

FLOOD INSURANCE REFORM ACT OF 2011

JUNE 9, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BACHUS, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 1309]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 1309) to extend the authorization of the national flood insurance program, to achieve reforms to improve the financial integrity and stability of the program, and to increase the role of private markets in the management of flood insurance risk, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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 Act of 2011”.

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

- Sec. 1. Short title and table of contents.
- Sec. 2. Extensions.
- Sec. 3. Mandatory purchase.
- Sec. 4. Reforms of coverage terms.
- Sec. 5. Reforms of premium rates.
- Sec. 6. Technical Mapping Advisory Council.
- Sec. 7. FEMA incorporation of new mapping protocols.
- Sec. 8. Treatment of levees.
- Sec. 9. Privatization initiatives.
- Sec. 10. FEMA annual report on insurance program.
- Sec. 11. Actuarial rates for severe repetitive loss properties refusing mitigation or purchase offers.
- Sec. 12. Mitigation assistance.
- Sec. 13. Grants for direct funding of mitigation activities for individual repetitive claims properties.
- Sec. 14. Notification to homeowners regarding mandatory purchase requirement applicability and rate phase-ins.
- Sec. 15. Notification of establishment of flood elevations.
- Sec. 16. Notification to tenants of availability of contents insurance.
- Sec. 17. Notification to policy holders regarding direct management of policy by FEMA.
- Sec. 18. Notice of availability of flood insurance and escrow in RESPA good faith estimate.
- Sec. 19. Reimbursement for costs incurred by homeowners obtaining letters of map amendment.
- Sec. 20. Treatment of swimming pool enclosures outside of hurricane season.

- Sec. 21. CDBG eligibility for flood insurance outreach activities and community building code administration grants.
 Sec. 22. Technical corrections.
 Sec. 23. Report on Write-Your-Own Program.
 Sec. 24. Studies of voluntary community-based flood insurance options.
 Sec. 25. Report on inclusion of building codes in floodplain management criteria.
 Sec. 26. Study on graduated risk.
 Sec. 27. No cause of action.

SEC. 2. EXTENSIONS.

(a) EXTENSION OF PROGRAM.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking “September 30, 2011” and inserting “September 30, 2016”.

(b) EXTENSION OF FINANCING.—Section 1309(a) of such Act (42 U.S.C. 4016(a)) is amended by striking “September 30, 2011” and inserting “September 30, 2016”.

SEC. 3. MANDATORY PURCHASE.

(a) AUTHORITY TO TEMPORARILY SUSPEND MANDATORY PURCHASE REQUIREMENT.—

(1) 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) AUTHORITY TO TEMPORARILY SUSPEND MANDATORY PURCHASE REQUIREMENT.—

“(1) FINDING BY ADMINISTRATOR THAT AREA IS AN ELIGIBLE AREA.—For any area, upon a request submitted to the Administrator by a local government authority having jurisdiction over any portion of the area, the Administrator shall make a finding of whether the area is an eligible area under paragraph (3). If the Administrator finds that such area is an eligible area, the Administrator shall, in the discretion of the Administrator, designate a period during which such finding shall be effective, which shall not be longer in duration than 12 months.

“(2) SUSPENSION OF MANDATORY PURCHASE REQUIREMENT.—If the Administrator makes a finding under paragraph (1) that an area is an eligible area under paragraph (3), during the period specified in the finding, the designation of such eligible area as an area having special flood hazards shall not be effective for purposes of subsection (a), (b), and (e) of this section, and section 202(a) of this Act. Nothing in this paragraph may be construed to prevent any lender, servicer, regulated lending institution, Federal agency lender, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, at the discretion of such entity, from requiring the purchase of flood insurance coverage in connection with the making, increasing, extending, or renewing of a loan secured by improved real estate or a mobile home located or to be located in such eligible area during such period or a lender or servicer from purchasing coverage on behalf of a borrower pursuant to subsection (e).

“(3) ELIGIBLE AREAS.—An eligible area under this paragraph is an area that is designated or will, pursuant to any issuance, revision, updating, or other change in flood insurance maps that takes effect on or after the date of the enactment of the Flood Insurance Reform Act of 2011, become designated as an area having special flood hazards and that meets any one of the following 3 requirements:

“(A) AREAS WITH NO HISTORY OF SPECIAL FLOOD HAZARDS.—The area does not include any area that has ever previously been designated as an area having special flood hazards.

“(B) AREAS WITH FLOOD PROTECTION SYSTEMS UNDER IMPROVEMENTS.—The area was intended to be protected by a flood protection system—

“(i) that has been decertified, or is required to be certified, as providing protection for the 100-year frequency flood standard;

“(ii) that is being improved, constructed, or reconstructed; and

“(iii) for which the Administrator has determined measurable progress toward completion of such improvement, construction, reconstruction is being made and toward securing financial commitments sufficient to fund such completion.

“(C) AREAS FOR WHICH APPEAL HAS BEEN FILED.—An area for which a community has appealed—

“(i) designation of the area as having special flood hazards in a timely manner under section 1363; or

“(ii) any decertification or deaccreditation of a dam, levee, or other flood protection system or the level of protection afforded by a dam, levee, or system.

“(4) EXTENSION OF DELAY.—Upon a request submitted by a local government authority having jurisdiction over any portion of the eligible area, the Adminis-

trator may extend the period during which a finding under paragraph (1) shall be effective, except that—

“(A) each such extension under this paragraph shall not be for a period exceeding 12 months; and

“(B) for any area, the cumulative number of such extensions may not exceed 2.

“(5) RULE OF CONSTRUCTION.—Nothing in this subsection 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 (2).

“(6) REPORTS.—The Administrator shall, in each annual report submitted pursuant to section 1320, include information identifying each finding under paragraph (1) by the Administrator during the preceding year that an area is an area having special flood hazards, the basis for each such finding, any extensions pursuant to paragraph (4) of the periods of effectiveness of such findings, and the reasons for such extensions.”.

(2) NO REFUNDS.—Nothing in this subsection or the amendments made by this subsection 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 paragraph (1).

(b) 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) in paragraph (2), by striking “insurance.” and inserting “insurance, including premiums or fees incurred for coverage beginning on the date on which flood insurance coverage lapsed or did not provide a sufficient coverage amount.”;

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

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

“(3) TERMINATION OF FORCE-PLACED INSURANCE.—Within 30 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.—For purposes of confirming a borrower’s existing flood insurance coverage, a lender or servicer for a loan shall accept from the borrower an insurance policy declarations page that includes the existing flood insurance policy number and the identity of, and contact information for, the insurance company or agent.”.

(c) USE OF PRIVATE INSURANCE TO SATISFY MANDATORY PURCHASE REQUIREMENT.—Section 102(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)) is amended—

(1) in paragraph (1)—

(A) by striking “lending institutions not to make” and inserting “lending institutions—

“(A) not to make”;

(B) in subparagraph (A), as designated by subparagraph (A) of this paragraph, by striking “less.” and inserting “less; and”; and

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

“(B) to accept private flood insurance as satisfaction of the flood insurance coverage requirement under subparagraph (A) if the coverage provided by such private flood insurance meets the requirements for coverage under such subparagraph.”;

(2) in paragraph (2), by inserting after “provided in paragraph (1).” the following new sentence: “Each Federal agency lender shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under the preceding sentence if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such sentence.”;

(3) in paragraph (3), in the matter following subparagraph (B), by adding at the end the following new sentence: “The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under the preceding sentence if the flood insurance coverage provided by such

private flood insurance meets the requirements for coverage under such sentence.”; and

(4) by adding at the end the following new paragraph:

“(5) PRIVATE FLOOD INSURANCE DEFINED.—In this subsection, the term ‘private flood insurance’ means a contract for flood insurance coverage allowed for sale under the laws of any State.”.

SEC. 4. REFORMS OF COVERAGE TERMS.

(a) 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 Administrator is”; and

(2) by adding at the end the following:

“(b) MINIMUM ANNUAL DEDUCTIBLES.—

“(1) SUBSIDIZED RATE PROPERTIES.—For any structure that is covered by flood insurance under this title, and for which the chargeable rate for such coverage is less than the applicable estimated risk premium rate under section 1307(a)(1) for the area (or subdivision thereof) in which such structure is located, the minimum annual deductible for damage to or loss of such structure shall be \$2,000.

“(2) ACTUARIAL RATE PROPERTIES.—For any structure that is covered by flood insurance under this title, for which the chargeable rate for such coverage is not less than the applicable estimated risk premium rate under section 1307(a)(1) for the area (or subdivision thereof) in which such structure is located, the minimum annual deductible for damage to or loss of such structure shall be \$1,000.”.

