Homeowner Flood Insurance Affordability Act of 2014
Section by Section Summary

On March 21, 2014, President Obama signed into law the Homeowner Flood Insurance Affordability Act of 2014 (HIFAA) (P.L. 113-89). This law repeals and modifies a number of provisions of the Biggert-Waters Flood Insurance Reform Act (BW-12). Several of the provisions found in BW-12 will continue to be implemented. Additionally, the HFIAA creates supplementary program changes that are not covered by BW-12. The Federal Emergency Management Agency (FEMA) is currently working to implement the HFIAA. **While this document represents a broad overview of the HFIAA provisions, we would recommend consulting FEMA for their technical guidance on interpretation of these provisions**.

- **Repeal of Certain Rate Increases (Sec. 3)—**Repeals rate increases caused by the following three triggers: (1) Increased rates on properties sold after July 6, 2012. BW-12 required rate increases for new homeowners and business owners. Repeals the rate increases for new homeowners and business owners and allows them to receive the same treatment as the previous owners; (2) All properties that purchased a new policy after July 6, 2012, before they were legally required to purchase insurance; and (3) All properties with a lapsed policy that was a result of the property covered by the policy no longer required coverage. This provision also requires FEMA to refund homeowners or business owners whom have paid increases due to the above mentioned triggers as a result of BW-12.

According to FEMA: ***http://www.fema.gov/media-library-data/1396551935597-4048b68f6d695a6eb6e6e7118d3ce464/HFIAA_Overview_FINAL_03282014.pdf***

- ***Refunds apply to:*** *Policyholders in high-risk areas who were required to pay their full-risk rate after purchasing a new flood insurance policy on or after July 6, 2012.*

- ***Refunds may apply to:*** *Policyholders who renewed their policy after the HFIAA was enacted on March 21, 2014 and whose premium increased more than 18%.*

- ***Refunds do not apply to:*** *Policyholders paying the 25% annual rate increases, as required by Congress in BW-12, for a Pre-Flood Insurance Rate Map (FIRM) subsidized non-primary residence, business, severe repetitive loss property, or building that was substantially damaged or improved. Policyholders whose full-risk premium is less than the Pre-FIRM standardized premium, or who were not overcharged according to any retroactive revisions to the Pre-FIRM subsidized rates required by the new law.*

- *Policyholders who saw usual, annual rate increases in 2013 or 2014, or policyholders who paid the 5% fee for the NFIP Reserve Fund will only see a refund if their premium renewal was after March 21, 2014 and their total premium, including the reserve fund, exceeded 18%.*

- **Restoration of Grandfathered Rates (Sec. 4)—**Repeals a BW-12 provision that required FEMA to phase out grandfathered rates and move to risk based rates when a community adopted a new, revised, or updated FIRM. Effectively, under this new provision, homes and businesses that were built to code and later remapped into a higher risk area will not receive rate increases as a result of the remapping.

- **Requirements Regarding Annual Rate Increases (Sec. 5)—**Limits to 18% the annual increase for the chargeable risk premium rate for flood insurance (with some exceptions). Requires an increase in the chargeable premium rates for specified properties by an amount that results in an average during any 12-month period of not less than 5% of the average of the risk premium rates for such properties. Reduces from 20% to 15% of the average of the risk premium rates for properties within the risk classification, upon the commencement of any 12-month period, the limitation on the permissible increase in the chargeable risk premium rates for flood insurance for any properties within any single risk classification.

- **Clarification of Rates for Properties Newly Mapped into a Special Flood Hazard Area (Sec. 6)**—Addresses properties newly mapped into a Special Flood Hazard Area (SFHA). For the first year the area shall be set at the preferred risk premium. Upon renewal, rate increases will fall within the 5 – 15% annual increase. Additionally, these properties will receive an 18% cap on the individual policy.

- **Premiums and Reports (Sec. 7)**—Directs FEMA to strive to minimize the number of policies with annual premiums that exceed 1% of the total coverage provided by the policy. Any policies premiums that exceed the 1% threshold shall be reported to the House Financial Services Committee and Senate Banking Committee.

