

FLOOD INSURANCE REFORM PRIORITIES ACT OF 2010

MAY 26, 2010.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FRANK of Massachusetts, from the Committee on Financial Services, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 5114]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 5114) to extend the authorization for the national flood insurance program, to identify priorities essential to reform and ongoing stable functioning of the program, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Flood Insurance Reform Priorities Act of 2010”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Extension of national flood insurance program.
- Sec. 4. Maximum coverage limits.
- Sec. 5. Phase-in of actuarial rates for nonresidential properties, certain pre-FIRM properties, and non-primary residences.
- Sec. 6. 5-year delay in effective date of mandatory purchase requirement for new flood hazard areas.
- Sec. 7. 5-year phase-in of flood insurance rates for newly mapped areas.
- Sec. 8. Increase in annual limitation on premium increases.
- Sec. 9. Consideration of construction, reconstruction, and improvement of flood protection systems in determination of flood insurance rates.
- Sec. 10. Treatment of certain flood protection projects.
- Sec. 11. Notification to homeowners regarding mandatory purchase requirement applicability and rate phase-ins.
- Sec. 12. Coverage for additional living expenses and business interruption.
- Sec. 13. Exception to waiting period for effective date of policies.
- Sec. 14. Minimum deductibles for claims.
- Sec. 15. Payment of premiums in installments for low-income policyholders.
- Sec. 16. Enforcement.
- Sec. 17. Notification to tenants of availability of contents insurance.
- Sec. 18. Flood insurance outreach.
- Sec. 19. Notice of availability of flood insurance and escrow in RESPA good faith estimate.
- Sec. 20. Authorization of additional FEMA staff.
- Sec. 21. Plan to verify maintenance of flood insurance on Mississippi and Louisiana properties receiving emergency supplemental funds.
- Sec. 22. Flood insurance advocate.
- Sec. 23. Eligibility of property demolition and rebuilding under flood mitigation assistance program.
- Sec. 24. Study regarding mandatory purchase requirement for non-federally related loans.
- Sec. 25. Study of methods to increase flood insurance program participation by low-income families.
- Sec. 26. Report on inclusion of building codes in floodplain management criteria.
- Sec. 27. Study on repaying flood insurance debt.
- Sec. 28. Study regarding impact of rate increases on pre-FIRM properties.
- Sec. 29. Study of effects of Act.
- Sec. 30. Rulemaking.

SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—The Congress finds that—

(1) since the enactment of National Flood Insurance Act of 1968, the national flood insurance program has been the primary source of reliable, reasonably priced, flood insurance coverage for millions of American homes and businesses;

(2) today over 5,500,000 homes and businesses in the United States rely on the national flood insurance program to provide a degree of financial security;

(3) although participation in the national flood insurance program has, in the past, largely been limited to properties required to participate in the program because of the program’s mandatory purchase requirement for properties in special flood hazard areas with loans from federally regulated lenders, recent annual and extraordinary flooding has resulted in the program enjoying its highest voluntary participation since the establishment of the mandatory flood insurance purchase requirement;

(4) several years of below-average flood claims losses and increased voluntary participation in the national flood insurance program have allowed the program to fully service the debt incurred following Hurricanes Katrina and Rita and allowed the program to pay \$598,000,000 of the principal of that outstanding debt;

(5) though significant reforms are needed to further improve the financial outlook of the national flood insurance program, long-term and reliable authorization of the program is an essential element to stabilizing the already fragile United States housing market;

(6) increased flooding in areas outside designated special flood hazard areas prompted the Executive and the Congress in 2002 to begin calling for the national flood insurance program to develop and disseminate revised, updated flood insurance rate maps that reflect the real risk of flooding for properties not previously identified as being located within a special flood hazard area;

(7) dissemination of accurate, up-to-date, flood-risk information remains a primary goal of the national flood insurance program and such information should be disseminated as soon as such information is collected and available;

(8) communities should be encouraged to make their residents aware of updated flood-risk data while communities are assessing and incorporating updated flood-risk data into long-term community planning;

(9) the maximum coverage limits for flood insurance policies should be increased to reflect inflation and the increased cost of housing; and

(10) phasing out flood insurance premium subsidies currently extended to vacation homes, second homes, and commercial properties would result in significant average annual savings to the national flood insurance program.

(b) PURPOSES.—The purposes of this Act are—

(1) to identify priorities essential to the reform and ongoing stable functioning of the national flood insurance program;

(2) to increase incentives for homeowners and communities to participate in the national flood insurance program and to improve oversight to ensure better accountability of the national flood insurance program and the Federal Emergency Management Agency; and

(3) to increase awareness of homeowners of flood risks and improve the information regarding such risks provided to homeowners.

SEC. 3. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

(a) PROGRAM EXTENSION.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking “September 30, 2008” and inserting “September 30, 2015”.

(b) FINANCING.—Section 1309(a) of such Act (42 U.S.C. 4016(a)) is amended by striking “September 30, 2008” and inserting “September 30, 2015”.

(c) EXTENSION OF PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.—Section 1361A of the National Flood Insurance Act of 1968 (42 U.S.C. 4102a) is amended—

(1) in subsection (k)(1), by striking “2005, 2006, 2007, 2008, and 2009” and inserting “2011, 2012, 2013, 2014, and 2015”; and

(2) by striking subsection (l).

SEC. 4. MAXIMUM COVERAGE LIMITS.

Subsection (b) of section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—

(1) in paragraph (2), by striking “\$250,000” and inserting “\$335,000”;

(2) in paragraph (3), by striking “\$100,000” and inserting “\$135,000”; and

(3) in paragraph (4)—

(A) by striking “\$500,000” each place such term appears and inserting “\$670,000”; and

(B) by inserting before “; and” the following: “; except that, in the case of any nonresidential property that is a structure containing more than one dwelling unit that is made available for occupancy by rental (notwithstanding the provisions applicable to the determination of the risk premium rate for such property), additional flood insurance in excess of such limits shall be made available to every insured upon renewal and every applicant for insurance so as to enable any such insured or applicant to receive coverage up to a total amount that is equal to the product of the total number of such rental dwelling units in such property and the maximum coverage limit per dwelling unit specified in paragraph (2); except that in the case of any such multi-unit, nonresidential rental property that is a pre-FIRM structure (as such term is defined in section 578(b) of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4014 note)), the risk premium rate for the first \$500,000 of coverage shall be determined in accordance with section 1307(a)(2) and the risk premium rate for any coverage in excess of such amount shall be determined in accordance with section 1307(a)(1)”.

SEC. 5. PHASE-IN OF ACTUARIAL RATES FOR NONRESIDENTIAL PROPERTIES, CERTAIN PRE-FIRM PROPERTIES, AND NON-PRIMARY RESIDENCES.

(a) IN GENERAL.—Section 1308(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(c)) is amended—

(1) by redesignating paragraph (2) as paragraph (5); and

(2) by inserting after paragraph (1) the following new paragraphs:

“(2) NONRESIDENTIAL PROPERTIES.—Any nonresidential property, which term shall not include any multifamily rental property that consists of four or more dwelling units.

“(3) NON-PRIMARY RESIDENCES.—Any residential property that is not the primary residence of any individual, including the owner of the property or any other individual who resides in the property as a tenant.

“(4) RECENTLY PURCHASED PRE-FIRM SINGLE-FAMILY PROPERTIES USED AS PRINCIPAL RESIDENCIES.—Any single family property that—

“(A) has been constructed or substantially improved and for which such construction or improvement was started, as determined by the Director, before December 31, 1974, or before the effective date of the initial rate map published by the Director under paragraph (2) of section 1360 for the area in which such property is located, whichever is later; and

“(B) is purchased after the date of enactment of the Flood Insurance Reform Priorities Act of 2010.”

(b) TECHNICAL AMENDMENTS.—Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended—

(1) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking “the limitations provided under paragraphs (1) and (2)” and inserting “subsection (e)”; and

(B) in paragraph (1), by striking “, except” and all that follows through “subsection (e)”; and

(2) in subsection (e), by striking “paragraph (2) or (3)” and inserting “paragraph (5)”.

(c) EFFECTIVE DATE AND TRANSITION.—

(1) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply beginning upon the expiration of the 3-year period that begins on the date of the enactment of this Act, except as provided in paragraph (2) of this subsection.

(2) TRANSITION FOR PROPERTIES COVERED BY FLOOD INSURANCE UPON EFFECTIVE DATE.—

(A) INCREASE OF RATES OVER TIME.—In the case of any property described in paragraph (2), (3), or (4) of section 1308(c) of the National Flood Insurance Act of 1968, as amended by subsection (a) of this section, that, as of the effective date under paragraph (1) of this subsection, is covered under a policy for flood insurance made available under the national flood insurance program for which the chargeable premium rates are less than the applicable estimated risk premium rate under section 1307(a)(1) for the area in which the property is located, the Director of the Federal Emergency Management Agency shall increase the chargeable premium rates for such property over time to such applicable estimated risk premium rate under section 1307(a)(1).

(B) ANNUAL INCREASE.—Such increase shall be made by increasing the chargeable premium rates for the property (after application of any increase in the premium rates otherwise applicable to such property), once during the 12-month period that begins upon the effective date under paragraph (1) of this subsection and once every 12 months thereafter until such increase is accomplished, by 20 percent (or such lesser amount as may be necessary so that the chargeable rate does not exceed such applicable estimated risk premium rate or to comply with subparagraph (C)).

(C) PROPERTIES SUBJECT TO PHASE-IN AND ANNUAL INCREASES.—In the case of any pre-FIRM property (as such term is defined in section 578(b) of the National Flood Insurance Reform Act of 1974), the aggregate increase, during any 12-month period, in the chargeable premium rate for the property that is attributable to this paragraph or to an increase described in section 1308(e) of the National Flood Insurance Act of 1968 may not exceed 20 percent.

(D) FULL ACTUARIAL RATES.—The provisions of paragraphs (2), (3), and (4) of such section 1308(c) shall apply to such a property upon the accomplishment of the increase under this paragraph and thereafter.

SEC. 6. 5-YEAR DELAY IN EFFECTIVE DATE OF MANDATORY PURCHASE REQUIREMENT FOR NEW FLOOD HAZARD AREAS.

(a) IN GENERAL.—Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) is amended by adding at the end the following new subsection:

“(i) DELAYED EFFECTIVE DATE OF MANDATORY PURCHASE REQUIREMENT FOR NEW FLOOD HAZARD AREAS.—

“(1) IN GENERAL.—In the case of any area that was not previously designated as an area having special flood hazards and that, pursuant to any issuance, revision, updating, or other change in flood insurance maps that takes effect on or after September 1, 2008, becomes designated as an area having special flood hazards, if each State and local government having jurisdiction over any portion of the geographic area has complied with paragraph (2), such designation shall

not take effect for purposes of subsection (a), (b), or (e) of this section, or section 202(a) of this Act, until the expiration of the 5-year period beginning upon the date that such maps, as issued, revised, update, or otherwise changed, become effective.

“(2) NOTICE REQUIREMENTS.—A State or local government shall be considered to have complied with this paragraph with respect to any geographic area described in paragraph (1) only if the State or local government has, before the effective date of the issued, revised, updated, or changed maps, and in accordance with such standards as shall be established by the Director—

“(A) developed an evacuation plan to be implemented in the event of flooding in such portion of the geographic area; and

“(B) developed and implemented an outreach and communication plan to advise occupants in such portion of the geographic area of potential flood risks, the opportunity to purchase flood insurance, and the consequences of failure to purchase flood insurance.

“(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) may be construed to affect the applicability of a designation of any area as an area having special flood hazards for purposes of the availability of flood insurance coverage, criteria for land management and use, notification of flood hazards, eligibility for mitigation assistance, or any other purpose or provision not specifically referred to in paragraph (1).”

(b) CONFORMING AMENDMENT.—The second sentence of subsection (h) of section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(h)) is amended by striking “Such” and inserting “Except for notice regarding a change described in section 102(i)(1) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(i)(1)), such”.

(c) NO REFUNDS.—Nothing in this section or the amendments made by this section may be construed to authorize or require any payment or refund for flood insurance coverage purchased for any property that covered any period during which such coverage is not required for the property pursuant to the applicability of the amendment made by subsection (a).

SEC. 7. 5-YEAR PHASE-IN OF FLOOD INSURANCE RATES FOR NEWLY MAPPED AREAS.

Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015), as amended by the preceding provisions of this Act, is further amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting “or notice” after “prescribe by regulation”;

(2) in subsection (c), by inserting “and subsection (g)” before the first comma; and

(3) by adding at the end the following new subsection:

“(g) 5-YEAR PHASE-IN OF FLOOD INSURANCE RATES FOR NEWLY MAPPED AREAS.—Notwithstanding any other provision of law relating to chargeable risk premium rates for flood insurance coverage under this title, in the case of any area that was not previously designated as an area having special flood hazards and that, pursuant to any issuance, revision, updating, or other change in flood insurance maps, becomes designated as such an area, during the 5-year period that begins upon the expiration of the period referred to in section 102(i)(1) of the Flood Disaster Protection Act of 1973 with respect to such area, the chargeable premium rate for flood insurance under this title with respect to any property that is located within such area shall be—

“(1) for the first year of such 5-year period, 20 percent of the chargeable risk premium rate otherwise applicable under this title to the property;

“(2) for the second year of such 5-year period, 40 percent of the chargeable risk premium rate otherwise applicable under this title to the property;

“(3) for the third year of such 5-year period, 60 percent of the chargeable risk premium rate otherwise applicable under this title to the property;

“(4) for the fourth year of such 5-year period, 80 percent of the chargeable risk premium rate otherwise applicable under this title to the property; and

“(5) for the fifth year of such 5-year period, 100 percent of the chargeable risk premium rate otherwise applicable under this title to the property.”

