

United States Senate

WASHINGTON, DC 20510

March 31, 2016

The Honorable W. Craig Fugate
Federal Emergency Management Agency
US Department of Homeland Security
500 C Street SW
Washington DC, 20472

Dear Administrator Fugate:

I am writing on behalf of the thousands of Louisianans that participate in the National Flood Insurance Program (NFIP). I am seeking clarification on recent policy changes your agency plans to implement April 1, 2016 regarding the elimination of subsidies for Pre – Flood Insurance Rate Map (Pre-FIRM) structures.

As you are aware, Section 205 of the Biggert-Water Flood Insurance Reform Act of 2012 (BW-12) prohibits Pre-FIRM subsidized premiums for lapsed policies. Section 3 of the Homeowner Flood Insurance Affordability Act (HFIAA) further clarifies this prohibition by affording an exemption for policies that lapse due to the lender no longer requiring the insured to maintain coverage.

However, according to FEMA's National Flood Insurance Program Write Your Own Program Bulletin W-15046, the agency has advised that a property covered by a non-NFIP policy purchased on the private market for the period longer than 120 days after NFIP coverage has expired is considered to have "lapsed" from the NFIP, even if there is no period of time that the property was not insured for flood damage. Therefore Pre-FIRM policyholders that have continuous coverage through a private policy carrier but that seek to return to the NFIP **will be subject to full-risk rates and a loss of Pre-FIRM subsidized rates.** This policy change seems to contradict the intention of Section 100239 of BW-12 where Congress explicitly allowed federal agencies to accept private flood insurance policies to fulfill mortgage requirements instead of policies offered solely through the NFIP, if the private flood insurance policies complied with the conditions stipulated in statute¹. Given these policy changes, please provide answers to the following:

1. Do you believe FEMA has provided guidance that discourages private insurers from entering into the marketplace?
2. Do you believe the ability of a consumer to choose a service provider is key in developing a healthy insurance market?
3. Why has FEMA elected to penalize those who seek private insurance, and encourage NFIP participants to stay exclusively within the program?

Part of the Congressional intent of BW-12 and the HFIAA was to encourage greater coverage amongst Pre-FIRM structures broadly, whether it be in the NFIP or in the private market. Your prompt attention to this matter is greatly appreciated.

Sincerely,



Bill Cassidy, M.D.
United States Senator

¹ 42 U.S.C. 4012a(b)(7)