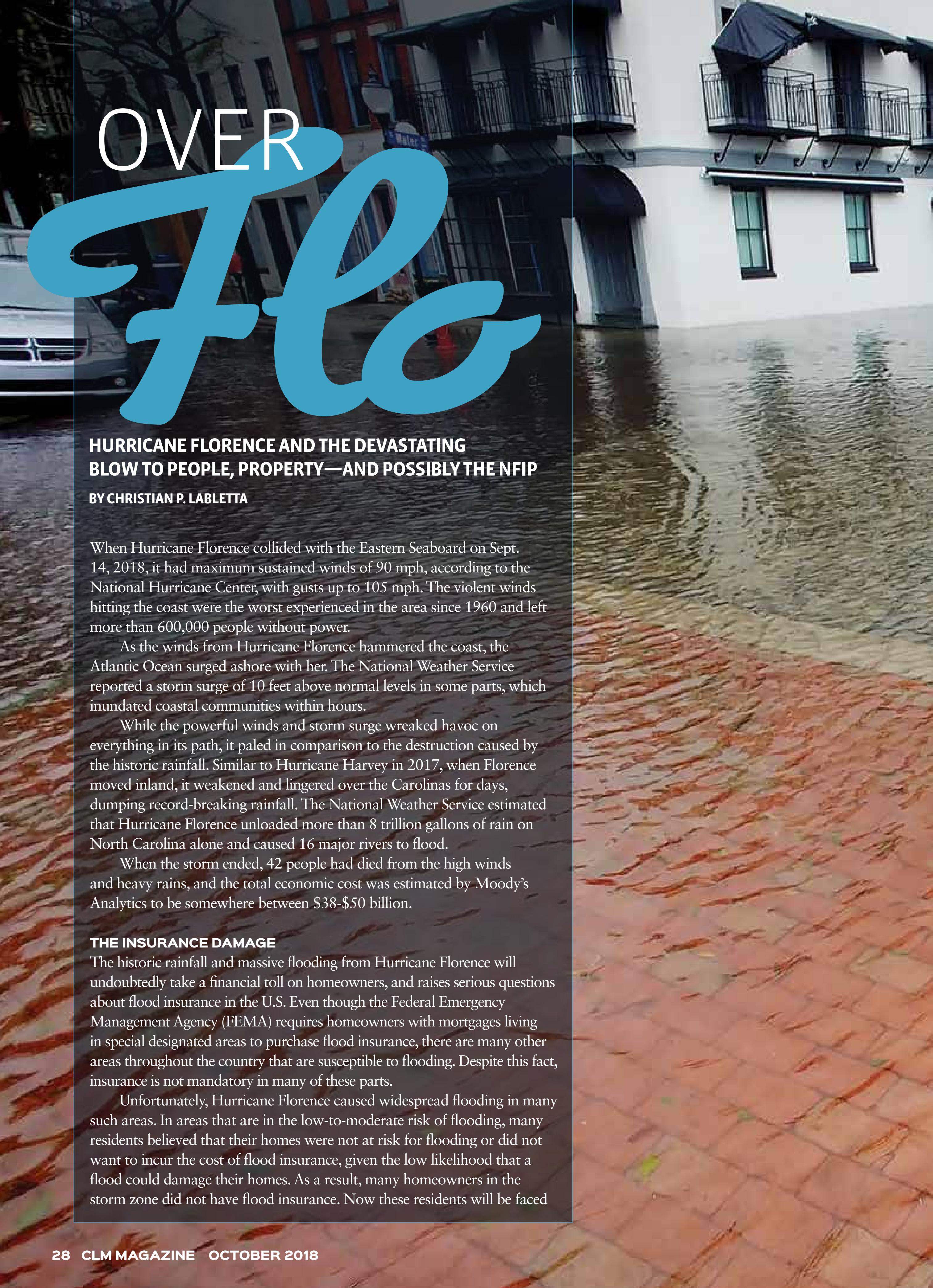


# OVER *Flo*

## HURRICANE FLORENCE AND THE DEVASTATING BLOW TO PEOPLE, PROPERTY—AND POSSIBLY THE NFIP

**BY CHRISTIAN P. LABLETTA**

When Hurricane Florence collided with the Eastern Seaboard on Sept. 14, 2018, it had maximum sustained winds of 90 mph, according to the National Hurricane Center, with gusts up to 105 mph. The violent winds hitting the coast were the worst experienced in the area since 1960 and left more than 600,000 people without power.

