

101ST CONGRESS  
1ST SESSION

# H. R. 3456

To revise the national flood insurance program to further encourage communities to mitigate potential flood damages and limit unwise development in flood-prone areas.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 1989

Mr. CARPER (for himself, Mr. EEDREICH, Mr. SAXTON, and Mr. KANJOESKI) introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

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## A BILL

To revise the national flood insurance program to further encourage communities to mitigate potential flood damages and limit unwise development in flood-prone areas.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "National Flood and Ero-  
5 sion Insurance and Mitigation Act of 1989".

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7 The Congress finds that—

8 (1) unprecedented growth in population and devel-  
9 opment has occurred along coasts and rivers of the

1 United States during the past decade and it is estimat-  
2 ed that 75 percent of the United States population will  
3 be living within 50 miles of a coast by the year 2000;

4 (2) the national flood insurance program and the  
5 citizens of the United States have benefited from an  
6 extraordinarily low incidence of major hurricanes in  
7 recent years;

8 (3) erosion along ocean coasts, estuaries, rivers,  
9 and lakes and projected sea-level rise threaten property  
10 along shores and rivers;

11 (4) the number of properties insured against floods  
12 and erosion has remained roughly constant during the  
13 1980's despite continuing growth in real estate activity  
14 in coastal, river bank and lakeshore areas;

15 (5) only 1,400,000 of an estimated 10,000,000 to  
16 12,000,000 household units in special flood hazard  
17 areas are protected by flood insurance;

18 (6) despite a present reserve of nearly  
19 \$500,000,000, the national flood insurance program  
20 remains extremely vulnerable to a major storm which  
21 could cause billions of dollars of damage claims, de-  
22plete the national flood insurance fund, exacerbate the  
23 Federal budget deficit, and threaten the safety and  
24 soundness of loan institutions holding uninsured mort-  
25 gages on properties in flood-prone areas;

1 (7) repeat claims, which involve about 2 percent  
2 of total insured properties, account for 43 percent of  
3 the total losses from the flood insurance fund, amount-  
4 ing to over \$1,000,000,000 since January 1978;

5 (8) no Federal program exists to assist in the  
6 movement of structures out of high risk areas, such as  
7 regulatory floodways and coastal high hazard zones,  
8 before disaster strikes; and

9 (9) the national flood insurance program should be  
10 more sensitive to environmental protection, including  
11 promotion of the preservation of wetlands, clean water,  
12 coastal barriers, open space, and recreational opportu-  
13 nities, all of which can be adversely affected by unwise  
14 development.

15 **SEC. 3. INCREASED PARTICIPATION IN FLOOD INSURANCE**  
16 **PROGRAM.**

17 **(a) ESCROW OF INSURANCE PAYMENTS.—**

18 (1) **IN GENERAL.—**Section 102 of the Flood Dis-  
19 aster Protection Act of 1973 (42 U.S.C. 4012a) is  
20 amended—

21 (A) by striking the section heading and in-  
22 serting the following: “REQUIREMENTS TO PUR-  
23 CHASE FLOOD INSURANCE AND ESTABLISHMENT  
24 OF ESCROW ACCOUNTS”; and

1 (B) by adding at the end the following new  
2 subsection:

3 “(d) Each Federal instrumentality responsible for the  
4 supervision, approval, regulation, or insuring of banks, saving  
5 and loan associations, or similar institutions may by regula-  
6 tion direct that any premiums and fees for flood insurance  
7 under this title on any property for which a loan has been  
8 made for acquisition or construction purposes shall be paid to  
9 the mortgage lender, with the same frequency as payments  
10 on the loan are made, for the duration of the loan. Upon  
11 receipt of the premiums, the lender shall deposit the premi-  
12 ums in an escrow account on behalf of the borrower. Upon  
13 receipt of a notice from the Director or the provider of the  
14 insurance that insurance premiums are due, the balance of  
15 the escrow account remaining shall be paid to the provider of  
16 the insurance.”

17 (2) **APPLICABILITY.**—The amendments made by  
18 this subsection shall apply to any mortgage outstanding  
19 or entered into on or after the expiration of the 1-year  
20 period beginning on the date of the enactment of this  
21 Act.

