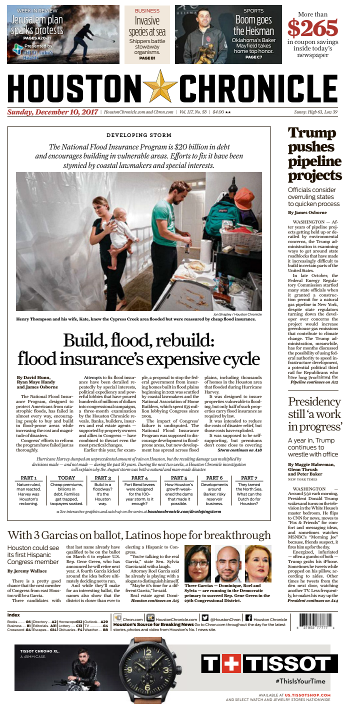
HOUSTON CHRONICLE

DEVELOPING STORM

Dec. 10, 2017



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The National Flood Insurance Program is $20 billion in debt and encourages building in vulnerable areas. Efforts to fix it have been stymied by coastal lawmakers and special interests.

Build, flood, rebuild: flood insurance's expensive cycle

Jon Shapley

Henry Thompson and his wife, Kate, knew the Cypress Creek area flooded but were reassured by cheap flood insurance.

DEVELOPING STORM

By David Hunn, Ryan Maye Handy and James Osborne

The National Flood Insurance Program, designed to protect Americans from catastrophic floods, has failed in almost every way, encouraging people to buy and build in flood-prone areas while increasing the cost and magnitude of disasters.

Congress' efforts to reform the program have failed just as thoroughly.

Attempts to fix flood insurance have been derailed repeatedly by special interests, political expediency and powerful lobbies that have poured hundreds of millions of dollars into congressional campaigns, a three-month examination by the Houston Chronicle reveals. Banks, builders, insurers and real estate agents — supported by property owners and allies in Congress — have combined to thwart even the most practical changes.

Earlier this year, for example, a proposal to stop the federal government from insuring homes built in flood plains beginning in 2021 was scuttled by coastal lawmakers and the National Association of Home Builders, which spent $39 million lobbying Congress since 2005.

The impact of Congress' failure is undisputed. The National Flood Insurance Program was supposed to discourage development in flood-prone areas, but new development has spread across flood plains, including thousands of homes in the Houston area that flooded during Hurricane Harvey.

It was designed to insure properties vulnerable to flooding, but only half of such properties carry flood insurance as required by law.

It was intended to reduce the costs of disaster relief, but those costs have exploded.

It was supposed to be self-supporting, but premiums don't come close to covering the expenses, requiring repeated bailouts by taxpayers.

"Without those billions of dollars in subsidies, you couldn't have waterfront development the way it is today," said Craig Poulton, CEO of Poulton Associates, one of the country's largest administrators of private flood insurance.

Those subsidies have helped lure generations of homeowners into properties that trap them in a cycle of building, flooding and rebuilding. Henry Thompson and his wife, for example, bought their home not far from Cypress Creek three years ago. They knew the neighborhood northwest of Houston flooded, but the cost of flood insurance was so low - about $400 a year - they bought anyway.

Then Harvey swept 2 feet of water under their threshold, forcing them to live on the second floor for the past

Hurricane Harvey dumped an unprecedented amount of rain on Houston, but the resulting damage was multiplied by decisions made — and not made — during the past 50 years. During the next two weeks, a Houston Chronicle investigation will explain why the August storm was both a natural and man-made disaster.

Jon Shapley

Henry Thompson watches his son Harrison, 4, play with a box of packing peanuts in a second-floor bedroom of the family's flood-damaged home.

three months with a microwave, an electric skillet and two young children. They want to sell but can't imagine they'll find a buyer, leaving them with little choice but to cash the insurance check, rebuild and wait for the waters to rise again.

"You're stuck," Thompson said. "That's the only way to put it."

The flood insurance program is $20 billion in debt now, and it likely will require more cash next year from taxpayers, who already have bailed out the program 16 times in 25 years totaling $42 billion in loans and grants. Those figures don't include the hundreds of billions of dollars in disaster relief not covered by flood insurance.