As the winds from Hurricane Florence hammered the coast, the Atlantic Ocean surged ashore with her. The National Weather Service reported a storm surge of 10 feet above normal levels in some parts, which inundated coastal communities within hours.

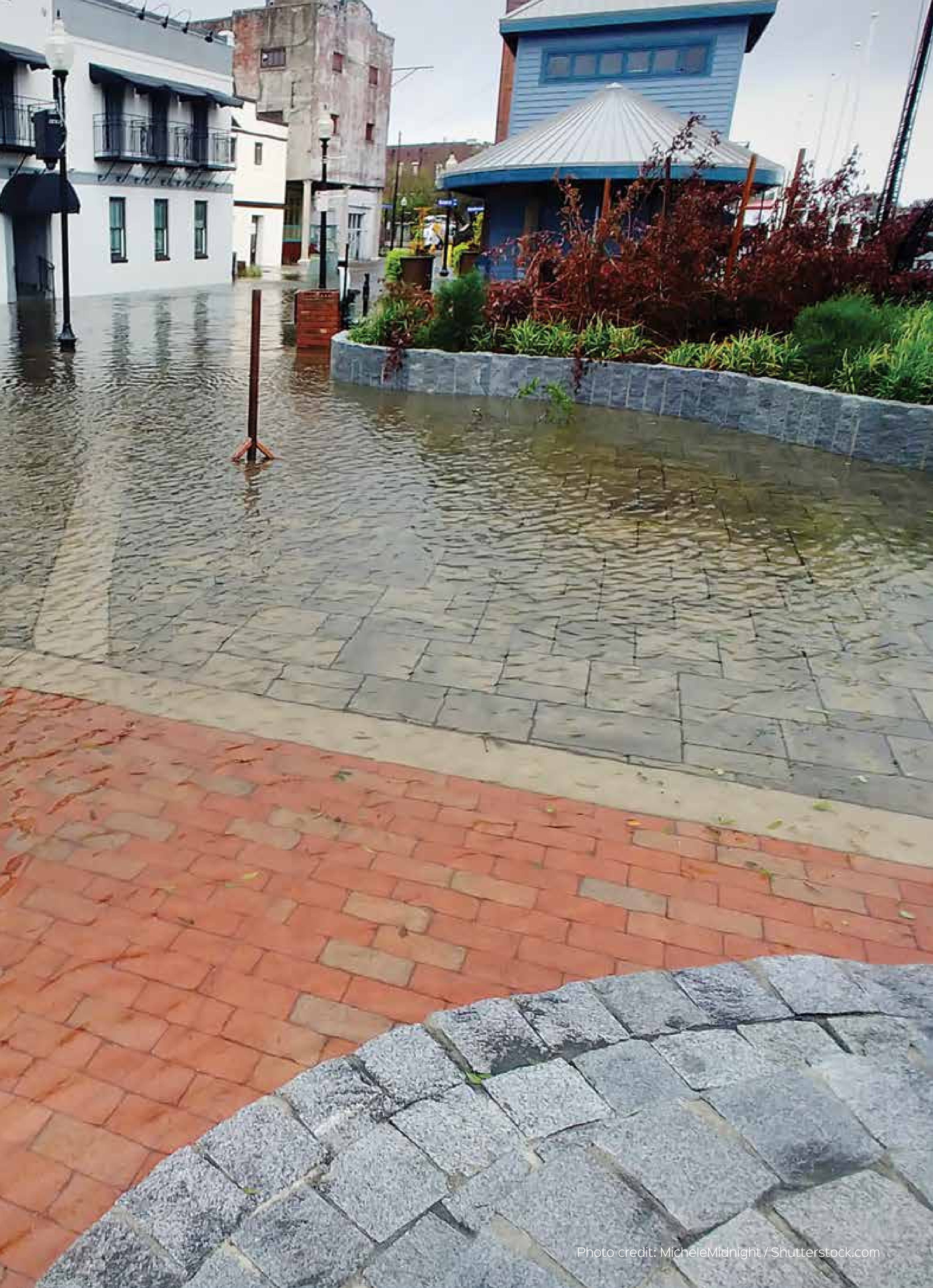
While the powerful winds and storm surge wreaked havoc on everything in its path, it paled in comparison to the destruction caused by the historic rainfall. Similar to Hurricane Harvey in 2017, when Florence moved inland, it weakened and lingered over the Carolinas for days, dumping record-breaking rainfall. The National Weather Service estimated that Hurricane Florence unloaded more than 8 trillion gallons of rain on North Carolina alone and caused 16 major rivers to flood.