(b) CLARIFICATION OF RESIDENTIAL AND COMMERCIAL COVERAGE LIMITS.—Section 1306(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—

(1) in paragraph (2)—

(A) by striking “in the case of any residential property” and inserting “in the case of any residential building designed for the occupancy of from one to four families”; and

(B) by striking “shall be made available to every insured upon renewal and every applicant for 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” and inserting “shall be made available, with respect to any single such building, up to an aggregate liability (including such limits specified in paragraph (1)(A)(i)) of \$250,000”; and

(2) in paragraph (4)—

(A) by striking “in the case of any nonresidential property, including churches,” and inserting “in the case of any nonresidential building, including a church,”; and

(B) by striking “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 for each structure and \$500,000 for any contents related to each structure” and inserting “shall be made available with respect to any single such building, up to an aggregate liability (including such limits specified in subparagraph (B) or (C) of paragraph (1), as applicable) of \$500,000, and coverage shall be made available up to a total of \$500,000 aggregate liability for contents owned by the building owner and \$500,000 aggregate liability for each unit within the building for contents owned by the tenant”.

(c) INDEXING OF 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 (4), by striking “and” at the end;

(2) in paragraph (5), by striking the period at the end and inserting “; and”;

(3) by redesignating paragraph (5) as paragraph (7); and

(4) by adding at the end the following new paragraph:

“(8) each of the dollar amount limitations under paragraphs (2), (3), (4), (5), and (6) shall be adjusted effective on the date of the enactment of the Flood Insurance Reform Act of 2011, such adjustments shall be calculated using the percentage change, over the period beginning on September 30, 1994, and ending on such date of enactment, in such inflationary index as the Administrator shall, by regulation, specify, and the dollar amount of such adjustment shall be rounded to the next lower dollar; and the Administrator shall cause to be published in the Federal Register the adjustments under this paragraph to such dollar amount limitations; except that in the case of coverage for a property that is made available, pursuant to this paragraph, in an amount that exceeds the

limitation otherwise applicable to such coverage as specified in paragraph (2), (3), (4), (5), or (6), the total of 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).”.

(d) **OPTIONAL COVERAGE FOR LOSS OF USE OF PERSONAL RESIDENCE AND BUSINESS INTERRUPTION.**—Subsection (b) of section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)), as amended by the preceding provisions of this section, is further amended by inserting after paragraph (4) the following new paragraphs:

“(5) the Administrator may provide that, in the case of any residential property, each renewal or new contract for flood insurance coverage may provide not more than \$5,000 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, except that—

“(A) purchase of such coverage shall be at the option of the insured;

“(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); and

“(C) the Administrator may make such coverage available only if the Administrator makes a determination and causes notice of such determination to be published in the Federal Register that—

“(i) a competitive private insurance market for such coverage does not exist; and

“(ii) the national flood insurance program has the capacity to make such coverage available without borrowing funds from the Secretary of the Treasury under section 1309 or otherwise;

“(6) the Administrator may provide that, in the case of any commercial property or other residential property, including multifamily rental property, 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 may be made available to every insured upon renewal and every applicant, up to a total amount of \$20,000 per property, except that—

“(A) purchase of such coverage shall be at the option of the insured;

“(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); and

“(C) the Administrator may make such coverage available only if the Administrator makes a determination and causes notice of such determination to be published in the Federal Register that—

“(i) a competitive private insurance market for such coverage does not exist; and

“(ii) the national flood insurance program has the capacity to make such coverage available without borrowing funds from the Secretary of the Treasury under section 1309 or otherwise;”.

(e) **PAYMENT OF PREMIUMS IN INSTALLMENTS FOR RESIDENTIAL PROPERTIES.**—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 RESIDENTIAL PROPERTIES.**—

“(1) **AUTHORITY.**—In addition to any other terms and conditions under subsection (a), such regulations shall provide that, in the case of any residential property, premiums for flood insurance coverage made available under this title for such property may be paid in installments.

“(2) **LIMITATIONS.**—In implementing the authority under paragraph (1), the Administrator may establish increased chargeable premium rates and surcharges, and deny coverage and establish such other sanctions, as the Administrator considers necessary to ensure that insureds purchase, pay for, and maintain coverage for the full term of a contract for flood insurance coverage or to prevent insureds from purchasing coverage only for periods during a year when risk of flooding is comparatively higher or canceling coverage for periods when such risk is comparatively lower.”.

SEC. 5. REFORMS OF PREMIUM RATES.

(a) **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”.

(b) **PHASE-IN OF RATES FOR CERTAIN PROPERTIES IN NEWLY MAPPED AREAS.**—

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

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

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

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

“(g) 5-YEAR PHASE-IN OF FLOOD INSURANCE RATES FOR CERTAIN PROPERTIES IN NEWLY MAPPED AREAS.—

“(1) 50 PERCENT RATE FOR INITIAL YEAR.—Notwithstanding subsection (c) or 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 12-month period that begins, except as provided in paragraph (2), upon the date that such maps, as issued, revised, updated, or otherwise changed, become effective, the chargeable premium rate for flood insurance under this title with respect to any covered property that is located within such area shall be 50 percent of the chargeable risk premium rate otherwise applicable under this title to the property.

“(2) APPLICABILITY TO PREFERRED RISK RATE AREAS.—In the case of any area described in paragraph (1) that consists of or includes an area that, as of date of the effectiveness of the flood insurance maps for such area referred to in paragraph (1) as so issued, revised, updated, or changed, is eligible for any reason for preferred risk rate method premiums for flood insurance coverage and was eligible for such premiums as of the enactment of the Flood Insurance Reform Act of 2011, the 12-month period referred to in paragraph (1) for such area eligible for preferred risk rate method premiums shall begin upon the expiration of the period during which such area is eligible for such preferred risk rate method premiums.

“(3) PHASE-IN OF FULL ACTUARIAL RATES.—With respect to any area described in paragraph (1), upon the expiration of the 12-month period under paragraph (1) or (2), as applicable, for such area, the Administrator shall increase the chargeable risk premium rates for flood insurance under this title for covered properties in such area by 20 percent, and by 20 percent upon the expiration of each successive 12-month period thereafter until the chargeable risk premium rates comply with subsection (c).

“(4) COVERED PROPERTIES.—For purposes of the subsection, the term ‘covered property’ means any residential property occupied by its owner or a bona fide tenant as a primary residence.”

(2) REGULATION OR NOTICE.—The Administrator of the Federal Emergency Management Agency shall issue an interim final rule or notice to implement this subsection and the amendments made by this subsection as soon as practicable after the date of the enactment of this Act.

(c) PHASE-IN OF ACTUARIAL RATES FOR CERTAIN PROPERTIES.—

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

(A) by redesignating paragraph (2) as paragraph (7); and

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

“(2) COMMERCIAL PROPERTIES.—Any nonresidential property.

“(3) SECOND HOMES AND VACATION HOMES.—Any residential property that is not the primary residence of any individual.

“(4) HOMES SOLD TO NEW OWNERS.—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 Administrator, before December 31, 1974, or before the effective date of the initial rate map published by the Administrator under paragraph (2) of section 1360(a) for the area in which such property is located, whichever is later; and

“(B) is purchased after the effective date of this paragraph, pursuant to section 5(c)(3)(A) of the Flood Insurance Reform Act of 2011.

“(5) HOMES DAMAGED OR IMPROVED.—Any property that, on or after the date of the enactment of the Flood Insurance Reform Act of 2011, has experienced or sustained—

“(A) substantial flood 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.

“(6) HOMES WITH MULTIPLE CLAIMS.—Any severe repetitive loss property (as such term is defined in section 1361A(b)).”

