



STATE OF FLORIDA

**ASHLEY MOODY
ATTORNEY GENERAL**

December 16, 2024

Jeffrey Jackson
Acting Federal Insurance Assistant Administrator
P.O. Box 10055
Hyattsville, MD 20782-8055

Dear Administrator Jackson:

As you know, several states, including Florida, were recently devastated by Hurricanes Helene and Milton. These powerful storms ripped through many of our communities, leaving only debris in the places where homes once stood. In the intervening weeks and months, the people of Florida have come together to heal and rebuild. Though the recovery process may be long, we are confident that we will return these devastated communities to the vibrant cities and towns that many are proud to call home.

While the rebuilding process continues, a disturbing issue has come to light. Many homes affected by Hurricanes Helene and Milton are participants in the National Flood Insurance Plan (NFIP), which is administered by FEMA.¹ According to multiple reports, NFIP regulations are preventing many of these homes from being rebuilt or repaired.

According to NFIP regulations, homes that need “substantial improvements” must be rebuilt to specific flood-resistant building code standards.² The problem is that the regulations define “substantial improvements” to include *any* “reconstruction, rehabilitation, addition, or other improvement” to a structure which has incurred “substantial damage,” which, in turn, is defined as any structure for which the repair would cost 50% or more of the structure’s pre-damage value.³ Essentially, this means that if a citizen has any damage to their home that would cost half the pre-

¹ <https://www.fema.gov/flood-insurance>.

² 44 C.F.R. § 60.3(a)(3).

³ 44 C.F.R. § 59.1.

storm value of their home to be repaired, *no other work* on the home can be performed without updating the *entire home* to NFIP's specifications.

While it is preferable for any home to be built to the most current standards, many of those suffering most from the storms live in older homes in low-income areas and do not have the resources to fundamentally rebuild their homes. Consider an example. Suppose a person owns an older home worth \$200,000. And suppose that home, while still standing, needs \$100,000 in repairs. Finally, suppose that the cost to build that home up to modern standards is \$200,000. In that circumstance, NFIP's regulations prevent the person from collecting insurance to make the \$100,000 in repairs unless the person can come up with most or all of the additional \$100,000 using his or her own funds. In circumstances like this, many people will simply abandon their home and, possibly, have no choice but to leave the community they love altogether.

We understand the purpose and intent of these regulations, but too great a cost is being borne by those who have suffered most. While the regulations contemplate a process for exemptions—called variances—*anecdotal accounts* indicate that this process is at best burdensome and at worst impossible. While the variance process is implemented by local governments, it is overseen by FEMA.⁴ FEMA may “review a community’s findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound floodplain management, FEMA may take appropriate action” including suspension of the entire NFIP program within that area.⁵ Further, the Increased Cost of Compliance insurance offered under NFIP to those in high-risk flood areas whose homes are substantially damaged only covers up to \$30,000 towards the cost of compliance.⁶ This leaves residents footing the bill to cover significant costs to comply with regulations that likely did not exist when their homes were built.

In light of the burden facing our communities, we ask that you consider whether these regulations and FEMA's implementation of them meet the agency's stated mission of “helping people before, during, and after disasters.”⁷ We specifically suggest you consider making variances available in more circumstances and increasing the money available to bring homes up to FEMA's NFIP standards. Our citizens are struggling to rebuild their homes on limited budgets, and no one should be homeless for the holidays.

Sincerely,



Ashley Moody
Florida Attorney General

⁴ 44 C.F.R. § 60.6(a).

⁵ <https://www.fema.gov/about/glossary/variance>.

⁶ <https://www.fema.gov/floodplain-management/financial-help/increased-cost-compliance>.

⁷ <https://www.fema.gov/about>.