

PROVIDING FOR CONSIDERATION OF 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

JULY 14, 2010.—Referred to the House Calendar and ordered to be printed

Ms. MATSUI, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 1517]

The Committee on Rules, having had under consideration House Resolution 1517, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 5114, the “Flood Insurance Reform Priorities Act of 2010,” under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services. The resolution waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. The resolution provides that the amendment in the nature of a substitute recommended by the Committee on Financial Services shall be considered as an original bill for the purpose of amendment and shall be considered as read. The resolution waives all points of order against the amendment in the nature of a substitute except those arising under clause 10 of rule XXI. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure). The resolution makes in order only those amendments printed in this report. The amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question. The resolution waives all points of order against the amendments made in order except those arising under clause 9 or 10 of rule XXI. The resolution provides one motion to recommit with or with-

out instructions. The resolution provides that the Chair may entertain a motion that the Committee rise only if offered by the chair of the Committee on Financial Services or a designee. Finally, the resolution provides that the Chair may not entertain a motion to strike out the enacting words of the bill.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill (except those arising under clause 9 or 10 of rule XXI) includes a waiver of section 303 of the Congressional Budget Act (regarding outyear spending and revenues). The waiver of all points of order against the committee amendment in the nature of a substitute (except those arising under clause 10 of rule XXI) includes a waiver of section 303 of the Congressional Budget Act (regarding outyear spending and revenues).

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 462

Date: July 14, 2010.

Measure: H.R. 5114.

Motion by: Mr. Dreier.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Hensarling (TX), #17, which would strike section 18 (Grants for Outreach to Property Owners and Renters).

Results: Defeated 2–6.

Vote by Members: Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

Rules Committee record vote No. 463

Date: July 14, 2010.

Measure: H.R. 5114.

Motion by: Mr. Dreier.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Garrett (NJ), #30, which would extend the authorizations in the bill to 2012, instead of 2015 as is in the bill.

Results: Defeated 2–6.

Vote by Members: Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

Rules Committee record vote No. 464

Date: July 14, 2010.

Measure: H.R. 5114.

Motion by: Mr. Dreier.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Neugebauer (TX), #58, which would apply the phase in of full actuarial rates that begins after three years for certain types of pre-FIRM properties (nonresidential

properties, second homes, and newly sold pre-FIRM residences) to all pre-FIRM properties. The phase in period, effective date and transition period remain the same.

Results: Defeated 2–6.

Vote by Members: Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

Rules Committee record vote No. 465

Date: July 14, 2010.

Measure: H.R. 5114.

Motion by: Dr. Foxx.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Bachmann (MN), #43, which would strike section 22 (relating to flood insurance advocate). It also would require the GAO to issue a report on common problems insured individuals have in their interactions with FEMA and on laws that impose compliance burdens on insurers or FEMA. This amendment would direct the GAO to identify potential legislative, administrative, or regulatory changes that may be appropriate to mitigate such problems.

Results: Defeated 2–6.

Vote by Members: Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

Rules Committee record vote No. 466

Date: July 14, 2010.

Measure: H.R. 5114.

Motion by: Mr. Dreier.

Summary of motion: To report an open rule.

Results: Defeated 2–6.

Vote by Members: Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

SUMMARY OF AMENDMENTS MADE IN ORDER

1. Waters (CA): Would (1) Phase out subsidized premiums for severe repetitive loss properties, substantially damaged or improved properties and policyholders who voluntarily allow flood coverage to lapse. (2) Clarify application of actuarial rate phase-in for pre-FIRM properties sold after enactment. (3) Provide preferred rate premium for properties participating in NFIP during newly established, 5-year delay in mandatory flood insurance purchase requirement. (4) Expand availability of installment premium payment program to all policyholders. (5) Clarify that the FEMA Director may work directly with property owners to make mitigation grants for certain repetitive loss properties where States or communities are either unable or unwilling to address repetitive loss issues with a property owner. (6) Allow commercial properties with swimming pools located below the base flood level to enclose those pools with breakaway walls outside of hurricane season. (7) Require FEMA to review mapping of surrounding properties following successful appeal of hazard designation in newly mapped areas. (8) Clarify ability of FEMA Administrator to use demolition and rebuilding as

mitigation techniques. (9) Require study of the impact of working waterfronts on storm and flood risk. (10) Establish relevant flood insurance related studies. (11) Conform rule writing and implementation of various provisions of bill. (12) Include other technical improvements. (20 minutes)