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

(A) in subsection (c)—

- (i) in the matter preceding paragraph (1), by striking “the limitations provided under paragraphs (1) and (2)” and inserting “subsection (e)”; and
- (ii) in paragraph (1), by striking “, except” and all that follows through “subsection (e)”; and
- (B) in subsection (e), by striking “paragraph (2) or (3)” and inserting “paragraph (7)”.
 - (3) EFFECTIVE DATE AND TRANSITION.—
 - (A) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply beginning upon the expiration of the 12-month period that begins on the date of the enactment of this Act, except as provided in subparagraph (B) of this paragraph.
 - (B) TRANSITION FOR PROPERTIES COVERED BY FLOOD INSURANCE UPON EFFECTIVE DATE.—
 - (i) INCREASE OF RATES OVER TIME.—In the case of any property described in paragraph (2), (3), (4), (5), or (6) of section 1308(c) of the National Flood Insurance Act of 1968, as amended by paragraph (1) of this subsection, that, as of the effective date under subparagraph (A) of this paragraph, 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) of such Act for the area in which the property is located, the Administrator 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).
 - (ii) AMOUNT OF 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 subparagraph (A) of this paragraph 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 clause (iii)).
 - (iii) 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 subparagraph or to an increase described in section 1308(e) of the National Flood Insurance Act of 1968 may not exceed 20 percent.
 - (iv) FULL ACTUARIAL RATES.—The provisions of paragraphs (2), (3), (4), (5), and (6) of such section 1308(c) shall apply to such a property upon the accomplishment of the increase under this subparagraph and thereafter.
 - (d) 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—
 - (1) in subsection (e), by inserting “or subsection (h)” after “subsection (c)”;
 - (2) by adding at the end the following new subsection:
 - “(h) PROHIBITION OF EXTENSION OF SUBSIDIZED RATES TO LAPSED POLICIES.—Notwithstanding any other provision of law relating to chargeable risk premium rates for flood insurance coverage under this title, the Administrator shall not provide flood insurance coverage under this title for any property for which a policy for such coverage for the property has previously lapsed in coverage as a result of the deliberate choice of the holder of such policy, at a rate less than the applicable estimated risk premium rates for the area (or subdivision thereof) in which such property is located.”.
 - (e) RECOGNITION OF STATE AND LOCAL FUNDING FOR CONSTRUCTION, RECONSTRUCTION, AND IMPROVEMENT OF FLOOD PROTECTION SYSTEMS IN DETERMINATION OF RATES.—
 - (1) IN GENERAL.—Section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4014) is amended—
 - (A) in subsection (e)—
 - (i) 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)”; and

(ii) 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

(B) in subsection (f)—

(i) 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;

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

(iii) 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”.

(2) REGULATIONS.—The Administrator of the Federal Emergency Management Agency shall promulgate regulations to implement this subsection and the amendments made by this subsection as soon as practicable, but not more than 18 months after the date of the enactment of this Act. Paragraph (3) may not be construed to annul, alter, affect, authorize any waiver of, or establish any exception to, the requirement under the preceding sentence.

SEC. 6. TECHNICAL MAPPING ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is established a council to be known as the Technical Mapping Advisory Council (in this section referred to as the “Council”).

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of—

(A) the Administrator of the Federal Emergency Management Agency (in this section referred to as the “Administrator”), or the designee thereof;

(B) the Director of the United States Geological Survey of the Department of the Interior, or the designee thereof;

(C) the Under Secretary of Commerce for Oceans and Atmosphere, or the designee thereof;

(D) the commanding officer of the United States Army Corps of Engineers, or the designee thereof;

(E) the chief of the Natural Resources Conservation Service of the Department of Agriculture, or the designee thereof;

(F) the Director of the United States Fish and Wildlife Service of the Department of the Interior, or the designee thereof;

(G) the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration of the Department of Commerce, or the designee thereof; and

(H) 14 additional members to be appointed by the Administrator of the Federal Emergency Management Agency, who shall be—

(i) an expert in data management;

(ii) an expert in real estate;

(iii) an expert in insurance;

(iv) a member of a recognized regional flood and storm water management organization;

(v) a representative of a State emergency management agency or association or organization for such agencies;

(vi) a member of a recognized professional surveying association or organization;

(vii) a member of a recognized professional mapping association or organization;

(viii) a member of a recognized professional engineering association or organization;

(ix) a member of a recognized professional association or organization representing flood hazard determination firms;

(x) a representative of State national flood insurance coordination offices;

(xi) representatives of two local governments, at least one of whom is a local levee flood manager or executive, designated by the Federal Emergency Management Agency as Cooperating Technical Partners; and

(xii) representatives of two State governments designated by the Federal Emergency Management Agency as Cooperating Technical States.

(2) QUALIFICATIONS.—Members of the Council shall be appointed based on their demonstrated knowledge and competence regarding surveying, cartography, remote sensing, geographic information systems, or the technical aspects of preparing and using flood insurance rate maps. In appointing members under paragraph (1)(I), the Administrator shall ensure that the membership of the Council has a balance of Federal, State, local, and private members.

(c) DUTIES.—

(1) NEW MAPPING STANDARDS.—Not later than the expiration of the 12-month period beginning upon the date of the enactment of this Act, the Council shall develop and submit to the Administrator and the Congress proposed new mapping standards for 100-year flood insurance rate maps used under the national flood insurance program under the National Flood Insurance Act of 1968. In developing such proposed standards the Council shall—

(A) ensure that the flood insurance rate maps reflect true risk, including graduated risk that better reflects the financial risk to each property; such reflection of risk should be at the smallest geographic level possible (but not necessarily property-by-property) to ensure that communities are mapped in a manner that takes into consideration different risk levels within the community;

(B) ensure the most efficient generation, display, and distribution of flood risk data, models, and maps where practicable through dynamic digital environments using spatial database technology and the Internet;

(C) ensure that flood insurance rate maps reflect current hydrologic and hydraulic data, current land use, and topography, incorporating the most current and accurate ground and bathymetric elevation data;

(D) determine the best ways to include in such flood insurance rate maps levees, decertified levees, and areas located below dams, including determining a methodology for ensuring that decertified levees and other protections are included in flood insurance rate maps and their corresponding flood zones reflect the level of protection conferred;

(E) consider how to incorporate restored wetlands and other natural buffers into flood insurance rate maps, which may include wetlands, groundwater recharge areas, erosion zones, meander belts, endangered species habitat, barrier islands and shoreline buffer features, riparian forests, and other features;

(F) consider whether to use vertical positioning (as defined by the Administrator) for flood insurance rate maps;

(G) ensure that flood insurance rate maps differentiate between a property that is located in a flood zone and a structure located on such property that is not at the same risk level for flooding as such property due to the elevation of the structure;

(H) ensure that flood insurance rate maps take into consideration the best scientific data and potential future conditions (including projections for sea level rise); and

(I) consider how to incorporate the new standards proposed pursuant to this paragraph in existing mapping efforts.

(2) ONGOING DUTIES.—The Council shall, on an ongoing basis, review the mapping protocols developed pursuant to paragraph (1), and make recommendations to the Administrator when the Council determines that mapping protocols should be altered.

(3) MEETINGS.—In carrying out its duties under this section, the Council shall consult with stakeholders through at least 4 public meetings annually, and shall seek input of all stakeholder interests including State and local representatives, environmental and conservation organizations, insurance industry representatives, advocacy groups, planning organizations, and mapping organizations.

(d) PROHIBITION ON COMPENSATION.—Members of the Council shall receive no additional compensation by reason of their service on the Council.

(e) CHAIRPERSON.—The Administrator shall serve as the Chairperson of the Council.

(f) STAFF.—

(1) FEMA.—Upon the request of the Council, the Administrator may detail, on a nonreimbursable basis, personnel of the Federal Emergency Management Agency to assist the Council in carrying out its duties.

(2) OTHER FEDERAL AGENCIES.—Upon request of the Council, any other Federal agency that is a member of the Council may detail, on a non-reimbursable basis, personnel to assist the Council in carrying out its duties.

(g) **POWERS.**—In carrying out this section, the Council may hold hearings, receive evidence and assistance, provide information, and conduct research, as the Council considers appropriate.

(h) **TERMINATION.**—The Council shall terminate upon the expiration of the 5-year period beginning on the date of the enactment of this Act.

SEC. 7. FEMA INCORPORATION OF NEW MAPPING PROTOCOLS.

(a) **NEW RATE MAPPING STANDARDS.**—Not later than the expiration of the 6-month period beginning upon submission by the Technical Mapping Advisory Council under section 6 of the proposed new mapping standards for flood insurance rate maps used under the national flood insurance program developed by the Council pursuant to section 6(c), the Administrator of the Federal Emergency Management Agency (in this section referred to as the “Administrator”) shall establish new standards for such rate maps based on such proposed new standards and the recommendations of the Council.

(b) **REQUIREMENTS.**—The new standards for flood insurance rate maps established by the Administrator pursuant to subsection (a) shall—

- (1) delineate and include in any such rate maps—
 - (A) all areas located within the 100-year flood plain;
 - (B) areas of residual risk, including areas behind levees, dams, and other man-made structures; and
 - (C) areas subject to graduated and other risk levels, to the maximum extent possible;
- (2) ensure that any such rate maps—
 - (A) include levees, including decertified levees, and the level of protection they confer;
 - (B) reflect current land use and topography and incorporate the most current and accurate ground level data;
 - (C) take into consideration the impacts and use of fill and the flood risks associated with altered hydrology;
 - (D) differentiate between a property that is located in a flood zone and a structure located on such property that is not at the same risk level for flooding as such property due to the elevation of the structure;
 - (E) identify and incorporate natural features and their associated flood protection benefits into mapping and rates; and
 - (F) identify, analyze, and incorporate the impact of significant changes to building and development throughout any river or costal water system, including all tributaries, which may impact flooding in areas downstream; and
- (3) provide that such rate maps are developed on a watershed basis.