They also don't capture the financial stress and anxieties of families who have sunk life savings into homes that have become all but worthless. Eight doors down from the Thompsons, Jeremy and Amber Hill and their four boys, ages 3 to 12, find themselves in a similar bind. Their home has flooded twice in the six years they've owned it. They can't sell. But they can't stay, either.

"The kids," said Jeremy Hill, "have a panic attack every time it rains."

Money and power

Few places in the country embody the issues undermining the flood insurance program better than Texas and metropolitan Houston.

In Texas, more than 40 percent of the homes required by federal law to carry flood insurance don't have it, according to a 2014 study for the Federal Emergency Management Agency. Harris County premiums, averaging about $550 a year, are only about one-third of the nearly $1,400 a year that the nonpartisan Congressional Budget Office estimates is needed to cover claims for flood damage here.

Since 2001, according to federal flood insurance data, the number of homes in the region's flood plains has increased by an estimated 26,000. People have bought, built and rebuilt in areas such as Houston's Meyerland and Greenspoint neighborhoods, developed around Brays and Greens bayous, and parts of unincorporated Harris County near Cypress Creek, including the Norchester neighborhood where the Thompsons and Hills live.

About 2,700 homes scattered in these and other vulnerable Harris County neighborhoods flood so often and so severely that they have collected a combined $574 million in insurance payments since 1978, according to FEMA data obtained by the National Resources Defense Council.

None of this should come as a surprise to the country's leaders. Report after report has warned Congress that it needs to raise premiums, enforce mandatory insurance purchase requirements and enroll more property owners in the program.

But reforms that FEMA officials, insurance specialists and financial analysts say are needed to achieve the program's original goals have run into the forces of power, money and influence. About 140 companies and trade groups representing builders needing property to develop, banks wanting to write mortgages, real estate agents looking to sell homes, and insurers hoping to profit from flood policies have lobbied to block, influence or water down reforms during the past 15 years, the Chronicle's examination found.

Together, these special interests have poured more than $350million into congressional campaign committees. They've also hired at least 20 former staffers of key flood insurance lawmakers to lobby representatives and senators —- in some cases their old bosses — and formed alliances with friendly lawmakers whose political interests lie in protecting the program.

No congressional delegation has been friendlier than Louisiana's, and none has done more to derail flood insurance reforms, particularly those that would raise premiums and restrict building.

Louisiana has received far more in flood insurance payouts than any other state, $20 billion between 1978 and September this year, more than double the $8 billion paid during that period to the runner-up, Texas, which has five times the population. In a state with so much low-lying land, so much development in these areas, and powerful real estate interests, no Louisiana politician supporting increased flood insurance premiums would ever get elected, members of Congress and their aides said.

All this has trapped federal lawmakers in their own vicious cycle of disaster, reform, retreat and ever more costly disasters.

Jon Shapley

Todd Middleton shows his frustration while talking about damage to his Norchester home near Cypress Creek after the family's second flood.

"It is like hitting your hand with a hammer over and over again," said Sam Brody, a Texas A&M University professor and technical adviser to Gov. Greg Abbott, "and never moving your hand away."

A warning from LBJ

The federal government got into flood insurance because private companies would no longer provide coverage after devastating floods nearly bankrupted some of them in the early part of the 20th century. By the 1960s, the mounting costs of disaster relief for flooding victims led lawmakers and policymakers to propose an insurance program backed by the federal government.

The idea was to create a mechanism financed by premiums that would protect property owners from flood losses while reducing the need for taxpayers to foot the bill. In 1966, a task force commissioned by President Lyndon B. Johnson recommended that the government offer below-market rates to entice property owners to enroll in the program. But it warned that such an approach presented dangers if low insurance costs were allowed to become incentives for building in flood-prone areas.

"It would aggravate flood damages and constitute gross public irresponsibility," the task force concluded.

Congress heeded that warning when it created the National Flood Insurance Program in 1968, calling for state and local governments to "constrict the development of land which is exposed to flood damage." But communities didn't want to lose the tax money and economic activity that comes with construction, and congressional representatives soon started pressuring flood insurance administrators to lower premiums, change flood plain maps and let states make development decisions, said Bob Hunter, who ran the flood insurance program from 1974 to 1977.

