Flood insurance issues muddy the waters of Houston disaster

Harvey's timing couldn't be more interesting from a legislative standpoint.

The storm that's dumped trillions of gallons of water on Houston has coincided almost perfectly with two flood-related legislative tangles, one national and one statewide in scope:

- A bill to reauthorize the National Flood Insurance Program (NFIP), the 21st Century Flood Reform Act, was referred to the House Committee on Financial Services in March; it was approved by the committee in June and hasn't seen any action since then
- In Texas, a bill that reduces penalties for insurance companies that don't adequately compensate claimants passed in May

Here's what each could mean for homeowners in Houston.

What's the NFIP, and why could it expire?

Earlier this year, the National Association of Realtors (NAR) made the NFIP a legislative priority for 2017; NAR focused on the NFIP during this year's Legislative & Trade Expo.

Why? The NFIP has been around since 1968 and was created to "reduce the impact of flooding on private and public structures," according to the program's official government website.

"It does so by providing affordable insurance to property owners and by encouraging communities to adopt and enforce floodplain management regulations," the website adds.

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Most homes insured under the NFIP are in Florida and Texas. Owners of properties in participating NFIP communities get access to insurance — the city and county of Houston in Texas are both participating NFIP communities.

The act has been amended, reformed and extended several times since 1968, most recently by President Barack Obama in the Biggert-Waters Flood Insurance Reform Act of 2012, which extended the NFIP through September 30, 2017. (That's about a month from now!)

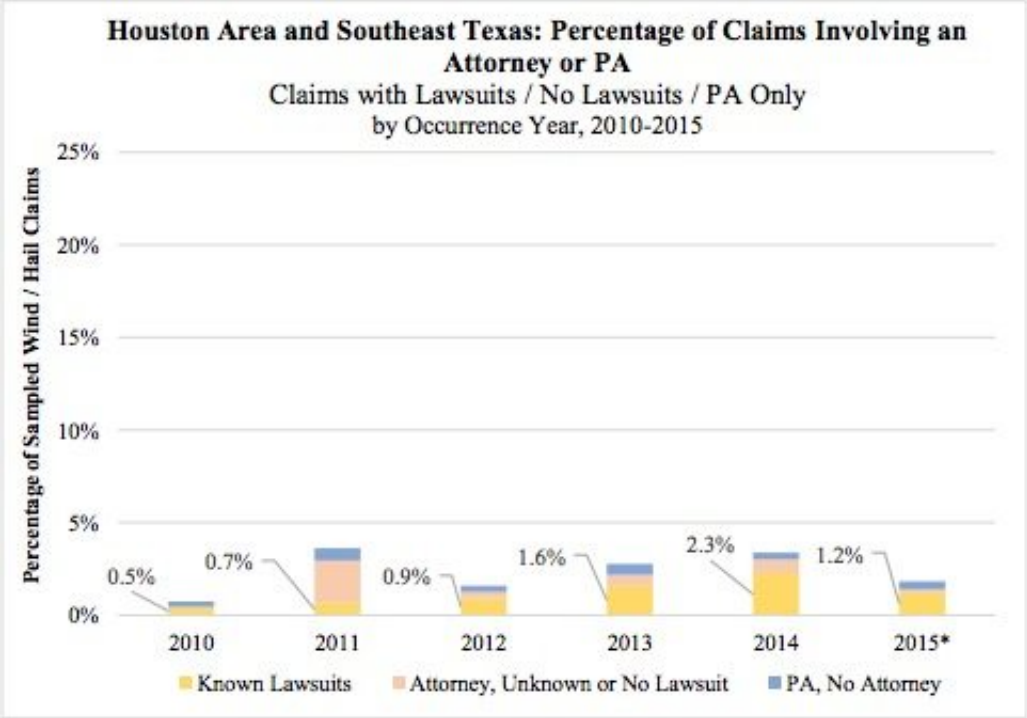
So if it is allowed to expire, that could mean that some new and existing homeowners in Houston will have significant trouble securing flood insurance for their homes — and that, in turn, might affect their mortgage loans if their loan is federally regulated or insured (for example, an FHA loan) and the home is located in a "special hazard flood area."

The 21st Century Flood Reform Act reauthorizes the bill and also provides guidelines for creating better flood maps for the program — but it hasn't been signed into law yet. And according to some experts, the claims from Harvey could "overwhelm" the NFIP, so Congress might need to authorize more funds or do more work on the act.

What's with the 'insurance abuse' bill?

Earlier this year, Texas passed HB 1774, a tort reform bill designed to target insurance abuse surrounding hailstorms. Texas Governor Greg Abbott said that "hailstorm litigation is the newest form of lawsuit abuse" in his State of the State speech, referring to "frivolous" weather-related claims.

A Texas Department of Insurance report from this year showed a 1,400-percent increase in the number of hail- and windstorm-related claims between 2012 and 2015. Here are the Houston-specific numbers:



To combat that jump in lawsuits, the state legislature passed the bill — which applies not only to hail and windstorm claims, but also to earthquakes, wildfires, tornadoes, lightning, wind, snowstorms — and rainstorms, hurricanes and flooding.

The new rules dictate that any insurance policyholders who file lawsuits against insurance companies for either repaying claims too slowly or failing to pay enough must offer more detail in the notice of intent to file a lawsuit. And if the court eventually rules for the policyholder and against the insurance company, the insurance company will still have to pay penalty interest — but that interest amount will drop from 18 percent to 10 percent.

And they go into effect this year for any claims filed after Sept. 1, 2017. So despite everything else that's happening in Houston, homeowners should do their absolute best to get those claims filed before Friday.

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