When the storm ended, 42 people had died from the high winds and heavy rains, and the total economic cost was estimated by Moody's Analytics to be somewhere between $38-$50 billion.

### THE INSURANCE DAMAGE

The historic rainfall and massive flooding from Hurricane Florence will undoubtedly take a financial toll on homeowners, and raises serious questions about flood insurance in the U.S. Even though the Federal Emergency Management Agency (FEMA) requires homeowners with mortgages living in special designated areas to purchase flood insurance, there are many other areas throughout the country that are susceptible to flooding. Despite this fact, insurance is not mandatory in many of these parts.

Unfortunately, Hurricane Florence caused widespread flooding in many such areas. In areas that are in the low-to-moderate risk of flooding, many residents believed that their homes were not at risk for flooding or did not want to incur the cost of flood insurance, given the low likelihood that a flood could damage their homes. As a result, many homeowners in the storm zone did not have flood insurance. Now these residents will be faced



## High Waters Rising

HURRICANE FLORENCE'S FLOODING IS DETAILED IN THESE BEFORE-AND-AFTER IMAGES OF MOREHEAD CITY AND MYRTLE GROVE, N.C., PROVIDED BY EAGLEVIEW.


with the consequences of repairing flood damage on their own.

In fact, it is estimated that only 10-20 percent of homeowners along the coast in North Carolina have coverage through the National Flood Insurance Program (NFIP). In addition, according to the Insurance Information Institute (I.I.I.), only about one-to-three percent of homes in inland counties of North Carolina have flood policies. For the entire state of North Carolina, only about three percent of homes have flood insurance. Only approximately eight percent of homes in South Carolina have flood insurance. As a result, countless homeowners will be uninsured for the flooding damages.

To make matters worse, flood damage tends to be costly. According to FEMA, the potential loss for just 1,000 square feet that is inundated with water can cost as high as $11,000. An estimated five inches of water inside a home can result in damage upwards of $20,000.

Given the high costs to repair flood damage and the many homeowners left without flood insurance, insureds and insurance companies may find themselves in a familiar dispute on the exact cause of the damage. In situations where it cannot be determined whether the damage was caused by wind or flood, insureds will likely argue that the damage to their properties was wind-related and, thus, covered under their homeowners' policies.

However, for insurance carriers that have included anti-concurrent causation provisions in their policies, insureds' contention for coverage because the losses resulted from wind will have little traction. The anti-concurrent causation provision excludes coverage if an excluded peril, such as flood, contributes either directly or indirectly to the cause of loss, even if a covered peril, such as wind, plays a part in the loss. Importantly, both North Carolina and South Carolina recognize the enforceability of the anti-concurrent causation language. (See *South Carolina Farm Bureau Mut. Ins. Co. v. Durham* and *Builders Mut. Ins. Co. v. Glascar Properties Inc.*) Thus, if an insurance policy includes the anti-concurrent causation provision, then the claim will likely be denied.

With many homeowners in Hurricane Florence's path without flood insurance and the evidence suggesting that the damage caused by the storm was mostly flood related, property owners are left with FEMA for their primary, if not only, assistance. However, federal disaster aid in the form of grants are often insufficient to restore a property to its pre-loss condition. FEMA can provide up to $33,000 in assistance for home repairs, although the average payout for damage caused by Hurricane Florence will likely be around $10,000. Previously, the average federal disaster assistance for Superstorm Sandy was roughly $8,000, and approximately $7,000 for Hurricane Katrina. Consequently, many residents will be faced with the harsh reality of not being able to repair their homes.