Hunter recalled one battle with the late Sen. Thomas Eagleton, the Missouri Democrat who was briefly George McGovern's running mate in the 1972 presidential election. Eagleton lobbied Hunter to allow agricultural businesses that play a large role in Missouri's economy and politics to significantly lower flood insurance premiums by building circular dams around grain elevators along the Missouri and Mississippi rivers.

Insurance program engineers, however, determined that such dams would increase flooding up and down river, and Hunter turned Eagleton down. The senator spent the next year trying to get Hunter fired, complaining to the watchdog Government Accountability Office that Hunter was improperly appointed and should be removed.

"He wanted me to bend the rules and let large financial interests in Missouri get lower rates," said Hunter, who later served as Texas' insurance commissioner and is now insurance director for the advocacy organization Consumer Federation of America in Washington. "Congress puts a lot of pressure on the program, and very few people are willing to stand up to it."

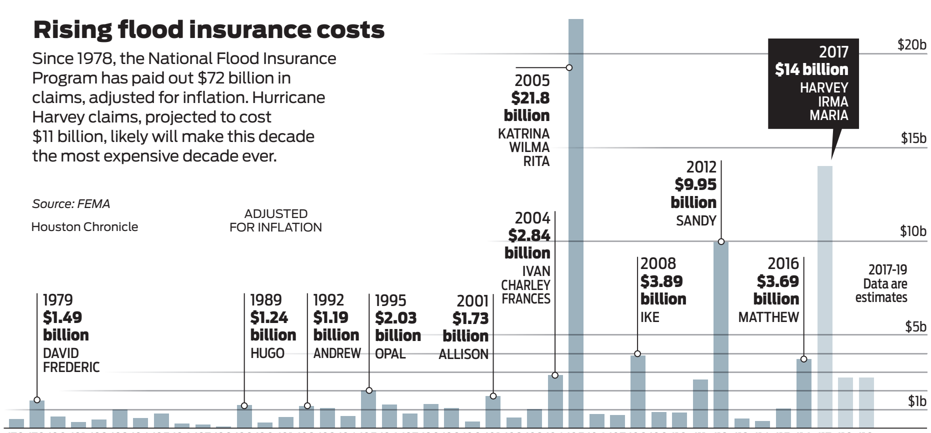
Power of the 'interests'

Those pressures mounted as the danger predicted by Johnson's task force - low-cost flood insurance encouraging denser development along waterfronts and in low-lying areas - came true. The National Flood Insurance Program is on track to pay some $39 billion in claims during this decade, nearly seven times the $6 billion, adjusted for inflation, paid in the 1980s, according to federal data.

Congress has repeatedly tried to fix

Rising flood insurance costs

Since 1978, the National Flood Insurance Program has paid out $72 billion in claims, adjusted for inflation. Hurricane Harvey claims, projected to cost $11 billion, likely will make this decade the most expensive decade ever.

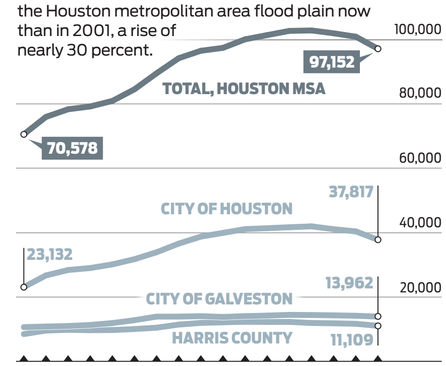


Source: FEMA

Houston Chronicle

More homes in the flood plain

There are at least 26,500 more insured homes in the Houston metropolitan area flood plain now than in 2001, a rise of nearly 30 percent.



the program, but three bills filed over the past 15 years show why reform efforts have failed even as the costs of flooding disasters have grown, from more than $5 billion in damage caused by Tropical Storm Allison in 2001 to more than $100billion from Hurricane Harvey. The following accounts are based on congressional testimony and other documents, campaign finance and lobbying disclosure records, and dozens of interviews with lawmakers, congressional aides, lobbyists and technical experts.

