

112TH CONGRESS  
2D SESSION

# H. R. 4020

To amend the National Flood Insurance Act of 1968 to allow the construction and improvement of structures used for agricultural production in floodplains, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2012

Mr. GARAMENDI (for himself and Mr. DANIEL E. LUNGREN of California) introduced the following bill; which was referred to the Committee on Financial Services

---

## A BILL

To amend the National Flood Insurance Act of 1968 to allow the construction and improvement of structures used for agricultural production in floodplains, and for other purposes.

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 “Flood Insurance for  
5 Farmers Act of 2012”.

1 **SEC. 2. FLOODPLAIN MANAGEMENT CRITERIA.**

2 (a) IN GENERAL.—Section 1361 of the National  
3 Flood Insurance Act of 1968 (42 U.S.C. 4102) is amended  
4 by adding at the end the following new subsection:

5 “(d) TREATMENT OF CERTAIN STRUCTURES AND  
6 AREAS.—

7 “(1) REQUIREMENTS.—After the date of the  
8 enactment of this subsection, the comprehensive cri-  
9 teria for land management and use established pur-  
10 suant to this section shall provide as follows:

11 “(A) TREATMENT OF CERTAIN AGRICUL-  
12 TURAL STRUCTURES.—Such criteria may not  
13 prohibit, limit, restrict, or condition, including  
14 requiring any floodproofing or flood damage  
15 mitigation activities or features with respect to,  
16 the new construction or substantial improve-  
17 ment of any agricultural structure in any area  
18 identified by the Director as having special  
19 flood hazards, except to the extent provided in  
20 section 1315(a)(2) and subject to subpara-  
21 graphs (B) and (C) of this paragraph.

22 “(B) TREATMENT OF STRUCTURES IN  
23 CERTAIN AREAS PROTECTED BY LEVEES.—Such  
24 criteria, with respect only to structures in a  
25 covered levee-protected area—

1           “(i) may not prohibit, limit, restrict,  
2           or condition, including requiring any  
3           floodproofing or flood damage mitigation  
4           activities or features with respect to, the  
5           new construction or substantial improve-  
6           ment of any agricultural structure; and

7           “(ii) shall provide that any substantial  
8           improvement made to an existing residen-  
9           tial structure shall have the lowest floor  
10          (including any basement) elevated to or  
11          above the base flood level, except that for  
12          purposes of determining whether any im-  
13          provement of residential structures in such  
14          an area is substantial or not, the term  
15          ‘substantial damage’ shall mean, for any  
16          damage caused other than by a flood  
17          event, damage for which the cost of restor-  
18          ing the structure to its before-damaged  
19          condition would equal or exceed 100 per-  
20          cent of the market value of the structure  
21          before the damage occurred.

22          “(C) TREATMENT OF EXISTING STRUC-  
23          TURES IN LEGACY COMMUNITIES PROTECTED  
24          BY LEVEES.—Such criteria shall provide that a  
25          legacy community located in a covered levee-

1           protected area may adopt adequate land use  
2           and control measures that provide for the re-  
3           pair, restoration to pre-damaged conditions, or  
4           replacement of existing residential and non-resi-  
5           dential structures other than repetitive loss  
6           structures (as such term is defined in section  
7           1370).

8           “(2) DEFINITIONS.—For purposes of this sub-  
9           section, the following definitions shall apply:

10           “(A) AGRICULTURAL STRUCTURE.—The  
11           term ‘agricultural structure’ has the meaning  
12           given such term in section 1315(a)(2)(D).

13           “(B) COVERED LEVEE-PROTECTED  
14           AREA.—The term ‘covered levee-protected area’  
15           means any area that is protected by a levee that  
16           is not accredited by the Administrator, but pro-  
17           vides protection with at least 1 foot of  
18           freeboard above the water surface elevation of  
19           the base flood for such area.

20           “(C) LEGACY COMMUNITY.—The term ‘leg-  
21           acy community’ means a community that—

22           “(i) has a population of less than  
23           2,000; and

24           “(ii) is located in an area for which a  
25           substantial portion of the economy, cur-

1                   rently is and historically was, based on ag-  
2                   ricultural production, as determined by the  
3                   Administrator.”.

4           (b) EXCEPTION TO EXISTING REQUIREMENTS FOR  
5 AGRICULTURAL STRUCTURES.—Section 1315(a)(2) of the  
6 National Flood Insurance Act of 1968 (42 U.S.C.  
7 4022(a)) is amended—

8                   (1) in subparagraph (A), by striking “Notwith-  
9                   standing” and inserting “Subject to subparagraphs  
10                  (B) and (C) of section 1361(d)(1) and notwith-  
11                  standing”; and

12                  (2) in subparagraph (B), by striking “To” and  
13                  inserting “Subject to subparagraphs (B) and (C) of  
14                  section 1361(d)(1) and to”.