2. Putnam (FL): Would require the FEMA to annually submit a report (no later than December 31 of each calendar year) to Congress on the effectiveness of grants awarded to local government agencies, the activities conducted and the effect of such activities on the retention or acquisition of flood insurance coverage. (10 minutes)

3. Driehaus (OH), Welch (VT), Hinchey (NY): Would provide that if the owner of any property located in an area described in section 102(i)(1) of the Flood Disaster Protection Act of 1973 obtains a letter of map amendment during the 5-year period for such area referred to in such section, FEMA shall reimburse such owner, or such entity or jurisdiction acting on such owner's behalf, for any costs incurred in obtaining such letter. (10 minutes)

4. Flake, Jeff (AZ): Would prohibit funds made available for grants from being used for earmarks. (10 minutes)

5. Taylor (MS): Would prohibit the Write Your Own insurance companies that contract with NFIP from excluding coverage of wind damage under their own policies solely because flooding also caused damage to the property. It would establish requirements for adjustment by WYO insurers when there are claims on the same property, from the same event, for flood damage covered by NFIP and for wind damage covered by the WYO insurer. (10 minutes)

6. Miller, Candice (MI): Would require that the Government Accountability Office conduct a study on ways the private insurance market can contribute to insuring against flood damage; the impact on the National Flood Insurance Program if communities were to opt out; and the feasibility of regionalizing the National Flood Insurance Program so there is no cross-subsidization between regions. (10 minutes)

7. Boswell (IA): Would ensure occupants have relevant information on appropriate evacuation routes, and ensure the outreach program under the bill includes relevant information on where to obtain coverage. (10 minutes)

8. Hill (IN): Would include "identifying ways to assist communities in efforts to fund the accreditation of flood protection systems" as a function of the Office of the Flood Insurance Advocate. (10 minutes)

9. Loeb sack (IA): Would require FEMA to notify a local television and radio station of proposed flood elevation determinations in addition to the current requirement of publication in a prominent local newspaper. Would also require FEMA to make such notifications for communities that have not yet been issued a Letter of Final Determination through the flood insurance map modernization process at the time of enactment. (10 minutes)

10. McMahan (NY): Would (1) permit federal grants to educate local real estate agents in communities participating in the NFIP regarding the program and the availability of coverage under the program for owners and renters of properties and (2) establish coordination and liaisons with such agents to facilitate purchase of

coverage and increase awareness of flood risk reduction. (10 minutes)

11. Murphy, Scott (NY): Would require all funds authorized under the Act to be expended in a manner consistent with the manual on Standards of Ethical Conduct for Employees of the Executive Branch. (10 minutes)

TEXT OF AMENDMENTS TO BE MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WATERS OF CALIFORNIA, OR HER DESIGNEE, DEBATABLE FOR 20 MINUTES

Page 9, strike lines 1 through 3 and insert the following:

SEC. 5. PHASE-IN OF ACTUARIAL RATES FOR CERTAIN PRE-FIRM PROPERTIES, SEVERE REPETITIVE LOSS PROPERTIES, AND PROPERTIES SUBSTANTIALLY DAMAGED OR SUBSTANTIALLY IMPROVED.

Page 9, lines 7 and 8, strike “paragraph (5)” and insert “paragraph (7)”.

Page 9, lines 21 and 22, strike “USED AS PRINCIPAL RESIDENCES”.

Page 10, lines 5 and 6, strike “date of enactment” and insert “effective date of this paragraph, pursuant to section 5(c)(1)”.

Page 10, line 7, strike the quotation marks and the last period.

Page 10, after line 7, insert the following:

“(5) SEVERE REPETITIVE LOSS PROPERTIES.—Any severe repetitive loss property, as such term is defined in section 1361A(b), that is so designated as such as a result of losses occurring on or after the date of the enactment of the Flood Insurance Reform Priorities Act of 2010.