SEC. 8. INCREASE IN ANNUAL LIMITATION ON PREMIUM INCREASES.

Section 1308(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(e)) is amended by striking “10 percent” and inserting “20 percent”.

SEC. 9. CONSIDERATION OF CONSTRUCTION, RECONSTRUCTION, AND IMPROVEMENT OF FLOOD PROTECTION SYSTEMS IN DETERMINATION OF FLOOD INSURANCE RATES.

(a) IN GENERAL.—Section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4014) is amended—

(1) in subsection (e)—

(A) in the first sentence, by striking “construction of a flood protection system” and inserting “construction, reconstruction, or improvement of a flood protection system (without respect to the level of Federal investment or participation)”;

(B) in the second sentence—

(i) by striking “construction of a flood protection system” and inserting “construction, reconstruction, or improvement of a flood protection system”; and

(ii) by inserting “based on the present value of the completed system” after “has been expended”; and

(2) in subsection (f)—

(A) in the first sentence in the matter preceding paragraph (1), by inserting “(without respect to the level of Federal investment or participation)” before the period at the end;

(B) in the third sentence in the matter preceding paragraph (1), by inserting “, whether coastal or riverine,” after “special flood hazard”; and

(C) in paragraph (1), by striking “a Federal agency in consultation with the local project sponsor” and inserting “the entity or entities that own, operate, maintain, or repair such system”.

(b) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Administrator of the Federal Emergency Management Agency shall promulgate regulations to carry out the amendments made by subsection (a). Section 5 may not be construed to annul, alter, affect, authorize any waiver of, or establish any exception to, the requirement under the preceding sentence.

(c) IMPLEMENTATION.—The Administrator of the Federal Emergency Management Agency shall implement this section and the amendments made by this section in a manner that will not materially weaken the financial position of the national flood insurance program or increase the risk of financial liability to Federal taxpayers.

SEC. 10. TREATMENT OF CERTAIN FLOOD PROTECTION PROJECTS.

Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

“(h) TREATMENT OF CERTAIN FLOOD PROTECTION PROJECTS.—

“(1) INAPPLICABILITY OF MANDATORY PURCHASE REQUIREMENT; PREMIUM RATES.—Notwithstanding any other provision of law, upon full completion, as designed, of a flood protection system that was intended to provide flood protection with respect to a covered area, such covered area—

“(A) shall not be considered to be an area having special flood hazards for purposes of this Act or subsections (a), (b), or (e) of section 102, or section 202(a) of the Flood Disaster Protection Act of 1973; and

“(B) shall be eligible for flood insurance under this Act, if and to the extent that such area is eligible for such insurance under the other provisions of this Act, at premium rates not exceeding those that would be applicable under this section if the flood protection system referred to in paragraph (2) for such area had been completed and accredited as providing protection from floods at the level that the system was designed to provide (before construction, reconstruction, or improvement of the system, as applicable, began).

The flood insurance rate maps shall indicate, for each covered area, the status of the area under subparagraphs (A) and (B).

“(2) COVERED AREA.—For purposes of this subsection, a covered area is an area that was intended to be protected by a flood protection system—

“(A)(i) for which, as of April 15, 2010—

“(I) construction, reconstruction, or improvement has not been completed;

“(II) adequate progress, within the meaning of section 1307(e), has been made on such construction, reconstruction, or improvement; and

“(III) is in an area having special flood hazards; or

“(ii) for which, as of such date—

“(I) construction, reconstruction, or improvement has been completed;

“(II) a determination regarding accreditation has not been made; and

“(III) is in an area having special flood hazards;

“(B) that was designed to provide protection for at least the 100-year frequency flood; and

“(C) that has been determined, pursuant to waterflow data or other scientific information of a Federal agency obtained after, or that has changed since, commencement of construction, reconstruction, or improvement, will

not provide protection from floods at the level referred to in subparagraph (B).”.

SEC. 11. NOTIFICATION TO HOMEOWNERS REGARDING MANDATORY PURCHASE REQUIREMENT APPLICABILITY AND RATE PHASE-INS.

Section 201 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4105) is amended by adding at the end the following new subsection:

“(f) ANNUAL NOTIFICATION.—The Director, in consultation with affected communities, shall establish and carry out a plan to notify residents of areas having special flood hazards, on an annual basis—

“(1) that they reside in such an area;

“(2) of the geographical boundaries of such area;

“(3) of whether section 1308(h) of the National Flood Insurance Act of 1968 applies to properties within such area; and

“(4) of the provisions of section 102 requiring purchase of flood insurance coverage for properties located in such an area, including the date on which such provisions apply with respect to such area, taking into consideration section 102(i); and

“(5) of a general estimate of what similar homeowners in similar areas typically pay for flood insurance coverage, taking into consideration section 1308(g) of the National Flood Insurance Act of 1968;”.

SEC. 12. COVERAGE FOR ADDITIONAL LIVING EXPENSES AND BUSINESS INTERRUPTION.

Subsection (b) of section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013) is amended—

(1) in paragraph (4), by striking “and” at the end;

(2) in paragraph (5)—

(A) by inserting “pursuant to paragraph (2), (3), or (4)” after “any flood insurance coverage”; and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

“(6) in the case of any residential property, each renewal or new contract for flood insurance coverage shall provide not less than \$1,000 aggregate liability per dwelling unit for any necessary increases in living expenses incurred by the insured when losses from a flood make the residence unfit to live in, which coverage shall be available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1);

“(7) in the case of any residential property, optional coverage for additional living expenses described in paragraph (6) shall be made available to every insured upon renewal and every applicant in excess of the limits provided in paragraph (6) in such amounts and at such rates as the Director shall establish, except that such chargeable rates shall not be less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1); and

“(8) in the case of any commercial property or other residential property, including multifamily rental property, optional coverage for losses resulting from any partial or total interruption of the insured’s business caused by damage to, or loss of, such property from a flood shall be made available to every insured upon renewal and every applicant, except that—

“(A) the Director may provide such coverage under such terms, conditions, and requirements as the Director considers appropriate to meet the needs of small businesses while complying with the requirement under subparagraph (C); and

“(B) any such coverage shall be made available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1).”.

SEC. 13. EXCEPTION TO WAITING PERIOD FOR EFFECTIVE DATE OF POLICIES.

Section 1306(c)(2)(A) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(2)(A)) is amended by inserting before the semicolon the following: “or is in connection with the purchase or other transfer of the property for which the coverage is provided (regardless of whether a loan is involved in the purchase or transfer transaction), but only when such initial purchase of coverage is made not later than 30 days after such making, increasing, extension, or renewal of the loan or not later than 30 days after such purchase or other transfer of the property, as applicable”.

SEC. 14. MINIMUM DEDUCTIBLES FOR CLAIMS.

Section 1312 of the National Flood Insurance Act of 1968 (42 U.S.C. 4019) is amended—

(1) by striking “The Director is” and inserting the following: “(a) IN GENERAL.—The Director is”; and

(2) by adding at the end the following:

“(b) MINIMUM ANNUAL DEDUCTIBLES.—

“(1) PRE-FIRM PROPERTIES.—For any structure that is covered by flood insurance under this title, and on which construction or substantial improvement occurred on or before December 31, 1974, or before the effective date of an initial flood insurance rate map published by the Director under section 1360 for the area in which such structure is located, the minimum annual deductible for damage to or loss of such structure shall be—

“(A) \$1,500, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount equal to or less than \$100,000; and

“(B) \$2,000, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount greater than \$100,000.

“(2) POST-FIRM PROPERTIES.—For any structure that is covered by flood insurance under this title, and on which construction or substantial improvement occurred after December 31, 1974, or after the effective date of an initial flood insurance rate map published by the Director under section 1360 for the area in which such structure is located, the minimum annual deductible for damage to or loss of such structure shall be—

“(A) \$750, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount equal to or less than \$100,000; and

“(B) \$1,000, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount greater than \$100,000.”.

SEC. 15. PAYMENT OF PREMIUMS IN INSTALLMENTS FOR LOW-INCOME POLICYHOLDERS.

Section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013) is amended by adding at the end the following new subsection:

“(d) PAYMENT OF PREMIUMS IN INSTALLMENTS FOR LOW-INCOME POLICYHOLDERS.—In addition to any other terms and conditions under subsection (a), such regulations shall provide that, in the case of any residential property that is owned by a family whose income level is at or below 200 percent of the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673 of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) applicable to the size of such family, or a family that has no adult member who is employed, premiums for flood insurance coverage for such property may be paid in monthly installments.”.

SEC. 16. ENFORCEMENT.

Section 102(f) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(iii), by striking “or” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “, or”; and

(C) by adding at the end the following new subparagraph:

“(C) in connection with the making, increasing, extending, servicing, or renewing of any loan, requiring the purchase of flood insurance coverage under the National Flood Insurance Act of 1968, or purchasing such coverage pursuant to subsection (e)(2), in an amount in excess of the minimum amount required under subsections (a) and (b) of this section.”;

(2) in paragraph (5)—

(A) in the first sentence, by striking “\$350” and inserting “\$2,000”; and

(B) in the last sentence, by striking “\$100,000” and inserting “\$1,000,000; except that such limitation shall not apply to a regulated lending institution or enterprise for a calendar year if, in any three (or more) of the five calendar years immediately preceding such calendar year, the total amount of penalties assessed under this subsection against such lending institution or enterprise was \$1,000,000”; and

(3) in paragraph (6), by adding after the period at the end the following: “No penalty may be imposed under this subsection on a regulated lending institution or enterprise that has made a good faith effort to comply with the requirements of the provisions referred to in paragraph (2) or for any non-material violation of such requirements.”.

SEC. 17. NOTIFICATION TO TENANTS OF AVAILABILITY OF CONTENTS INSURANCE.

The National Flood Insurance Act of 1968 is amended by inserting after section 1308 (42 U.S.C. 4015) the following new section:

“SEC. 1308A. NOTIFICATION TO TENANTS OF AVAILABILITY OF CONTENTS INSURANCE.

“(a) IN GENERAL.—The Director shall, upon entering into a contract for flood insurance coverage under this title for any property—

“(1) provide to the insured sufficient copies of the notice developed pursuant to subsection (b); and

“(2) require the insured to provide a copy of the notice, or otherwise provide notification of the information under subsection (b) in the manner that the manager or landlord deems most appropriate, to each such tenant and to each new tenant upon commencement of such a tenancy.

“(b) NOTICE.—Notice to a tenant of a property in accordance with this subsection is written notice that clearly informs a tenant—

“(1) whether the property is located in an area having special flood hazards;

“(2) that flood insurance coverage is available under the national flood insurance program under this title for contents of the unit or structure leased by the tenant;

“(3) of the maximum amount of such coverage for contents available under this title at that time; and

“(4) of where to obtain information regarding how to obtain such coverage, including a telephone number, mailing address, and Internet site of the Director where such information is available.”.

SEC. 18. FLOOD INSURANCE OUTREACH.

Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

“SEC. 1326. GRANTS FOR OUTREACH TO PROPERTY OWNERS AND RENTERS.

“(a) IN GENERAL.—The Director may, to the extent amounts are made available pursuant to subsection (h), make grants to local governmental agencies responsible for floodplain management activities (including such agencies of Indians tribes, as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)) in communities that participate in the national flood insurance program under this title, for use by such agencies to carry out outreach activities to encourage and facilitate the purchase of flood insurance protection under this Act by owners and renters of properties in such communities and to promote educational activities that increase awareness of flood risk reduction.

“(b) OUTREACH ACTIVITIES.—Amounts from a grant under this section shall be used only for activities designed to—

“(1) identify owners and renters of properties in communities that participate in the national flood insurance program, including owners of residential and commercial properties;

“(2) notify such owners and renters when their properties become included in, or when they are excluded from, an area having special flood hazards and the effect of such inclusion or exclusion on the applicability of the mandatory flood insurance purchase requirement under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) to such properties;

“(3) educate such owners and renters regarding the flood risk and reduction of this risk in their community, including the continued flood risks to areas that are no longer subject to the flood insurance mandatory purchase requirement;

“(4) educate such owners and renters regarding the benefits and costs of maintaining or acquiring flood insurance, including, where applicable, lower-cost preferred risk policies under this title for such properties and the contents of such properties; and

“(5) encouraging such owners and renters to maintain or acquire such coverage.

“(c) COST SHARING REQUIREMENT.—

“(1) IN GENERAL.—In any fiscal year, the Director may not provide a grant under this section to a local governmental agency in an amount exceeding 3 times the amount that the agency certifies, as the Director shall require, that the agency will contribute from non-Federal funds to be used with grant amounts only for carrying out activities described in subsection (b).

“(2) NON-FEDERAL FUNDS.—For purposes of this subsection, the term ‘non-Federal funds’ includes State or local government agency amounts, in-kind contributions, any salary paid to staff to carry out the eligible activities of the grant recipient, the value of the time and services contributed by volunteers to carry out such services (at a rate determined by the Director), and the value of any donated material or building and the value of any lease on a building.

“(d) ADMINISTRATIVE COST LIMITATION.—Notwithstanding subsection (b), the Director may use not more than 5 percent of amounts made available under subsection

(g) to cover salaries, expenses, and other administrative costs incurred by the Director in making grants and provide assistance under this section.

“(e) APPLICATION AND SELECTION.—

“(1) IN GENERAL.—The Director shall provide for local governmental agencies described in subsection (a) to submit applications for grants under this section and for competitive selection, based on criteria established by the Director, of agencies submitting such applications to receive such grants.