(c) **REPORT.**—If, in establishing new standards for flood insurance rate maps pursuant to subsection (a) of this section, the Administrator does not implement all of the recommendations of the Council made under the proposed new mapping standards developed by the Council pursuant to section 6(c), upon establishment of the new standards the Administrator shall 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 specifying which such recommendations were not adopted and explaining the reasons such recommendations were not adopted.

(d) **IMPLEMENTATION.**—The Administrator shall, not later than the expiration of the 6-month period beginning upon establishment of the new standards for flood insurance rate maps pursuant to subsection (a) of this section, commence use of the new standards and updating of flood insurance rate maps in accordance with the new standards. Not later than the expiration of the 5-year period beginning upon the establishment of such new standards, the Administrator shall complete updating of all flood insurance rate maps in accordance with the new standards, subject to the availability of sufficient amounts for such activities provided in appropriation Acts.

(e) **TEMPORARY SUSPENSION OF MANDATORY PURCHASE REQUIREMENT FOR CERTAIN PROPERTIES.**—

(1) **SUBMISSION OF ELEVATION CERTIFICATE.**—Subject to paragraphs (2) and (3) of this subsection, subsections (a), (b), and (e) of section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a), and section 202(a) of such Act, shall not apply to a property located in an area designated as having a special flood hazard if the owner of such property submits to the Administrator an elevation certificate for such property showing that the lowest level of the primary residence on such property is at an elevation that is at least three feet higher than the elevation of the 100-year flood plain.

(2) **REVIEW OF SURVEY.**—The Administrator shall accept as conclusive each elevation survey submitted under paragraph (1) unless the Administrator con-

ducts a subsequent elevation survey and determines that the lowest level of the primary residence on the property in question is not at an elevation that is at least three feet higher than the elevation of the 100-year flood plain. The Administrator shall provide any such subsequent elevation survey to the owner of such property.

(3) DETERMINATIONS FOR PROPERTIES ON BORDERS OF SPECIAL FLOOD HAZARD AREAS.—

(A) EXPEDITED DETERMINATION.—In the case of any survey for a property submitted to the Administrator pursuant to paragraph (1) showing that a portion of the property is located within an area having special flood hazards and that a structure located on the property is not located within such area having special flood hazards, the Administrator shall expeditiously process any request made by an owner of the property for a determination pursuant to paragraph (2) or a determination of whether the structure is located within the area having special flood hazards.

(B) PROHIBITION OF FEE.—If the Administrator determines pursuant to subparagraph (A) that the structure on the property is not located within the area having special flood hazards, the Administrator shall not charge a fee for reviewing the flood hazard data and shall not require the owner to provide any additional elevation data.

(C) SIMPLIFICATION OF REVIEW PROCESS.—The Administrator shall collaborate with private sector flood insurers to simplify the review process for properties described in subparagraph (A) and to ensure that the review process provides for accurate determinations.

(4) TERMINATION OF AUTHORITY.—This subsection shall cease to apply to a property on the date on which the Administrator updates the flood insurance rate map that applies to such property in accordance with the requirements of subsection (d).

SEC. 8. TREATMENT OF 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:

“(k) TREATMENT OF LEVEES.—The Administrator may not issue flood insurance maps, or make effective updated flood insurance maps, that omit or disregard the actual protection afforded by an existing levee, floodwall, pump or other flood protection feature, regardless of the accreditation status of such feature.”.

SEC. 9. PRIVATIZATION INITIATIVES.

(a) FEMA AND GAO REPORTS.—Not later than the expiration of the 18-month period beginning on the date of the enactment of this Act, the Administrator of the Federal Emergency Management Agency and the Comptroller General of the United States shall each conduct a separate study to assess a broad range of options, methods, and strategies for privatizing the national flood insurance program and shall each 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 with recommendations for the best manner to accomplish such privatization.

(b) PRIVATE RISK-MANAGEMENT INITIATIVES.—

(1) AUTHORITY.—The Administrator of the Federal Emergency Management Agency may carry out such private risk-management initiatives under the national flood insurance program as the Administrator considers appropriate to determine the capacity of private insurers, reinsurers, and financial markets to assist communities, on a voluntary basis only, in managing the full range of financial risks associated with flooding.

(2) ASSESSMENT.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Administrator shall assess the capacity of the private reinsurance, capital, and financial markets by seeking proposals to assume a portion of the program's insurance risk and submit to the Congress a report describing the response to such request for proposals and the results of such assessment.

(3) PROTOCOL FOR RELEASE OF DATA.—The Administrator shall develop a protocol to provide for the release of data sufficient to conduct the assessment required under paragraph (2).

(c) REINSURANCE.—The National Flood Insurance Act of 1968 is amended—

(1) in section 1331(a)(2) (42 U.S.C. 4051(a)(2)), by inserting “, including as reinsurance of insurance coverage provided by the flood insurance program” before “, on such terms”;

(2) in section 1332(c)(2) (42 U.S.C. 4052(c)(2)), by inserting “or reinsurance” after “flood insurance coverage”;

(3) in section 1335(a) (42 U.S.C. 4055(a))—

(A) by inserting “(1)” after “(a)”; and

(B) by adding at the end the following new paragraph:
 “(2) The Administrator is authorized to secure reinsurance coverage of coverage provided by the flood insurance program from private market insurance, reinsurance, and capital market sources at rates and on terms determined by the Administrator to be reasonable and appropriate in an amount sufficient to maintain the ability of the program to pay claims and that minimizes the likelihood that the program will utilize the borrowing authority provided under section 1309.”;

(4) in section 1346(a) (12 U.S.C. 4082(a))—

(A) in the matter preceding paragraph (1), by inserting “, or for purposes of securing reinsurance of insurance coverage provided by the program,” before “of any or all of”;

(B) in paragraph (1)—

(i) by striking “estimating” and inserting “Estimating”; and

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

(C) in paragraph (2)—

(i) by striking “receiving” and inserting “Receiving”; and

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

(D) in paragraph (3)—

(i) by striking “making” and inserting “Making”; and

(ii) by striking “; and” and inserting a period;

(E) in paragraph (4)—

(i) by striking “otherwise” and inserting “Otherwise”; and

(ii) by redesignating such paragraph as paragraph (5); and

(F) by inserting after paragraph (3) the following new paragraph:

“(4) Placing reinsurance coverage on insurance provided by such program.”;

and

(5) in section 1370(a)(3) (42 U.S.C. 4121(a)(3)), by inserting before the semicolon at the end the following: “, is subject to the reporting requirements of the Securities Exchange Act of 1934, pursuant to section 13(a) or 15(d) of such Act (15 U.S.C. 78m(a), 78o(d)), or is authorized by the Administrator to assume reinsurance on risks insured by the flood insurance program”.

(d) ASSESSMENT OF CLAIMS-PAYING ABILITY.—

(1) ASSESSMENT.—Not later than September 30 of each year, the Administrator of the Federal Emergency Management Agency shall conduct an assessment of the claims-paying ability of the national flood insurance program, including the program’s utilization of private sector reinsurance and reinsurance equivalents, with and without reliance on borrowing authority under section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016). In conducting the assessment, the Administrator shall take into consideration regional concentrations of coverage written by the program, peak flood zones, and relevant mitigation measures.

(2) REPORT.—The Administrator shall submit a report to the Congress of the results of each such assessment, and make such report available to the public, not later than 30 days after completion of the assessment.

SEC. 10. FEMA ANNUAL REPORT ON INSURANCE PROGRAM.

Section 1320 of the National Flood Insurance Act of 1968 (42 U.S.C. 4027) is amended—

(1) in the section heading, by striking “REPORT TO THE PRESIDENT” and inserting “ANNUAL REPORT TO CONGRESS”;

(2) in subsection (a)—

(A) by striking “biennially”;

(B) by striking “the President for submission to”; and

(C) by inserting “not later than June 30 of each year” before the period at the end;

(3) in subsection (b), by striking “biennial” and inserting “annual”; and

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

“(c) FINANCIAL STATUS OF PROGRAM.—The report under this section for each year shall include information regarding the financial status of the national flood insurance program under this title, including a description of the financial status of the National Flood Insurance Fund and current and projected levels of claims, premium receipts, expenses, and borrowing under the program.”.