15 **SEC. 3. AVAILABILITY OF FLOOD INSURANCE COVERAGE**  
16 **AND CHARGEABLE RATES.**

17           Section 1308 of the National Flood Insurance Act of  
18 1968 (42 U.S.C. 4015) is amended—

19                   (1) in subsection (e), in the matter preceding  
20                  paragraph (1), by inserting “of this subsection and  
21                  to subsections (g) and (h)” before the comma; and

22                   (2) by adding at the end the following new sub-  
23                  section:

24                  “(g) NEW CONSTRUCTION AND SUBSTANTIAL IM-  
25 PROVEMENT OF AGRICULTURAL STRUCTURES IN FLOOD

1 HAZARD AREAS.—Subject to section 1315(a)(2)(B) and  
2 subsection (h) of this section, and notwithstanding any  
3 other provision of this Act, the Director shall make flood  
4 insurance coverage available upon request for any agricul-  
5 tural structure described in section 1361(d)(1)(A) that is  
6 located in any area identified by the Director as having  
7 special flood hazards. Such coverage shall be made avail-  
8 able at chargeable premium rates that are based on esti-  
9 mated rates under section 1307(a)(2) and are consistent  
10 with the provisions of section 1308(b)(2) applicable to  
11 such rates.

12 “(h) STRUCTURES IN COVERED LEVEE-PROTECTED  
13 AREAS.—The Director shall make flood insurance cov-  
14 erage available upon request for any structure that is lo-  
15 cated in an area described in subparagraph (B) or (C)  
16 of section 1361(d)(1) and is constructed, improved, re-  
17 paired, restored, or replaced as described in such subpara-  
18 graph, as applicable. Such coverage shall be made avail-  
19 able at chargeable premium rates applicable to areas hav-  
20 ing a low or moderate risk of flooding (zone X).”.

21 **SEC. 4. TASK FORCE ON LEGACY COMMUNITY FLOOD IN-**  
22 **SURANCE ISSUES.**

23 (a) ESTABLISHMENT; STUDY.—The Administrator of  
24 the Federal Emergency Management Agency and the Sec-  
25 retary of Agriculture shall jointly establish a task force

1 that shall conduct a study to analyze the challenges faced  
2 by legacy communities located in areas designated as an  
3 area having special flood hazards for purposes of the na-  
4 tional flood insurance program under the National Flood  
5 Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

6 (b) MEMBERSHIP.—The task force shall consist of 15  
7 members, appointed jointly by the Administrator of the  
8 Federal Emergency Management Agency and the Sec-  
9 retary of Agriculture, as follows:

10 (1) One individual who is a representative of a  
11 national farm organization.

12 (2) One individual who is a representative of a  
13 national financial organization.

14 (3) One individual who is a representative of a  
15 national floodplain management organization.

16 (4) One individual who is a representative of a  
17 national organization of flood and stormwater man-  
18 agement agencies.

19 (5) One individual who is a representative of a  
20 national agricultural commodities organization.

21 (6) Two individuals, each of whom is a rep-  
22 resentative of a State affected by the issues specified  
23 in subsection (a).

1           (7) Three individuals, who shall include one  
2           representative each of the flood control associations  
3           for—

4                       (A) the Central Valley of California;

5                       (B) the Mississippi Valley; and

6                       (C) the Missouri Valley.

7           (8) Two individuals who are elected officials of  
8           units of general local governments who represent  
9           legacy communities.

10           (9) Three individuals who have an interest or  
11           expertise in the issues specified in subsection (a).

12           (c) CO-CHAIRS.—The Administrator of the Federal  
13           Emergency Management Agency and the Secretary of Ag-  
14           riculture shall serve as co-chairs of the task force, or their  
15           designees.

16           (d) TRAVEL EXPENSES; PER DIEM.—Members of the  
17           task force members shall not receive compensation for  
18           their service on the task force, but shall receive travel ex-  
19           penses, including per diem in lieu of subsistence, in ac-  
20           cordance with sections 5702 and 5703 of title 5, United  
21           States Code.

22           (e) STAFF.—The Administrator of the Federal Emer-  
23           gency Management Agency and the Secretary of Agri-  
24           culture may detail, on a reimbursable basis, any of the



1 personnel of such agencies to the task force to assist the  
2 task force in carrying out its duties under this section.

3 (f) REPORT.—Not later than the expiration of the 12-  
4 month period beginning on the date of the enactment of  
5 this Act, the task force shall submit to the Committee on  
6 Financial Services of the House of Representatives and  
7 the Committee on Banking, Housing, and Urban Affairs  
8 of the Senate a report regarding the study conducted pur-  
9 suant to subsection (a) that shall include any findings and  
10 conclusions of the study and recommended changes to the  
11 national flood insurance program to strengthen the eco-  
12 nomic viability and vitality of legacy communities, includ-  
13 ing an analysis and recommendations regarding allowing  
14 infill development and building expansion.

15 (g) LEGACY COMMUNITIES.—For purposes of this  
16 section, the term “legacy community” means a community  
17 that—

- 18 (1) has a population of less than 2,000; and  
19 (2) is located in an area for which a substantial  
20 portion of the economy, currently is and historically  
21 was, based on agricultural production, as determined  
22 by the Administrator.

1       (h) **TERMINATION.**—The task force shall terminate  
2 upon the expiration of the 120-day period beginning upon  
3 the submission of the report required under subsection (f).

○