“(6) PROPERTIES SUBSTANTIALLY DAMAGED OR SUBSTANTIALLY IMPROVED.—Any property that, on or after the date of the enactment of the Flood Insurance Reform and Priorities Act of 2010, has experienced or sustained—

“(A) substantial damage exceeding 50 percent of the fair market value of such property; or

“(B) substantial improvement exceeding 30 percent of the fair market value of such property.”.

Page 10, line 20, strike “paragraph (5)” and insert “paragraph (7)”.

Page 11, line 7, strike “or (4)” and insert “(4), (5), or (6)”.

Page 12, line 21, strike “and (4)” and insert “(4), (5), and (6)”.

Page 13, line 6, strike “subsection” and insert “subsections”.

Page 13, line 13, strike “September 30, 2008” and insert “September 30, 2007”.

Page 14, line 22, strike the quotation marks and the last period.

Page 14, after line 22, insert the following:

“(j) AVAILABILITY OF PREFERRED RISK RATING METHOD PREMIUMS.—The preferred risk rate method premium shall be available for flood insurance coverage for properties located in areas referred to in subsection (i)(1) and during the time period referred to in subsection (i)(1).”.

Page 15, line 13, before “Section” insert “(a) IN GENERAL.—”.

Page 17, after line 3, insert the following:

(b) REGULATION OR NOTICE.—The Administrator of the Federal Emergency Management Agency shall issue an interim final rule or notice to implement this section and the amendments made by

this section as soon as practicable after the date of the enactment of this Act.

Strike line 20 on page 18 and all that follows through page 19, line 2, and insert the following:

(b) REGULATIONS.—The Administrator of the Federal Emergency Management Agency shall promulgate regulations to implement this section and the amendments made by this section as soon as practicable, but not more than 18 months after the date of the enactment of this Act. 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.

Page 19, after line 8, insert the following new section:

SEC. 10. DISCOUNTED FLOOD INSURANCE RATES FOR PROPERTIES PROTECTED BY A FLOOD-PROTECTION SYSTEM FROM LESS THAN A 100-YEAR FREQUENCY FLOOD.

Section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4014) is amended by adding at the end the following new subsection:

“(g) Except as provided in subsection (f) and notwithstanding any other provision of law, flood insurance coverage shall be made available for a property that the Director determines is protected by a flood-protection system that does not provide protection against a 100-year frequency flood at premium rates that reflect a discount for the actual protection against flood risk afforded by such flood-protection system.”

Page 21, after line 21, insert the following new section:

SEC. 11. PROHIBITION OF EXTENSION OF SUBSIDIZED RATES TO LAPSED POLICIES.

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:

“(i) PROHIBITION OF EXTENSION OF SUBSIDIZED RATES TO LAPSED POLICIES.—The Director shall not provide flood insurance coverage under this title to any prospective insured at a rate less than the applicable estimated risk premium rates for the area (or subdivision thereof) for any policy under the flood insurance program that has lapsed in coverage, as a result of the deliberate choice of the holder of such policy.”

Page 22, line 25, strike the semicolon and insert a period.

Page 22, after line 25, insert the following new sections:

SEC. 13. COMMUNITY OUTREACH PLAN FOR UPDATING FLOODPLAIN AREAS AND FLOOD-RISK ZONES.

The Administrator of the Federal Emergency Management Agency shall, not later than the expiration of the 60-day period beginning upon the date of the enactment of this Act, submit to the Congress a community outreach plan for the updating of floodplain areas and flood-risk zones under section 1360(f) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(f)).

SEC. 14. NOTIFICATION OF ESTABLISHMENT OF FLOOD ELEVATIONS.

Section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101) is amended by adding at the end the following new subsection:

“(1) NOTIFICATION TO MEMBERS OF CONGRESS OF MAP MODERNIZATION.—Upon any revision or update of any floodplain area or flood-risk zone pursuant to subsection (f), any decision pursuant to subsection (f)(1) that such revision or update is necessary, any issuance of preliminary maps for such revision or updating, or any other significant action relating to any such revision or update, the Director shall notify the Senators for each State affected, and each Member of the House of Representatives for each congressional district affected, by such revision or update in writing of the action taken.”.

