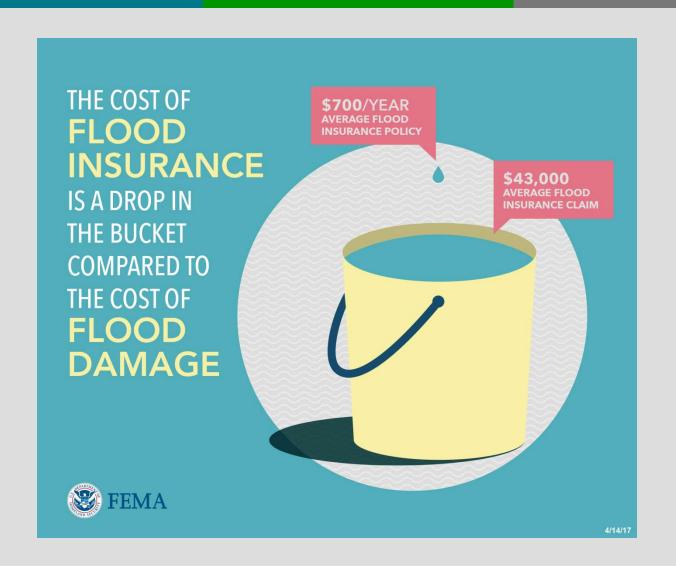
# National Flood Insurance Program: Reauthorization?

Andrea P. Clark, Downey Brand LLP January 2018

## **National Flood Insurance Program**

- Goal: reduce federal expenditures for flood losses through insurance
- FEMA maps flood-prone communities Special Flood Hazard Zones
- Community participation in program
  - Adoption of ordinance
  - Regulation of activity in the floodplain through permit
  - Mandatory flood insurance for property in SFHZ with federallybacked mortgage

## **NFIP**



#### NFIP

- Was not designed to be actuarially sound pre-FIRM rates and grandfathering
- \$24 billion debt after Katrina and Sandy
- Balancing books versus increased rates (Biggert-Waters)
- ◆ Fall 2017 \$16 billion forgiven

## **Program Lapse**

- FEMA can pay out claims
- No new or renewed policies
- ◆ NAR: 40,000 closings/month

#### **Current Status**

- December two short-term reauthorizations
- Program expires January 19, 2018 (tomorrow)
- ◆ H.R. 2874 passed by House; no action by Senate
- Politics

## **Popular Issues**

### Severe Repetitive Loss Properties

- At least 4 NFIP claim payments over \$5,000 <u>OR</u> two claim payments with cumulative amount exceeding market value
- 1% of insured properties; 25-30% of flood claims
- Existing programs grants for mitigation (acquisition, relocation, conversion to open space, elevation, dry flood-proofing)
- Existing program insurance premiums increase when policy holder refuses offer of mitigation
- H.R. 2874 increasing premiums, community plans, denial of coverage if mitigation measures not implemented (for "extreme" SRL properties)

#### Private Insurance Market

- More options (less expensive?) for consumers; more owners covered
- H.R. 2874 allows private policies to satisfy insurance requirements

### **California On its Own?**

- CA is a "donor" state subsidizing the NFIP
- CVFPP recommends a study of state insurance program
- State could use premiums to fund flood system repairs/improvements
- Questions
  - Who is required to pay? Enforcement?
  - Role of private insurers?
  - Does it decrease state liability under Paterno?

## **Looming on the Horizon - Endangered Species Act**

- Ensure that federal agencies protect and conserve endangered/threatened species
- Section 7 consultation; if jeopardy, a biological opinion with reasonable and prudent alternatives (RPAs)
- NFIP is it an action subject to ESA?
- Oregon and Washington RPAs with drastic impacts on work in floodplains
- CA Delta case

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