“(2) SELECTION CONSIDERATIONS.—In selecting applications of local governmental agencies to receive grants under paragraph (1), the Director shall consider—

“(A) the existence of a cooperative technical partner agreement between the local governmental agency and the Federal Emergency Management Agency;

“(B) the history of flood losses in the relevant area that have occurred to properties, both inside and outside the special flood hazards zones, which are not covered by flood insurance coverage;

“(C) the estimated percentage of high-risk properties located in the relevant area that are not covered by flood insurance;

“(D) demonstrated success of the local governmental agency in generating voluntary purchase of flood insurance; and

“(E) demonstrated technical capacity of the local governmental agency for outreach to individual property owners.

“(f) DIRECT OUTREACH BY FEMA.—In each fiscal year that amounts for grants are made available pursuant to subsection (h), the Director may use not more than 50 percent of such amounts to carry out, and to enter into contracts with other entities to carry out, activities described in subsection (b) in areas that the Director determines have the most immediate need for such activities.

“(g) REPORTING.—Each local government agency that receives a grant under this section, and each entity that receives amounts pursuant to subsection (f), shall submit a report to the Director, not later than 12 months after such amounts are first received, which shall include such information as the Director considers appropriate to describe the activities conducted using such amounts and the effect of such activities on the retention or acquisition of flood insurance coverage.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for grants under this section \$50,000,000 for each of fiscal years 2011 through 2015.”.

SEC. 19. NOTICE OF AVAILABILITY OF FLOOD INSURANCE AND ESCROW IN RESPA GOOD FAITH ESTIMATE.

Subsection (c) of section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604(c)) is amended by adding at the end the following new sentence: “Each such good faith estimate shall include the following conspicuous statements and information: (1) that flood insurance coverage for residential real estate is generally available under the national flood insurance program whether or not the real estate is located in an area having special flood hazards and that, to obtain such coverage, a home owner or purchaser should contact the national flood insurance program; (2) a telephone number and a location on the Internet by which a home owner or purchaser can contact the national flood insurance program; and (3) that the escrowing of flood insurance payments is required for many loans under section 102(d) of the Flood Disaster Protection Act of 1973, and may be a convenient and available option with respect to other loans.”.

SEC. 20. AUTHORIZATION OF ADDITIONAL FEMA STAFF.

Notwithstanding any other provision of law, the Director of the Federal Emergency Management Agency may employ such additional staff as may be necessary to carry out all of the responsibilities of the Director pursuant to this Act and the amendments made by this Act. There are authorized to be appropriated to Director such sums as may be necessary for costs of employing such additional staff.

SEC. 21. PLAN TO VERIFY MAINTENANCE OF FLOOD INSURANCE ON MISSISSIPPI AND LOUISIANA PROPERTIES RECEIVING EMERGENCY SUPPLEMENTAL FUNDS.

The Secretary of Housing and Urban Development and the Director of the Federal Emergency Management Agency shall jointly develop and implement a plan to verify that persons receiving funds under the Homeowner Grant Assistance Program of the State of Mississippi or the Road Home Program of the State of Louisiana from amounts allocated to the State of Mississippi or the State of Louisiana, respectively, from the Community development fund under the Emergency Supplemental Appropriations Act to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza, 2006 (Public Law 109–148) are maintaining flood insurance on the

property for which such persons receive such funds as required by each such Program.

SEC. 22. FLOOD INSURANCE ADVOCATE.

Chapter II of the National Flood Insurance Act of 1968 is amended by inserting after section 1330 (42 U.S.C. 4041) the following new section:

“SEC. 1330A. OFFICE OF THE FLOOD INSURANCE ADVOCATE.

“(a) ESTABLISHMENT OF POSITION.—

“(1) IN GENERAL.—There shall be in the Federal Emergency Management Agency an Office of the Flood Insurance Advocate which shall be headed by the National Flood Insurance Advocate. The National Flood Insurance Advocate shall report directly to the Director and shall, to the extent amounts are provided pursuant to subsection (f), be compensated at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Director so determines, at a rate fixed under section 9503 of such title.

“(2) APPOINTMENT.—The National Flood Insurance Advocate shall be appointed by the Director, and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

“(3) QUALIFICATIONS.—An individual appointed under paragraph (2) shall have a background in customer service as well as insurance.

“(4) STAFF.—To the extent amounts are provided pursuant to subsection (f), the National Flood Insurance Advocate may employ such personnel as may be necessary to carry out the duties of the Office.

“(b) FUNCTIONS OF OFFICE.—

“(1) IN GENERAL.—It shall be the function of the Office of the Flood Insurance Advocate to—

“(A) assist insureds under the national flood insurance program in resolving problems with the Federal Emergency Management Agency relating to such program;

“(B) identify areas in which such insureds have problems in dealings with the Agency relating to such program;

“(C) identify potential legislative, administrative, or regulatory changes which may be appropriate to mitigate such problems; and

“(D) assist communities and homeowners with interpreting, implementing, and appealing floodplain maps and floodplain map determinations.

“(2) ANNUAL REPORTS.—

“(A) ACTIVITIES.—Not later than December 31 of each calendar year, the National Flood Insurance Advocate shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the activities of the Office of the Flood Insurance Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

“(i) identify the initiatives the Office of the Flood Insurance Advocate has taken on improving services for insureds under the national flood insurance program and responsiveness of the Federal Emergency Management Agency with respect to such program;

“(ii) identify areas of the law or regulations relating to the national flood insurance program that impose significant compliance burdens on such insureds or the Federal Emergency Management Agency, including specific recommendations for remedying these problems; and

“(iii) include such other information as the National Flood Insurance Advocate may deem advisable.

“(B) DIRECT SUBMISSION OF REPORT.—Each report required under this paragraph shall be provided directly to the committees identified in subparagraph (A) without any prior review or comment from the Director, the Secretary of Homeland Security, or any other officer or employee of the Federal Emergency Management Agency or the Department of Homeland Security, or the Office of Management and Budget.

“(c) FUNDING.—Pursuant to section 1310(a)(4), the Director may use amounts from the National Flood Insurance Fund to fund the activities of the Office of the Flood Advocate in each of fiscal years 2011 through 2016, except that the amount so used in each such fiscal year may not exceed \$5,000,000 and shall remain available until expended. Notwithstanding any other provision of this title, amounts made available pursuant to this subsection shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.”

SEC. 23. ELIGIBILITY OF PROPERTY DEMOLITION AND REBUILDING UNDER FLOOD MITIGATION ASSISTANCE PROGRAM.

Section 1366(e)(5)(B) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(e)(5)(B)) is amended by striking “or floodproofing” and inserting “floodproofing, or demolition and rebuilding”.

SEC. 24. STUDY REGARDING MANDATORY PURCHASE REQUIREMENT FOR NON-FEDERALLY RELATED LOANS.

(a) **IN GENERAL.**—The Comptroller General shall conduct a study to assess the impact, effectiveness, and feasibility of, and basis under the Constitution of the United States for, amending the provisions of the Flood Disaster Protection Act of 1973 regarding the properties that are subject to the mandatory flood insurance coverage purchase requirements under such Act to extend such requirements to any property that is located in any area having special flood hazards and which secures the repayment of a loan that is not described in paragraph (1), (2), or (3) of section 102(b) of such Act, and shall determine how best to administer and enforce such a requirement, taking into consideration other insurance purchase requirements under Federal and State law.

(b) **REPORT.**—The Comptroller General shall submit a report to the Congress regarding the results and conclusions of the study under subsection (a) not later than the expiration of the 6-month period beginning on the date of the enactment of this Act.

SEC. 25. STUDY OF METHODS TO INCREASE FLOOD INSURANCE PROGRAM PARTICIPATION BY LOW-INCOME FAMILIES.

(a) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study to identify and analyze potential methods, practices, and incentives that would increase the extent to which low-income families (as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))) that own residential properties located within areas having special flood hazards purchase flood insurance coverage for such properties under the national flood insurance program. In conducting the study, the Comptroller General shall analyze the effectiveness and costs of the various methods, practices, and incentives identified, including their effects on the national flood insurance program.

(b) **REPORT.**—The Comptroller General shall submit to the Congress a report setting forth the conclusions of the study under this section not later than 12 months after the date of the enactment of this Act.

SEC. 26. REPORT ON INCLUSION OF BUILDING CODES IN FLOODPLAIN MANAGEMENT CRITERIA.

Not later than the expiration of the 6-month period beginning on the date of the enactment of this Act, the Administrator of the Federal Emergency Management Agency shall conduct a study and submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate regarding the impact, effectiveness, and feasibility of amending section 1361 of the National Flood Insurance Act of 1968 (42 U.S.C. 4102) to include widely used and nationally recognized building codes as part of the floodplain management criteria developed under such section, and shall determine—

- (1) the regulatory, financial, and economic impacts of such a building code requirement on homeowners, States and local communities, local land use policies, and the Federal Emergency Management Agency;
- (2) the resources required of State and local communities to administer and enforce such a building code requirement;
- (3) the effectiveness of such a building code requirement in reducing flood-related damage to buildings and contents;
- (4) the impact of such a building code requirement on the actuarial soundness of the National Flood Insurance Program;
- (5) the effectiveness of nationally recognized codes in allowing innovative materials and systems for flood-resistant construction; and
- (6) the feasibility and effectiveness of providing an incentive in lower premium rates for flood insurance coverage under such Act for structures meeting whichever of such widely used and nationally recognized building code or any applicable local building code provides greater protection from flood damage.

SEC. 27. STUDY ON REPAYING FLOOD INSURANCE DEBT.

Not later than the expiration of the 6-month period beginning on the date of the enactment of this Act, the Administrator of the Federal Emergency Management Agency shall submit a report to the Congress setting forth a plan for repaying within 10 years all amounts, including any amounts previously borrowed but not yet repaid, owed pursuant to clause (2) of subsection (a) of section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)(2)).

SEC. 28. STUDY REGARDING IMPACT OF RATE INCREASES ON PRE-FIRM PROPERTIES.

(a) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study to assess the impacts of implementing provisions regarding pre-FIRM properties (as such term is defined in section 578(b) of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4014)), including the impact on the program participation rate among owners, renters, and tenants of non-primary residences or commercial nonresidential properties. In conducting the study, the Comptroller General shall analyze the cost effectiveness and effect on local government tax base of various options, including an option of implementing such provisions on the severe repetitive loss properties only.

(b) **REPORT.**—The Comptroller General shall submit a report to Congress regarding the results and conclusions of the study under subsection (a) not later than the expiration of the 9-month period beginning on the date of enactment of this Act.

SEC. 29. STUDY OF EFFECTS OF ACT.

(a) **STUDY.**—The Administrator of the Federal Emergency Management Agency shall conduct a study to identify and assess the impacts, including short-term and long-term impacts, of this Act and the amendments made by this Act on the financial soundness of the national flood insurance program.

(b) **REPORT.**—Not later than 12 months after the date of the enactment of this Act, the Administrator shall submit a report to the Congress setting forth the results and conclusions of study under subsection (a), which shall include specific recommendations for actions to mitigate against any negative financial impacts resulting from this Act and the amendments made by this Act that could increase the debt of the national flood insurance program.

SEC. 30. RULEMAKING.

(a) **INTERIM FINAL RULE.**—The Administrator of the Federal Emergency Management Agency shall issue an interim final rule as a temporary regulation implementing this Act and the amendments made by this Act as soon as practicable after the date of the enactment of this Act, without regard to the provisions of chapter 5 of title 5, United States Code. All regulations prescribed under the authority of this subsection that are not earlier superseded by final regulations shall expire not later than one year after the date of the enactment of this Act.

(b) **INITIATION OF RULEMAKING.**—The Administrator of the Federal Emergency Management Agency may initiate a rulemaking to implement this Act and the amendments made by this Act as soon as practicable after the date of the enactment of this Act. The final rule issued pursuant to such rulemaking may supersede the interim final rule promulgated under subsection (a).

PURPOSE AND SUMMARY

H.R. 5114, the Flood Insurance Reform Priorities Act of 2010, reauthorizes the National Flood Insurance Program (NFIP) and is intended to address and highlight those reforms to the National Flood Insurance Act deemed most essential for the immediate and near-term fiscal and administrative health of the NFIP. The bill also ensures the NFIP's continued viability by encouraging broader participation, increasing financial accountability, eliminating unnecessary rate subsidies, and updating the flood insurance program to meet the needs of the 21st century. The key provisions of H.R. 5114 include: (1) a five-year reauthorization of the NFIP and Severe Repetitive Loss Properties Pilot Program; (2) the first increase in available flood insurance coverage limits since 1994; (3) the phase-in of actuarial rates for all commercial and non-primary residential properties and for all properties sold after the date of the bill's enactment; (4) a five-year delay in the mandatory purchase requirement for properties in newly designated Special Flood Hazard Areas; (5) the five-year phase-in of full-risk, new rates for areas newly designated as Special Flood Hazard Areas; (6) a requirement that FEMA treat state or locally funded flood control projects equally with federally funded projects in NFIP regulations regarding flood insurance mapping and rating; (7) creation of an installment payment program for flood insurance premiums; (8) creation

of the office of the Flood Insurance Advocate to assist policyholders' interactions with the NFIP; and (8) establishment of penalties for lenders misrepresenting the requirements of the NFIP to require borrowers to purchase flood insurance coverage in excess of that required under the National Flood Insurance Act.

BACKGROUND AND NEED FOR LEGISLATION

Established after decades in which the Federal Government was spending ever increasing amounts in disaster relief following annual flooding and severe flooding that followed a series of hurricanes in the mid-1960s, the NFIP was designed to alleviate taxpayers' responsibility for flood losses paid out in the form of post-disaster relief. The NFIP reduces future flood losses through: (i) flood hazard identification; (ii) floodplain management (i.e., land use controls and building codes); and, (iii) insurance protection. The NFIP is estimated to reduce flood loss expenses by over \$1 billion annually.

