

12. Increase Maximum Coverage Limits – Increases the NFIP’s maximum coverage limits for structures and contents and index them to Fannie Mae/Freddie Mac conforming loan limits so that they can adjust periodically with housing costs.

Legislative text:

Section __. Amend coverage limits.

(a) Streamlining maximum coverage limit amounts.—Section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013) is amended by striking subsection (b) and inserting the following:

“(b) Available coverage.—

“(1) Maximum amount of coverage available.—

“(A) In general.—The Administrator shall make available flood insurance coverage for buildings and contents in various amounts of aggregate liability as follows:

“(i) 1-4 dwelling residential buildings.—If a building is a 1-4 dwelling residential building, then the Administrator shall make available flood insurance coverage for—

“(I) the building up to a share of the baseline amount, as determined by the Administrator; and

“(II) the contents contained within the building up to 40 percent of the baseline amount.

“(ii) Multifamily residential buildings.—If a building is a multifamily residential building, then the Administrator shall make available flood coverage for—

“(I) the building up to 200 percent of the baseline amount; and

“(II) the contents contained within the building up to 200 percent of the baseline amount.

“(iii) Non-residential building.— If a building is a non-residential building, then the Administrator shall make available flood coverage for—

(I) the building up to 200 percent of the baseline amount; and

(II) the contents contained within the building up to 200 percent of the baseline amount.

“(B) Authority to provide lower amounts of coverage.—The Administrator may offer coverage in amounts less than those indicated by subparagraph (A) upon providing public notice of such limits in the Federal Register or through a comparable method.

“(2) Coverage limitation on pre-FIRM rates.—

“(A) Residential buildings.—Except as provided by subparagraph (B), for residential buildings,—

“(i) building coverage amounts in excess of \$35,000 in aggregate liability for any single-family dwelling, and \$100,000 for any residential structure containing more than one dwelling unit shall be based only on

chargeable premium rates under section 1308 which are not less than the estimated premium rates under section 1307(a)(1); and

“(ii) contents coverage amounts in excess of \$10,000 in aggregate liability per dwelling unit shall be based only on chargeable premium rates under section 1308 which are not less than the estimated premium rates under section 1307(a)(1).

“(B) Residential buildings in high-cost areas.—For residential buildings located in the States of Alaska and Hawaii, and in the Virgin Islands and Guam,—

“(i) building coverage amounts in excess of \$50,000 in aggregate liability for any single-family dwelling, and \$150,000 for any residential structure containing more than one dwelling unit shall be based only on chargeable premium rates under section 1308 which are not less than the estimated premium rates under section 1307(a)(1); and

“(ii) contents coverage amounts in excess of \$10,000 in aggregate liability per dwelling unit shall be based only on chargeable premium rates under section 1308 which are not less than the estimated premium rates under section 1307(a)(1).

“(C) Non-residential buildings.—For non-residential buildings,—

“(i) building coverage amounts in excess of \$100,000 in aggregate liability shall be based only on chargeable premium rates under section 1308 which are not less than the estimated premium rates under section 1307(a)(1); and

“(ii) contents coverage amounts in excess of \$100,000 in aggregate liability per unit shall be based only on chargeable premium rates under section 1308 which are not less than the estimated premium rates under section 1307(a)(1).

“(3) Definitions.—In this subsection,—

“(A) the term “1-4 dwelling residential building” means a building designed for use as a residence for no more than four families or a single-family unit in a building under a condominium form of ownership;

“(B) the term “baseline amount” means the amount determined by the Administrator that is equal to the maximum original principal obligation of conventional mortgages secured by a single-family residence eligible for purchase by Federal National Mortgage Association, as established pursuant to the 7th sentence of section 302(b)(2) of the Federal National Mortgage Association Charter Act, but for which the Administrator shall not ---

“(i) increase the amount more than once every five years;

“(ii) increase the amount for any property pursuant to the 11th and 12th sentence of section 302(b)(2) of the Federal National Mortgage Association Charter Act; or

“(iii) decrease the amount.

“(C) the term “multifamily residential building” means a residential building that is designed for use as a residential space for five or more families; and

“(D) the term “non-residential building” means a commercial or mixed-use building where the primary use is commercial or non-habitational.

(b) Technical amendment.—Section 1305 of the National Flood Insurance Act of 1968 (42 U.S.C. 4012) is amended by striking subsection (d).

(c) The Administrator shall implement this subsection without regard to 5 U.S.C. Chapter 5.

(c)

Analysis:

Subsection 1306(b) of the National Flood Insurance Act of 1968 (42 U.S.C. § 4013(b)) establishes statutory caps limiting the amount of coverage available for purchase under the National Flood Insurance Program (NFIP) and directs FEMA to adopt corresponding regulations. As required, FEMA adopted 44 CFR § 61.6, which limits the amount of coverage available to the maximum amounts imposed by 42 U.S.C. § 4013(b). As the statute is currently structured, FEMA cannot increase the available coverage amounts until (1) Congress increases the statutory caps, and (2) FEMA amends 44 CFR § 61.6 through the notice-and-comment rulemaking process.