SEC. 11. ACTUARIAL RATES FOR SEVERE REPETITIVE LOSS PROPERTIES REFUSING MITIGATION OR PURCHASE OFFERS.

Subsection (h) of section 1361A of the National Flood Insurance Act of 1968 (42 U.S.C. 4102a(h)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking “150 percent” and all that follows through “paragraph (3)” and inserting “the applicable estimated risk pre-

mium rate for such coverage for the area (or subdivision thereof) determined in accordance with section 1307(a), subject to phase-in of such rates in the same manner provided under paragraph (2) of section 1308(g) for properties described in paragraph (1) of such section"; and

(B) by inserting after and below subparagraph (B) the following:

"An offer to take action under paragraph (1) or (2) of subsection (c) shall be considered to be made for purposes of this paragraph with respect to a severe repetitive loss property regardless of the time that the offer was made and regardless of whether the Administrator has transferred financial assistance under this section to the State or community making the offer for funding such action, but only if the owner of the property is provided a reasonable period of time, not to exceed 15 days, to respond to the offer.";

(2) by striking paragraphs (2) and (3); and

(3) by redesignating paragraphs (4) through (6) as paragraphs (2) through (4), respectively.

SEC. 12. MITIGATION ASSISTANCE.

Subsection (e) of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(e)) is amended by adding at the end the following new paragraph:

"(6) ELIGIBILITY OF DEMOLITION AND REBUILDING OF PROPERTIES.—The Administrator shall consider as an eligible activity the demolition and rebuilding of properties to at least base flood levels or higher, if required by the Administrator or if required by any State or local ordinance, and in accordance with project implementation criteria established by the Administrator."

SEC. 13. 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 subsection (a), in the the matter preceding 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,".

SEC. 14. 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 Administrator, 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;

"(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. 15. NOTIFICATION OF ESTABLISHMENT OF FLOOD ELEVATIONS.

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

"(l) 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 Administrator 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."

SEC. 16. 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 Administrator 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 Administrator where such information is available.”.

SEC. 17. NOTIFICATION TO POLICY HOLDERS REGARDING DIRECT MANAGEMENT OF POLICY BY FEMA.

Part C of chapter II of the National Flood Insurance Act of 1968 (42 U.S.C. 4081 et seq.) is amended by adding at the end the following new section:

“SEC. 1349. NOTIFICATION TO POLICY HOLDERS REGARDING DIRECT MANAGEMENT OF POLICY BY FEMA.

“(a) NOTIFICATION.—Not later than 60 days before the date on which a transferred flood insurance policy expires, and annually thereafter until such time as the Federal Emergency Management Agency is no longer directly administering such policy, the Administrator shall notify the holder of such policy that—

“(1) the Federal Emergency Management Agency is directly administering the policy;

“(2) such holder may purchase flood insurance that is directly administered by an insurance company; and

“(3) purchasing flood insurance offered under the National Flood Insurance Program that is directly administered by an insurance company will not alter the coverage provided or the premiums charged to such holder that otherwise would be provided or charged if the policy was directly administered by the Federal Emergency Management Agency.

“(b) DEFINITION.—In this section, the term ‘transferred flood insurance policy’ means a flood insurance policy that—

“(1) was directly administered by an insurance company at the time the policy was originally purchased by the policy holder; and

“(2) at the time of renewal of the policy, direct administration of the policy was or will be transferred to the Federal Emergency Management Agency.”.

SEC. 18. 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. 19. REIMBURSEMENT FOR COSTS INCURRED BY HOMEOWNERS OBTAINING LETTERS OF MAP AMENDMENT.

(a) IN GENERAL.—Section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

“(m) REIMBURSEMENT.—

“(1) REQUIREMENT UPON BONA FIDE OFFER.—If an owner of any property located in an area described in section 102(i)(3) of the Flood Disaster Protection Act of 1973 obtains a letter of map amendment due to a bona fide error on the part of the Administrator of the Federal Emergency Management Agency, the Administrator shall reimburse such owner, or such entity or jurisdiction acting on such owner’s behalf, for any reasonable costs incurred in obtaining such letter.

“(2) REASONABLE COSTS.—The Administrator shall, by regulation or notice, determine a reasonable amount of costs to be reimbursed under paragraph (1), except that such costs shall not include legal or attorneys fees. In determining the reasonableness of costs, the Administrator shall only consider the actual costs to the owner of utilizing the services of an engineer, surveyor, or similar services.”

(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 issue the regulations or notice required under section 1360(m)(2) of the National Flood Insurance Act of 1968, as added by the amendment made by subsection (a) of this section.

SEC. 20. 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.) is amended by adding at the end the following new section:

“SEC. 1325. 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.”.

SEC. 21. CDBG ELIGIBILITY FOR FLOOD INSURANCE OUTREACH ACTIVITIES AND COMMUNITY BUILDING CODE ADMINISTRATION GRANTS.

Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

- (1) in paragraph (24), by striking “and” at the end;
- (2) in paragraph (25), by striking the period at the end and inserting a semicolon; and
- (3) by adding at the end the following new paragraphs:

“(26) supplementing existing State or local funding for administration of building code enforcement by local building code enforcement departments, including for increasing staffing, providing staff training, increasing staff competence and professional qualifications, and supporting individual certification or departmental accreditation, and for capital expenditures specifically dedicated to the administration of the building code enforcement department, except that, to be eligible to use amounts as provided in this paragraph—

“(A) a building code enforcement department shall provide matching, non-Federal funds to be used in conjunction with amounts used under this paragraph in an amount—

“(i) in the case of a building code enforcement department serving an area with a population of more than 50,000, equal to not less than 50 percent of the total amount of any funds made available under this title that are used under this paragraph;

“(ii) in the case of a building code enforcement department serving an area with a population of between 20,001 and 50,000, equal to not less than 25 percent of the total amount of any funds made available under this title that are used under this paragraph; and

“(iii) in the case of a building code enforcement department serving an area with a population of less than 20,000, equal to not less than 12.5 percent of the total amount of any funds made available under this title that are used under this paragraph;

except that the Secretary may waive the matching fund requirements under this subparagraph, in whole or in part, based upon the level of economic

distress of the jurisdiction in which is located the local building code enforcement department that is using amounts for purposes under this paragraph, and shall waive such matching fund requirements in whole for any recipient jurisdiction that has dedicated all building code permitting fees to the conduct of local building code enforcement; and

“(B) any building code enforcement department using funds made available under this title for purposes under this paragraph shall empanel a code administration and enforcement team consisting of at least 1 full-time building code enforcement officer, a city planner, and a health planner or similar officer; and

“(27) provision of assistance 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 the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), only for carrying out outreach activities to encourage and facilitate the purchase of flood insurance protection under such Act by owners and renters of properties in such communities and to promote educational activities that increase awareness of flood risk reduction; except that—

“(A) amounts used as provided under this paragraph shall be used only for activities designed to—

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

“(ii) 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;

“(iii) 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;

“(iv) 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;

“(v) encourage such owners and renters to maintain or acquire such coverage;

“(vi) 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 Administrator of the Federal Emergency Management Agency (in this paragraph referred to as the ‘Administrator’) where such information is available; and

“(vii) 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 the National Flood Insurance Act of 1968 and increase awareness of flood risk reduction;

“(B) in any fiscal year, a local governmental agency may not use an amount under this paragraph that exceeds 3 times the amount that the agency certifies, as the Secretary, in consultation with the Administrator, shall require, that the agency will contribute from non-Federal funds to be used with such amounts used under this paragraph only for carrying out activities described in subparagraph (A); and for purposes of this subparagraph, 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 local governmental agency involved, the value of the time and services contributed by volunteers to carry out such services (at a rate determined by the Secretary), and the value of any donated material or building and the value of any lease on a building;

“(C) a local governmental agency that uses amounts as provided under this paragraph 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 subparagraph (A) with respect to such populations or constituencies; and

“(D) each local government agency that uses amounts as provided under this paragraph shall submit a report to the Secretary and the Administrator, not later than 12 months after such amounts are first received, which shall include such information as the Secretary and the Administrator jointly consider appropriate to describe the activities conducted using such amounts and the effect of such activities on the retention or acquisition of flood insurance coverage.”.

SEC. 22. TECHNICAL CORRECTIONS.

(a) FLOOD DISASTER PROTECTION ACT OF 1973.—The Flood Disaster Protection Act of 1973 (42 U.S.C. 4002 et seq.) is amended—

(1) by striking “Director” each place such term appears, except in section 102(f)(3) (42 U.S.C. 4012a(f)(3)), and inserting “Administrator”; and

(2) in section 201(b) (42 U.S.C. 4105(b)), by striking “Director’s” and inserting “Administrator’s”.

