

# HFSC NFIP Reauthorization Act of 2022

## Strike Section 209, “New Zone for ‘Levee-Impacted’ Areas”

*New Federal Mandates and Regulation Target Communities with Accredited Levees*  
May 24, 2022



Levee Locations Across the U.S. Source: U.S. Army Corps of Engineers <https://levees.sec.usace.army.mil/#/map-viewer>

### Levees Everywhere

The [National Levee Database \(NLD\)](#) managed by the U.S. Army Corps of Engineers (Corps) and Federal Emergency Management Agency (FEMA) indicates that 16.8 million people live or work behind a levee. Levees help protect more than \$2 trillion of property, 4,500 schools that enroll over 2 million students, and 5.3 million buildings. As depicted in the above NLD graphic and explained by the Corps in a March 2018 report, “these [levee] systems are integral with society, with about a mile of Corps levees for every McDonald’s restaurant in the United States.” Communities in all 50 states, the District of Columbia, Puerto Rico, and Guam rely on levees and flood walls to help lessen catastrophic flooding, increase land availability for habitation, agriculture, and industry, and protect the U.S. financial system from instability that might result from large-scale flood events.

### Accredited Versus Non-accredited Levees

Importantly, while levees are everywhere, not all levees are the same in terms of their size, the amount of people and treasure they help protect, or performance. Of the 6,972 levee systems registered in the NLD, the Corps and FEMA indicate that 1,107 (or 7,509 levee miles) are certified by professional engineers or the Corps to meet federal design and safety criteria and are accredited by FEMA on NFIP flood maps as substantially reducing the flood hazards posed by a 1-percent-annual-chance-flood. By contrast, 5,865 levee systems (or 16,066 levee miles) are not accredited by FEMA. In approximate terms, this means that only one in seven of the red levee location markings shown in the above NLD graphic represents an accredited levee.

The area landward of an accredited levee system, in general, is not subject to mandatory flood insurance purchase. Non-accredited levee areas are identified on flood maps as high-risk or Special Flood Hazard Areas (SFHAs) where NFIP floodplain management regulations must be enforced and where the flood insurance purchase mandate applies for residential and commercial properties with mortgages from federally regulated or insured lenders.

### **HFSC Draft Section 209 Penalizes Communities with Accredited Levees**

Section 209 of the House Financial Services Committee (HFSC) draft NFIP Reauthorization Act of 2022, including the version that has been redlined since May 20, authorizes immediate application of mandatory insurance landward of accredited levees, sets a transitional premium level in those areas, directs that FEMA proceed to implement new internally developed (and under Risk Rating 2.0, unchallengeable) “risk-based” premiums in such areas, while also applying SFHA land use regulations.

### **Section 209 Must Be Stricken from the Bill**

It fails to recognize the important distinctions between *accredited* and *non-accredited* levee systems and the enduring, largely effective accreditation process altogether. For communities that have made the sacrifice to plan, build, operate and maintain world class infrastructure, no good deed shall go unpunished under Section 209. By indiscriminately designating areas behind *all* levees as somehow “levee-impacted” with attendant SFHA land use regulations and flood insurance purchase mandates, Section 209 summarily overturns a decades-long Federal commitment to accommodate diverse local needs and circumstances, incentivize local project funding sufficiency, and foster exemplary local operation and maintenance of projects that otherwise, taken together, deliver economic flood protection with reliable, high-performance levees. The unsupported Section 209 proposal flouts the teachings of the late Gilbert F. White, known by many as the “father of floodplain management,” to make use of multiple means, including the full array of sound structural and nonstructural approaches, in stemming the incidence of catastrophic flooding.

### **The Benefits of Accredited Levee Systems**

Objective analysis of accredited levee system performance reveals that diligent levee owner-operators, in partnership with local zoning agencies and the Corps and FEMA, have indeed stemmed the incidence of flood loss in their communities. The accredited 11-state Mississippi River and Tributaries Project authorized by the 1928 Flood Control Act has prevented \$2.021 trillion in cumulative damages to generate a remarkable 116.8 to 1 return on investment. During epochal May 2015 rainfall across Texas, accredited Corps flood control projects maintained by local sponsors prevented more than \$13 billion in flood damages. And during the unprecedented 279 days of Midwest flooding in 2019, accredited flood control operations prevented \$2.4 billion in damages in Missouri and Kansas. In January of this year, the German-based global reinsurance company, Munich Re, published a report indicating that Hurricane Ida caused \$65 billion in damage but that the rebuilt levee system in New Orleans “withstood the storm surges, thereby preventing much higher losses... ..and that the investments there were absolutely worth it.” The reality in hundreds of communities is that federally accredited levees continue to serve the Nation and do not fail with any great frequency.