22 (b) **FINE FOR FAILURE TO NOTIFY OWNER OF RE-**  
23 **QUIRED FLOOD INSURANCE PURCHASE.**—Section 102 of  
24 the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a)

1 is amended by adding at the end the following new sub-  
2 section:

3       “(e) Each Federal instrumentality responsible for the  
4 supervision, approval, regulation, or insuring of banks, sav-  
5 ings and loan associations, or similar institutions shall by reg-  
6 ulation impose a civil penalty on any such institution that  
7 fails to require the purchase of flood insurance for a property  
8 for which insurance is required under the regulations issued  
9 pursuant to subsection (b) for any such failure that occurs  
10 after the expiration of the 1-year period beginning on the  
11 date of the enactment of the National Flood and Erosion In-  
12 surance and Mitigation Act of 1989. Any penalties under this  
13 paragraph collected by the Federal instrumentalities respon-  
14 sible for the supervision, approval, regulation, or insuring of  
15 banks, savings and loan associations, or similar institutions  
16 shall be paid into the Treasury of the United States and cred-  
17 ited as miscellaneous receipts.”.

18       (c) CONTENTS OF REQUIRED NOTICE OF FLOOD HAZ-  
19 ARDS.—Section 1364 of the National Flood Insurance Act of  
20 1968 (42 U.S.C. 4104a) is amended—

21           (1) by inserting after the period at the end the fol-  
22 lowing: “The regulations shall also require such writ-  
23 ten notification, during the term of any applicable loan,  
24 upon each notice of policy renewal or not less than  
25 once during each 3-year period (the first such period

1 beginning on the date of the loan transaction), which-  
2 ever occurs more often, and that such institutions  
3 retain a record of the receipt of the notices by the pur-  
4 chaser or lessee.”.

5 (2) by inserting “(a)” after the section designation;  
6 and

7 (3) by adding at the end the following new sub-  
8 sections:

9 “(b) Written notification required under subsection (a)  
10 shall include—

11 “(1) a warning, in a form to be established in con-  
12 sultation with and subject to the approval of the Direc-  
13 tor, stating that the real estate of mobile home secur-  
14 ing the loan is located or is to be located in an area  
15 having special flood hazards;

16 “(2) a description of the flood insurance require-  
17 ments under section 102(b) of the Flood Disaster Pro-  
18 tection Act of 1973; and

19 “(3) any other information that the Director con-  
20 siders necessary to carry out the purposes of the na-  
21 tional flood insurance program.

22 “(c) Any institution that violates the regulations issued  
23 pursuant to this section shall pay a penalty of \$250 for each  
24 violation.”.

1 SEC. 4. MITIGATION OF FLOOD DAMAGE TO REPETITIVE LOSS  
2 PROPERTIES.

3 Section 1306 of the National Flood Insurance Act of  
4 1968 (42 U.S.C. 4013) is amended by adding at the end the  
5 following new subsection:

6 “(d)(1) If any property covered by a contract for flood  
7 insurance under this title is designated a repetitive-loss prop-  
8 erty by the Director under paragraph (6)(A) or any owner of  
9 any property that has previously filed a claim for losses under  
10 a contract for flood insurance under this title specifically re-  
11 quests, the Director (or through agreement with the Director,  
12 the relevant State authority) shall evaluate the need for and  
13 feasibility of modifications to the property to greatly reduce  
14 or eliminate the potential for repeat claims regarding the  
15 property. An evaluation under this paragraph shall include  
16 consideration of the possible methods and technological  
17 means for avoiding repeat claims and analysis of the eco-  
18 nomic viability of the methods and means.

19 “(2) The Director (or the relevant State authority) shall  
20 provide notice of the evaluation under paragraph (1) to the  
21 owner of any property designated as a repetitive-loss proper-  
22 ty or any owner that has requested an evaluation under para-  
23 graph (1) before the commencement of the evaluation.

24 “(3)(A) The Director (or the relevant State authority)  
25 shall report the findings of the evaluation under paragraph (1)  
26 to the owner of the property before payment of any claim (if a

1 claim is pending) or within 6 months after the commence-  
2 ment of the evaluation, whichever occurs earlier. The report  
3 shall include recommendations for modifications to the prop-  
4 erty for the purposes referred to in paragraph (1), which may  
5 include elevating, flood proofing, and removing or relocating  
6 any structure from the property.

7 “(B) In recommending modifications under subpara-  
8 graph (A), the Director (or the relevant State authority) shall  
9 give preference to removing and or relocating structures, but  
10 only if—

11 “(i) the property is located in any area that has  
12 been designated by the Director as an area of critical  
13 hazard under paragraph (6)(B); or

14 “(ii) the property is subject to any other situation  
15 such that the Director considers removal or relocation  
16 appropriate.