Page 27, line 8, strike “**LOW-INCOME POLICYHOLDERS**” and insert “**RESIDENTIAL PROPERTIES**”.

Page 27, line 13, strike “**LOW-INCOME POLICYHOLDERS**” and insert “**RESIDENTIAL PROPERTIES**”.

Page 27, strike line 16 and all that follows through “is employed” in line 22.

Page 27, line 23, strike “monthly”.

Page 27, after line 23, insert the following new section:

SEC. 19. TERMINATION OF FORCE-PLACED INSURANCE.

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

(1) by redesignating paragraphs (3) and (4) as paragraphs (5) and 6), respectively; and

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

“(3) TERMINATION OF FORCE-PLACED INSURANCE.—Within 15 days of receipt by the lender or servicer of a confirmation of a borrower’s existing flood insurance coverage, the lender or servicer shall—

“(A) terminate the force-placed insurance; and

“(B) refund to the borrower all force-placed insurance premiums paid by the borrower during any period during which the borrower’s flood insurance coverage and the force-placed flood insurance coverage were each in effect, and any related fees charged to the borrower with respect to the force-placed insurance during such period.

“(4) SUFFICIENCY OF DEMONSTRATION.—A lender or servicer for a loan shall accept any reasonable form of written confirmation from a borrower of existing flood insurance coverage, which shall include the existing flood insurance policy number along with the identity of, and contact information for, the insurance company or agent.”.

Page 30, after line 20, insert the following new section:

SEC. 21. GRANTS FOR DIRECT FUNDING OF MITIGATION ACTIVITIES FOR INDIVIDUAL REPETITIVE CLAIMS PROPERTIES.

(a) DIRECT GRANTS TO OWNERS.—Section 1323 of the National Flood Insurance Act of 1968 (42 U.S.C. 4030) is amended—

(1) in the section heading, by inserting “**DIRECT**” before “**GRANTS**”; and

(2) in the matter in subsection (a) that precedes paragraph (1)—

(A) by inserting “, to owners of such properties,” before “for mitigation actions”; and

(B) by striking “1” and inserting “two”.

(b) AVAILABILITY OF FUNDS.—Paragraph (9) of section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended by inserting “which shall remain available until expended,” after “any fiscal year,”.

Page 31, line 4, strike “(h)” and insert “(i)”.

Page 33, line 14, strike “(g)” and insert “(i)”.

Page 34, line 19, strike “and”.

Page 34, line 22, strike the period and insert “; and”.

Page 34, after line 22 insert the following:

“(F) the number of flood-related major disaster or emergency declarations made by the President with respect to the relevant area under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) during the preceding five years.

Page 34, line 25, strike “(h)” and insert “(i)”.

Page 35, after line 4, insert the following new subsection:

“(g) COORDINATION WITH OTHER AGENCIES.—A local governmental agency that receives a grant under this section, and an entity that receives amounts pursuant to subsection (f), may coordinate or contract with other agencies and entities having particular capacities, specialties, or experience with respect to certain populations or constituencies, including elderly or disabled families or persons, to carry out activities described in subsection (b) with respect to such populations or constituencies.”

Page 35, line 5, strike “(g)” and insert “(h)”.

Page 35, line 14, strike “(h)” and insert “(i)”.

Page 35, after line 16, insert the following new section:

SEC. 24. TREATMENT OF SWIMMING POOL ENCLOSURES OUTSIDE OF HURRICANE SEASON.

Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

“SEC. 1327. TREATMENT OF SWIMMING POOL ENCLOSURES OUTSIDE OF HURRICANE SEASON.

“In the case of any property that is otherwise in compliance with the coverage and building requirements of the national flood insurance program, the presence of an enclosed swimming pool located at ground level or in the space below the lowest floor of a building after November 30 and before June 1 of any year shall have no effect on the terms of coverage or the ability to receive coverage for such building under the national flood insurance program established pursuant to this title, if the pool is enclosed with non-supporting breakaway walls.”

Page 36, line 17, strike “and” and insert a comma.

Page 36, line 17, before the period insert “, and the national flood insurance program”.