(b) NATIONAL FLOOD INSURANCE ACT OF 1968.—The National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is amended—

(1) by striking “Director” each place such term appears and inserting “Administrator”; and

(2) in sections 1363 (42 U.S.C. 4104), by striking “Director’s” each place such term appears and inserting “Administrator’s”.

(c) FEDERAL FLOOD INSURANCE ACT OF 1956.—Section 15(e) of the Federal Flood Insurance Act of 1956 (42 U.S.C. 2414(e)) is amended by striking “Director” each place such term appears and inserting “Administrator”.

SEC. 23. REPORT ON WRITE-YOUR-OWN PROGRAM.

Not later than one year after the date of the enactment of this Act, the Administrator of the Federal Emergency Management Agency shall submit to Congress a report describing procedures and policies that the Administrator can implement to limit the percentage of flood insurance policies directly managed by the Agency to not more than 10 percent, if possible, of all flood insurance policies issued in accordance with the National Flood Insurance Program.

SEC. 24. STUDIES OF VOLUNTARY COMMUNITY-BASED FLOOD INSURANCE OPTIONS.

(a) STUDIES.—The Administrator of the Federal Emergency Management Agency and the Comptroller General of the United States shall each conduct a separate study to assess options, methods, and strategies for offering voluntary community-based flood insurance policy options and incorporating such options into the national flood insurance program. Such studies shall take into consideration and analyze how the policy options would affect communities having varying economic bases, geographic locations, flood hazard characteristics or classifications, and flood management approaches.

(b) REPORTS.—Not later than the expiration of the 18-month period beginning on the date of the enactment of this Act, the Administrator of the Federal Emergency Management Agency and the Comptroller General of the United States shall each 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 on the results and conclusions of the study such agency conducted under subsection (a), and each such report shall include recommendations for the best manner to incorporate voluntary community-based flood insurance options into the national flood insurance program and for a strategy to implement such options that would encourage communities to undertake flood mitigation activities.

SEC. 25. 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;
- (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;
- (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.

SEC. 26. STUDY ON GRADUATED RISK.

(a) **STUDY.**— The National Academy of Sciences shall conduct a study exploring methods for understanding graduated risk behind levees and the associated land development, insurance, and risk communication dimensions, which shall—

- (1) research, review, and recommend current best practices for estimating direct annualized flood losses behind levees for residential and commercial structures;
- (2) rank such practices based on their best value, balancing cost, scientific integrity, and the inherent uncertainties associated with all aspects of the loss estimate, including geotechnical engineering, flood frequency estimates, economic value, and direct damages;
- (3) research, review, and identify current best floodplain management and land use practices behind levees that effectively balance social, economic, and environmental considerations as part of an overall flood risk management strategy;
- (4) identify examples where such practices have proven effective and recommend methods and processes by which they could be applied more broadly across the United States, given the variety of different flood risks, State and local legal frameworks, and evolving judicial opinions;
- (5) research, review, and identify a variety of flood insurance pricing options for flood hazards behind levees which are actuarially sound and based on the flood risk data developed using the top three best value approaches identified pursuant to paragraph (1);
- (6) evaluate and recommend methods to reduce insurance costs through creative arrangements between insureds and insurers while keeping a clear accounting of how much financial risk is being borne by various parties such that the entire risk is accounted for, including establishment of explicit limits on disaster aid or other assistance in the event of a flood; and
- (7) taking into consideration the recommendations pursuant to paragraphs (1) through (3), recommend approaches to communicating the associated risks to community officials, homeowners, and other residents.

(b) **REPORT.**—Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the National Academy of Sciences shall submit a report to the Committees on Financial Services and Science, Space, and Technology of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Commerce, Science and Transportation of the Senate on the study under subsection (a) including the information and recommendations required under such subsection.

SEC. 27. NO CAUSE OF ACTION.

No cause of action shall exist and no claim may be brought against the United States for violation of any notification requirement imposed upon the United States by this Act or any amendment made by this Act.

PURPOSE AND SUMMARY

H.R. 1309, the Flood Insurance Reform Act of 2011, reauthorizes the National Flood Insurance Program (NFIP) through September 30, 2016, and amends the National Flood Insurance Act to ensure 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 in the program, increasing financial accountability, eliminating unnecessary rate subsidies, and updating the program to meet the needs of the 21st century. The key

provisions of H.R. 1309 include: (1) a five-year reauthorization of the NFIP; (2) a three-year delay in the mandatory purchase requirement for certain properties in newly designated Special Flood Hazard Areas (SFHAs); (3) a phase-in of full-risk, actuarial rates for areas newly designated as Special Flood Hazard; (4) a reinstatement of the Technical Mapping Advisory Council; and (5) an emphasis on greater private sector participation in providing flood insurance coverage.

BACKGROUND AND NEED FOR LEGISLATION

In 1968, Congress created the National Flood Insurance Program (NFIP) to address the nation's flood exposure and the need to alleviate taxpayers' responsibility for flood losses paid out in the form of post-disaster relief following annual flooding and severe flooding following hurricanes. At the time, Congress recognized that the inherent challenges of managing flood risk were too great for the private sector and that no viable private sector insurance alternative existed. The Flood Disaster Protection Act of 1973 established a mandatory flood insurance purchase requirement for structures located in identified Special Flood Hazard Areas.

Under the 1973 Act, Federally regulated lenders were obligated to require flood insurance on any mortgage issued or guaranteed by the Federal government in a designated SFHA in a participating community. 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 have been subject to civil penalties.

Eligible homeowners, renters, and business owners purchase coverage under the program either directly from the NFIP or, more often, from private insurers that voluntarily 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. As of 2010, there are approximately 5.6 million residential and commercial policyholders under the NFIP.

The NFIP is administered by the Federal Emergency Management Agency (FEMA), which is housed in the Department of Homeland Security. The NFIP reduces future flood losses through: (i) flood hazard identification; (ii) floodplain management (e.g., land use controls and building codes); and (iii) insurance protection. The NFIP generated premium income of approximately \$3.3 billion in 2010. The 2005 hurricane season resulted in significant claims which the program's annual premium income could not cover. To pay the claims, the NFIP borrowed from the U.S. Treasury. Prior to 2005, the NFIP's borrowing authority had been 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 currently owes \$17.775 billion to the U.S. Treasury.

Congress last passed a long-term NFIP reauthorization and reform bill in 2004 (P.L. 108-264). The House and Senate each passed significant reform measures during the 110th Congress but could not agree on final legislation. Since September 2008, the

NFIP has been extended eleven times; the program authorization has lapsed three times during that same time period. Last year, after several short-term extensions and three temporary lapses in the program, Congress extended the current program through September 30, 2011. These short-term extensions and lapses in the program have created needless uncertainty in the residential and commercial real estate sectors in communities across the country.

Without flood insurance from the NFIP, homebuyers or businesses are unable to complete real estate closings on properties located in SFHAs. From an insurance business perspective, WYO companies that voluntarily participate in the NFIP find it difficult to continue participating, given the uncertainty of the NFIP authorization.

In administering the NFIP, FEMA: (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 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 is required, outdated or inaccurate FIRMs result in flood-prone properties either being left out of the program or being charged insufficient rates. FEMA currently is engaged in a multi-year flood map modernization program to update, revise, and digitize more than 20,000 flood maps, some of which date back to the 1970s. The revising, updating and promulgation of these new flood maps has drawn considerable attention around the country as revised SFHAs 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, under which the Federal government purchases properties subject to repeated flood losses and relocates property owners to lower risk areas.

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. Actuarial rates for the NFIP are not the same as actuarial rates for private market-based insurance, however. Under the NFIP, the actuarial rate has been less than the rate that 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 subsidize 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 per-

cent 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 also are designed, in part, to encourage participation in the program. As a result, these “actuarial” rates do not follow traditional underwriting methods designed to generate premium income sufficient to pay all reasonably anticipated claims and expenses. Instead, rates under the program are designed only 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 have exceeded 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 have 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.

Since 2006, the Government Accountability Office (GAO) has identified the NFIP as “high-risk” because of inadequate management and insufficient funds. H.R. 1309 institutes reforms that will improve NFIP’s financial stability, reduce the burden on taxpayers, and facilitate the creation of a private market that eliminates taxpayer risk over the long-term.