17 “(4) The Director shall provide for actuarial rates with  
18 respect to any insurance provided under this title for any  
19 property for which—

20 “(A) recommendations for modifications have been  
21 made under paragraph (3); and

22 “(B) the modifications recommended under para-  
23 graph (3) have not been initiated within 6 months after  
24 the date that the recommendations were made.



1       “(5) The Director shall provide for appeals by owners of  
2 property for which recommendations have been made under  
3 paragraph (3) for the purposes of challenging and modifying  
4 the recommendations.

5       “(6)(A) The Director shall by regulation designate re-  
6 petitive-loss properties, which shall include any property that  
7 is repeatedly damaged and for which repeated claims for  
8 losses under a contract for flood insurance under this title  
9 have been paid.

10       “(B) The Director shall designate areas of critical  
11 hazard, which shall include any regulatory floodways, coastal  
12 high hazard areas known as V-zones, and other areas, that in  
13 the discretion of the Director, are at high flood risk.

14       “(7)(A) Any property that the Director has determined  
15 before the date of the enactment of the National Flood and  
16 Erosion Insurance and Mitigation Act of 1989 has been sub-  
17 ject to recurring significant losses due to flood damage shall  
18 be considered a repetitive-loss property for purposes of this  
19 subsection subject to the conducting of evaluations and  
20 making of recommendations as provided in subparagraph (B).

21       “(B) The Director shall provide for evaluations and rec-  
22 ommendations to be carried out under this subsection with  
23 respect to properties under subparagraph (A) not later than  
24 the expiration of the 5-year period beginning on the date of

1 the enactment of the National Flood and Erosion Insurance  
2 and Mitigation Act of 1989.

3 “(8) The Director may make grants under section  
4 1362(a)(3) to States that conduct evaluations under para-  
5 graph (1) through agreement with the Director to carry out  
6 the evaluations.”.

7 **SEC. 5. ESTABLISHMENT OF FLOOD MITIGATION FUND AND**  
8 **PROGRAMS FOR FLOOD MITIGATION ACTIVI-**  
9 **TIES.**

10 (a) **ESTABLISHMENT OF NATIONAL FLOOD MITIGA-**  
11 **TION FUND.—**

12 (1) **IN GENERAL.—**Section 1362 of the National  
13 Flood Insurance Act of 1968 (42 U.S.C. 4103) is  
14 amended to read as follows:

15 **“FLOOD MITIGATION FUND**

16 **“SEC. 1362. (a) ESTABLISHMENT AND AVAILABIL-**  
17 **ITY.—**The Director shall establish in the Treasury of the  
18 United States a revolving fund to be known as the National  
19 Flood Mitigation Fund, which shall be credited with amounts  
20 described in subsection (b) and shall be available to the extent  
21 provided in appropriation Acts for—

22 “(1) making loans and assistance available as pro-  
23 vided under section 1362a;

24 “(2) administrative expenses for carrying out the  
25 programs under section 1362a; and

1           “(3) assistance to States for evaluations under  
2           section 1306(d)(8).

3           “(b) CREDITS.—The National Flood Mitigation Fund  
4 shall be credited with—

5           “(1) 5 percent of any premiums paid to the Na-  
6           tional Flood Insurance Fund under section 1310(b)(6);

7           “(2) any repayments of loans made from the Na-  
8           tional Flood Mitigation Fund under section 1362a(a);

9           “(3) any funds that were appropriated to carry  
10          out section 1362 of the National Flood Insurance Act  
11          of 1968 (as the section existed before the date of the  
12          enactment of the National Flood and Erosion Insur-  
13          ance and Mitigation Act of 1989) that are unexpended  
14          on the date of the enactment of the National Flood and  
15          Erosion Insurance and Mitigation Act of 1989.

16          “(c) INVESTMENT.—If the Director determines that the  
17          amounts in the National Flood Mitigation Fund are in excess  
18          of amounts needed to carry out section 1362a, the Director  
19          may invest any excess amounts the Director determines ad-  
20          visable in interest-bearing obligations issued or guaranteed by  
21          the United States.”.

22          “(2) CONFORMING AMENDMENT.—Section  
23          1310(d) of the National Flood Insurance Act of 1968  
24          (42 U.S.C. 4017(d)) is amended by inserting before the

1 period at the end the following: '(subject to the set-  
2 aside provided in subsection 1362(b)(1)).'."

