



## MEMORANDUM

To: Council Members

AGENDA ITEM 7

From: Staff

Date: October 12, 2018 Joint Council Meeting

Subject: National Flood Insurance Program Reauthorization Update - The Honorable Heather Carruthers, Monroe County Commissioner; Chair, Florida Association of Counties Federal Policy Committee

### Introduction

Congress must periodically renew the National Flood Insurance Program's (NFIP) statutory authority to operate. On July 31, 2018, the President signed legislation passed by Congress that extends NFIP's authorization to November 30, 2018.

Congress must now reauthorize the NFIP by no later than 11:59 pm on November 30, 2018.

The Federal Emergency Management Agency (FEMA) and Congress have never failed to honor the flood insurance contracts in place with NFIP policyholders. Should the NFIP's authorization lapse, FEMA would still have authority to ensure the payment of valid claims with available funds. However, FEMA would stop selling and renewing policies for millions of properties in communities across the nation. Nationwide, the National Association of Realtors estimates that a lapse might impact approximately 40,000 home sale closings per month.

NFIP reauthorization is an opportunity for Congress to take bold steps to reduce the complexity of the program and strengthen the NFIP's financial framework so that the program can continue helping individuals and communities take the critical step of securing flood insurance. The level of damage from the 2017 hurricanes makes it abundantly clear that FEMA needs a holistic plan to ready the Nation for managing the cost of catastrophic flooding under the NFIP. (Source: [www.fema.gov](http://www.fema.gov)).

### Background

The NFIP was established by the National Flood Insurance Act of 1968 (NFIA, 42 U.S.C. §4001 et seq.) and was most recently reauthorized to July 31, 2018 through a series of short-term reauthorizations. The general purpose of the NFIP is both to offer primary flood insurance to properties with significant flood risk, and to reduce flood risk through the adoption of floodplain

management standards. Communities volunteer to participate in the NFIP in order to have access to federal flood insurance, and in return are required to adopt minimum standards.

FEMA manages a process, called Risk MAP, to produce Flood Insurance Rate Maps (FIRMs). Depicted on FIRMs are Special Flood Hazard Areas (SFHAs), which is the area exposed to a 1% or greater risk of annual flooding. FIRMs vary in age across the country and are updated on a prioritized basis. The Risk MAP process provides extensive outreach and appeal opportunities for communities. Updating a community's FIRMs can take three to five years or more. Participating communities must adopt a flood map and enact minimum floodplain standards to regulate development in the SFHA. FEMA encourages communities to enhance their floodplain standards by offering reduced premium rates through the Community Rating System (CRS). FEMA also manages a Flood Mitigation Assistance (FMA) grant program using NFIP revenues to further reduce comprehensive flood risk.

NFIP insurance uses one of three types of Standard Flood Insurance Policies (SFIPs). SFIPs have maximum coverage limits set by law. Any federal entity that makes, guarantees, or purchases mortgages must, by law, require property owners in the SFHA to purchase flood insurance, generally through the NFIP. In moderate risk areas, community members may purchase Preferred Risk Policies (PRPs) that offer less costly insurance. The day-to-day sale, servicing, and claims processing of NFIP policies are conducted by private industry partners. Most policies are serviced by companies that are reimbursed through the Write Your Own (WYO) Program.

The premium rate for most NFIP policies is intended to reflect the true flood risk. However, Congress has directed FEMA to subsidize flood insurance for properties built before the community's first FIRM (i.e., the pre-FIRM subsidy). In addition, FEMA "grandfathers" properties at their rate from past FIRMs to updated FIRMs through a cross-subsidy. Congress also directed the development of an Affordability Study, and a forthcoming Draft Affordability Framework, to evaluate methods for making flood insurance more affordable.

Participating communities that fail to adopt FIRMs or maintain minimum floodplain standards can be put on probation or suspended from the NFIP. In communities that do not participate in the NFIP, or have been suspended, individuals cannot purchase NFIP insurance. Individuals in these communities also face challenges receiving federal disaster assistance in flood hazard areas, and have difficulties receiving federally backed mortgages.

