entities to map such residual risk areas. It should be made clear that the land use controls that the NFIP requires communities to administer in the special flood hazard areas shown on Flood Insurance Rate Maps are not to be applied to the residual risk areas.
- ▶▶ **Sec. 4. Phase-In of Actuarial Rates for Nonresidential Properties and Non-Primary Residences.** ASFPM supports gradual movement to actuarial rates for pre-FIRM non-residential buildings and non-primary residences.
- ▶▶ **Sec. 5. Exception to Waiting Period for Effective Date of Policies.** We appreciate the flexibility that would make coverage immediately effective if a policy is purchased within 30 days of the purchase or transfer of a property.
- ▶▶ **Sec. 6. Enforcement.** ASFPM supports increasing civil penalties on lending institutions related to administration of the mandatory purchase of flood insurance requirements. We note that the National Flood Insurance Reform Act of 1994 directed that collected penalties are to be deposited into the National Flood Mitigation Fund and made available for grants that mitigate flood losses – another mechanism to improve the financial stability of the NFIP.
- ▶▶ **Sec. 8. Coverage for Additional Living Expenses, Basement Improvements, Business Interruption, and Replacement Cost of Contents.** ASFPM supports making optional coverages available at actuarial rates. However, we believe that the coverage for "basement, crawl spaces, and other enclosed areas under buildings that are not covered by primary flood insurance" should not be provided, even at actuarial rates. Because even shallow flooding can completely flood a basement, the current floodplain management requirements prohibit basements in new buildings (except in a small number of communities that FEMA has granted a special exception). When crawl spaces and other

enclosed areas are built as part of post-FIRM buildings, such areas are, by regulation, limited in use to parking, storage, and building access. Providing insurance for the areas that are guaranteed to flood sends a mixed message and will likely lead to more illegal conversion of enclosures to uses other than those allowed by regulation.

- ▶▶ **Sec. 11. Increase in Borrowing Authority.** Although increasing the borrowing authority may be appropriate in the short term, ASFPM supports forgiving the debt. Incurred as a result of the 2005 hurricane season. The taxpayer has benefited from the NFIP – FEMA reports that the NFIP is credited with avoiding over \$1 billion each year in flood damages in recent years. Damages are avoided because states and communities administer floodplain management ordinances and codes that encourage locating development outside of flood hazard areas and that require certain construction methods when development is placed in the floodplain.
- ▶▶ **Sec. 12. FEMA Participation in State Disaster Claims Mediation Programs.** ASFPM does not endorse requiring FEMA to participate in non-binding mediation of claims issues when multiple claims for same property.
- ▶▶ **Sec. 14. Flood Insurance Outreach Grants.** For several years the NFIP has expended considerable financial resources on marketing the NFIP, and many states and communities also undertake actions to encourage property owners to understand their risks and to purchase flood insurance. ASFPM believes that this section should be modified to include the States, so that outreach campaigns become a state-local partnership. Also, in some states it will be more efficient to have a statewide outreach campaign that could target multiple communities in high risk areas, even if on or more individual communities were not interested in taking an active part.
- ▶▶ **Sec. 15. Grants for Direct Funding of Mitigation Activities for Individual Repetitive Claims Properties.** ASFPM endorses the proposed change to this program that was authorized in the Flood Insurance Reform Act of 2004. Current NFIP-supported mitigation grant programs provide funds to communities – and thus successful projects depend on community participation. ASFPM has long supported community-based mitigation; however, we recognize that some repetitive loss properties are in communities that may not have the resources to participate. In order to achieve the goal of reducing the repetitive loss drain on the National Flood Insurance Fund, we urge that it be made clear that FEMA has the authority to work directly with certain property owners under this program, which was authorized at \$10 million each year.
- ▶▶ **Sec. 16. Extension of Pilot Program for Mitigation of Severe Repetitive Loss Properties.** The Severe Repetitive Loss grant program was authorized as a five year initiative by the Flood Insurance Reform Act of 2004. Although initially anticipated to be issued in 2005, recently FEMA has signaled that the regulations are under review by the Department of Homeland Security, and are expected to be issued this year. We urge the Committee to encourage FEMA and the Department of Homeland Security to move expeditiously to publish the regulations as soon as possible so that we can begin to implement the program. ASFPM endorses extending the Severe Repetitive Loss program so that it will operate for the full five years as originally envisioned.