Page 39, line 6, strike “and”.

Page 39, line 10, strike the period and insert a semicolon.

Page 39, after line 10 insert the following:

“(E) facilitate the sharing of the best-practices of the Federal Emergency Management Agency amongst all offices of the Agency with respect to the creation and updating of floodplain maps;

“(F) not less than one year after receipt of a request from a community, perform an economic impact analysis

for such community on the economic impact of floodplain maps and floodplain map determinations on small businesses, lending, real estate development, and other economic indicators within such community;

“(G) establish a national arbitration panel regarding flood map modernization, with panel members consisting of experts in flood insurance, flood map determination, real estate development, structural engineering, and other such experts, including a representative from the Federal Emergency Management Administration, to allow individuals or communities impacted by a flood map revision to challenge such a revision; such panel may, under such terms and conditions it may establish, temporarily suspend implementation of a floodplain map pending such panel’s review of evidence submitted by such individuals or communities as part of such challenge;

“(H) establish a process under which scientific and engineering data, including maps and an explanation of how the Director makes a determination regarding a map revision, will be made publicly available to any interested individuals to be impacted by a flood map revision; and

“(I) establish a process under which each community to be impacted by a flood map revision will be provided an open community forum to consult with and ask questions of representatives of the Federal Emergency Management Administration.

Page 41, after line 8, insert the following new sections:

SEC. 29. TREATMENT OF PREVIOUSLY MAPPED AREAS.

Section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101) is amended by adding at the end the following new subsection:

“(k) TREATMENT OF PREVIOUSLY MAPPED AREAS.—If the Director issues a letter of map revision for an area or a portion of an area to correct an error in a recently issued flood insurance rate map and such letter results in the designation of such area as not having special flood hazards, the Director shall reexamine the designation of any areas bordering or abutting the area that was the subject of such letter if such areas are located within a special flood hazard area. The Director shall inform the community and residents within such area of the results of such examination no later than one year after the date of the initial letter of map revision.

“SEC. 30. REMAPPING OF AREAS WITH IMPROVED LEVEES.

“Section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101) is amended by adding at the end the following new subsection:

“(a) REMAPPING OF AREAS WITH IMPROVED LEVEES.—If at any time any community, any State, the Army Corps of Engineers, or any other entity improves any levee system that protects any area that is located in an area having special flood hazards and the Director determines that such improvement mitigates flood risk in a manner that eliminates the risk of flooding in the area, the Director shall—

“(1) revise and update the floodplain areas and flood risk zones, and the flood insurance maps reflecting such areas and

zones, for the areas protected by such levee system so that any requirement under the Flood Disaster Protection Act of 1973 for mandatory purchase of flood insurance does not apply to such area; and

“(2) make the updated maps and any information regarding such updating available to the affected communities.’”.

Page 41, line 12, strike “Section” and insert the following:

(a) FLOOD MITIGATION ASSISTANCE PROGRAM.—Section

Page 41, line 15, before the quotation marks insert “of properties to at least base flood elevation or greater, if required by any local ordinance”.

Page 41, after line 15, insert the following:

(b) SENSE OF CONGRESS.—It is the sense of Congress that section 1366 of the Flood Insurance Act of 1968 (42 U.S.C. 4104c), as in effect on the day before the date of enactment of this Act, authorized the Administrator of the Federal Emergency Management Agency to consider property demolition and rebuilding as eligible activities under the Flood Mitigation Assistance Program. The purpose of the amendment made by subsection (a) is to clarify that such authority exists.

Page 42, line 15, before the period insert “**AND FAMILIES IN RURAL COMMUNITIES AND ON INDIAN RESERVATIONS**”.

Page 42, line 21, after “(42 U.S.C. 1437a(b))” insert “, families residing in rural communities, and families who reside on Indian reservations,”.

Page 44, line 14, strike “and”.

Page 44, line 20, strike the period and insert a semicolon.

Page 44, after line 20, insert the following new paragraphs:

(7) the impact of such a building code requirement on rural communities with different building code challenges than more urban environments; and

(8) the impact of such a building code requirement on Indian reservations.