The horrific losses and suffering experienced by victims of the 2005 Hurricane Katrina-related failure of an accredited levee system in New Orleans are anomalous for certified and federally accredited levees in the United States over the last several decades. Even considering the New Orleans tragedy, we have not experienced systemic financial crises as the consequence of accredited levee failure. The inspections, surveillance, and use of technological advancements that underlie Federal levee accreditation have worked to both increase life safety and secure the same financial protection outcome as that intended by Congress for application of mandatory insurance under the National Flood Insurance Act. With New Orleans as an undeniably tragic exception, the Nation has thankfully not experienced a history of accredited levee failures

that threaten the financial system or justify the Section 209 approach which, incidentally, was rejected by Congress 10 years ago during debate on the Biggert-Waters Act of 2012. Our good fortune, at least in areas protected by accredited levees, is what the Federal government expected when communities that sacrificed to construct levees and sustain Federal accreditation were given the promise that their sound projects would protect them not only from floods, but also imposition of mandatory insurance and expansive Federal land use regulation.

**Section 209 Unintended Consequences**

Section 209 represents a sudden hard turn on decades-long policy for leveed areas that essentially mandates a new form of taxation in the guise of arbitrary insurance premiums, seemingly levied for revenue rather than actuarial purposes. It would incentivize residents to demand that levee districts, after satisfying debt service obligations, cease levying taxes for operation and maintenance and instead rely solely on the “protection” provided by the NFIP to avoid paying a tax for levee maintenance and another for flood hazard coverage. Critically, Section 209 would result in a precipitous decline in residential and commercial property values, depressed realtor commissions, a reduction in overall taxable market value and necessitate reduction in governmental services or increased tax rates, while frustrating local performance of sound community floodplain management practices.

Communities and levee districts collect tax revenues for operation and maintenance of their levee systems. If areas behind accredited levees are integrated into the NFIP with application of new mandates under Sec. 209 or by other means, affected property owners will be required to purchase flood insurance while also being taxed for levee operations and maintenance. The new insurance mandate behind accredited levees, which does little or nothing to directly reduce flood damage, will make taxpayers less willing to also support tax payments for levee operation and maintenance. If the local commitment to levee operation and maintenance were to be reduced in response to taxpayer unwillingness to pay both insurance premiums and levee maintenance taxes then, ironically, actual flood protection could be degraded.

Levee owner-operators of accredited systems have spent considerable time, effort, and resources over the decades to achieve reliable, economic flood protection for its residents, business owners, and to attract growth. Earning and keeping FEMA accreditation of levees on flood maps to avoid SFHA designation and associated mandates and regulations have further incentivized levee owner-operator commitments to levee system operation and investment. There is no known Federal analysis demonstrating that accredited levees pose a substantial risk for protected communities nor is there any known Federal analysis to justify termination of the longstanding exemption from mandatory flood insurance for areas protected by accredited levees.

**Sampling of Affected Areas Around the United States**

According to data from the Corps-FEMA managed National Levee Database, families, businesses, and local communities with *accredited levee systems* in the following areas will face new mandatory flood insurance purchase requirements and Federal land use regulation under Sec. 209 of the HFSC draft NFIP Reauthorization.

<u>County, State</u>	<u>Location</u>	<u>System</u>	<u>Length (mi)</u>	<u>Population</u>	<u>Property Value (\$M)</u>	<u>Buildings</u>
Clay County, MO	North Kansas City	North Kansas City Levee	8.96	26,703	\$4,400	1,658
	Birmingham	Birmingham	11.03	1,113	\$489	209
Jackson	Kansas City	East Bottoms	9.49	16,539	\$5,600	751

<u>County, State</u>	<u>Location</u>	<u>System</u>	<u>Length (mi)</u>	<u>Population</u>	<u>Property Value (\$M)</u>	<u>Buildings</u>
County, MO	Kansas City	CID, Central Industrial District	4.9	15,858	\$2,320	341
	Kansas City	GSA Bannister/Dodson Complex	3.66	925	\$2,800	91
	Sugar Creek	MRLS 351-R	16	245	\$80	140
			<b>54</b>	<b>61,383</b>	<b>\$15,689</b>	<b>3,190</b>

*Rep. Emanuel Cleaver (MO-5) w/ 54 accredited levee miles, protecting 61,383 people, and property valued at \$15.7 Billion with 3,190 structures (homes and businesses)*