In 2003, Rep. Doug Bereuter, a Republican from Nebraska, and Rep. Earl Blumenauer, an Oregon Democrat, took aim at a key driver of ballooning flood insurance costs: properties that flood again and again. These "repetitive loss properties" - which they defined as two or more claims over 10 years - represented just 2 percent of insured properties but accounted for 40 percent of losses.

One $50,000 home in Canton, Miss., for example, flooded 25 times in 18 years - once every eight months - and cashed $161,000 in flood insurance payments. A home in Houston, valued at $114,000, filed 16 claims between 1989 and 1995 and collected more than $806,000 in payments.

In January 2003, Bereuter and Blumenauer introduced the Two Floods And You Are Out Of The Taxpayers' Pocket Act. Their proposal: If a homeowner made two insurance claims within 10 years, FEMA would offer to move the house, elevate it above flood level or raze it, paying market value to return the property to grass and forest.

But if homeowners declined such assistance, premiums would at least quadruple to cover the costs of insuring such a home. They also would become ineligible for disaster assistance that pays for losses not covered by insurance.

"We have seen people die because they live in places where God has repeatedly shown that he does not want them," Blumenauer said after introducing the bill. "We do not do them any favors."

Over the next several months, lawmakers and special interests converged on the bill. The Mortgage Bankers Association of America, whose members write loans on a big chunk of the $1.2 trillion in property insured by the program, pushed to keep premiums low on repetitive-loss houses, fearing that homeowners would default on mortgages if flood insurance became too expensive.

The National Association of Realtors, whose members earn commissions selling waterfront properties, fought to maintain below-market premiums on vacation homes. The Realtors gave $3.8 million to congressional campaigns in 2003-04, including $11,000 to Blumenauer and $11,000 to Rep. Robert Ney, the Ohio Republican who chaired the subcommittee reviewing the bill, according to data compiled by the Center for Responsive Politics, a nonprofit that tracks money in politics.

Lawmakers representing states with large swaths of land vulnerable to flooding, particularly Texas, Louisiana and Florida, fought to redefine "repetitive loss" as four claims, greatly reducing the number of homeowners affect-

Jon Shapley

Harvey filled the Middletons' home with 4 feet of water.

ed, Bereuter recalled. They also sought to cap premium increases.

Rep. Richard Baker of Louisiana, a former real estate agent and fourth-ranking Republican on the House Financial Services Committee, had the bill recast as a short-term program that expired five years later. Rep. Billy Tauzin, chairman of the powerful Energy and Commerce Committee, persuaded House leaders to allow homeowners who decline FEMA buyouts to still get disaster assistance if they stayed in flood-prone areas.

"You are not going to kick us out of Louisiana," Tauzin said during the floor debate. "Not with this bill or any other bill."

Baker and Tauzin declined to comment.

The bill that ultimately passed the House and the Senate in 2004 barely resembled the one filed by Bereuter and Blumenauer. The number of repetitive loss properties covered by the law was vastly reduced. Premiums remained far below market rates. Other changes made the law so complicated that it took FEMA years to implement — so long that key parts of the law expired soon after FEMA adopted all of the rules.

Barely a year after the bill passed, Hurricane Katrina hit New Orleans, killing more than 1,800 people and causing more than $160 billion in damages. The flood insurance program paid $18 billion in claims, borrowing from taxpayers to meet the obligations. Most of that money, $16billion, was never repaid; Congress forgave the debt this year, recognizing it would bankrupt the program.

Reform and repeal

Katrina crippled the program, which limped along until 2012, when lawmakers from both parties pushed through the most ambitious revision in its history.

The law, known as Biggert-Waters after its sponsors, Rep. Judy Biggert, an Illinois Republican, and Rep. Maxine Waters, a California Democrat, did what reformers and insurance specialists had sought for so long. It significantly raised premiums to levels that reflected the risks and costs of potential claims from flooding.

But five months later, Hurricane Sandy hit the East Coast just before FEMA began to raise rates. Homeowners, struggling to recover from the storm, howled.