Page 45, after line 5, insert the following new sections:

SEC. 36. STUDY REGARDING CERTAIN HARBOR AREAS.

(a) STUDY.—The Administrator of the Federal Emergency Management Agency shall carry out a study to identify the impacts of the National Flood Insurance Program on harbor areas that are working waterfronts, which shall—

(1) identify the models and assumptions used under such program with respect to wave action in working waterfronts and harbors;

(2) determine whether these are the same models and assumptions used for open or unprotected coast lines;

(3) identify the assumptions used under such program in modeling V-zones;

(4) identify the underlying basis for projected impact of waves on working waterfronts,

(5) identify the frequency with which individual working waterfronts receive revised flood-risk based on the data they provide;

(6) determine the feasibility of basing flood maps for such working waterfronts on actual historical flood and damage data;

(7) identify the standards for construction and design of working waterfront infrastructure that would be needed to safely develop commercial buildings in the V-zone;

(8) determine the economic impacts of the National Flood Insurance Program on working waterfronts and working waterfront dependant businesses;

(9) identify any new or alternative models that may be used to more accurately reflect the risk of flooding in working waterfronts and harbor environments;

(10) review the current coastal flood insurance study guidelines and recommended methodologies;

(11) determine whether methodologies other than those referred to in paragraph (10) should be applied with respect to complicated harbors and open shorelines;

(12) review where 2-D ST Wave methodology should be applied and where other methodologies should be applied;

(13) review available data on wave attenuation through pilings and piers and determine whether a physical model for the attenuation of waves in that environment can be undertaken to derive such data; and

(14) include any other information the Administrator considers relevant to evaluating the flood risk and insurance challenges facing working waterfronts.

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Administrator shall submit to the Congress a report setting forth the results and conclusions of the study, including—

(1) a description of all of the matters identified and determined pursuant to subsection (a); and

(2) an analysis of the feasibility of developing a sheltered harbor flood zone for purposes of the National Flood Insurance Program that specifically recognizes the unique challenges faced by working waterfronts and built-up harbors.

(c) **DEFINITION.**—In this section, the term “working waterfront” means real property (including support structures over water and other facilities) that provides access to coastal waters to persons engaged in commercial fishing, recreational fishing business, boatbuilding, aquaculture, or other water-dependent coastal-related business and is used for, or that supports, commercial fishing, recreational fishing, boatbuilding, aquaculture, or other water-dependent coastal-related business.

SEC. 37. STUDY REGARDING HAZARD MODELING.

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 significant flooding events and subsequent revisions of hazard modeling and mapping since January 1, 2000, on the financial soundness of the national flood insurance program. The Administrator may enter into an agreement with Water Resources Research Institutes to conduct the study under this section. The Administrator shall provide for a final report regarding the study to be submitted to the Congress not later than the expiration of the 16-month period beginning on the date of the enactment of this Act. The report may include recommendations of the Administrator with respect to revising hazard modeling and mapping.

Strike line 16 on page 46 and all that follows through page 47, line 7, and insert the following:

SEC. 40. INTERIM FINAL RULEMAKING.

The Administrator of the Federal Emergency Management Agency shall issue an interim final rule to implement the amendments made by this Act as soon as practicable, but not more than 18 months after the date of the enactment of this Act. The Administrator of the Federal Emergency Management Agency shall issue a final rule within one year after the effective date of the interim final rule. In the event that the deadlines in this section are not met, the Administrator shall report to the Congress monthly on the status of the rulemakings and the reasons for the failure to comply with the statutory deadlines.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE PUTNAM OF FLORIDA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 35, strike line 5 and insert the following:

“(g) REPORTING.—

“(1) LOCAL GOVERNMENTS.—Each local government agency that”.

Page 35, after line 13, insert the following new paragraph:

“(2) DIRECTOR.—The Director shall submit an annual report, not later than December 31 of each year, 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 effectiveness of grants awarded under this section to local government agencies, the activities conducted using such grant amounts, and the effect of such activities on the retention or acquisition of flood insurance coverage.”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DRIEHAUS OF OHIO, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 46, after line 15, insert the following new section:

SEC. 30. REIMBURSEMENT FOR COSTS INCURRED BY HOMEOWNERS OBTAINING LETTERS OF MAP AMENDMENT.