Pulaski County, AR	England	North Little Rock to Gillette Head of Fourche Island to	53.27	7,842	\$921	3,799
	Wrightsville	Pennington Bayou	21.39	2,828	\$266	176
	Little Rock	Riverdale Private Levee	2.89	2,046	\$223	249
	North Little Rock	North Little Rock Levee and Floodwall	2.97	368	\$44	116
	Little Rock	Rock Creek Levee	0.59	115	\$11	49
	Roland	Roland Drainage District	4.09	101	\$12	45
	Little Rock	Little Rock Flood Protection	7.51	26	\$5,680	14
Faulkner County, AR	Conway	Faulkner County Levee District No. 1	6.73	254	\$78	30
			<b>99</b>	<b>13,580</b>	<b>\$7,235</b>	<b>4,478</b>

*Rep. French Hill (AR-2) w/ 99 accredited levee miles, protecting 13,580 people, and property valued at \$7.2 Billion with 4,478 structures (homes and businesses)*

Fort Bend County, TX	Missouri City	Sienna Plantation Levee Systems	0.61	8,791	\$1,990	3,346
	Missouri City	Palmer MUD Levee	4.12	97	\$12	33
			<b>5</b>	<b>8,888</b>	<b>\$2,002</b>	<b>3,379</b>

*Rep. Al Green (TX-9) w/ 5 accredited levee miles, protecting 8,888 people, and property valued at \$2.0 Billion with 3,379 structures (homes and businesses)*

Cameron County, TX	Bluetown	Lower Rio Grande Levee System	129.67	272,073	\$32	77,654
	Lasana	Lower Rio Grande Right Floodway System	57.41	112,770	\$15	40,314
	Indian Hills	Lower Rio Grande Left Floodway System	44.76	107,181	\$10	31,083
Hidalgo County, TX	Mission	Mission Levee System	22.79	66,766	\$8	17,970
			<b>255</b>	<b>558,790</b>	<b>\$66</b>	<b>167,021</b>

*Rep. Vicente Gonzáles (TX-15) w/ 255 accredited levee miles, protecting 558,790 people, and property valued at \$66 Million with 167,021 structures (homes and businesses)*

San Diego County, CA	San Diego	Tijuana River 2	1.96	6,690	\$1,250.0	905
	Chula Vista	Sweetwater River 2	2.32	3,261	\$325.0	190
	Chula Vista	Sweetwater River 1	2.28	1,796	\$136.0	558
	San Diego	Tijuana River 1	1.77	3	\$8.5	3
	Winterhaven	Reservation Levee (Ft. Yuma Indian Res.)	17.05	2,806	\$486.0	1,050
Imperial County, CA			<b>25</b>	<b>14,556</b>	<b>\$2,206</b>	<b>2,706</b>

*Rep. Juan Vargas (CA-51) w/ 25 accredited/provisional levee miles, protecting 14,556 people, and property valued at \$2.2 Billion with 2,706 structures (homes and businesses)*