The National Association of Home Builders claimed the higher rates were scaring potential buyers away and driving down property values, which in turn undermined incentives to remodel. Real estate agents sent lawmakers copies of housing contracts in Florida, Louisiana and North Carolina that fell through after flood insurance premiums rose by an estimated hundreds, if not thousands, of dollars.

Banks, builders, insurance companies and Realtors are major donors to political campaigns, particularly Republicans, who then controlled the House and were in striking distance of the Senate. Over the 2013-2014 election cycle, Realtors alone donated more than $55 million to congressional campaigns, of which $32 million, or about 60 percent, went to Republicans — including more than $645,000 to Eric Cantor of Virginia, then the House majority leader.

Realtors also contributed heavily to three Republican lawmakers pushing the repeal of Biggert-Waters, including $400,000 to then-Rep. Bill Cassidy of Louisiana, $126,000 to Rep. Steve Scalise, also of Louisiana, and $245,000 to Rep. Michael Grimm of New York, who represented Staten Island.

Cassidy was running for Senate against Sen. Mary Landrieu, the Deep South's last Democratic holdout. Other House Republicans seeking re-election worried irate homeowners would blame them for skyrocketing premiums.

But the House Financial Services Committee — which oversees flood insurance legislation — was uninterested. Committee Chairman Jeb Hensarling, a Dallas Republican, favored higher premiums to make the program self-supporting. He refused to allow a repeal bill through his committee.

"I wasn't going to make the program less fiscally sustainable," Hensarling said in an interview.

So Cassidy and Scalise went around Hensarling, forming a caucus of House members concerned about rising flood insurance premiums and drafting legislation that would undo Biggert-Waters. In October 2013, that caucus started meeting with Cantor, who believed repealing Biggert-Waters would help Republicans hold the

House, possibly give Cassidy a Senate seat, and help the party take control of the Senate, according to several former and current congressional aides and lobbyists involved in negotiating the bill.

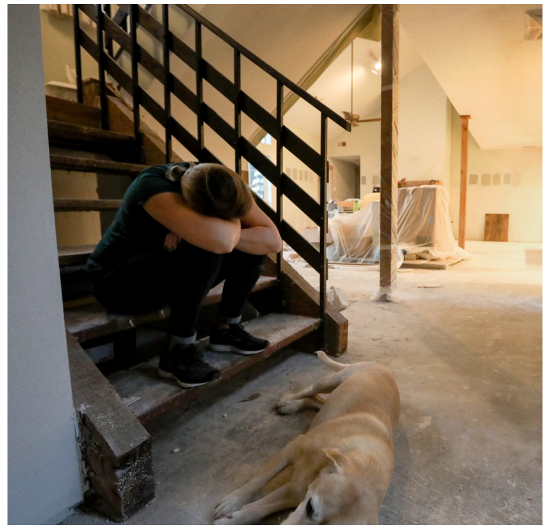
"Undoing Biggert-Waters reforms became a political football, and basically what resulted was a triumph of politics over policy," said Steve Ellis, vice president of the watchdog group Taxpayers for Common Sense, who was involved in the negotiations. "Here we are subsidizing people to build in harm's way."

With Cantor's help, Cassidy, Scalise and Grimm found a vehicle to bring their legislation to the House floor, where it was approved overwhelmingly in March 2014. The Senate followed less than two weeks later, enacting a repeal that overturned most rate increases and even reimbursed homeowners for the higher premiums they had paid.

It also restored grandfathering provisions that allow homeowners to maintain low rates, even if the flooding risk increases, and transfer those low rates to new owners after a sale.

Cassidy said his constituents deserved affordable flood insurance. He defeated Landrieu, winning one of nine seats claimed by Republicans as they took control of the Senate. Republicans held the House, too, winning in battleground districts in New Jersey and New York hard hit by Sandy.

Cantor, who now works at an investment bank, declined to comment. A former staffer, Neil Bradley, said politics played no part in the repeal of Biggert-Waters. Scalise, now the House majority whip, the third-highest post in House leadership, also said the repeal



Jon Shapley

Kate Thompson sits at the bottom of the stairs, upset because a contractor had told her repairs would stretch into February.

had nothing to do with politics.