The NFIP generates premium income of approximately \$2.9 billion annually. The 2005 hurricane season resulted in significant claims, which the program's annual premium income could not cover. To cover the claims, the NFIP borrowed from the U.S. Treasury. The NFIP's borrowing authority was limited by statute to \$1.5 billion. Congress made up for the shortfall by increasing the program's borrowing authority three times between September 2005 and January 2007 (from \$1.5 billion to \$20.8 billion).

The NFIP is periodically reauthorized and was significantly revised in 1973, 1977, 1994, and 2004. In the 109th and 110th Congresses the Committee crafted and reported significant NFIP reform and reauthorization legislation to the full House. However, that legislation was never enacted and the NFIP has been reauthorized through a series of straight extensions from September 2008 to the present. On April 15th, the President signed yet another straight NFIP extension that provides the program the authority to write and renew flood insurance coverage through May 31, 2010.

Flood Risk Identification & Management—Ancillary to providing flood insurance under the NFIP, FEMA also: (i) identifies and maps flood prone areas eligible to participate in the program; and (ii) sets land use controls and building codes that flood-prone communities are required to adopt and enforce in order to participate in the program.

FEMA issues Flood Insurance Rate Maps (FIRMs) that delineate areas, called Special Flood Hazard Areas (SFHAs), determined to have a "one chance in 100" of flooding in any given year (the "100-year floodplain"). Because FIRMs determine where and at what rate insurance under the program required, outdated or inaccurate FIRMs result in flood-prone properties either being left out of the program or being charged insufficient rates. FEMA is currently engaged in a multi-year flood map modernization program to update, revise, and digitize more than 20,000 flood maps, some dating back to the 1970s. The revising, updating and promulgation of these new flood maps has drawn considerable attention around the country as revised Special Flood Hazard Areas (SFHA) include properties not previously required to purchase flood insurance.

Under the NFIP, FEMA has established minimum flood plain management regulations that communities must adopt and enforce in order to be eligible for insurance under the program. Related to this land-use function, the NFIP includes mitigation programs through which the federal government can purchase properties subject to repeated flood losses and reimburse property owners for the cost of relocating to a lower risk area.

Flood Insurance—In addition to identifying and managing the nation's flood risks, Congress created the NFIP to make affordable flood insurance available in areas of the country where flood coverage historically had been unavailable through the private insurance market. Insurance under the NFIP was initially optional and available for all properties located in and around SFHAs. Eligible homeowners, renters, and business owners purchase coverage under the program either directly from the NFIP or, most often, from private insurers that participate in the Write Your Own (WYO) program. WYO insurers take responsibility for policy administration and claims processing, but assume no financial risk in settling claims.

In response to initially low participation in the NFIP, in 1973 Congress made the purchase of flood insurance mandatory for all SFHA properties with mortgages issued or guaranteed by the federal government. By 1994, lax enforcement of the mandatory purchase requirements led Congress to require lenders to purchase coverage on behalf of and bill premiums to mortgagees who failed to purchase coverage on their own (called “forced placed insurance”). Since 1994, lenders who fail to enforce the mandatory purchase requirement are subject to civil penalties.

The NFIP has a two-tiered rate structure: (i) a subsidized pre-FIRM rate for structures built before the 1974 mandatory purchase requirement went into effect for all FIRM properties; and, (ii) an “actuarial” rate for structures built or substantially improved after 1974. (Note that actuarial rates for the NFIP are not the same as actuarial rates for private market-based insurance. Under the NFIP, the actuarial rate has been less than would be charged for private, market-based flood insurance coverage.) Pre-FIRM rates are determined through a federal rule-making process with criteria designed to encourage participation in the program and not, by definition, to generate premium income sufficient to pay anticipated claims on pre-FIRM properties.

Congress initially appropriated funds to make-up the difference between pre-FIRM and “actuarial” rates, expecting that, over time, the percentage of pre-FIRM structures would decline and that most or all of the structures insured under the program would be subject to “actuarial” rates. These appropriations ended in 1985; however, pre-FIRM structures continue to represent approximately 24 percent of structures insured under the NFIP (there are currently more than a million pre-FIRM properties). Between 1985 and 2005 the NFIP used its “actuarial” rate premiums, interest earned on those premiums and borrowing authority to cover any shortfalls that resulted from the program's two tier rate structure.

The program's “actuarial” rates are also designed, in part, to encourage participation in the program. As a result, these “actuarial” rates do not follow traditional rate-making methods designed to generate premium income sufficient to pay all reasonably antici-

pated claims and expenses. Instead, rates under the program are only designed to generate annual premium income sufficient to cover expenses and the average annual claims paid under the program since 1978. In “bad” years, when actual annual claims exceed the program’s average annual claims, the NFIP has used its borrowing authority to make-up the shortfall. In “good” years, when average annual claims exceeded actual annual claims, the NFIP has either used surplus premiums to repay funds borrowed in “bad” years or has saved surplus premiums to cover above average claims in future “bad” years.

Against this changing backdrop, in the 109th and 110th Congresses the House passed lengthy, detailed NFIP reauthorization and reform legislation. While acknowledging the need for even more comprehensive reform, Housing and Community Development Subcommittee Chair Maxine Waters introduced H.R. 5114 to highlight reform priorities identified by the Subcommittee in their ongoing role of monitoring and improving the NFIP in the context of the broader national housing and housing finance policy considerations.

In addition to reauthorizing and strengthening the NFIP for a period of five years, H.R. 5114 sets out two consecutive five year periods designed to allow communities with newly designated SFHAs to fully understand and properly disseminate the flood risk information inherent in new SFHA designations. During the first of these five year periods, the NFIP’s mandatory flood insurance purchase requirement does not apply to properties in newly designated SFHAs; however, coverage at full actuarial risk rates remains available to all properties in SFHA regardless of this five-year delay in the effective date of the mandatory purchase requirement for newly designated SFHAs. Following the five-year delay in the effective date of the mandatory purchase requirement for newly designated SFHAs, H.R. 5114 provides for a five-year phase-in period of full risk premium rates for properties in the newly designated SFHAs. Combined these two 5-year provisions allow for the reasonable, gradual incorporation into the NFIP of properties previously not required to participate in the program. As drafted the provisions establishing these two five-year periods run consecutively; however, H.R. 5114 specifically provides the FEMA Administrator with interim rule writing authority for the express purpose of allowing the Administrator flexibility during these transition periods to balance the goals of encouraging voluntary participation in the NFIP through incremental rate phase-in while transitioning as many properties to full risk premiums as expediently as possible.

Tied integrally to the two five-year transition periods for properties in newly designated SFHAs are new requirements that FEMA and local communities develop and implement improved methods to communicate new and existing flood risk data to residents of participating communities. The flood insurance mandatory purchase requirement was never intended to be and should not be relied on to be property owners’ primary notice as to flood risk in their community. While the mandatory purchase requirement must remain as a vital component of the NFIP, FEMA and especially local communities must take steps to leverage improved communications media to provide residents with information about potential flood risks and the availability of flood insurance coverage in both SFHAs and areas not designated as SFHAs.

Finally, responding to instances in which federally regulated lending institutions require borrowers to purchase flood insurance coverage in excess of the value of borrowers' federally-backed mortgage, H.R. 5114 applies the lender penalties available under the National Flood Insurance Act (NFIA) to any lender that misrepresents the NFIA's mandatory purchase requirements. Lenders may still require flood insurance coverage beyond the NFIP mandated limit, but must clearly specify that the NFIA only requires coverage equal to the value of the outstanding indebtedness and that such additional coverage is not required by the NFIA.

HEARINGS

The Subcommittee on Housing and Community Opportunity held a hearing entitled "Legislative Proposals to Reform the National Flood Insurance Program" on April 21, 2010. The following witnesses testified:

Panel One

The Honorable Jerry Costello, Member of Congress
 The Honorable Doris Matsui, Member of Congress
 The Honorable Steve Scalise, Member of Congress
 The Honorable Gene Taylor, Member of Congress

Panel Two

The Honorable Craig Fugate, Administrator, Federal Emergency Management Administration
 Ms. Orice Williams Brown, Director, Financial Markets and Community Investment, U.S. Government Accountability Office

Panel Three

Mr. David R. Conrad, Senior Water Resources Specialist, National Wildlife Federation
 Mr. Mark Davey, President and CEO, Fidelity National Financial Specialty Insurance Group, on behalf of the Write Your Own Coalition
 Mr. Larry Larson, Executive Director, Association of State Flood Plain Managers
 Mr. John Rollins, President, Rollins Analytics, Inc.
 Mr. Barry Rutenberg, Second Vice Chairman of the Board, National Association of Homebuilders
 Mr. Maurice "Moe" Veissi, Veissi & Associates, First Vice President, National Association of REALTORS

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on April 27, 2010, and ordered H.R. 5114, Flood Insurance Reform Priorities Act of 2010, as amended, favorably reported to the House by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. During the consider-

ation of the bill, the following amendment was disposed of by a record vote. The names of Members voting for and against follow:

An amendment by Mr. Maffei, no. 6, regarding no refunds for flood insurance coverage during periods that coverage was not required, was agreed to, as modified, by a record vote of 64 yeas and 0 nays (Record vote no. 117):

RECORD VOTE NO. FC-117

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Frank	X			Mr. Bachus			
Mr. Kanjorski	X			Mr. Castle	X		
Ms. Waters	X			Mr. King (NY)	X		
Mrs. Maloney	X			Mr. Royce	X		
Mr. Gutierrez				Mr. Lucas	X		
Ms. Velázquez	X			Mr. Paul	X		
Mr. Watt	X			Mr. Manzullo	X		
Mr. Ackerman	X			Mr. Jones	X		
Mr. Sherman	X			Mrs. Biggert	X		
Mr. Meeks	X			Mr. Miller (CA)	X		
Mr. Moore (KS)	X			Mrs. Capito	X		
Mr. Capuano	X			Mr. Hensarling			
Mr. Hinojosa	X			Mr. Garrett (NJ)	X		
Mr. Clay	X			Mr. Barrett (SC)			
Mrs. McCarthy	X			Mr. Gerlach	X		
Mr. Baca	X			Mr. Neugebauer	X		
Mr. Lynch	X			Mr. Price (GA)			
Mr. Miller (NC)	X			Mr. McHenry	X		
Mr. Scott	X			Mr. Campbell	X		
Mr. Green	X			Mr. Putnam	X		
Mr. Cleaver	X			Mrs. Bachmann	X		
Ms. Bean	X			Mr. Marchant	X		
Ms. Moore (WI)				Mr. McCotter	X		
Mr. Hodes				Mr. McCarthy	X		
Mr. Ellison	X			Mr. Posey	X		
Mr. Klein	X			Ms. Jenkins	X		
Mr. Wilson	X			Mr. Lee	X		
Mr. Perlmutter	X			Mr. Paulsen	X		
Mr. Donnelly	X			Mr. Lance	X		
Mr. Foster	X						
Mr. Carson	X						
Ms. Speier	X						
Mr. Childers	X						
Mr. Minnick	X						
Mr. Adler	X						
Ms. Kilroy	X						
Mr. Driehaus	X						
Ms. Kosmas	X						
Mr. Grayson	X						
Mr. Himes	X						
Mr. Peters	X						
Mr. Maffei	X						

The following other amendments were also considered by the Committee:

An amendment by Ms. Waters, no. 1, a manager’s amendment, was agreed to by a voice vote.

An amendment by Mr. Garrett (NJ), no. 2, regarding phase in of actuarial rates for recently purchased pre-FIRM single-family properties, was agreed to by a voice vote.

An amendment by Mr. Scott, no. 3, regarding payment of premiums in installments for low-income policyholders, was agreed to by a voice vote. An amendment by Ms. Speier, no. 3a, to the amendment, was offered and withdrawn.

An amendment by Ms. Speier, no. 4, regarding lender violations, was agreed to by a voice vote.

An amendment by Mr. Maffei, no. 5, regarding the effective date of flood insurance maps, was offered and withdrawn.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held a hearing and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

H.R. 5114, the Flood Insurance Reform Priorities Act of 2010, reauthorizes the National Flood Insurance Program and provides for reforms and changes to the program with the goal of strengthening the program and ensuring its immediate and near-term viability.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

MAY 17, 2010.

Hon. BARNEY FRANK,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5114, the Flood Insurance Reform Priorities Act of 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Daniel Hoople.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

	By fiscal year, in millions of dollars—											
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011– 2015	2011– 2020
CHANGES IN SPENDING SUBJECT TO APPROPRIATION												
Outreach Grants:												
Authorization Level	50	50	50	50	50	0	0	0	0	0	250	250
Estimated Outlays	22	50	50	50	50	28	0	0	0	0	222	250
SRL Mitigation Pilot Program:												
Authorization Level	40	40	40	40	40	0	0	0	0	0	200	200
Estimated Outlays	8	24	40	40	40	32	16	0	0	0	152	200
Office of Flood Insurance Ad- vocate:												
Authorization Level	5	5	5	5	5	5	0	0	0	0	25	30
Estimated Outlays	3	5	5	5	5	5	2	0	0	0	23	30
Studies and Reports:												
Estimated Authorization Level	1	0	0	0	0	0	0	0	0	0	1	1
Estimated Outlays	1	0	0	0	0	0	0	0	0	0	1	1
Total Changes:												
Estimated Author- ization Level	96	95	95	95	95	5	0	0	0	0	476	481
Estimated Outlays	30	71	87	95	95	69	26	8	0	0	378	481

Note: SRL = Severe Repetitive Loss.

For this estimate, CBO assumes that H.R. 5114 will be enacted by the end of fiscal year 2010 and that amounts specified and estimated to be necessary will be appropriated for each year.