<u>County, State</u>	<u>Location</u>	<u>System</u>	<u>Length (mi)</u>	<u>Population</u>	<u>Property Value (\$M)</u>	<u>Buildings</u>
Polk County, IA	Des Moines	DES MOINES, IA - DM II - RDB DES MOINES RIVER / LDB RACCOON RIVER	3.14	44,753	\$2,680	323
		DES MOINES, IA & SE DM - SW PLEASANT HILL RED ROCK REMEDIAL WORKS	10.56	7,938	\$1,870	859
	West Des Moines	WEST DES MOINES & DES MOINES, IA	4.27	3,053	\$550	1,360
	Des Moines	Des Moines, IA - LDB Des Moines River (Birdland)	1.47	2,283	\$175	183
	Des Moines	DES MOINES, IA - DM III - RDB DES MOINES RIVER / RACCOON RIVER	2.1	1,993	\$183	860
	Des Moines	DES MOINES, IA - RR I - RDB RACCOON RIVER	1.65	1,686	\$160	65
	Des Moines	Des Moines, IA - RDB Des Moines River (Central Place)	1.11	1,168	\$227	149
	Carlisle	AVON STATION, IA - RED ROCKS REMEDIAL WORKS	2.06	309	\$31	129
	Des Moines	DES MOINES WATER WORKS LEVEE	0.75	0	\$0	0
Pottawattamie County, IA	Council Bluffs	L-627 MO River LB & Indian Creek RB	15.35	29,357	\$3,080	10,580
	Council Bluffs	Omaha - Missouri River RB	13.26	8,375	\$1,600	3,320
	Council Bluffs	L-624 MoRiv LB & Indian LB & Mosquito Creek RB	8.86	6,305	\$769	2,142
	Council Bluffs	MOSQUITO CREEK TIEBACK L-624-627-611-614 - Mosquito Cr & Upper Pony Cr	0.51	1,265	\$617	9
	Council Bluffs	L-611-614 - Upper Pony Creek LB & Lat 1B RB	8	102	\$47	94
	Council Bluffs	COUNCIL BLUFFS LEVEES	2.57	30	\$2	5
Montgomery County, IA	Red Oak	Red Oak - East Nishnabotna LB	0.68	0	\$173	1
Mills County, IA	Pacific Junction	L-601 - Watkins Ditch RB - Watkins DD	2.89	2,382	\$323	1,180
	Mills County	L-611-614-MoRiv LB & Upr Pony Creek LB & L1B LB	7.68	557	\$41	302
	Emerson	L-611-614-MoRiv LB & Upr Pony Creek LB & L1B LB	25.65	398	\$153	409
Bartlett	Emerson - Indian Creek RB	0.03	55	\$9	47	
		L-594-601	14.62	155	\$37	119
			<b>127</b>	<b>112,164</b>	<b>\$12,727</b>	<b>22,136</b>
<i>Rep. Cindy Axne (IA-3) w/ 127 accredited levee miles, protecting 112,164 people, and property valued at \$12.7 Billion with 22,136 structures (homes and businesses)</i>						
Surry County, NC	Mount Airy	Riverside/Linville Roads	0.52	33	\$24	24
	Flat Rock	Quality Mills	0.43	3	\$0	3
			<b>1</b>	<b>36</b>	<b>\$24</b>	<b>27</b>

*Rep. Patrick McHenry (NC-10) w/ 1 accredited levee mile, protecting 36 people, and property valued at \$24 Million with 27 structures (homes and businesses)*

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Fairfield County, CT	Stamford	Stamford HSPP	2.02	8,381	\$1,140	1,300
	Norwalk	Norwalk Riv RB*	0.26	257	\$40	49
		* Accredited, overtopped 1955, breach possible	<b>2</b>	<b>8,638</b>	<b>\$1,180</b>	<b>1,349</b>

*Rep. Jim Himes (CT-4) w/ 2 accredited levee miles, protecting 8,638 people, and property valued at \$1.2 Billion with 1,349 structures (homes and businesses)*

DuPage County, IL	Warrenville	Bower School Berm Levee	0.23	0	\$0	4
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*Rep. Sean Casten (IL-6) w/ 1/4 accredited levee mile, apparently protecting a school (property value not provided for public facilities)*

St. Charles County, MO	St. Charles	BOSCHERT CREEK WEST	1.95	2150	\$377	336
	St. Charles	Elm Point Levee System	4.26	733	\$62	306
	St. Peters	St. Peters Old Town Levee System	3.34	538	\$54	134
	St. Peters	Lakeside 370 Levee System	4.12	25	\$11	8
	St. Charles	BOSCHERT CREEK EAST	1.66	0	\$0	0
			<b>15</b>	<b>3,446</b>	<b>\$504</b>	<b>784</b>

*Rep. Blaine Luetkemeyer (MO-3) w/ 15 accredited levee miles, protecting 3,446 people, and property valued at \$504 Million with 784 structures (homes and businesses)*

St. Louis County, MO	Chesterfield,	Monarch Chesterfield Levee District	12.04	7,971	\$2,070	511
	Maryland Heights	Riverport Levee District	2.58	5,350	\$256	25
	Valley Park	Valley Park Levee	3.1	3,301	\$538	484
	Maryland Heights	Howard Bend Levee District	8.16	1,483	\$337	132
	Maryland Heights	WASTEWATER TREATMENT PLANT LEVEE	0.77	0	\$0	0
			<b>27</b>	<b>18,105</b>	<b>\$3,201</b>	<b>1,152</b>

*Ann Wagner (MO-2) w/ 27 accredited levee miles, protecting 18,105 people, and property valued at \$3.2 Billion with 1,152 structures (homes and businesses)*

***More than 600 miles of accredited levees, protecting nearly 800,000 people, and property valued in excess of \$44 Billion with more than 200,000 structures!!!***

Source: NLD at <https://levees.sec.usace.army.mil/#/map-viewer> (accessed May 20-23, 2022)