If the owner of any property located in an area described in section 102(i)(1) of the Flood Disaster Protection Act of 1973 (as added by the preceding provisions of this Act) obtains a letter of map amendment during the 5-year period for such area referred to in such section, the Administrator of the Federal Emergency Management Agency shall reimburse such owner, or such entity or jurisdiction acting on such owner’s behalf, for any costs incurred in obtaining such letter.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLAKE OF ARIZONA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 35, line 16, strike the quotation marks and the last period.

Page 35, after line 16, insert the following new subsection:

“(i) PROHIBITION ON EARMARKS.—No amounts made available for grants under this section may be used for a Congressional earmark

as defined in clause 9(e) of Rule XXI of the Rules of the House of Representatives.”.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TAYLOR OF MISSISSIPPI, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 35, after line 16, insert the following new section:

SEC. . REQUIREMENTS RELATING TO WINDSTORM AND FLOOD.

Section 1345 of the National Flood Insurance Act of 1968 (42 U.S.C. 4081) is amended by adding at the end the following new subsections:

“(d) **REQUIREMENTS FOR WRITE-YOUR-OWN INSURERS RELATING TO WINDSTORM AND FLOOD.—**

“(1) **WRITTEN AGREEMENT.—**The Director may not utilize the facilities or services of any insurance company or other insurer or entity to offer flood insurance coverage under this title unless such company, insurer, or entity enters into a written agreement with the Director that provides as follows:

“(A) **PROHIBITION ON EXCLUSION OF WIND DAMAGE COVERAGE.—**The agreement shall prohibit the company, insurer, or entity from including, in any policy provided by the company or insurer for homeowners’ insurance coverage or coverage for damage from windstorms, any provision that excludes coverage for wind or other damage solely because flooding also contributed to damage to the insured property.

“(B) **FIDUCIARY RESPONSIBILITY.—**The agreement shall provide that the company, insurer, or entity—

“(i) has a fiduciary duty with respect to the Federal taxpayers;

“(ii) in selling and servicing policies for flood insurance coverage under this title and adjusting claims under such coverage, will act in the best interests the national flood insurance program rather than in the interests of the company, insurer, or entity; and

“(iii) will provide written guidance to each insurance agent and claims adjuster for the company, insurer, or entity that sets forth the terms of the agreement pursuant to subparagraph (A) and this subparagraph.

“(2) **REQUIREMENTS FOR ADJUSTMENT OF CLAIMS.—**The Director shall, in utilizing the facilities of any insurance company or other insurer or entity pursuant to this section to offer flood insurance coverage under this title, the Director shall provide as follows:

“(A) **APPROVAL OF ADJUSTMENT PROCEDURES.—**No such insurance company, other insurer, or entity may offer flood insurance coverage under this title unless the Director has approved, as meeting standards as the Director shall establish, the procedures, protocols, guidelines, standards, or instructions used by the company, insurer, or entity in adjusting claims for identifying, apportioning, quantifying, and differentiating damage caused by flooding and damage caused by wind.

“(B) TREATMENT OF WIND AND FLOOD CLAIMS FROM SAME EVENT.—The Director shall require any insurance company or other insurer or entity that, pursuant to this section, provides flood insurance coverage under this title for a property and that also provides insurance coverage for the same property for losses resulting from wind, when claims are made both for damage resulting from flood and for damage resulting from wind involved in a single event, to comply with the following requirements:

“(i) CONTEMPORANEOUS ADJUSTMENT.—The claims for damage to the property under the coverage under this title for losses from flood and under the coverage for losses from wind shall be adjusted contemporaneously.

“(ii) INCLUSIONS IN FLOOD CLAIM FILE.—The insurance company, other insurer, or entity shall obtain and include in the file maintained with respect to any claim under the flood insurance coverage under this title, and make available to the Director upon request, the following information relating to the wind claim:

“(I) The amount paid on the claim and the date of such payment.

“(II) An explanation of rationale used by the company, insurer, or entity in determining which damage resulted from flood and which damage resulted from wind.