Basis of Estimate

Background

Authority to Underwrite Coverage. The Congress established the NFIP to provide flood insurance coverage to property owners located in communities that adopt minimum guidelines for floodplain management and enforce building codes designed to minimize future flood damages. The purchase of flood insurance is mandatory for properties located in an area having at least a 1 percent chance of being flooded in any year (such an area is known as a Special Flood Hazard Area, or SFHA) and financed by a federally regulated lending institution, government-sponsored enterprise for housing, or federal lender. Under current law, FEMA is authorized to underwrite the sale and renewal of flood insurance through May 31, 2010. However, following budget rules pertaining to mandatory programs, CBO's baseline projections of future federal spending assume that the NFIP will remain authorized indefinitely. Relative to that baseline, extending the program by this or other legislation would have no effect on the federal budget.

Subsidized Premiums. Under current law, FEMA charges premium rates below the amount necessary to offset the expected cost (also known as the full-risk or actuarial cost) for properties built before a community's flood insurance rate map (FIRM) was completed (or before 1975, whichever is later). Those properties, which make up about 20 percent of all NFIP policies, are collectively known as pre-FIRM properties. FEMA estimates the average premium discount for pre-FIRM properties is about 60 percent. Some post-FIRM properties also receive a discounted premium under current law, but they are few in number (less than 1 percent of all properties) relative to pre-FIRM properties. It is unclear whether other post-FIRM properties also have subsidized premiums not

specified in law;¹ however, for this estimate, CBO assumes that all actuarially based premium rates calculated by FEMA generate a sufficient amount of income to cover expected claims for those properties.

Ability to Pay Claims and Other Expenses. The Congress established the National Flood Insurance Fund (NFIF) as the sole source of funding to pay claims and other expenses associated with the NFIP. The NFIF is credited with amounts received from advance appropriations, premium and fee income, interest earned on fund balances (if any), and amounts borrowed from the Treasury (up to the statutory limit of \$20.775 billion). Expenses of the program may only be paid to the extent that those sources of funds are available. Once balances in the fund are exhausted, property owners with valid claims would have to wait until sufficient resources became available to pay them.

In most years since the NFIP began, advance appropriations along with premium and fee income have been sufficient to either cover the annual expenses of the NFIP or generate a surplus. However, because of the large subsidy that exists for many policies, CBO estimates that the program will—on average—have greater annual expenditures than income, necessitating the use of its authority to borrow from the Treasury. Mostly due to the large claims covered by the program following the 2005 hurricane season, the NFIP has a current outstanding debt of \$18.75 billion to the Treasury as of May 2010. Based on its estimate of annual subsidies, CBO expects that the NFIP will not repay this amount and will exhaust its remaining borrowing authority over the next few years. At that point, net spending for the program will be zero—payments would be limited to amounts deposited into the NFIF through premium and fee income, and additional borrowing would not be available. Thus, expenses exceeding NFIF deposits in a given year would be paid at a later date upon collection of future receipts.

Direct spending and revenues

Civil Penalties. Section 16 would increase the civil penalty from \$350 to \$2,000 for lenders that do not enforce the NFIP purchase and notification requirements for certain mortgagors. The maximum penalties that could be levied against institutions in one year would increase from \$100,000 to \$1 million, although no limit would exist for institutions fined at the maximum level in at least three of the five previous years. Penalty collections are recorded in the budget as revenues. CBO estimates that the increased collections of civil penalties would total about \$1 million a year. The amounts collected would be credited to the National Flood Mitigation Fund and could be spent if appropriated.

Other Changes to the NFIP. As of January 2010, the NFIP had approximately 5.6 million policies in force, with a total insured exposure of \$1.2 trillion. Policyholders pay about \$3.2 billion in premiums for that coverage annually. H.R. 5114 would make several changes that would affect premium growth and exposure of the NFIP in the future. Those changes include:

- Increasing premiums for some pre-FIRM policyholders;

¹See Congressional Budget Office, *The National Flood Insurance Program: Factors Affecting Actuarial Soundness* (November 2009).

- Delaying the mandatory purchase requirement for properties recently designated as being within a SFHA, and providing temporary discounted premiums for such properties;
- Increasing the deductible carried by some policyholders;
- Increasing the limit on average annual premium growth;
- Increasing the maximum coverage for structure and contents; and
- Introducing new lines of insurance for additional living expenses and business interruption.

Overall, CBO estimates that those changes would increase net income to the NFIP by \$3.2 billion over the next 10 years. While this additional income would improve the financial status of the NFIP, it would not fully offset the existing subsidy built into the program under current law. Therefore, CBO assumes that any additional premium collected as a result of this legislation would be spent to pay for claims and other costs, resulting in no net change in direct spending.

Premium Increases for Some Pre-FIRM Properties. Section 5 would direct FEMA to increase flood insurance premiums for pre-FIRM properties that are: nonresidential or not the primary residence of either the owner or a tenant (for example, vacation homes), and those purchased after enactment. Three years following enactment, all policyholders fitting such categories would begin receiving premium increases of 20 percent per year until the amount collected each year covers the full cost of the insurance. New policies purchased after that three-year period would immediately pay the full-cost premium. Based on information from FEMA, CBO estimates that more than 400,000 properties would be subject to such rate increases under the bill. Owners of some of those properties would either drop their policies or reduce their coverage in response to the premium increases. However, CBO expects that any decrease in premium resulting from a reduction in coverage would be more than offset by increased collections from properties that remain in the program. Additionally, by reducing the coverage of pre-FIRM properties in the program, the NFIP would save the cost of paying claims on those subsidized policies, enhancing the financial status of the program.

CBO estimates that implementing the premium increases outlined in the bill would raise income by about \$2.8 billion over the 2011–2020 period. Subsidized policyholders that drop flood insurance coverage in response to the premium increases would reduce net program costs by an average of \$50 million (mostly over the 2014–2020 period) a year over the next 10 years, CBO estimates.

Delay in Mandatory Purchase Requirement and Temporary Discounted Premiums. Section 6 of H.R. 5114 would delay the requirement to purchase flood insurance for some property owners. Owners required under current law to purchase coverage because their property was placed into an SFHA due to changes made by a flood insurance rate map that became effective later than August 31, 2008, would no longer be required to purchase a policy for five years after the effective date of the map. To be eligible, the property also must be located within a community that has developed flood evacuation, outreach, and communication plans. FEMA would not be authorized to provide refunds to policyholders no longer required to purchase flood insurance.

CBO estimates that reduced coverage among post-FIRM policyholders as a result of this provision would have no net effect on the financial status of the program, as any reduction in premium income would be—on average—roughly offset by a reduction in claims payments. The reduction in premium income from pre-FIRM policyholders electing to drop coverage would be less than the cost of those subsidized properties, improving the financial status of the NFIP by the amount of the subsidy.

Section 7 would direct FEMA to charge discounted premiums for properties relocated into a SFHA by a recently issued FIRM. Discounts would be as high as 80 percent immediately following the five-year delay specified by section 6 of the bill and would gradually phase out over a second five-year period. (Presumably, policyholders that voluntarily elect coverage during the initial five-year period prior to the mandatory purchase requirement also would receive discounted premiums, although this would be at the discretion of FEMA.) This provision would create a new class of subsidized policies within the NFIP. Based on the estimated number of properties that have been and would be placed into an SFHA, CBO estimates that this new subsidy would amount to about \$160 million over the next 10 years, worsening the financial status of the program by that amount.

Increase in the Minimum Policy Deductible. Section 14 would set the minimum deductible for structural coverage at \$750 for post-FIRM properties (\$1,000 for policies with coverage above \$100,000) and \$1,500 for pre-FIRM properties (\$2,000 for policies with coverage above \$100,000). Under current law, FEMA has the discretion to set the minimum deductible for flood insurance policies. As of May 2010, the standard deductible is \$1,000 for post-FIRM properties and \$2,000 for pre-FIRM properties. CBO does not expect that this legislation would alter the current standard deductibles because those amounts are greater than the minimums specified by the bill. However, under current regulations, pre-FIRM policyholders may reduce the standard deductible by \$1,000 in exchange for a higher premium. Under the bill, those policyholders would no longer be able to take such action because that deductible would fall below the minimum required for pre-FIRM properties. Based on information from FEMA, CBO estimates that 250,000 policies (most of which are for pre-FIRM properties) would carry a higher deductible in the next few years as a result of this bill. Because the probability of payment is higher at lower loss levels, we estimate that this increase would reduce claims payments by less than 5 percent.

Increase in Average Annual Limit on Premium Growth. Section 8 would authorize the NFIP to increase premiums within a specific rate category by an average of up to 20 percent per year. Under current law, the limit is 10 percent. While FEMA has recently increased premiums at or near the current maximum level, CBO estimates that raising this limit would not result in significant increases for the largest risk categories of post-FIRM properties. (Increases for subsidized policies would be affected by other provisions of the bill.)

Increase in Maximum Coverage and New Lines of Insurance. Sections 4 and 12 would increase the total amount of flood insurance coverage available for a residential property from \$350,000

(\$250,000 for structures and \$100,000 for contents) to \$470,000 (\$335,000 for structures and \$135,000 for contents), and for a commercial property from \$1 million (\$500,000 for structures and \$500,000 for contents) to at least \$1.3 million (\$670,000 for structures and \$670,000 for contents). For commercial rental properties, maximum coverage would be determined by the number of dwelling units contained in the property. In addition, the legislation would direct FEMA to include coverage of up to \$1,000 of living expenses in all future policies. Optional coverage would be available for living expense in excess of \$1,000 and partial or total business interruption.

Under the bill, the increased coverage limits and new lines of insurance would be offered to policyholders at the full-cost premium. While CBO cannot estimate the total amount of new insurance that would be purchased as a result of those provisions, we expect that any additional coverage would increase premium receipts to the federal government and would—on average—be roughly offset by additional claims payments and other expenses.

Spending subject to appropriation

CBO estimates that implementing H.R. 5114 would cost \$378 million over the 2011–2015 period, subject to appropriation of the specified amounts.

Outreach Grants. Section 18 would authorize the appropriation of \$50 million a year over the 2011–2015 period for FEMA to encourage and facilitate the purchase of flood insurance coverage by property owners and renters and to increase public awareness of flood-risk reduction. At least half of the funding provided would be used for grants to local governments that participate in the NFIP for those purposes. Remaining funds would be used by FEMA to directly provide outreach and educational activities. Assuming appropriation of the specified amounts, CBO estimates that implementing this program would cost \$222 million over the 2011–2015 period.

Severe Repetitive Loss (SRL) Mitigation Pilot Program. Section 3 would authorize FEMA to use up to \$40 million a year from the NFIF to extend the SRL Mitigation Pilot Program through 2015. The program provides grants for up to 75 percent (90 percent for projects in states or Indian tribes with approved enhanced mitigation plans) of the cost of projects that reduce future damage to NFIP-insured SRL properties (properties that have received claims payments of greater than \$5,000 at least four times in its history or have received at least two payments that together exceed the market value of the structure). In 2010, the Congress provided \$70 million through the NFIF for this purpose (see Public Law 111–83). CBO estimates that implementing this section would cost \$132 million over the 2011–2015 period.

Over the next 10 years, some or all of the costs of the mitigation program may be offset by lower claims payments, depending on the effectiveness of the mitigation efforts. Savings from lower claims payments cannot be attributed directly to this legislation, however, because the size and duration of any mitigation program would depend on amounts provided by future appropriations acts.

Office of Flood Insurance Advocate. Section 22 would authorize FEMA to use up to \$5 million a year over the 2011–2016 period

to fund activities of a new Office of Flood Insurance Advocate. Funding would come from the NFIF, subject to future appropriation action. The office would assist in resolving conflicts between policyholders and the NFIP and would propose changes in the administrative process to prevent future conflicts. CBO estimates that operations of the new office would cost \$23 million over the next five years.

Studies and Reports. H.R. 5114 would direct FEMA and GAO to conduct studies and issue reports on a number of topics, including expanding the mandatory flood insurance purchase requirement to all properties located in a SFHA, methods to increase participation among low-income families, the ability of the program to repay its current debt, and short- and long-term effects of this legislation on the financial soundness of the program. CBO estimates that those activities, which would conclude within one year of enactment of H.R. 5114, would cost about \$1 million in 2011, assuming appropriation of the necessary funds.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 5114, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON FINANCIAL SERVICES ON APRIL 27, 2010

	By fiscal year, in millions of dollars—												
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010– 2015	2010– 2020
Statutory Pay-As-You-Go Impact	0	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1	-5	-10
NET INCREASE OR DECREASE (-) IN THE DEFICIT	0	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1	-5	-10

Intergovernmental and private-sector impact: H.R. 5114 would impose an intergovernmental and private-sector mandate, as defined in UMRA, on public and private mortgage lenders. Under current law, mortgage lenders who make federally related mortgages, as defined in 12 U.S.C. 2602, are required to provide a good-faith estimate of the amount or range of charges the borrower is likely to incur for specific settlement services. The bill would require such mortgage lenders to include specific information about the availability of flood insurance in each good-faith estimate. To the extent that state agencies issue loans or other credit instruments that would be subject to the requirements of the Real Estate Settlement Procedures Act, the bill would impose intergovernmental mandates.

The mandate would require small changes in existing disclosure requirements. Consequently, CBO estimates that the cost of the mandate to public and private mortgage lenders would be small and fall well below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$70 million and \$141 million in 2010, respectively, adjusted annually for inflation).

Other impacts

State, local, and tribal governments would benefit from the authorization of appropriations for mitigation and outreach activities related to flood hazards. Any costs to those governments, including matching funds, would be incurred voluntarily.

Estimate prepared by: Federal costs: Daniel Hoople; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Sam Wice.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 5114 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title and table of contents

This Act may be cited as the “Flood Insurance Reform Priorities Act of 2010.”