3 (b) FLOOD MITIGATION ASSISTANCE FROM NATIONAL  
4 FLOOD MITIGATION FUND.—The National Flood Insurance  
5 Act of 1968 (42 U.S.C. 4001 et seq.) is amended by inserting  
6 after section 1362 the following new section:

7 "FLOOD MITIGATION ASSISTANCE PROGRAMS

8 "SEC. 1362a. (a) RECOMMENDED MODIFICATIONS.—  
9 The Director shall establish a program to make loans avail-  
10 able from any amounts in the National Flood Mitigation Fund  
11 to owners of property for which flood mitigation recommen-  
12 dations have been made under section 1306(d)(3) for the pur-  
13 pose of carrying out the modifications recommended. Loans  
14 under this paragraph shall be made at a rate of interest of 2  
15 percent per annum and repayable in 10 years.

16 "(b) PURCHASE OF HEAVILY DAMAGED STRUC-  
17 TURES.—

18 "(1) The Director shall establish a program to ne-  
19 gotiate with and make assistance available to any  
20 State or area (or subdivisions thereof) that meets the  
21 requirements of sections 1305(c) and 1315 from any  
22 amounts in the National Flood Mitigation Fund for the  
23 purchase of any real property on which is located a  
24 heavily damaged structure.

1           “(2) Assistance under this subsection may be  
2           made only for any real property on which is located a  
3           structure that has incurred flood damage on—

4                   “(A) any single occasion for which the cost  
5                   of repair exceeded 50 percent of the value of the  
6                   structure at the time of the damage; and

7                   “(B) not less than 2 previous occasions over  
8                   a 5-year period and for which on each occasion  
9                   the cost of the damage on the average equaled or  
10                  exceeded 25 percent of the value of the structure  
11                  at the time of the flood event.

12           “(c) PURCHASE OF PROPERTY IN CRITICAL HAZARD  
13           AREAS.—

14                   “(1) The Director shall establish a program to ne-  
15                   gotiate with and make assistance available to any  
16                   State or area (or subdivisions thereof) that meets the  
17                   requirements of sections 1305(c) and 1315 from any  
18                   amounts in the National Flood Mitigation Fund for the  
19                   purchase of real property subject to the requirements of  
20                   this subsection.

21                   “(2) Communities receiving assistance under this  
22                   subsection may purchase only property in areas of crit-  
23                   ical hazard (as designated by the Director under  
24                   section 1306(d)(6)(B)).

1           “(3) The Director may not provide assistance to a  
2 community under this subsection unless the community  
3 has developed comprehensive plans, to the satisfaction  
4 of the Director, to provide for flood hazard, erosion,  
5 and post-storm response, which shall include—

6           “(A) descriptions and maps of areas of ero-  
7 sion and areas of critical hazard (as designated by  
8 the Director under section 1306(d)(6)(B)) and  
9 identification of repetitive-loss properties (as des-  
10 ignated by the Director under section  
11 1306(d)(6)(A));

12           “(B) plans for management of areas of ero-  
13 sion that contain establishment of requirements for  
14 50-year and 75-year erosion setbacks under sec-  
15 tion 1305(c)(3);

16           “(C) plans for minimizing or eliminating  
17 severe losses and repetitive losses, which shall in-  
18 clude, as the Director determines appropriate—

19           “(i) programs for information regarding  
20 flood hazards and warnings;

21           “(ii) programs for advice regarding al-  
22 terations of structures;

23           “(iii) programs for flood preparedness  
24 and acquisition, relocation, demolition, and  
25 alteration of property and structures;

1                   “(iv) programs establishing standards  
2                   regarding reconstruction;

3                   “(v) consideration of projects for drain-  
4                   age improvement and flood control;

5                   “(vi) promotion of flood insurance; and

6                   “(D) identification of the officials or agencies  
7                   responsible for implementing the plans and pro-  
8                   grams for the community under this paragraph.

9                   “(4) The Director shall give priority for assistance  
10                  under this subsection to communities whose plans in-  
11                  clude provisions for—

12                   “(A) protecting wetlands;

13                   “(B) establishing or retaining open space rec-  
14                   reational opportunities and public access with re-  
15                   spect to waterfront areas;

16                   “(C) preservation or improvement of water  
17                   quality;

18                   “(D) establishment of zones of restricted de-  
19                   velopment along waterways; or

20                   “(E) other actions to protect or enhance the  
21                   environment.

22                  “(d) USE OF PURCHASED PROPERTY.—Any property  
23                  purchased with assistance under subsection (b) or (c) shall be  
24                  devoted to open space, recreational, or public access uses.