Given the increase in housing prices across the country, the existing maximum coverage limits do not provide the same level of protection to NFIP policyholders today as they did when Congress last updated them 25 years ago. Over half (61%) of NFIP-insured single family residences have \$250,000 of building coverage, suggesting that the upper limits on coverage bind households that would otherwise purchase greater protection. Many policyholders are underinsured and will not be able to replace their home or belongings in the event of a total loss. Customers who are unable to fully insure the value of their home through the NFIP are left with two options from a customer experience perspective: either remain underinsured or buy a second policy for their home from another insurer. There is a small private market that enables some NFIP policyholders to purchase excess coverage above the NFIP’s current coverage limits (for 1-4 family structures) of \$250,000 for structure and \$100,000 for contents.

FEMA proposes increasing coverage limits to enable policyholders to better manage their risk and recover more quickly and more fully after flood events. The draft statute below would accomplish this and allow for faster implementation, better align with the NFIP’s current regulatory framework, and ensure coverage limits keep up with the needs and expectations of NFIP policyholders in the future.

The language provided below restates the NFIP’s statutory coverage limits in a much clearer way. It expresses all coverage limits as a percentage of a ‘baseline amount’ linked to the Fannie Mae/Freddie Mac conforming loan limit for single-family dwellings (currently \$647,200 as of January 1, 2022) with no regional variation. The draft statute would allow FEMA to offer coverage for 1- to 4-dwelling residences beyond the current \$250,000 limit, up to 100% of the conforming loan limit, with commensurate increases for multifamily and commercial structures

and associated contents coverage. Indexing NFIP maximum coverage limits to the Fannie Mae/Freddie Mac conforming loan limit, which tracks inflation in housing prices, would ensure that NFIP coverage keeps pace with changes in future home values. The NFIP would provide coverage above the current maximum coverage limits at full-risk premium rates, with some limited exceptions.⁵ Although expected claims payouts would increase, that increase would be relatively minor and aggregate premiums would increase to match the increased expected claims payout.

This language is written to be self-executing, which would allow FEMA to offer the increased maximum coverage limits without undergoing the lengthy rulemaking process. FEMA would adjust the indicated amounts every five years to keep up with increases in the conforming loan limit. Such a time interval would ensure that the limits keep up with inflation while alleviating any concern about stakeholder or policyholder confusion resulting from too-frequent changes in the limits.

Comparative type:

National Flood Insurance Act of 1968

SEC. 1305. SCOPE OF PROGRAM AND PRIORITIES. (42 U.S.C. 4012)

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~~(d) Availability of insurance for multifamily properties~~

~~(1) In general. The Administrator shall make flood insurance available to cover residential properties of 5 or more residences. Notwithstanding any other provision of law, the maximum coverage amount that the Administrator may make available under this subsection to such residential properties shall be equal to the coverage amount made available to commercial properties.~~

~~(2) Rule of construction.— Nothing in this subsection shall be construed to limit the ability of individuals residing in residential properties of 5 or more residences to obtain insurance for the contents and personal articles located in such residences.~~

SEC. 1306. NATURE AND LIMITATIONS OF INSURANCE COVERAGE. (42 U.S.C. 4013)

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⁵ For the great majority of NFIP policies, both full-risk and pre-Flood Insurance Rate Map (pre-FIRM) discounted, any additional coverage would be at full-risk rates. Policyholders with existing pre-FIRM discounts would continue to receive those discounts on coverage below the current maximum limits but any additional coverage enabled by this reform would be at full-risk rates. However, policyholders with Newly Mapped discounts (with property remapped into a Special Flood Hazard Area) would receive that discount on both their original coverage and the increased amount. Policies eligible for A99 discounts would receive the same treatment. Newly Mapped policies constitute only 3.6% of current NFIP policies, and those with A99 discounts represent fewer than 0.8% of NFIP policies. Moreover, while such policyholders would receive some discount on additional coverage, the premium would be commensurate with the amount of coverage they select.