Section 2. Findings and purposes

This section sets forth findings regarding the need for reform of the NFIP and establishes the purposes of the Act.

Section 3. Extension of National Flood Insurance Program

This section reauthorizes the NFIP for five years through 2015. The current authorization of the NFIP expires in 2010. This section also extends the Severe Repetitive Loss Pilot program, which was created in the 2004 flood insurance legislation, through September 30, 2015.

Section 4. Maximum coverage limits

This section increases the maximum coverage limits for flood insurance policies. New coverage limits are \$335,000 (up from \$250,000) for residences; \$135,000 (up from \$100,000) for residential contents; and \$670,000 (up from \$500,000) for nonresidential properties.

Section 5. Phase-in of actuarial rates for nonresidential properties, certain pre-FIRM properties, and non-primary residences

This section requires the phase-in of actuarial rates (or the phase-out of subsidized rates), for commercial and non-primary residential pre-FIRM properties. The phase-in will also apply to pre-FIRM single principal residences sold after enactment of this bill. However, the phase-in does not apply to multifamily rental properties or rentals that are the primary residence of a tenant. This section takes effect three years after enactment.

Section 6. 5-year delay in effective date of mandatory purchase requirement for new flood hazard areas

This section delays for five years the mandatory flood insurance purchase requirement for areas newly designated as Special Flood Hazard Areas after September 1, 2008. To be eligible state and local governments must have plans in place and provide flood risk and flood crisis information to residents. This delay would not delay implementation of updated flood maps, notification of flood hazards, availability of flood insurance coverage, or eligibility for mitigation assistance. No premium refunds are available to policyholders for coverage purchased during a period when coverage was not required.

Section 7. 5-year phase-in of flood insurance rates for newly mapped areas

This section would phase in full-risk rates for areas newly designated as Special Flood Hazard Areas. The rate phase in would be 20 percent per year for five years and begin after the end of the mandatory flood insurance purchase requirement delay (see section 6).

Section 8. Increase in annual limitation on premium increases

This section increases the annual limitation on premium increases from 10 percent to 20 percent.

Section 9. Consideration of construction, reconstruction, and improvement of flood protection systems in determination of flood insurance rates

This section requires FEMA to treat state or locally funded flood control projects equally with federally funded projects in NFIP regulations regarding flood insurance mapping and rating.

Section 10. Treatment of certain flood protection projects

In the limited instances of communities constructing a flood protection system in which the community relied on data and designs provided by a Federal agency to build such system and through no design default and no other fault of the community's FEMA has subsequently determined that the system will not meet 100-year risk protection standards for accreditation, this section directs FEMA not to impose the mandatory flood insurance purchase requirement and to apply premium rates that would apply had the system met the standards for accreditation.

Section 11. Notification to homeowners regarding mandatory purchase requirement applicability and rate phase-ins

This section requires FEMA and communities participating in the programs established in sections 6 and 10 to establish a plan to notify residents annually of special flood hazards. Such notification will include information on the affected areas' mandatory purchase obligations.

Section 12. Coverage for additional living expenses and business interruption

This section adds coverage for additional living expenses and business interruption. Coverage provided under this section must be risk based and actuarially sound. Coverage for additional living expenses shall not be less than \$1,000. Business interruption coverage provided under this section shall be structured by the FEMA Administrator in a manner consistent with the NFIP's existing underwriting capacity.

Section 13. Exception to waiting period for effective date of policies

This section makes flood insurance coverage effective immediately when a policy is purchased within 30 days of purchase or transfer of a property.

Section 14. Minimum deductibles for claims

This section increases the minimum annual deductibles for both pre-FIRM and post-FIRM properties. The deductible for pre-FIRM properties is increased to \$1,500 for claims less than \$100,000 and is increased to \$2,000 for claims greater than \$100,000. The deductible for post-FIRM properties is increased to \$750 for claims less than \$100,000 and increased to \$1,000 for claims greater than \$100,000.

Section 15. Payment of premiums in installments for low-income policyholders

This section creates a flood insurance premium payment installment plan for low-income families. Low-income families are defined as any family with an income level at or below 200 percent of the poverty level or that has no employed adult member.

Section 16. Enforcement

This section increases to \$2,000 the fine levied against federally-regulated lending institutions for each failure to enforce mandatory flood insurance purchase requirements and increasing the annual cap on fines for institutions to \$1 million. However, this cap will not apply to institutions that were assessed penalties of \$1 million in any 3 of the last 5 years. This section also contains a “safe harbor” for lending institutions that make a good faith effort to comply with mandatory flood insurance purchase requirements, or if such a violation is not material in nature. Finally, this section applies the penalties available under the National Flood Insurance Act to lenders who cite the NFIA to require flood coverage in excess of that required by the NFIA.

Section 17. Notification to tenants of availability of contents insurance

This section requires FEMA to require landlords to inform tenants about their property’s location in a flood zone, the availability of flood insurance coverage, and how to purchase the coverage. This provision does not include penalties in the event a landlord fails to distribute the notice.

Section 18. Flood insurance outreach

This section creates a competitive grant program for communities that encourage homeowners to purchase flood insurance, where those homeowners are not legally required to do so, and in general, educate all residents about the benefits of flood insurance. This section also requires FEMA to report to Congress within 60 days of enactment a description of its marketing and outreach efforts to educate consumers on the benefits of obtaining flood insurance.

Section 19. Notice of availability of flood insurance and escrow in RESPA good faith estimate

This section requires disclosure in the Real Estate Settlement Procedures Act (RESPA) good faith estimate about the availability of flood insurance and clarifies that the disclosure state that flood insurance is available whether you are in a flood zone or not.

Section 20. Authorization of additional FEMA staff

This section authorizes necessary funds be appropriated for the FEMA Administrator to employ additional staff necessary to carry out all of the responsibilities required by this bill.

Section 21. Plan to verify maintenance of flood insurance on Mississippi and Louisiana properties receiving emergency supplemental funds

This section directs FEMA and the Department of Housing and Urban Development (HUD) to develop a plan to verify that the recipients of Homeowner Assistance Grants in Mississippi and Road Home Grants in Louisiana, funded by HUD Community Development Block Grants, maintain flood insurance on their properties as required as a condition of the grants.

Section 22. Flood Insurance Advocate

This section would create the position of National Flood Insurance Advocate in FEMA and appointed by the FEMA Administrator. The primary responsibilities of the Advocate would be to— (a) assist NFIP insureds with FEMA-related problems, (b) identify areas of contention between NFIP insureds and FEMA, (c) identify measures to mitigate such problems, and (d) help communities and homeowners interpret, implement and appeal floodplain maps. Additionally, the Advocate would transmit a comprehensive report to Congress about the initiatives undertaken by FEMA to improve the flood insurance program for insureds, significant burdens placed on the FEMA or insureds by current law or regulation, and any other data the Advocate deems necessary. The Advocate will be funded by up to \$5,000,000 per fiscal year from the National Flood Insurance Fund.

Section 23. Eligibility of property demolition and rebuilding under flood mitigation assistance program

This section creates eligibility for property demolition and rebuilding under the Flood Mitigation Assistance Program.

Section 24. Study regarding mandatory purchase requirement for non-federally related loans

This section requires the Government Accountability Office (GAO) to conduct a study on the effects of extending the mandatory flood insurance purchase requirement to any property located in any area having special flood hazard, whether or not the mortgage on the property is federally-backed.

Section 25. Study of methods to increase flood insurance program participation by low-income families

This section requires the GAO to study methods to increase participation of low-income families in the flood insurance program.

Section 26. Report on inclusion of building codes in floodplain management criteria

This section requires FEMA to conduct a study and report to Congress not later than six months after enactment regarding including building codes in floodplain management criteria.

Section 27. Study on repaying flood insurance debt

This section directs FEMA to study, develop and submit to Congress within six months of enactment a 10-year NFIP debt repayment plan.

Section 28. Study regarding impact of rate increases on pre-FIRM properties

This section directs GAO to study and submit to Congress no later than nine months after enactment a report on the impact of rate increases on pre-FIRM properties, including the impact of such rates on program participation among owners, renters, and tenants of non-primary residences or commercial nonresidential properties.

Section 29. Study of effects of Act

This section directs FEMA to study and submit to Congress no later than one year after enactment a report on the financial consequences of this Act.

Section 30. Rulemaking

This section grants FEMA rulemaking authority to implement the provisions of this act, particularly section 6, 7, and 10, in a flexible and expeditious manner.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

NATIONAL FLOOD INSURANCE ACT OF 1968

TITLE XIII—NATIONAL FLOOD INSURANCE

* * * * *

CHAPTER I—THE NATIONAL FLOOD INSURANCE PROGRAM

* * * * *

NATURE AND LIMITATION OF INSURANCE COVERAGE

SEC. 1306. (a) * * *

(b) In addition to any other terms and conditions under subsection (a), such regulations shall provide that—

(1) * * *

(2) in the case of any residential property for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in clause (i) of subparagraph (A) of paragraph (1) shall be made available to every insured upon renewal and every applicant of insurance so as to enable such insured or applicant to receive coverage up to a total amount (including such limits specified in paragraph (1)(A)(i)) of **[\$250,000]** *\$335,000*;

(3) in the case of any residential property for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in clause (ii) of subparagraph (A) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance so as to enable any such insured or applicant to receive coverage up to a total amount (including such limits specified in paragraph (1)(A)(ii)) of **【\$100,000】** *\$135,000*;

(4) in the case of any nonresidential property, including churches, for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in subparagraphs (B) and (C) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance, in respect to any single structure, up to a total amount (including such limit specified in subparagraph (B) or (C) of paragraph (1), as applicable) of **【\$500,000】** *\$670,000* for each structure and **【\$500,000】** *\$670,000* for any contents related to each structure; *except that, in the case of any nonresidential property that is a structure containing more than one dwelling unit that is made available for occupancy by rental (notwithstanding the provisions applicable to the determination of the risk premium rate for such property), additional flood insurance in excess of such limits shall be made available to every insured upon renewal and every applicant for insurance so as to enable any such insured or applicant to receive coverage up to a total amount that is equal to the product of the total number of such rental dwelling units in such property and the maximum coverage limit per dwelling unit specified in paragraph (2); except that in the case of any such multi-unit, nonresidential rental property that is a pre-FIRM structure (as such term is defined in section 578(b) of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4014 note)), the risk premium rate for the first \$500,000 of coverage shall be determined in accordance with section 1307(a)(2) and the risk premium rate for any coverage in excess of such amount shall be determined in accordance with section 1307(a)(1); **【and】***

(5) any flood insurance coverage pursuant to paragraph (2), (3), or (4) which may be made available in excess of the limits specified in subparagraph (A), (B), or (C) of paragraph (1), shall be based only on chargeable premium rates under section 1308 which are not less than the estimated premium rates under section 1307(a)(1), and the amount of such excess coverage shall not in any case exceed an amount equal to the applicable limit so specified (or allocated) under paragraph (1)(C), (2), (3), or (4), as applicable**【.】**;

(6) *in the case of any residential property, each renewal or new contract for flood insurance coverage shall provide not less than \$1,000 aggregate liability per dwelling unit for any necessary increases in living expenses incurred by the insured when losses from a flood make the residence unfit to live in, which coverage shall be available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1);*

(7) in the case of any residential property, optional coverage for additional living expenses described in paragraph (6) shall be made available to every insured upon renewal and every applicant in excess of the limits provided in paragraph (6) in such amounts and at such rates as the Director shall establish, except that such chargeable rates shall not be less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1); and

(8) in the case of any commercial property or other residential property, including multifamily rental property, optional coverage for losses resulting from any partial or total interruption of the insured's business caused by damage to, or loss of, such property from a flood shall be made available to every insured upon renewal and every applicant, except that—

(A) the Director may provide such coverage under such terms, conditions, and requirements as the Director considers appropriate to meet the needs of small businesses while complying with the requirement under subparagraph (C); and

(B) any such coverage shall be made available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1).

(c) EFFECTIVE DATE OF POLICIES.—

(1) * * *

(2) EXCEPTION.—The provisions of paragraph (1) shall not apply to—

(A) the initial purchase of flood insurance coverage under this title when the purchase of insurance is in connection with the making, increasing, extension, or renewal of a loan or is in connection with the purchase or other transfer of the property for which the coverage is provided (regardless of whether a loan is involved in the purchase or transfer transaction), but only when such initial purchase of coverage is made not later 30 days after such making, increasing, extension, or renewal of the loan or not later than 30 days after such purchase or other transfer of the property, as applicable; or

* * * * *

(d) PAYMENT OF PREMIUMS IN INSTALLMENTS FOR LOW-INCOME POLICYHOLDERS.—In addition to any other terms and conditions under subsection (a), such regulations shall provide that, in the case of any residential property that is owned by a family whose income level is at or below 200 percent of the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673 of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) applicable to the size of such family, or a family that has no adult member who is employed, premiums for flood insurance coverage for such property may be paid in monthly installments.

ESTIMATES OF PREMIUM RATES

SEC. 1307. (a) * * *

* * * * *

(e) Notwithstanding any other provision of law, any community that has made adequate progress, acceptable to the Director, on the **【construction of a flood protection system】** *construction, reconstruction, or improvement of a flood protection system (without respect to the level of Federal investment or participation)* which will afford flood protection for the one-hundred-year frequency flood as determined by the Director, shall be eligible for flood insurance under this title (if and to the extent it is eligible for such insurance under the other provisions of this title) at premium rates not exceeding those which would be applicable under this section if such flood protection system had been completed. The Director shall find that adequate progress on the **【construction of a flood protection system】** *construction, reconstruction, or improvement of a flood protection system* as required herein has been only if (1) 100 percent of the project cost of the system has been authorized, (2) at least 60 percent of the project cost of the system has been appropriated, (3) at least 50 percent of the project cost of the system has been expended *based on the present value of the completed system*, and (4) the system is at least 50 percent completed.