“(III) Copies of any photographs, witness statements, and other evidence related to the wind or flood claim.

“(iii) REVIEW.—The Director shall review the information obtained pursuant to clause (ii) to ensure that—

“(I) claims are paid under coverage under this title only for losses resulting from flood; and

“(II) in the adjusting the claims, the insurance company or other insurer or entity complied with procedures, protocols, guidelines, standards, or instructions for identifying, apportioning, quantifying, and differentiating damage caused by flooding and damage caused by wind that have been approved by the Director as meeting the standards established by the Director pursuant to subparagraph (A).

“(iv) PAYMENT UNDER FLOOD COVERAGE WHEN CAUSE OF LOSS CANNOT BE DETERMINED.—If the insurance company or other insurer or entity determines that the loss claimed was caused by flooding or wind, but that the evidence is insufficient to differentiate the losses caused by flooding from those caused by wind, the company, insurer, or entity shall pay the claim under the flood insurance coverage for the property as if the entire loss were caused by flooding, and shall submit all information regarding the claim to the Director.

“(v) FEMA DETERMINATION AND RECOVERY.—In the case of any claim paid pursuant to clause (iv), the Director shall review the information related to the claim and determine, in accordance with procedures for making such a determination regarding such claims as the Director shall establish, the losses caused by wind. The Director shall seek to recover any portion of the losses that the Director determines were caused by wind from the insurance company or other insurer or entity that, pursuant to clause (iv), paid such losses as flood losses”.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CANDICE MILLER OF MICHIGAN, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

At the appropriate place in the bill, insert the following new section:

SEC. ____ . **STUDY ON PRIVATE INSURANCE MARKET, COMMUNITY PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM, AND THE REGIONALIZATION OF THE NATIONAL FLOOD INSURANCE PROGRAM.**

(a) **STUDY.**—The Comptroller General shall conduct a study on—

- (1) ways that the private insurance market can contribute to insuring against flood damage;
- (2) the impact on the National Flood Insurance Program if communities decide not to participate in the Program; and
- (3) the feasibility of regionalizing the National Flood Insurance Program and ensuring that there is no cross-subsidization between regions under such Program.

(b) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report containing the results of the study conducted under subsection (a).

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BOSWELL OF IOWA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 14, line 11, insert “appropriate evacuation routes under the evacuation plan referred to in subparagraph (A),” after “risks,”.

Page 32, line 15, strike “properties; and” and insert “properties;”.

Page 32, line 17, strike the period and insert “; and”.

Page 32, after line 17 insert the following:

“(6) notify such owners 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.

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HILL OF INDIANA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 39, line 6, strike “and”.

Page 39, line 10, strike the period and insert “; and”.

Page 39, after line 10, insert the following:

“(E) identify ways to assist communities in efforts to fund the accreditation of flood protection systems.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LOEBSACK OF IOWA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 41, after line 8, insert the following new section:

SEC. 23. APPEALS.

(a) TELEVISION AND RADIO ANNOUNCEMENT.—Section 1363 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104) is amended—

(1) in subsection (a), by inserting after “determinations” by inserting the following: “by notifying a local television and radio station,”; and

(2) in the first sentence of subsection (b), by inserting before the period at the end the following: “and shall notify a local television and radio station at least once during the same 10-day period”.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to any flood elevation determination for any area in a community that has not, as of the date of the enactment of this Act, been issued a Letter of Final Determination for such determination under the flood insurance map modernization process.

10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MCMAHON OF NEW YORK, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 32, line 15, strike “and”.

Page 32, line 17, strike the period and insert “; and”.

Page 32, after line 17, insert the following:

“(6) educate local real estate agents in communities participating in the national flood insurance program regarding the program and the availability of coverage under the program for owners and renters of properties in such communities, and establish coordination and liaisons with such real estate agents to facilitate purchase of coverage under this Act and increase awareness of flood risk reduction.”.

11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SCOTT MURPHY OF NEW YORK, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill, add the following new section:

SEC. 31. ETHICS COMPLIANCE.

All funds authorized under this Act or any amendment made by this Act shall be expended in a manner that is consistent with the manual on Standards of Ethical Conduct for Employees of the Executive Branch.