HEARINGS

The Subcommittee on Insurance, Housing and Community Opportunity held a hearing on March 11, 2011 entitled “Legislative Proposals to Reform the National Flood Insurance Program.” The following witnesses testified:

Panel One

- Orice Williams Brown, Managing Director, Government Accountability Office
- Sally McConkey, Vice Chair, Association of State Flood Plain Managers and Manager, Coordinated Hazard Assessment and Mapping Program, Illinois State Water Survey

Panel Two

- Stephen Ellis, on behalf of the SmarterSafer Coalition, and Vice President, Taxpayers for Common Sense, Washington, D.C.
- Terry Sullivan, Chair, Committee on Flood Insurance, National Association of REALTORS® and Owner, Sullivan Realty, Spokane, Washington
- Spencer Houldin, Chair, Government Affairs Committee, Independent Insurance Agents and Brokers of America and President, Ericson Insurance Services, Washington Depot, Connecticut
- Franklin Nutter, President, Reinsurance Association of America, Washington, D.C.
- Sandra G. Parrillo, Chair, National Association of Mutual Insurance Companies and President and CEO of Providence Mutual Fire Insurance Company, Warwick, Rhode Island

- Donna Jallick, on behalf of the Property Casualty Insurers Association of America, and Vice President, Flood Operations, Harleysville Insurance, Harleysville, Pennsylvania
- Barry Rutenberg, First Vice Chairman, National Association of Home Builders, Washington, D.C.

The Subcommittee on Insurance, Housing and Community Opportunity held a hearing on April 1, 2011 entitled “Legislative Proposals to Reform the National Flood Insurance Program, Part II.” There was one witness: The Honorable W. Craig Fugate, Administrator, Federal Emergency Management Agency.

COMMITTEE CONSIDERATION

The Subcommittee on Insurance, Housing and Community Opportunity met in open session on April 8, 2011 and ordered H.R. 1309, Flood Insurance Reform Act of 2011, as amended, favorably reported to the Full Committee by a voice vote.

The Committee on Financial Services met in open session on May 12, 2011 and ordered H.R. 1309, Flood Insurance Reform Act of 2011, as amended, favorably reported to the House by a record vote of 54 yeas and 0 nays (Record vote no. FC–28).

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. A motion by Chairman Bachus to report the bill, as amended, to the House with a favorable recommendation was agreed to by a record vote of 54 yeas and 0 nays (Record vote no. FC–28). The names of Members voting for and against follow:

RECORD VOTE NO. FC–28

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus	X			Mr. Frank (MA)	X		
Mr. Hensarling	X			Ms. Waters	X		
Mr. King (NY)	X			Ms. Maloney	X		
Mr. Royce	X			Mr. Gutierrez			
Mr. Lucas	X			Ms. Velazquez	X		
Mr. Paul				Mr. Watt	X		
Mr. Manzullo	X			Mr. Ackerman			
Mr. Jones	X			Mr. Sherman	X		
Mrs. Biggert	X			Mr. Meeks			
Mr. Gary G. Miller (CA)	X			Mr. Capuano	X		
Ms. Capito	X			Mr. Hinojosa	X		
Mr. Garrett	X			Mr. Clay	X		
Mr. Neugebauer	X			Mrs. McCarthy (NY)			
Mr. McHenry	X			Mr. Baca			
Mr. Campbell	X			Mr. Lynch	X		
Ms. Bachmann	X			Mr. Miller (NC)	X		
Mr. McCotter	X			Mr. David Scott (GA)	X		
Mr. McCarthy (CA)	X			Mr. Al Green (TX)	X		
Mr. Pearce	X			Mr. Cleaver	X		
Mr. Posey	X			Ms. Moore	X		
Mr. Fitzpatrick	X			Mr. Ellison			
Mr. Westmoreland	X			Mr. Perlmutter	X		
Mr. Luetkemeyer	X			Mr. Donnelly	X		
Mr. Huizenga	X			Mr. Carson	X		
Mr. Duffy	X			Mr. Himes	X		
Ms. Hayworth	X			Mr. Peters	X		
Mr. Renacci	X			Mr. Carney	X		

RECORD VOTE NO. FC-28—Continued

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Hurt	X						
Mr. Dold	X						
Mr. Schweikert	X						
Mr. Grimm	X						
Mr. Canseco	X						
Mr. Stivers	X						
Mr. Fincher	X						

During consideration of H.R. 1309, the following amendments were considered:

1. An amendment offered by Mr. Hensarling, no. 11, to strike the provision allowing FEMA to provide, under certain circumstances, additional coverage for business interruption and cost of living expenses, was not agreed to by a record vote of 9 yeas, 38 nays and 1 present (Record vote no. FC-26).

RECORD VOTE NO. FC-26

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus		X		Mr. Frank (MA)		X	
Mr. Hensarling	X			Ms. Waters		X	
Mr. King (NY)		X		Mrs. Maloney		X	
Mr. Royce	X			Mr. Gutierrez			
Mr. Lucas		X		Ms. Velazquez		X	
Mr. Paul				Mr. Watt		X	
Mr. Manzullo		X		Mr. Ackerman			
Mr. Jones		X		Mr. Sherman		X	
Mrs. Biggert		X		Mr. Meeks			
Mr. Gary G. Miller (CA)		X		Mr. Capuano		X	
Mrs. Capito		X		Mr. Hinojosa		X	
Mr. Garrett	X			Mr. Clay		X	
Mr. Neugebauer	X			Mrs. McCarthy (NY)			
Mr. McHenry	X			Mr. Baca			
Mr. Campbell	X			Mr. Lynch		X	
Mrs. Bachmann	X			Mr. Miller (NC)		X	
Mr. McCotter		X		Mr. David Scott (GA)		X	
Mr. McCarthy (CA)				Mr. Al Green (TX)		X	
Mr. Pearce		X		Mr. Cleaver		X	
Mr. Posey				Ms. Moore		X	
Mr. Fitzpatrick			X	Mr. Ellison			
Mr. Westmoreland				Mr. Perlmutter		X	
Mr. Luetkemeyer		X		Mr. Donnelly		X	
Mr. Huizenga		X		Mr. Carson			
Mr. Duffy		X		Mr. Himes		X	
Ms. Hayworth	X			Mr. Peters		X	
Mr. Renacci		X		Mr. Carney			
Mr. Hurt	X						
Mr. Dold		X					
Mr. Schweikert							
Mr. Grimm		X					
Mr. Canseco		X					
Mr. Stivers		X					
Mr. Fincher		X					

2. An amendment offered by Mr. Hensarling, no. 21, to eliminate all existing pre-FIRM subsidized rate discounts for properties in the NFIP and phase-in full actuarial rates for those properties, was not agreed to by a record vote of 14 yeas and 38 nays (Record vote no. FC-27).

RECORD VOTE NO. FC-27

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus		X		Mr. Frank (MA)	X		
Mr. Hensarling	X			Ms. Waters	X		
Mr. King (NY)		X		Mrs. Maloney	X		
Mr. Royce	X			Mr. Gutierrez			
Mr. Lucas		X		Ms. Velazquez		X	
Mr. Paul				Mr. Watt		X	
Mr. Manzullo		X		Mr. Ackerman			
Mr. Jones		X		Mr. Sherman		X	
Mrs. Biggert		X		Mr. Meeks			
Mr. Gary G. Miller (CA)		X		Mr. Capuano		X	
Mrs. Capito		X		Mr. Hinojosa		X	
Mr. Garrett	X			Mr. Clay		X	
Mr. Neugebauer	X			Mrs. McCarthy (NY)			
Mr. McHenry	X			Mr. Baca			
Mr. Campbell		X		Mr. Lynch		X	
Mrs. Bachmann	X			Mr. Miller (NC)		X	
Mr. McCotter	X			Mr. David Scott (GA)		X	
Mr. McCarthy (CA)	X			Mr. Al Green (TX)		X	
Mr. Pearce	X			Mr. Cleaver		X	
Mr. Posey				Ms. Moore		X	
Mr. Fitzpatrick		X		Mr. Ellison			
Mr. Westmoreland	X			Mr. Perlmutter		X	
Mr. Luetkemeyer		X		Mr. Donnelly		X	
Mr. Huizenga		X		Mr. Carson			
Mr. Duffy		X		Mr. Himes		X	
Ms. Hayworth	X			Mr. Peters		X	
Mr. Renacci	X			Mr. Carney		X	
Mr. Hurt	X						
Mr. Dold		X					
Mr. Schweikert	X						
Mr. Grimm		X					
Mr. Canseco		X					
Mr. Stivers		X					
Mr. Fincher		X					

The following amendments and motion were also considered by the Committee:

1. An amendment offered by Mrs. Biggert, no. 1, to make technical changes, was agreed to by voice vote.

2. An amendment offered by Ms. Waters, no. 2, to allow for mitigation grants for repetitive flood loss properties to be provided directly to homeowners, was agreed to by voice vote.