- ▶▶ **Sec. 17. Flood Mitigation Assistance Program.** ASFPM supports the proposals in this section. Adding “demolition and rebuilding” as an eligible activity not only achieves consistency with the NFIP-funded Severe Repetitive Loss grant program, but gives another option that makes sense in certain situations. Specifically, many communities are not interested in fee simple acquisition of land, but are interested in mitigation measures that help improve livability and community integrity. Elevation-in-place is a feasible measure for many buildings; however, for many older buildings and certain types of buildings, it is more feasible or cost-effective to demolish and rebuild a new building. The new building will be in full compliance with floodplain requirements and building codes which address fire resistance, energy efficiency, and where appropriate, resistance to other hazards such as hail, high winds, and seismic forces.
- ▶▶ **Sec. 21. Ongoing Modernization of Flood Maps and Elevation Standards.** ASFPM supports this section; we endorse the new mapping tasks and especially note the importance of mapping the 500-year floodplain, areas protected by levees and dams, and coastal erosion areas. ASFPM agrees with the Committee’s formal recognition that maintaining the Nation’s flood risk data and flood maps requires an ongoing effort. We are particularly pleased to see the proposal to reestablish the Technical Mapping Advisory Council, a body that was instrumental in helping FEMA to formulate and prepare to implement the President’s map modernization initiative, and will be valuable as the effort continues, especially for recommendations related to the quality of the ongoing mapping work. At the end of this testimony we offer some background and additional thoughts on the issue ground elevation data as it relates to flood mapping.
- ▶▶ **Sec. 22. Notification and Appeal of Map Changes; Notification of Establishment of Flood Elevations.** ASFPM supports the requirement of this section. It is appropriate that community officials receive timely and informative materials related to map changes, and that public notice of those changes are published to inform affected property owners.
- ▶▶ **Sec. 24. Authorization of Additional FEMA Staff.** The salaries and expenses of a significant number of FEMA staff in the National Office and all ten Regional Offices who are involved with the NFIP are funded by policy service fees that are assessed on every flood insurance policy. As the NFIP policy base grows, and as the NFIP-funded mitigation grant programs are implemented, FEMA needs to be able to expand its staff to support the increased workload.
- ▶▶ **Sec. 25. Extension of Deadline for Filing Proof of Loss.** ASFPM does not endorse this provision that would allow a property owner as long as six months to file a claim for flood damage. The FEMA Director has authority to extend the filing period, and does so for large events. ASFPM is concerned that extending the period to file claims leads to more repairs that are undertaken without permits. In addition, it could lead to postponing eligibility for NFIP insurance coverage known as Increased Cost of Compliance, which provides funds to substantially damaged buildings to help pay costs associated with bringing the buildings into compliance, as required by regulations.

## **Additional Suggestions for Consideration in H.R. 1682**

**Use of Advisory and Preliminary Maps in Major Disaster Areas.** The standard process that leads to adoption of revised Flood Insurance Rate Maps takes at least a year after preliminary maps are issued. When advisory or preliminary maps are issued for areas impacted by major disasters, it is in the interest of public safety, as well as in the interest of lessening confusion over what building standards apply, to either (1) give the FEMA Director discretionary authority to require NFIP participating communities to use the advisory or preliminary maps while the formal map adoption is ongoing, or (2) require that NFIP communities advise property owners and buildings who apply for building permits that if they do not use the advisory elevation information, they will have to pay actuarial rates for flood insurance once the new maps are adopted. The latter option is less desirable because it appears likely to pose significant difficulties for insurance agents, mortgage lenders and policyholders.