(f) Notwithstanding any other provision of law, this subsection shall only apply in a community which has been determined by the Director of the Federal Emergency Management Agency to be in the process of restoring flood protection afforded by a flood protection system that had been previously accredited on a Flood Insurance Rate Map as providing 100-year frequency flood protection but no longer does so (*without respect to the level of Federal investment or participation*). Except as provided in this subsection, in such a community, flood insurance shall be made available to those properties impacted by the disaccreditation of the flood protection system at premium rates that do not exceed those which would be applicable to any property located in an area of special flood hazard, the construction of which was started prior to the effective date of the initial Flood Insurance Rate Map published by the Director for the community in which such property is located. A revised Flood Insurance Rate Map shall be prepared for the community to delineate as Zone AR the areas of special flood hazard, *whether coastal or riverine*, that result from the disaccreditation of the flood protection system. A community will be considered to be in the process of restoration if—

(1) the flood protection system has been deemed restorable by **【a Federal agency in consultation with the local project sponsor】** *the entity or entities that own, operate, maintain, or repair such system;*

* * * * *

ESTABLISHMENT OF CHARGEABLE PREMIUM RATES

SEC. 1308. (a) On the basis of estimates made under section 1307 and such other information as may be necessary, the Director shall from time to time, after consultation with the advisory committee authorized under section 1318, appropriate representatives of the pool formed or otherwise created under section 1331, and appropriate representatives of the insurance authorities of the respective States, prescribe by regulation *or notice*—

(1) * * *

* * * * *

(c) ACTUARIAL RATE PROPERTIES.—Subject only to [the limitations provided under paragraphs (1) and (2)] *subsection (e) and subsection (g)a*, the chargeable rate shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 1307(a)(1) with respect to the following properties:

(1) POST-FIRM PROPERTIES.—Any property the construction or substantial improvement of which the Director determines has been started after December 31, 1974, or started after the effective date of the initial rate map published by the Director under paragraph (2) of section 1360 for the area in which such property is located, whichever is later[, except that the chargeable rate for properties under this paragraph shall be subject to the limitation under subsection (e)].

(2) NONRESIDENTIAL PROPERTIES.—Any *nonresidential property, which term shall not include any multifamily rental property that consists of four or more dwelling units.*

(3) NON-PRIMARY RESIDENCES.—Any *residential property that is not the primary residence of any individual, including the owner of the property or any other individual who resides in the property as a tenant.*

(4) RECENTLY PURCHASED PRE-FIRM SINGLE-FAMILY PROPERTIES USED AS PRINCIPAL RESIDENCIES.—Any *single family property that—*

(A) has been constructed or substantially improved and for which such construction or improvement was started, as determined by the Director, before December 31, 1974, or before the effective date of the initial rate map published by the Director under paragraph (2) of section 1360 for the area in which such property is located, whichever is later; and

(B) is purchased after the date of enactment of the Flood Insurance Reform Priorities Act of 2010.

[(2)] (5) CERTAIN LEASED COASTAL AND RIVER PROPERTIES.—Any property leased from the Federal Government (including residential and nonresidential properties) that the Director determines is located on the river-facing side of any dike, levee, or other riverine flood control structure, or seaward of any seawall or other coastal flood control structure.

* * * * *

(e) ANNUAL LIMITATION ON PREMIUM INCREASES.—Except with respect to properties described under [paragraph (2) or (3)] *paragraph (5)* of subsection (c), and notwithstanding any other provision of this title, the chargeable risk premium rates for flood insurance under this title for any properties within any single risk classification may not be increased by an amount that would result in the average of such rate increases for properties within the risk classification during any 12-month period exceeding [10 percent] *20 percent* of the average of the risk premium rates for properties within

the risk classification upon the commencement of such 12-month period.

* * * * *

(g) *5-YEAR PHASE-IN OF FLOOD INSURANCE RATES FOR NEWLY MAPPED AREAS.*—Notwithstanding any other provision of law relating to chargeable risk premium rates for flood insurance coverage under this title, in the case of any area that was not previously designated as an area having special flood hazards and that, pursuant to any issuance, revision, updating, or other change in flood insurance maps, becomes designated as such an area, during the 5-year period that begins upon the expiration of the period referred to in section 102(i)(1) of the Flood Disaster Protection Act of 1973 with respect to such area, the chargeable premium rate for flood insurance under this title with respect to any property that is located within such area shall be—

(1) for the first year of such 5-year period, 20 percent of the chargeable risk premium rate otherwise applicable under this title to the property;

(2) for the second year of such 5-year period, 40 percent of the chargeable risk premium rate otherwise applicable under this title to the property;

(3) for the third year of such 5-year period, 60 percent of the chargeable risk premium rate otherwise applicable under this title to the property;

(4) for the fourth year of such 5-year period, 80 percent of the chargeable risk premium rate otherwise applicable under this title to the property; and

(5) for the fifth year of such 5-year period, 100 percent of the chargeable risk premium rate otherwise applicable under this title to the property.

(h) *TREATMENT OF CERTAIN FLOOD PROTECTION PROJECTS.*—

(1) *INAPPLICABILITY OF MANDATORY PURCHASE REQUIREMENT; PREMIUM RATES.*—Notwithstanding any other provision of law, upon full completion, as designed, of a flood protection system that was intended to provide flood protection with respect to a covered area, such covered area—

(A) shall not be considered to be an area having special flood hazards for purposes of this Act or subsections (a), (b), or (e) of section 102, or section 202(a) of the Flood Disaster Protection Act of 1973; and

(B) shall be eligible for flood insurance under this Act, if and to the extent that such area is eligible for such insurance under the other provisions of this Act, at premium rates not exceeding those that would be applicable under this section if the flood protection system referred to in paragraph (2) for such area had been completed and accredited as providing protection from floods at the level that the system was designed to provide (before construction, reconstruction, or improvement of the system, as applicable, began).

The flood insurance rate maps shall indicate, for each covered area, the status of the area under subparagraphs (A) and (B).

(2) *COVERED AREA.*—For purposes of this subsection, a covered area is an area that was intended to be protected by a flood protection system—

(A)(i) for which, as of April 15, 2010—

(I) construction, reconstruction, or improvement has not been completed;

(II) adequate progress, within the meaning of section 1307(e), has been made on such construction, reconstruction, or improvement; and

(III) is in an area having special flood hazards; or

(ii) for which, as of such date—

(I) construction, reconstruction, or improvement has been completed;

(II) a determination regarding accreditation has not been made; and

(III) is in an area having special flood hazards;

(B) that was designed to provide protection for at least the 100-year frequency flood; and

(C) that has been determined, pursuant to waterflow data or other scientific information of a Federal agency obtained after, or that has changed since, commencement of construction, reconstruction, or improvement, will not provide protection from floods at the level referred to in subparagraph (B).

SEC. 1308A. NOTIFICATION TO TENANTS OF AVAILABILITY OF CONTENTS INSURANCE.

(a) *IN GENERAL.*—The Director shall, upon entering into a contract for flood insurance coverage under this title for any property—

(1) provide to the insured sufficient copies of the notice developed pursuant to subsection (b); and

(2) require the insured to provide a copy of the notice, or otherwise provide notification of the information under subsection (b) in the manner that the manager or landlord deems most appropriate, to each such tenant and to each new tenant upon commencement of such a tenancy.

(b) *NOTICE.*—Notice to a tenant of a property in accordance with this subsection is written notice that clearly informs a tenant—

(1) whether the property is located in an area having special flood hazards;

(2) that flood insurance coverage is available under the national flood insurance program under this title for contents of the unit or structure leased by the tenant;

(3) of the maximum amount of such coverage for contents available under this title at that time; and

(4) of where to obtain information regarding how to obtain such coverage, including a telephone number, mailing address, and Internet site of the Director where such information is available.

FINANCING

SEC. 1309. (a) All authority which was vested in the Housing and Home Finance Administrator by virtue of section 15(e) of the Federal Flood Insurance Act of 1956 (70 Stat. 1084) (pertaining to the issue of notes or other obligations or the Secretary of the Treasury), as amended by subsections (a) and (b) of section 1303 of this Act, shall be available to the Director for the purpose of carrying out the flood insurance program under this title; except that the total amount of notes and obligations which may be issued by the Direc-

tor pursuant to such authority (1) without the approval of the President, may not exceed \$500,000,000, and (2) with the approval of the President, may not exceed \$1,500,000,000 through the date specified in section 1319, and \$1,000,000,000 thereafter; except that, through ~~September 30, 2008~~ *September 30, 2015*, clause (2) of this sentence shall be applied by substituting “\$20,775,000,000” for “\$1,500,000,000”. The Director shall report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at any time when he requests the approval of the President in accordance with the preceding sentence.

* * * * *

PAYMENT OF CLAIMS

SEC. 1312. (a) *IN GENERAL.*—The Director is authorized to prescribe regulations establishing the general method or methods by which proved and approved claims for losses may be adjusted and paid for any damage to or loss of property which is covered by flood insurance made available under the provisions of this title.

(b) *MINIMUM ANNUAL DEDUCTIBLES.*—

(1) *PRE-FIRM PROPERTIES.*—For any structure that is covered by flood insurance under this title, and on which construction or substantial improvement occurred on or before December 31, 1974, or before the effective date of an initial flood insurance rate map published by the Director under section 1360 for the area in which such structure is located, the minimum annual deductible for damage to or loss of such structure shall be—

(A) \$1,500, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount equal to or less than \$100,000; and

(B) \$2,000, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount greater than \$100,000.

(2) *POST-FIRM PROPERTIES.*—For any structure that is covered by flood insurance under this title, and on which construction or substantial improvement occurred after December 31, 1974, or after the effective date of an initial flood insurance rate map published by the Director under section 1360 for the area in which such structure is located, the minimum annual deductible for damage to or loss of such structure shall be—

(A) \$750, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount equal to or less than \$100,000; and

(B) \$1,000, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount greater than \$100,000.

* * * * *

PROGRAM EXPIRATION

SEC. 1319. No new contract for flood insurance under this title shall be entered into after ~~September 30, 2008~~ *September 30, 2015*.

* * * * *

SEC. 1326. GRANTS FOR OUTREACH TO PROPERTY OWNERS AND RENTERS.

(a) *IN GENERAL.*—The Director may, to the extent amounts are made available pursuant to subsection (h), make grants to local governmental agencies responsible for floodplain management activities (including such agencies of Indians tribes, as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)) in communities that participate in the national flood insurance program under this title, for use by such agencies to carry out outreach activities to encourage and facilitate the purchase of flood insurance protection under this Act by owners and renters of properties in such communities and to promote educational activities that increase awareness of flood risk reduction.

(b) *OUTREACH ACTIVITIES.*—Amounts from a grant under this section shall be used only for activities designed to—

(1) identify owners and renters of properties in communities that participate in the national flood insurance program, including owners of residential and commercial properties;

(2) notify such owners and renters when their properties become included in, or when they are excluded from, an area having special flood hazards and the effect of such inclusion or exclusion on the applicability of the mandatory flood insurance purchase requirement under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) to such properties;

(3) educate such owners and renters regarding the flood risk and reduction of this risk in their community, including the continued flood risks to areas that are no longer subject to the flood insurance mandatory purchase requirement;

(4) educate such owners and renters regarding the benefits and costs of maintaining or acquiring flood insurance, including, where applicable, lower-cost preferred risk policies under this title for such properties and the contents of such properties; and

(5) encouraging such owners and renters to maintain or acquire such coverage.

(c) *COST SHARING REQUIREMENT.*—

(1) *IN GENERAL.*—In any fiscal year, the Director may not provide a grant under this section to a local governmental agency in an amount exceeding 3 times the amount that the agency certifies, as the Director shall require, that the agency will contribute from non-Federal funds to be used with grant amounts only for carrying out activities described in subsection (b).

(2) *NON-FEDERAL FUNDS.*—For purposes of this subsection, the term “non-Federal funds” includes State or local government agency amounts, in-kind contributions, any salary paid to staff to carry out the eligible activities of the grant recipient, the value of the time and services contributed by volunteers to carry out such services (at a rate determined by the Director), and the value of any donated material or building and the value of any lease on a building.

(d) *ADMINISTRATIVE COST LIMITATION.*—Notwithstanding subsection (b), the Director may use not more than 5 percent of amounts made available under subsection (g) to cover salaries, expenses, and

other administrative costs incurred by the Director in making grants and provide assistance under this section.

(e) APPLICATION AND SELECTION.—

(1) IN GENERAL.—The Director shall provide for local governmental agencies described in subsection (a) to submit applications for grants under this section and for competitive selection, based on criteria established by the Director, of agencies submitting such applications to receive such grants.

(2) SELECTION CONSIDERATIONS.—In selecting applications of local government agencies to receive grants under paragraph (1), the Director shall consider—

(A) the existence of a cooperative technical partner agreement between the local governmental agency and the Federal Emergency Management Agency;

(B) the history of flood losses in the relevant area that have occurred to properties, both inside and outside the special flood hazards zones, which are not covered by flood insurance coverage;

(C) the estimated percentage of high-risk properties located in the relevant area that are not covered by flood insurance;

(D) demonstrated success of the local governmental agency in generating voluntary purchase of flood insurance; and

(E) demonstrated technical capacity of the local governmental agency for outreach to individual property owners.

(f) DIRECT OUTREACH BY FEMA.—In each fiscal year that amounts for grants are made available pursuant to subsection (h), the Director may use not more than 50 percent of such amounts to carry out, and to enter into contracts with other entities to carry out, activities described in subsection (b) in areas that the Director determines have the most immediate need for such activities.