"It had to do with a large number of members in our conference recognizing that millions of homeowners would have been thrown out on the street," he said in November. "And that was untenable."

It was still business as usual in Houston, too. Not long after the repeal, Christy and Jonathan Shoffner bought their home in the Norchester neighborhood for $215,000. Forty dollars a month for flood insurance didn't seem like much of a risk.

Two years later, 5 feet of water rushed into their house during the Tax Day floods. They had barely settled back in after rebuilding with $130,000 from their flood insurance claim and $40,000 of their own money when Harvey's rains inundated the property with 10 feet of water.

"You're financially trapped," said

Christy Shoffner. "We're either forced to sell at a lowball price, or we're forced to put it back together, wait for the next flood, and claim again."

Pulling lines out of bills

The flood insurance program soon was back in a familiar position, with claims rising faster than premiums and more properties vulnerable to flooding coming on its rolls.

In early 2017, Hensarling tried again to shore up the program's finances. He and Rep. Sean Duffy, the Wisconsin Republican who chairs the insurance subcommittee, started circulating drafts of legislation that would phase out grandfathered rates, sharply raise premiums on properties that flood repeatedly and prohibit the federal government from insuring homes built in flood plains starting in 2021.

The National Association of Realtors immediately sought meetings with Duffy, fearing that allowing grandfathered rates to rise would deflate prices of waterfront properties and unravel deals. "We didn't want a repeat of Biggert-Waters," said Ken Wingert, a lobbyist with the Realtors group.

The Realtors spent some $64million lobbying Congress last year - more than five times what Exxon Mobil spent. Real estate interests also contributed more than $143,000 to Duffy's campaign committee in 2017 alone.

Duffy said he remembered the outcry from homeowners that killed Biggert-Waters and wanted to preserve other parts of the legislation that would

The way forward

Scientists, engineers, advocates and flood plain managers say the National Flood Insurance Program is broken. Congress has failed to fix it. But experts generally agree on several solutions:

Stop insuring new construction in the flood plain.
Builders in Houston are allowed to construct new homes in the flood plain as long as the homes are elevated to or above flood levels — a tactic that doesn't always spare them from flooding. There are now roughly 26,000 more homes in the Houston-area flood plain than 20 years ago. That was not the goal of the National Flood Insurance Program, which was designed to insure existing homes in the flood plain and discourage new ones. But that doesn't mean taxpayers have to pay to insure those homes. Congress considered barring new development from the flood insurance program as recently as this fall, but the provision was dropped from legislation.

Increase buyout money for properties that are damaged repeatedly.
Homes that have been flooded multiple times are hard to sell, and, when sold, often go to unwitting buyers, trapping them in properties that likely will flood again — and demand repeated payments from taxpayers. When the federal or local government buys out homes, however, they demolish the buildings, ending the cycle. Harris County has targeted roughly 5,500 properties for buyouts.

Update flood plain maps regularly.
The federal government has no requirement to update flood maps. In the Houston area, the maps range from being 3 years old to 30. If updated more regularly, they would reflect new construction, new rainfall trends and new flood control projects. The more recent the data, the better the flooding estimates will be.

End grandfathering of insurance premiums.
The National Flood Insurance Program purposely discounted rates 45 years ago, soon after its creation, to get more homeowners to buy insurance. But many of those premiums have stayed artificially low. In some cases, homeowners can even pass on "grandfathered" rates when they sell their homes. Experts say rates should reflect real risks and make residents think twice before buying in flood plains — reducing damage to homes, payouts and buyouts from the federal government. As long as insurance rates remain low and claims continue to rise, the National Flood Insurance Program will fall even deeper into debt.

Offer financial aid to help poor homeowners pay full-risk premiums.
If Congress raises premiums to reflect actual flood risk, lawmakers recognize that some homeowners will not be able to afford them. In 2012, when Congress passed the Biggert-Waters Act that caused premiums to spike, many lawmakers and federal officials discussed offering reduced flood insurance rates based on household income. But they never followed through.

increase money flowing into the flood insurance program.

"We decided we wanted to raise revenue," said Duffy, who denied campaign contributions changed his position, "but we wanted to do it gently."