- **Annual Premium Surcharge (Sec. 8)**—Directs FEMA to impose an annual surcharge of $25 for primary residence and $250 for non-residential and non-primary residences. All revenue collected from these surcharges will be placed in an NFIP reserve fund. When premium rates match projected losses the assessments will be terminated.

- **Draft Affordability Framework (Sec. 9)**—Requires FEMA to prepare an affordability framework to address the issues of affordability of flood insurance sold under the NFIP. Affordability issues are to be addressed within 18 months after the completion of the affordability study. Affordability measures include:
  - Accurate consumer communication regarding flood risk associated with their properties;
  - Targeted assistance to flood insurance policyholders based on their financial ability to continue to participate in the NFIP;
  - Individual or community actions to mitigate the risk of flood or lower the cost of flood insurance;
  - The impact of rate increases in risk premium rates on participation in the NFIP; and
  - The impact the flood insurance rate map updates have on the affordability of flood insurance.

- **Risk Transfer (Sec. 10)**—Provides that FEMA may secure reinsurance coverage from private reinsurance and capital markets.

- **Monthly Installment Payment for Premiums (Sec. 11)**—Requires FEMA to offer monthly installment payments for premiums and provides FEMA eighteen months to implement this requirement.

- **Optional High-Deductible Policies for Residential Properties (Sec. 12)**—Allows FEMA to make available flood insurance coverage, at the option of the insured, that provides for a loss deductible for damage to the covered property up to and including $10,000. FEMA is required to clearly explain the coverage and the effect of a higher loss-deductible, i.e. the explanation should inform the insured that they will be responsible for losses up to the deductible amount.

- **Exclusion of Detached Structures from Mandatory Purchase Requirement (Sec. 13)—** Removes the requirement of purchasing flood insurance for detached structures that do not serve as a residence. A mortgage company may still require the property owner to purchase this coverage.

- **Accounting for Flood Mitigation Activities in Estimates of Premium Rates (Sec. 14)**— Requires FEMA to consider flood mitigation activities that an owner or lessee has undertaken on a property, including differences in risk involved due to land use measures, flood-proofing, flood forecasting, and similar measures when estimating premium rates.

- **Home Improvement Fairness (Sec. 15)**—Raises the threshold that triggers a loss of Pre-FIRM status for homes substantially damaged/rebuilt from exceeding 30% of the market value to 50% of the market value.

- **Affordability Study and Report (Sec. 16)**—Amends BW-12 requiring FEMA to complete the affordability study with eighteen months of the date of enactment of HIFAA. Additionally, section 16 raising the cap on the affordability study to $2,500,000 to guarantee FEMA has the funding to complete the study.

- **Flood Insurance Rate Map Certification (Sec. 17)**—Requires FEMA to certify that it has implemented a technically sound and scientific and engineering methodology. FEMA must have the Technical Mapping Advisory Council review the flood mapping program certification, which must be submitted to Congress.

- **Funds to Reimburse Homeowners for Successful Map Appeals (Sec. 18)**—Authorizes FEMA to reimburse policyholders who successfully appeal a map determination using the National Flood Insurance Fund.

- **Flood Protection Systems (Sec. 19)**— Makes any community that has made adequate progress on the construction or reconstruction of a flood protection system eligible for flood insurance at premium rates not exceeding those which would apply if such flood protection system had been completed. Requires FEMA, in determining whether a community has made adequate progress on a flood protection system to consider all sources of funding, including federal, state, and local funds.

- **Quarterly Reports Regarding Reserve Fund Ratio (Sec. 20)**—Requires FEMA to report quarterly regarding the reserve fund ratio.

- **Treatment of Flood-Proofed Residential Basements (Sec. 21)—**Codifies the pre-Biggert-Waters basement exception to assure that homeowners with flood-proofed basements receive credit when their flood insurance rates are calculated.