- ~~(b) Regulations respecting amount of coverage. In addition to any other terms and conditions under subsection (a), such regulations shall provide that—~~
- ~~(1) any flood insurance coverage based on chargeable premium rates under section 4015 of this title which are less than the estimated premium rates under section 4014(a)(1) of this title shall not exceed—~~
 - ~~(A) in the case of residential properties—~~
 - ~~(i) \$35,000 aggregate liability for any single family dwelling, and \$100,000 for any residential structure containing more than one dwelling unit,~~
 - ~~(ii) \$10,000 aggregate liability per dwelling unit for any contents related to such unit, and~~
 - ~~(iii) in the States of Alaska and Hawaii, and in the Virgin Islands and Guam, the limits provided in clause (i) of this sentence shall be: \$50,000 aggregate liability for any single family dwelling, and \$150,000 for any residential structure containing more than one dwelling unit;~~
 - ~~(B) in the case of business properties which are owned or leased and operated by small business concerns, an aggregate liability with respect to any single structure, including any contents thereof related to premises of small business occupants (as that term is defined by the Administrator), which shall be equal to (i) \$100,000 plus (ii) \$100,000 multiplied by the number of such occupants and shall be allocated among such occupants (or among the occupant or occupants and the owner) under regulations prescribed by the Administrator; except that the aggregate liability for the structure itself may in no case exceed \$100,000; and~~
 - ~~(C) in the case of church properties and any other properties which may become eligible for flood insurance under section 4012 of this title—~~
 - ~~(i) \$100,000 aggregate liability for any single structure, and~~
 - ~~(ii) \$100,000 aggregate liability per unit for any contents related to such unit; and~~
 - ~~(2) in the case of any residential building designed for the occupancy of from 1 to 4 families for which the risk premium rate is determined in accordance with the provisions of section 4014(a)(1) of this title, additional flood insurance in excess of the limits specified in clause (i) of subparagraph (A) of paragraph (1) shall be made available, with respect to any single such building, up to an aggregate liability (including such limits specified in paragraph (1)(A)(i)) of \$250,000;~~
 - ~~(3) in the case of any residential property for which the risk premium rate is determined in accordance with the provisions of section 4014(a)(1) of this title, additional flood insurance in excess of the limits specified in clause (ii) of subparagraph (A) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance so as to enable any such insured or applicant to receive coverage up to a total amount (including such limits specified in paragraph (1)(A)(ii)) of \$100,000;~~
 - ~~(4) in the case of any nonresidential building, including a church, for which the risk premium rate is determined in accordance with the provisions of section 4014(a)(1) of this title, additional flood insurance in excess of the limits specified in subparagraphs (B) and (C) of paragraph (1) shall be made available with respect to any single such building, up to an aggregate liability (including such limits specified in subparagraph (B) or (C) of paragraph (1), as applicable) of \$500,000, and coverage shall be made available up to a total of \$500,000 aggregate liability for contents owned by the building owner and \$500,000 aggregate liability for each unit within the building for contents owned by the tenant; and~~
 - ~~(5) any flood insurance coverage which may be made available in excess of the limits specified in subparagraph (A), (B), or (C) of paragraph (1), shall be based only on chargeable premium rates under section 4015 of this title, which are not less than the estimated premium rates under section 4014(a)(1) of this title, and the amount of such excess coverage shall not in any case exceed an amount equal to the applicable limit so specified (or allocated) under paragraph (1)(C), (2), (3), or (4), as applicable.~~

- (b) Available coverage.—
- (1) Maximum amount of coverage available.—
- (A) In general.—The Administrator shall make available flood insurance coverage for buildings and contents in various amounts of aggregate liability as follows:
- (i) 1-4 dwelling residential buildings.—If a building is a 1-4 dwelling residential building, then the Administrator shall make available flood insurance coverage for—
- (I) the building up to a share of the baseline amount, as determined by the Administrator; and
- (II) the contents contained within the building up to 40 percent of the baseline amount.
- (ii) Multifamily residential buildings.—If a building is a multifamily residential building, then the Administrator shall make available flood coverage for—
- (I) the building up to 200 percent of the baseline amount; and
- (II) the contents contained within the building up to 200 percent of the baseline amount.
- (iii) Non-residential building.— If a building is a non-residential building, then the Administrator shall make available flood coverage for—
- (I) the building up to 200 percent of the baseline amount; and
- (II) the contents contained within the building up to 200 percent of the baseline amount.
- (B) Authority to provide lower amounts of coverage.—The Administrator may offer coverage in amounts less than those indicated by subparagraph (A) upon providing public notice of such limits in the Federal Register or through a comparable method.
- (2) Coverage limitation on pre-FIRM rates.—
- (A) Residential buildings.—Except as provided by subparagraph (B), for residential buildings,—
- (i) building coverage amounts in excess of \$35,000 in aggregate liability for any single-family dwelling, and \$100,000 for any residential structure containing more than one dwelling unit shall be based only on chargeable premium rates under section 1308 which are not less than the estimated premium rates under section 1307(a)(1); and
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(3) Definitions.—In this subsection,—

(A) the term “1-4 dwelling residential building” means a building designed for use as a residence for no more than four families or a single-family unit in a building under a condominium form of ownership;

(B) the term “baseline amount” means the amount determined by the Administrator that is equal to the maximum original principal obligation of conventional mortgages secured by a single-family residence eligible for purchase by Federal National Mortgage Association, as established pursuant to the 7th sentence of section 302(b)(2) of the Federal National Mortgage Association Charter Act, but for which the Administrator shall not—

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(C) the term “multifamily residential building” means a residential building that is designed for use as a residential space for five or more families; and

(D) the term “non-residential building” means a commercial or mixed-use building where the primary use is commercial or non-habitational.

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