(g) REPORTING.—Each local government agency that receives a grant under this section, and each entity that receives amounts pursuant to subsection (f), shall submit a report to the Director, not later than 12 months after such amounts are first received, which shall include such information as the Director considers appropriate to describe the activities conducted using such amounts and the effect of such activities on the retention or acquisition of flood insurance coverage.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for grants under this section \$50,000,000 for each of fiscal years 2011 through 2015.

* * * * *

CHAPTER II—ORGANIZATION AND ADMINISTRATION OF THE FLOOD INSURANCE PROGRAM

* * * * *

SEC. 1330A. OFFICE OF THE FLOOD INSURANCE ADVOCATE.

(a) ESTABLISHMENT OF POSITION.—

(1) IN GENERAL.—There shall be in the Federal Emergency Management Agency an Office of the Flood Insurance Advocate which shall be headed by the National Flood Insurance Advocate. The National Flood Insurance Advocate shall report directly to the Director and shall, to the extent amounts are pro-

vided pursuant to subsection (f), be compensated at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Director so determines, at a rate fixed under section 9503 of such title.

(2) **APPOINTMENT.**—The National Flood Insurance Advocate shall be appointed by the Director, and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

(3) **QUALIFICATIONS.**—An individual appointed under paragraph (2) shall have a background in customer service as well as insurance.

(4) **STAFF.**—To the extent amounts are provided pursuant to subsection (f), the National Flood Insurance Advocate may employ such personnel as may be necessary to carry out the duties of the Office.

(b) **FUNCTIONS OF OFFICE.**—

(1) **IN GENERAL.**—It shall be the function of the Office of the Flood Insurance Advocate to—

(A) assist insureds under the national flood insurance program in resolving problems with the Federal Emergency Management Agency relating to such program;

(B) identify areas in which such insureds have problems in dealings with the Agency relating to such program;

(C) identify potential legislative, administrative, or regulatory changes which may be appropriate to mitigate such problems; and

(D) assist communities and homeowners with interpreting, implementing, and appealing floodplain maps and floodplain map determinations.

(2) **ANNUAL REPORTS.**—

(A) **ACTIVITIES.**—Not later than December 31 of each calendar year, the National Flood Insurance Advocate shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the activities of the Office of the Flood Insurance Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

(i) identify the initiatives the Office of the Flood Insurance Advocate has taken on improving services for insureds under the national flood insurance program and responsiveness of the Federal Emergency Management Agency with respect to such program;

(ii) identify areas of the law or regulations relating to the national flood insurance program that impose significant compliance burdens on such insureds or the Federal Emergency Management Agency, including specific recommendations for remedying these problems; and

(iii) include such other information as the National Flood Insurance Advocate may deem advisable.

(B) **DIRECT SUBMISSION OF REPORT.**—Each report required under this paragraph shall be provided directly to

the committees identified in subparagraph (A) without any prior review or comment from the Director, the Secretary of Homeland Security, or any other officer or employee of the Federal Emergency Management Agency or the Department of Homeland Security, or the Office of Management and Budget.

(c) *FUNDING.—Pursuant to section 1310(a)(4), the Director may use amounts from the National Flood Insurance Fund to fund the activities of the Office of the Flood Advocate in each of fiscal years 2011 through 2016, except that the amount so used in each such fiscal year may not exceed \$5,000,000 and shall remain available until expended. Notwithstanding any other provision of this title, amounts made available pursuant to this subsection shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.*

* * * * *

CHAPTER III—COORDINATION OF FLOOD INSURANCE WITH LAND-MANAGEMENT PROGRAMS IN FLOOD-PRONE AREAS

IDENTIFICATION OF FLOOD-PRONE AREAS

SEC. 1360. (a) * * *

* * * * *

(h) **NOTIFICATION OF FLOOD MAP CHANGES.**—The Director shall cause notice to be published in the Federal Register (or shall provide notice by another comparable method) of any change to flood insurance map panels and any change to flood insurance map panels issued in the form of a letter of map amendment or a letter of map revision. **[Such]** *Except for notice regarding a change described in section 102(i)(1) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(i)(1)), such notice shall be published or otherwise provided not later than 30 days after the map change or revision becomes effective. Notice by any method other than publication in the Federal Register shall include all pertinent information, provide for regular and frequent distribution, and be at least as accessible to map users as notice in the Federal Register. All notices under this subsection shall include information on how to obtain copies of the changes or revisions.*

* * * * *

SEC. 1361A. PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.

(a) * * *

* * * * *

(k) FUNDING.—

(1) IN GENERAL.—Pursuant to section 1310(a)(8), the Director may use amounts from the National Flood Insurance Fund to provide assistance under this section in each of fiscal years **[2005, 2006, 2007, 2008, and 2009]** *2011, 2012, 2013, 2014, and 2015*, except that the amount so used in each such fiscal year may not exceed \$40,000,000 and shall remain available until expended. Notwithstanding any other provision of this title, amounts made available pursuant to this subsection shall

not be subject to offsetting collections through premium rates for flood insurance coverage under this title.

* * * * *
[(1) TERMINATION.—The Director may not provide assistance under this section to any State or community after September 30, 2009.]

* * * * *

MITIGATION ASSISTANCE

SEC. 1366. (a) * * *

* * * * *

(e) ELIGIBLE MITIGATION ACTIVITIES.—

(1) * * *

* * * * *

(5) ELIGIBLE ACTIVITIES.—The Director shall determine whether mitigation activities described in a mitigation plan submitted under subsection (d) comply with the requirements under paragraph (1). Such activities may include—

(A) * * *

(B) elevation, relocation, demolition, **[or floodproofing]** *floodproofing, or demolition and rebuilding* of structures (including public structures) located in areas having special flood hazards or other areas of flood risk;

* * * * *

FLOOD DISASTER PROTECTION ACT OF 1973

* * * * *

TITLE I—EXPANSION OF NATIONAL FLOOD INSURANCE PROGRAM

* * * * *

FLOOD INSURANCE PURCHASE AND COMPLIANCE REQUIREMENTS AND ESCROW ACCOUNTS

SEC. 102. (a) * * *

* * * * *

(f) CIVIL MONETARY PENALTIES FOR FAILURE TO REQUIRE FLOOD INSURANCE OR NOTIFY.—

(1) * * *

(2) LENDER VIOLATIONS.—The violations referred to in paragraph (1) shall include—

(A) making, increasing, extending, or renewing loans in violation of—

(i) * * *

* * * * *

(iii) the notice requirements under section 1364 of the National Flood Insurance Act of 1968; **[or]**

(B) failure to provide notice or purchase flood insurance coverage in violation of subsection (e) of this section**[.]**; or

(C) in connection with the making, increasing, extending, servicing, or renewing of any loan, requiring the purchase of flood insurance coverage under the National Flood Insurance Act of 1968, or purchasing such coverage pursuant to subsection (e)(2), in an amount in excess of the minimum amount required under subsections (a) and (b) of this section.

* * * * *

(5) AMOUNT.—A civil monetary penalty under this subsection may not exceed ~~【\$350】~~ \$2,000 for each violation under paragraph (2) or paragraph (3). The total amount of penalties assessed under this subsection against any single regulated lending institution or enterprise during any calendar year may not exceed ~~【\$100,000】~~ \$1,000,000; *except that such limitation shall not apply to a regulated lending institution or enterprise for a calendar year if, in any three (or more) of the five calendar years immediately preceding such calendar year, the total amount of penalties assessed under this subsection against such lending institution or enterprise was \$1,000,000.*

(6) LENDER COMPLIANCE.—Notwithstanding any State or local law, for purposes of this subsection, any regulated lending institution that purchases flood insurance or renews a contract for flood insurance on behalf of or as an agent of a borrower of a loan for which flood insurance is required shall be considered to have complied with the regulations issued under subsection (b). *No penalty may be imposed under this subsection on a regulated lending institution or enterprise that has made a good faith effort to comply with the requirements of the provisions referred to in paragraph (2) or for any non-material violation of such requirements.*

* * * * *

(i) DELAYED EFFECTIVE DATE OF MANDATORY PURCHASE REQUIREMENT FOR NEW FLOOD HAZARD AREAS.—

(1) IN GENERAL.—*In the case of any area that was not previously designated as an area having special flood hazards and that, pursuant to any issuance, revision, updating, or other change in flood insurance maps that takes effect on or after September 1, 2008, becomes designated as an area having special flood hazards, if each State and local government having jurisdiction over any portion of the geographic area has complied with paragraph (2), such designation shall not take effect for purposes of subsection (a), (b), or (e) of this section, or section 202(a) of this Act, until the expiration of the 5-year period beginning upon the date that such maps, as issued, revised, update, or otherwise changed, become effective.*

(2) NOTICE REQUIREMENTS.—*A State or local government shall be considered to have complied with this paragraph with respect to any geographic area described in paragraph (1) only if the State or local government has, before the effective date of the issued, revised, updated, or changed maps, and in accordance with such standards as shall be established by the Director—*

(A) developed an evacuation plan to be implemented in the event of flooding in such portion of the geographic area; and

(B) developed and implemented an outreach and communication plan to advise occupants in such portion of the geographic area of potential flood risks, the opportunity to purchase flood insurance, and the consequences of failure to purchase flood insurance.

(3) *RULE OF CONSTRUCTION.*—Nothing in paragraph (1) may be construed to affect the applicability of a designation of any area as an area having special flood hazards for purposes of the availability of flood insurance coverage, criteria for land management and use, notification of flood hazards, eligibility for mitigation assistance, or any other purpose or provision not specifically referred to in paragraph (1).

TITLE II—DISASTER MITIGATION REQUIREMENTS

NOTIFICATION TO FLOOD-PRONE AREAS

SEC. 201. (a) * * *

* * * * *

(f) *ANNUAL NOTIFICATION.*—The Director, in consultation with affected communities, shall establish and carry out a plan to notify residents of areas having special flood hazards, on an annual basis—

- (1) that they reside in such an area;
- (2) of the geographical boundaries of such area;
- (3) of whether section 1308(h) of the National Flood Insurance Act of 1968 applies to properties within such area; and
- (4) of the provisions of section 102 requiring purchase of flood insurance coverage for properties located in such an area, including the date on which such provisions apply with respect to such area, taking into consideration section 102(i); and
- (5) of a general estimate of what similar homeowners in similar areas typically pay for flood insurance coverage, taking into consideration section 1308(g) of the National Flood Insurance Act of 1968;

* * * * *

REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

* * * * *

SPECIAL INFORMATION BOOKLETS

SEC. 5. (a) * * *

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(c) Each lender shall include with the booklet a good faith estimate of the amount or range of charges for specific settlement services the borrower is likely to incur in connection with the settlement as prescribed by the Secretary. *Each such good faith estimate shall include the following conspicuous statements and information:* (1) that flood insurance coverage for residential real estate is generally available under the national flood insurance program wheth-

er or not the real estate is located in an area having special flood hazards and that, to obtain such coverage, a home owner or purchaser should contact the national flood insurance program; (2) a telephone number and a location on the Internet by which a home owner or purchaser can contact the national flood insurance program; and (3) that the escrowing of flood insurance payments is required for many loans under section 102(d) of the Flood Disaster Protection Act of 1973, and may be a convenient and available option with respect to other loans.

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ADDITIONAL VIEWS

The National Flood Insurance Program (NFIP) is facing serious financial challenges and cannot afford to continue on its current path. The Government Accountability Office (GAO) has included the NFIP on its annual list of high-risk government programs since 2006 because of its ongoing potential to incur billions of dollars in losses. With an \$18 billion debt to the Treasury and the persistence of subsidized premium rates for properties in high-risk areas, the NFIP continues to be underfunded and federal taxpayers remain at risk.

While many property owners depend on flood insurance for some measure of financial security, and many more should consider purchasing it to protect themselves from potential losses, serious reforms are needed to make the flood insurance program more self sufficient, reduce the potential for losses, and minimize the financial risk to taxpayers.

Many of us have been calling for fundamental reforms in a long-term reauthorization of the program for several years. Recent temporary lapses of the NFIP created uncertainty in the housing market and resulted in negative consequences for homebuyers trying to purchase required flood insurance protection. We believe a multi-year reauthorization with fundamental reforms to eliminate or phase out subsidized premiums is needed to help reduce the structural shortfall of the NFIP and protect America taxpayers.

In this respect, H.R. 5114 represents a step in the right direction. The bill includes constructive reforms to eliminate subsidized rates over time for non-residential properties and non-primary residences, including second homes and vacation homes. H.R. 5114 also raises the annual cap on rate increases from 10 to 20 percent, which will allow the NFIP to charge premiums more appropriate to the risk within a shorter period of time.

In addition, several Republican proposals have been incorporated into H.R. 5114 to strengthen the reforms in the bill, including provisions to eliminate subsidies over time for homes that are sold to a new owner (Garrett), impose minimum deductibles for all insured properties (Neugebauer), require a report on the feasibility of incorporating nationally recognized building codes into the NFIP's floodplain management criteria (Neugebauer), and direct the NFIP to report to Congress with a plan to repay its debt to the Treasury within ten years (Hensarling).

We are concerned by a provision to establish a new outreach grant program that represents an authorization for new spending. While there is a need to improve FEMA's communication with communities and property owners about the impact of new flood risk maps, we would prefer this effort be undertaken within NFIP resources. In addition, we are concerned by provisions that delay the phase out of subsidies and the phase in of risk-based rates. There

is an inherent moral hazard when any premium rates are subsidized, and we believe these reforms are urgently needed. Charging less than full-risk rates by the NFIP maintains a system of financial incentives backed by the federal government for individuals to live and build in high-risk flood zones.

While the NFIP was originally intended to reduce the need for emergency disaster assistance from federal taxpayers to local communities, it only partially achieves this goal and has a long way to go to reach its potential to be self-sufficient.

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