The fight, however, was just beginning. Jerry Howard, CEO of the National Association of Home Builders, who has spent more than two decades lobbying Congress, stormed into Hensarling's office. Howard said he demanded Hensarling pull the language stripping flood insurance from new homes, arguing it would hurt real estate prices along the coast.

At the same time, House members were getting nervous, fearing a hit to real estate development in their districts. Hensarling's staff talked to Scalise's, who said the new construction provision was a "nonstarter." That language was cast aside, too.

"You're dealing with members, and at some point you have to count votes," Hensarling said.

Before the end of June, the Real Estate Round Table, a political action committee, donated $5,000 to Hensarling's campaign, the National Association of Home Builders PAC $2,500. In June, insurance PACs wrote a letter to Hensarling asking for changes to the legislation. In September, they and another insurance group gave his campaign committee $13,500.

Scalise, the majority whip, who was still in a hospital after being shot by a disgruntled Illinois man during a congressional baseball practice in June, got a call from House Speaker Paul Ryan, telling him to work out a deal with Hensarling. When Scalise returned in September, Hensarling was left with two choices: compromise or kill the bill.

The two men met twice and agreed to a deal in which premiums would rise on properties with multiple claims — but only based on future claims, not those filed previously. On Nov. 14, the House passed what was left of Duffy's bill.

The legislation, still awaiting Senate action, would gradually raise premiums on the riskiest properties while encouraging insurance companies to write private flood insurance policies.

Hensarling, who announced his retirement in October, said campaign contributions did not affect his moves. But he acknowledged the influence lobbyists had on other lawmakers.

"It's discouraging from time to time to have members of Congress essentially say, 'I'm not interested in the policy. Tell me what outside group is for and what outside group is against it,'" he said.

Still a bargain

When Hurricane Harvey reached Houston in August, it dumped 51 inches of rain, flooding an estimated 150,000 structures across the region, and killing more than 80.

In the months following, Harris County crews picked up 26,000 truckloads of debris ripped from people's flooded homes and dumped on their lawns. The federal government has spent more than $1 billion in housing assistance to families driven from their homes and expects the flood insurance program will eventually pay $11 billion in Harvey claims.

Todd and Genie Middleton bought

their home in the Norchester neighborhood for $120,000 almost 20 years ago. Like many of their neighbors, they were willing to take their chances with flooding. They loved the tree-lined streets and forest bordering their backyard — and flood insurance was just $378 a year.

The Middletons' luck ran out in 2016, when the Tax Day floods washed more than 2 feet of water into their home. The National Flood Insurance Program sent them $110,000 to make repairs. They lived for four months with their three teenage children in a camping trailer in the driveway.

Hurricane Harvey filled the house with more than 4 feet of water. Now they're back in the trailer, rebuilding with a $73,000 check from the National Flood Insurance Program and hoping for more.

The Middletons say they don't plan to leave. If they flood again, they'll rebuild again.

Their flood insurance rates? They rose last year for the first time — to $410 year.

About the journalists

DAVID HUNN came to the Chronicle in June 2016 as an enterprise reporter covering energy. He has since written on bankruptcies and debt loads after the 2014 oil price crash and the boom in the Permian Basin that followed. He previously worked at the St. Louis Post-Dispatch, where he was on a team that was a finalist for a Pulitzer Prize for coverage of a city hall shooting.

RYAN MAYE HANDY covers the regulation of utilities and oil and gas in Texas. She came to the Chronicle in October 2016 from Colorado, where she worked as a reporter for nearly six years covering energy and the environment, county government and natural disaster recovery.

JAMES OSBORNE covers the intersection of energy and politics from the Chronicle's Washington bureau. Before arriving in 2016, he spent three years covering Texas' energy sector for the Dallas Morning News, where he chronicled the hydraulic fracturing boom, the rise of the wind and solar industries and how technology is changing the ways we produce and consume energy.

JON SHAPLEY, a videographer for the Chronicle, is a native Houstonian who joined the staff in 2015. He previously worked at the NPR affiliate in Austin as well as monthly magazines in Austin and San Antonio. He can be reached at jon.shapley@chron.com.