1           “(e) **LIMITATION ON USE OF ASSISTANCE.**—The Di-  
2 rector shall provide that any owner of any structure that re-  
3 ceives assistance under this section for removal or relocation  
4 of the structure may not rebuild or relocate the structure in  
5 any area of critical hazard (as designated by the Director  
6 under section 1306(d)(6)(B)), areas of erosion, or wetlands  
7 area.

8           “(f) **REGULATIONS.**—The Director shall issue any regu-  
9 lations necessary to carry out this section.”.

10 **SEC. 6. EROSION PROVISIONS.**

11           (a) **PROMULGATION OF SETBACK REQUIREMENTS.**—

12                   (1) **IN GENERAL.**—Section 1305(c) of the Nation-  
13 al Flood Insurance Act of 1968 (42 U.S.C. 4012(c)) is  
14 amended—

15                           (A) in paragraph (1), by striking “, and” and  
16 inserting a semicolon;

17                           (B) in paragraph (2), by striking the period at  
18 the end and inserting “; and”; and

19                           (C) by adding at the end the following new  
20 paragraph:

21                           “(3) established erosion setbacks within 18  
22 months of the enactment of the National Flood and  
23 Erosion Insurance and Mitigation Act of 1989 that  
24 prohibit, to the satisfaction of the Director, construc-  
25 tion or relocation of—



1           “(A) any structure consisting of 1 to 4 dwell-  
2           ing units at a point seaward of the 50-year ero-  
3           sion setback; and

4           “(B) any other structure at a point seaward  
5           of the 75-year erosion setback.”.

6           (2)       CONFORMING        AMENDMENT.—Section  
7           1306(c)(5) of the National Flood insurance Act of 1968  
8           (42 U.S.C. 4013(c)(5)) is amended—

9                   (A) in subparagraph (A), by striking “30-  
10                  year” and inserting “50-year”; and

11                   (B) in subparagraph (B), by striking “60-  
12                  year” and inserting “75-year”.

13           (b) PREMIUM RATE REVISION.—Section 1308(b) of the  
14           National Flood Insurance Act of 1968 (42 U.S.C. 4015(b)) is  
15           amended—

16                   (1) in paragraph (2), by striking “and” at the end;

17                   (2) in paragraph (3), by striking the period at the  
18                  end and inserting “, and”; and

19                   (3) by adding at the end the following new para-  
20                  graph:

21                   “(4) stated, with respect to premium rates for  
22                  structures located in areas identified by the Director as  
23                  areas of erosion, so as to reflect the risks associated  
24                  with erosion and sea-level rise.”.

1 SEC. 7. UPDATING FLOOD INSURANCE MAPS.

2 (a) 5-YEAR UPDATES.—Section 1360 of the National  
3 Flood Insurance Act of 1968 (42 U.S.C. 4101) is amended  
4 by adding at the end the following new subsections:

5 “(e) Once during each 5-year period (the first such  
6 period beginning on the date of the enactment of the National  
7 Flood and Erosion Insurance and Mitigation Act of 1989) or  
8 more often as the Director determines necessary because of  
9 storms, high erosion rates, increased watershed development,  
10 or other extraordinary situations, the Director shall assess  
11 the need to revise and update all flood-plain areas and flood-  
12 risk zones identified, delineated, or established under this  
13 section.

14 “(f) The Director shall revise and update any flood-plain  
15 areas and flood-risk zones—

16 “(1) upon the determination of the Director, ac-  
17 cording to the assessment under subsection (e), that re-  
18 vision and updating are necessary for the areas and  
19 zones; or

20 “(2) upon the request from any State or local gov-  
21 ernment stating that specific flood-plain areas and  
22 flood-risk zones in the State or locality need revision or  
23 updating (if sufficient technical, engineering, or other  
24 justification is provided to justify the request).”.

1           (b) USE OF NATIONAL FLOOD INSURANCE FUND.—  
2 Section 1310(a) of the National Flood Insurance Act of 1968  
3 (42 U.S.C. 4017(a)) is amended—

4           (1) in paragraph (4), by striking “and”;

5           (2) in paragraph (5), by striking the period at the  
6 end and inserting “; and”; and

7           (3) by adding at the end the following new para-  
8 graph:

9           “(6) for revising and updating under flood-plain  
10 areas and flood-risk zones under section 1360(f).”.

11 **SEC. 8. REGULATIONS.**

12           The Director of the Federal Emergency Management  
13 Agency may issue any regulations necessary to carry out the  
14 amendments made by this Act.