**Provide for Delegation of Flood Mitigation Programs Administration.** FEMA is authorized to delegate to qualified states the administration of the post-disaster mitigation grant program authorized in the Stafford Act and known as the Sec. 404 Hazard Mitigation Grant Program. If selected states develop the capacity necessary for that delegation, it is appropriate that FEMA also delegate the authority to administer the NFIP-funded grant programs. ASFPM continues to focus on building state capacity. We believe that those states that have developed the capacity to assume program administration are in the best position to efficiently and effectively carry out the purpose of the reducing flood losses.

**Provide for Delegation of Map Program Administration.** A number of states have had long standing flood hazard identification and mapping programs – some even pre-date the NFIP. Many of those states are willing and able to take on more responsibility for the flood data and maps prepared under the map modernization and ongoing mapping efforts for the NFIP. FEMA has encouraged cooperative partnerships, executed mapping partnership agreements with some states, and implemented small-scale delegation of some functions. In order to move to more extensive delegation, ASFPM suggests that the Committee direct FEMA and the Technical Mapping Advisory Council to develop the necessary framework and metrics.

### **Thoughts on Improving the Nation's Flood Maps**

Undoubtedly one of the NFIP's most significant responsibilities that benefits the public is the creation and publication of the Flood Insurance Rate Maps (FIRM). Since the NFIP's inception, the FIRM has become the primary source of flood risk information used by individuals to make risk management decisions and by communities to administer floodplain management requirements. The daunting task of developing the nation's initial flood data layer (floodplain information that was developed and published on individual paper flood maps) was the primary focus of the early mapping efforts of the 1970s and 1980s.

From the late 1980s through the 1990s, flood mapping made little progress largely because funds were limited to income generated by the policy service fee assessed on NFIP flood insurance policies. An investment of about \$50 million a year was largely consumed by processing Letters of Map Change for individual properties made necessary because the flood maps had become

outdated. In the early 2000s, a growing awareness of the age of flood maps and other factors led to the five-year initiative now known as Map Modernization. The goal was to improve the flood maps by updating and improving the flood data layer and by converting data to a common, electronic GIS based platform. A standard task when updating maps is to identify available risk information and, where necessary, to conduct new studies which include hydrologic, hydraulics, and engineering.

In recent years it has become clear that, for a number of reasons, the initial expectations for map modernization accomplishments cannot be fully achieved in a five year period. The scope of map needs identified by states and communities proved to be greater than originally estimated. The effort required a mid-course adjustment to assure map quality since a “population-mapped” metric was found to be leading towards digitizing existing data, rather than towards more time-consuming but necessary flood studies. Hurricanes Katrina, Rita and Wilma necessitated a major unanticipated and unprecedented effort to develop advisory maps for the affected areas.

Funding for map modernization is limited and priorities must be made. ASFPM believes that the funds and any subsequent, ongoing mapping funds should be focused on updating the flood risk data layer. Where flood data is not adequate, new flood studies are necessary. The most critical needs are to address outdated flood models, to identify all of the floodplains, and to convert maps to a GIS platform. ASFPM notes – but disagrees with – recommendations by some to acquire new nationwide ground elevation data as part of FEMA’s mapping program. Topographic data is not the key element in accurate flood maps; engineering studies are.

State and local governments are increasingly purchasing topographic data to meet many needs. Just two examples among many, the State of North Carolina has made such an investment, and the State of Ohio is developing statewide data. ASFPM recommends that any large scale investment in ground elevation data should:

- be led by the U. S. Geological Survey, which is the nation’s agency traditionally charged with such a mission;
- leverage state and local mapping investments that have already been made; there should not be a system of licensure and every effort must be made to ensure that the data are made widely and freely available;
- require contribution by the various agencies that would benefit, such as the Departments of Interior, Agriculture, Transportation, Commerce, Homeland Security, and others.

For any further questions on this testimony contact Larry Larson, ASFPM Executive Director at (608) 274-0123 or Rebecca Quinn, ASFPM Legislative Officer at (443) 398-5005.