Congress has provided appropriations to the NFIP for some of the cost of Risk MAP. Congress also authorizes the use of premium revenues for other NFIP costs, including administration, salaries, and other expenses. NFIP premiums also include other charges, such as a Federal Policy Fee, a Reserve Fund assessment, and a surcharge to help fund the NFIP. In October 2017, Congress cancelled \$16 billion of NFIP debt, making it possible for the program to pay claims for Hurricanes Harvey, Irma, and Maria. The NFIP currently owes \$20.525 billion to the U.S. Treasury, leaving \$9.9 billion in borrowing authority from a \$30.425 billion limit in law. This debt is serviced by the NFIP and interest is paid through premium revenues. (**Source:** Congressional Research Service, Introduction to the National Flood Insurance Program (NFIP), Diane P. Horn, Analyst in Flood Insurance and Emergency Management, and Jared T. Brown, Analyst in Emergency Management and Homeland Security Policy (April 30, 2018) <https://fas.org/sgp/crs/homesecc/R44593.pdf>). The "National Flood

Insurance Program (NFIP) Extension Act of 2018” extended NFIP reauthorization through November 30, 2108. This was the seventh extension.

On September 27, 2018, the Florida Association of Counties adopted as its federal policy that it will:

- SUPPORT reauthorization of the NFIP with legislative, policy and programmatic modifications to ensure no coverage lapses and to improve the affordability, transparency and financial stability of the program through reforms in the following areas: 1) Affordability / Rate Structure; 2) Mapping / Data Collection / Modeling; and 3) Mitigation.
- OPPOSE any reauthorization efforts that are detrimental to policyholders, local governments, and the integrity of the program.
- SUPPORT the Sustainable, Affordable, Fair and Efficient National Flood Insurance Program Reauthorization Act (SAFE NFIP) 2017 (Exhibit 1).
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At its Annual Meeting in Hollywood, the Florida League of Cities adopted a resolution in support of reauthorization of the National Flood Insurance Program. (Exhibit 2).

#### Recommendation

Authorize staff to prepare a joint letter for signature of the Chairs urging Congress to reauthorize the National Flood Insurance Program in support of the legislative positions adopted by the Florida Association of Counties, the Florida League of Cities, and Southeast Florida’s local governments.

Attachments

# EXHIBIT 1

## Florida Association of Counties Federal Policy

### NATIONAL FLOOD INSURANCE PROGRAM

National Flood Insurance Program (NFIP) Reform: **SUPPORT** reauthorization of the NFIP with legislative, policy and programmatic modifications to ensure no coverage lapses and to improve the affordability, transparency and financial stability of the program through reforms in the following areas: 1) Affordability/Rate Structure; 2) Mapping/Data Collection/Modeling; and, 3) Mitigation. **OPPOSE** any reauthorization efforts that are detrimental to policyholders, local governments and the integrity of the program. **SUPPORT** the Sustainable, Affordable, Fair and Efficient National Flood Insurance Program Reauthorization Act (SAFE NFIP) 2017.

- The “National Flood Insurance Program (NFIP) Extension Act of 2018,” extended NFIP reauthorization through November 30, 2018. This is the seventh extension.
- The cost of Hurricane Florence could prompt an effort to pass NFIP reform legislation in November, although last year’s hurricane season prompted similar interest without result.
- The central disagreement is over how much of the market should go to private insurers.
- Reforms with broader agreement include improving mitigation efforts.
- Some lawmakers are eyeing a potential disaster relief package as a possible vehicle.
- Of all the NFIP reform bills introduced to date, S. 1368, the SAFE Act, co-sponsored by Senators Rubio and Nelson is most closely aligned with FAC priorities. Highlights include:
  - Reauthorizes the NFIP for six years.
  - No Exorbitant Rate Hikes. Caps annual increases to 10%. Currently, premiums rise by up to 25%/ year.
  - Cuts Wasteful Expenses to Pay for Investments. Freezes interest payments and establishes new controls for private insurance company compensation in order to reinvest in proactive mitigation efforts and affordability measures, including low-interest loans for homeowners’ mitigation projects and affordability vouchers.
  - Invests in Mitigation. Provides funding levels for large-scale, communitywide mitigation efforts, and mitigation assistance programs.
  - Expands Increased Cost of Compliance (ICC) Coverage. Increases the maximum limit for ICC coverage to better reflect the costs of mitigation projects and expands eligibility in order to encourage more proactive mitigation.
  - Funds LiDAR Mapping. Authorizes funding for Light Detection and Ranging (LiDAR) technology for more accurate mapping of flood risk across the country, reducing confusion and generating better data.
  - Oversight of Write Your Own (WYO) Companies. Caps compensation for WYO companies to 22.4 percent of written premiums, creates new oversight measures for insurance companies and vendors, and provides FEMA with greater authority to terminate contractors that have a track record of abuse.