### THE NFIP PROBLEM

As the country experiences historic weather patterns, and areas that have generally been immune from flooding become vulnerable, it raises critical questions about the sustainability and effectiveness of this country's policy on flood insurance.

In 2004, the NFIP was solvent. However, since 2005, a chain of cataclysmic storms have forced the NFIP to pay out billions of dollars more in claims than the program received in premiums. In 2005, Hurricane Katrina hit the Gulf Coast and caused the costliest storm in U.S. history. Then, in 2012, Superstorm Sandy resulted in approximately $8.7 billion in NFIP payouts. In 2017, Hurricane Harvey resulted in a payout almost identical to Superstorm Sandy, and damages from Hurricanes Harvey and Irma caused the program to reach its $30.5 billion statutory limit on borrowing. Even with Congress forgiving approximately $16 billion of the NFIP's debt in October 2017, the program is still roughly $20.5 billion in the red. With Hurricane Florence becoming the second 1,000-year rain event in two years, insurance industry experts are wondering just how much more the NFIP can withstand.

The good news for now is that Hurricane Florence, despite similarities to Hurricane Harvey in that the storm hovered in one place and resulted in a multi-day rainfall event, is expected to cost much less. One reason that Hurricane Florence will not have the same impact on the NFIP as Hurricane Harvey is that Hurricane Harvey was relatively localized and occurred in Houston, one of the largest cities in America. As a result, Hurricane Harvey created more total exposure to properties at risk of flooding because of its densely populated urban and suburban environment. Consequently, Hurricane Florence covered a much wider area in both North and South Carolina without any major populated cities.

In addition, penetration of the NFIP coverage in the states affected by Hurricane Florence is relatively low. North Carolina represent just 2.5 percent and South Carolina just four percent of NFIP policies. Texas, on the other hand, represents just less than 15 percent of NFIP policies. By all accounts, it appears that the NFIP can withstand the blow dealt by Hurricane Florence.

Given its financial situation, the NFIP has taken steps to address its crippling debt. One way the NFIP has attempted to help itself and offset the risk of major events is through implementing a reinsurance program. In 2016, the NFIP used reinsurance as a way to manage losses incurred by catastrophic events. The reinsurance program has certainly proved helpful to the NFIP, given the major recent weather events. In fact, the NFIP recovered their entire limit of $1.04 billion from the losses sustained during Hurricane Harvey. As a result, in 2018, the NFIP again purchased reinsurance and paid $235 million for $1.46 billion in coverage for a single flood event.

Moreover, in August 2018, FEMA introduced its first catastrophe bond to transfer risk from the NFIP to the capital markets. It was the first catastrophe bond to solely provide reinsurance coverage for flood risks.

While the NFIP was taking steps to relieve its significant debt through reinsurance and bonds, legislation was passed in the U.S. House of Representatives in the hopes of reforming flood insurance. H.R. 2874, known as the "21st Century Flood Reform Act," sought to address the costs associated with flood-related damage. The bill proposed a limit on annual premium increases and offered financial assistance to low-income households.

Additionally, the bill attempted to increase competition by providing consumers a choice through the development of private markets. In particular, the bill eliminated the non-compete clause for the Write Your Own (WYO) program, thus allowing agents and brokers to offer and sell private flood insurance. The bill also allows for the state and local governments and property owners to appeal the denial of a request to update a flood map if the map is scientifically or technically inaccurate. The bill has gone to the Senate for approval, but the Senate has yet to act on the measure.

Since Hurricane Katrina in 2005, we have seen a record-breaking number of billion-dollar natural disasters caused by flooding. Hurricane Florence is just the latest offender. Given what appears to be a new era of biblical rainfall and flooding, the cost of insuring and rebuilding properties will increase drastically and, in turn, strain an already burdened flood program. Insurance companies, government officials, and the public would certainly be well-served in addressing the issues facing the NFIP head-on, because the next major flood could wash away the program itself. ■

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