- **Exemption from Fees for Certain Map Change Requests (Sec. 22)**— Exempts from a review or processing fee any requests for a flood insurance rate map change based on a habitat restoration project funded in whole or in part with federal or state funds, including dam removal, culvert redesign or installation, or the installation of fish passage.

- **Study of Voluntary Community-Based Flood Insurance Options (Sec. 23)**—Requires FEMA to conduct a study to assess options, methods, and strategies for making voluntary community-based flood insurance policies available through the NFIP. FEMA is required to take into consideration and analyze voluntary community-based flood insurance policies and to provide communities with incentives to mitigate future flood losses. A report is due within 18 months.

- **Designation of Flood Insurance Advocate (Sec. 24)**—Requires FEMA to establish a Flood Insurance Advocate who will be responsible for educating policyholders regarding their individual flood risks, flood mitigation, measures to reduce their flood insurance rates through effective mitigation, the flood insurance rate map review and amendment process, and changes in the flood program. The advocate will also assist policyholders with procedural requirements related to the appealing preliminary flood insurance rate maps and implementing measures to mitigate evolving flood risks, as well as coordinating outreach with local and community leaders in areas impacted by FIRM amendments and revisions. Additionally, the advocate will assist potential policyholders under the NFIP in obtaining and verifying accurate and reliable flood insurance rate information when purchasing or renewing a flood insurance policy.

- **Exceptions to Escrow Requirement for Flood insurance Payments (Sec. 25)**—Provides escrow exceptions to ensure borrowers with specific types of residential loans, including second mortgages or loans to purchase a property with an already existing master policy, are not forced to escrow flood insurance premiums twice or go through the process of proving to a lender that they already have coverage.

- **Flood Mitigation Methods for Buildings (Sec. 26)**—Requires FEMA to produce guidelines for building owners regarding alternative mitigation efforts, other than building elevation, to reduce flood risk to residential buildings that cannot be elevated due to structural characteristics. Requires alternate forms of mitigation to be considered in the calculation of risk premium rates.

- **Mapping of Non-Structural Flood Mitigation Features (Sec. 27)—**Requires FEMA to take non-structural flood mitigation features, such as marshland and trees, into consideration when in their mapping process for the calculation of risk premium rates. Some non-structural features provide protection from flood risk but are not currently reflected in flood maps.

- **Clear Communications (Sec. 28)**—Requires FEMA to clearly communicate full flood risk determinations to individual property owners regardless of whether their premium rates are full actuarial rates.

- **Protection of Small Businesses, Non-Profits, Houses of Worship, and Residences (Sec. 29)**—Requires FEMA to monitor and report on the impact that rate increases have on small businesses, non-profit entities, houses of worship, and residences with a value equal to or less than 25% of the median home value of properties in the State in which the property is located. If FEMA determines there is a detrimental effect on affordability, it must provide recommendations within three months.

- **Mapping (Section 30)**—Requires FEMA to notify communities affected by any mapping or map updating process before beginning to make mapping changes or updates. FEMA is required to provide each community that is affected by mapping changes a 30-day consultation period in which communities may work with FEMA to determine whether or not the model is appropriate for the community. FEMA must also provide communities the data being used in the mapping process in the event of a community being remapped. The community will then have a 30-day consultation period in which the community may provide their own data to FEMA. The data provided to FEMA can be used to supplement or adjust FEMAs existing data. FEMA must use data that is consistent with engineering principles to ensure the best available floodplain data is used. Finally, FEMA must notify affected Members of Congress in writing at least 30 days prior to issuing a preliminary flood map. An estimated timeline of the mapping process, including community meetings, publication of notices, the appeals process, and the number of homes and businesses that will be affected by changes in the map must be provided.

- **Disclosure (Section 31)**—Requires FEMA to make publically available the rate tables and underwriting guidelines that provide the basis for the change in rates at least six months prior to the implementation of rate increases. This section additionally requires FEMA to release and establish guidelines to release property-level policy and claims data for flood insurance coverage under the NFIP no later than 90 days after the enactment of the HFIAA.