- In April, FEMA released its “Affordability Framework.”
- The Affordability Framework concluded that Congress should shift from providing policy discounts based on the age of a home and when flood maps went into effect to a system that directs benefits to households in which flood insurance is financially burdensome.
- The report provides policymakers with four main affordability program design options to consider:
  - Income-based premium sharing: Lower-income households would be responsible for paying for a portion of the premium amount and FEMA covers the remainder of the premium amount. In this option, as household income levels rise, the portion of the premium that would be covered by FEMA decreases.
  - The premium burden-based benefit: Lower-income households would be responsible for paying for a portion of their income for flood insurance. If the required proportion of income is not sufficient to cover the insurance premiums, FEMA would cover the remainder of the premium amount.
  - The housing burden-based benefit: Lower-income households that spend more than a specified amount of their income on housing-related expenses, such as mortgage amount, taxes and insurance would receive assistance.
  - Mitigation grants or loans: This approach would complement the other program designs. Under this design option, the government would provide financial assistance to fund structure-specific mitigation activities that lead to reduced risk. The assistance would be a grant for lower-income households and a loan for more moderate-income households.

**ACTION**

- **SUPPORT S. 1368**, the Sustainable, Affordable, Fair and Efficient commonly known as the “SAFE Act”
- **OPPOSE** any reauthorization efforts that are detrimental to policyholders, local governments and the integrity of the program.

# EXHIBIT 2

## Resolution

Florida League of Cities

### A RESOLUTION OF THE FLORIDA LEAGUE OF CITIES, INC., URGING CONGRESS TO REAUTHORIZE THE NATIONAL FLOOD INSURANCE PROGRAM.

**WHEREAS**, floods are the most common and most destructive natural disaster in the United States and Florida; and

**WHEREAS**, the National Flood Insurance Act of 1968 created the National Flood Insurance Program (NFIP) in response to the lack of available private flood insurance and continued increases in federal disaster assistance due to floods; and

**WHEREAS**, the NFIP allows property owners in participating communities to buy insurance to protect against flood losses; and

**WHEREAS**, flooding is a serious risk in Florida due to the state's geography and proximity to water, both inland and coastal; and

**WHEREAS**, this issue is a critical concern for our state, as Florida has more than 1.7 million active NFIP policies and \$435.7 billion in coverage; and

**WHEREAS**, Florida has the largest number of participants in the NFIP and pays four times more into the program than it receives in claim payments; and

**WHEREAS**, the NFIP is set to expire on November 30, 2018; and

**WHEREAS**, as a government program, the NFIP should treat its customers equitably and should adhere to insurance principals that rates must not be excessive, inadequate or unfairly discriminatory; and

**WHEREAS**, properties should be rated based on their ability to withstand risk, not their use or ownership structure; and

**WHEREAS**, necessary increases in premiums should be implemented with regard to customers' ability to absorb those increases; and

**WHEREAS**, Senator Marco Rubio (R-FL), Senator Bill Nelson (D-FL) and other Senators have been working on bi-partisan legislation which would reauthorize the NFIP program for six years; and

### NOW, THEREFORE, BE IT RESOLVED BY THE FLORIDA LEAGUE OF CITIES, INC.:

**Section 1.** The Florida League of Cities, Inc., urges Congress to reauthorize the National Flood Insurance Program, and improve accuracy in flood mapping, transparency and broader-based solutions for funding.

**Section 2.** A copy of this resolution be sent to President Donald Trump, the Florida Congressional Delegation, the National League of Cities and the membership of the Florida League of Cities, Inc.

**Section 3.** This resolution shall become effective upon adoption and shall remain in effect until repealed and hereby repeals all conflicting resolutions.

**PASSED AND ADOPTED** by the Florida League of Cities, Inc., in conference assembled at the League's 92<sup>nd</sup> Annual Conference, at the Diplomat Resort, Hollywood, Florida, this 18<sup>th</sup> Day of August 2018.

  
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Gil Ziffer, President  
Florida League of Cities, Inc.  
Commissioner, City of Tallahassee

ATTEST:   
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Michael Sittig, Executive Director  
Florida League of Cities, Inc.