3. An amendment offered by Mr. Green, no. 3a, to an amendment offered by Mr. Schweikert, no. 3, to add "if possible" after "percent" on page 1 line 8, was agreed to by Unanimous Consent.

4. An amendment offered by Mr. Schweikert, no. 3, as amended by an amendment offered by Mr. Green, no. 3a, to require FEMA to report on the policies and procedures that it can implement, to limit the number of policies in its NFIP Direct program to less than 10 percent, and to require FEMA to notify all holders of policies transferred to the NFIP Direct program of their options to purchase flood insurance directly from another insurance company, was agreed to by voice vote.

5. An amendment offered by Mrs. McCarthy of NY, no. 4, to make homeowners in newly mapped areas subject to the 5-year phase-in of rates eligible for FEMA's discounted Preferred Risk Premium (PRP) rate, was agreed to by voice vote.

6. An amendment offered by Mr. Lucas, no. 5, to allow lenders purchasing forced place insurance for homeowners to charge for

such insurance starting on the date on which the previous flood insurance policy had lapsed, was agreed to by voice vote.

7. An amendment offered by Mrs. McCarthy of NY, no. 6, to direct FEMA to notify elected officials when there are changes or updates to a floodplain area or flood risk zones, was agreed to by voice vote.

8. An amendment offered by Mr. Luetkemeyer and Mr. Renacci, no. 7, to clarify Congressional intent regarding residential and commercial coverage limits, was agreed to by voice vote.

9. An amendment offered by Mr. Frank, no. 8, to allow certain properties with swimming pools enclosed with non-supporting breakaway walls to be eligible for participation in the NFIP, was agreed to by voice vote.

10. An amendment offered by Mr. Westmoreland, no. 9, to make technical and clarifying changes to language exempting elevated structures from the mandatory purchase requirement, was agreed to by voice vote.

11. An amendment offered by Mr. Watt, no. 10a, to an amendment offered by Mr. Watt, no. 10, to add representation for state and local government officials on the Technical Mapping Advisory Committee including at least one local levee flood manager or executive, was agreed to by Unanimous Consent.

12. An amendment offered by Mrs. Biggert, no. 10b, to an amendment offered by Mr. Watt, no. 10, to have the Council "consider," not "ensure," the most efficient technology and data for flood risk data, models and maps, was offered and withdrawn.

13. An amendment offered by Mr. Watt, no. 10, as amended by an amendment offered by Mr. Watt, no. 10a, to add representation for state and local government officials on the Technical Mapping Advisory Committee and ensure new maps incorporate spatial database technology and accurate ground and bathymetric elevation data, was agreed to by voice vote.

14. An amendment offered by Ms. Moore, no. 12, to require FEMA and GAO to conduct a study to assess options, methods, and strategies for offering voluntary community-based flood insurance policy options, was agreed to by voice vote.

15. An amendment offered by Mr. Neugebauer and Mr. Dold, no. 13, to direct FEMA to study and report to Congress on the impact, effectiveness, and feasibility of including widely used and nationally recognized building codes as part of its floodplain management criteria, was agreed to by voice vote.

16. An amendment offered by Ms. Waters, no. 14, to allow flood insurance outreach activities to be an eligible use of CDBG funds, was agreed to by voice vote.

17. An amendment offered by Ms. Waters, no. 15, to allow homeowners to be reimbursed for certain costs associated with a successful challenge to bona fide mapping error made by FEMA resulting in a Letter of Map Amendment (LOMA), was agreed to by voice vote.

18. An amendment offered by Mr. Fitzpatrick, no. 16, to require FEMA to assess and issue a report on the capacity of the private reinsurance market for flood insurance risk, was agreed to by voice vote.

19. An amendment offered by Ms. Waters, no. 17, to allow for two additional one-year extensions of mandatory purchase delay for

communities that demonstrate, to the satisfaction of FEMA, their need for additional time to complete flood control projects, appeals, or for other extenuating circumstances, was offered and withdrawn.

20. An amendment offered by Mr. Canseco, no. 18, to exclude second homes and vacation homes from receiving “phase-in” subsidy rates in newly mapped areas, was offered and withdrawn.

21. An amendment offered by Ms. Waters, no. 19, to reauthorize the severe repetitive loss pilot program, was not agreed to by voice vote.

22. An amendment offered by Mr. Westmoreland, no. 20, to strike the annual inflation adjustment and replace it with a one-time adjustment to 2011, and to require any policyholder that opts for higher coverage due to the adjusted coverage limits to pay the full actuarial rate, was agreed to by voice vote.

23. An amendment offered by Mr. Canseco, no. 22, to exclude second homes and vacation homes from receiving “phase-in” subsidy rates in newly mapped areas, except in cases of a residential property occupied by its owner or a bona fide tenant as a primary residence, was agreed to by voice vote.

24. An amendment offered by Mrs. Biggert, no. 23, to require the National Academy of Sciences to conduct a study on graduated risk and report back to Congress, was agreed to by voice vote.

25. An amendment offered by Mr. Luetkemeyer, Mr. Pearce and Mr. Paul, no. 24, to prohibit the FEMA Administrator from issuing or updating flood insurance maps that do not factor in the actual protection afforded by existing levees regardless of their accreditation status, was agreed to by voice vote.

26. An amendment offered by Mr. Westmoreland, no. 25, to provide for actuarial rates for the owners of severe repetitive loss properties who refuse offers of mitigation or purchase assistance, was agreed to by voice vote.

27. An amendment offered by Mr. Bachus, Mrs. Capito, and Mr. Schweikert, no. 26, to require lenders to accept substantially similar private flood insurance coverage as a satisfaction of a mandatory flood insurance purchase requirement, was agreed to by voice vote.

28. A motion offered by Mr. Bachus, to move the previous question on H.R. 1309, was agreed to by voice vote.

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. 1309, the Flood Insurance Reform Act of 2011, reauthorizes the National Flood Insurance Program (NFIP) through September 30, 2016, and amends the National Flood Insurance Act with reforms needed to ensure 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 in the pro-

gram, increasing financial accountability, eliminating unnecessary rate subsidies, and updating the program to meet the needs of the 21st century. The key provisions of H.R. 1309 include: (1) a five-year reauthorization of the NFIP; (2) a three-year delay in the mandatory purchase requirement for certain properties in newly designated Special Flood Hazard Areas (SFHAs); (3) a phase-in of full-risk, actuarial rates for areas newly designated as Special Flood Hazard; (4) a reinstatement of the Technical Mapping Advisory Council; and (5) an emphasis on greater private sector participation in providing flood insurance coverage.

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 ESTIMATES

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:

JUNE 8, 2011.

Hon. SPENCER BACHUS,
*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. 1309, the Flood Insurance Reform Act of 2011.

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.

H.R. 1309—Flood Insurance Act of 2011

Summary: H.R. 1309 would authorize the National Flood Insurance Program (NFIP) of the Federal Emergency Management Agency (FEMA) to enter into and renew flood insurance policies through fiscal year 2016. Under current law, that authority will expire at the end of fiscal year 2011.

The legislation also would make a number of changes to the NFIP aimed at improving the financial status of the program. Under both current law and this legislation, the NFIP may borrow an additional \$3 billion from the Treasury (the program's current

debt stands at \$17.8 billion). Assuming a small probability of a rare catastrophic event, CBO expects that this additional borrowing authority will be exhausted in 2014. The changes made by this legislation would reduce the need to borrow from the Treasury—a source of direct spending—by a total of \$165 million in 2013 and 2014, CBO estimates. However, because the program would continue to operate with an annual net deficit, reduced borrowing in those years would be offset by increased borrowing in 2015, resulting in no net effect on direct spending over the next 10 years.

CBO also estimates that the changes made by H.R. 1309 would increase net income to the NFIP by \$4.2 billion over the 2012–2021 period, improving the financial status of the program by that amount. However, we expect that additional income earned by the program would be used to fulfill existing obligations that would otherwise be delayed under current law, resulting in no net effect on direct spending.

Pay-as-you-go procedures apply because enacting the legislation would affect direct spending. Enacting this legislation would not affect revenues.

H.R. 1309 would authorize a number of other activities, including establishing a Technical Mapping Advisory Council, updating flood maps to incorporate new standards within five years, and issuing several reports on the NFIP. The cost of some of those activities would be offset by fee collections paid by policyholders; however, CBO estimates that other provisions would cost \$317 million over the 2012–2016 period, subject to appropriation of the necessary amounts.

H.R. 1309 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on public and private mortgage lenders. Because the mandates would require only small changes in existing industry practice, CBO expects that the cost to comply with the mandates would be small relative to the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$71 million and \$142 million in 2011, respectively, adjusted annually for inflation).

Estimated cost to the federal government: The estimated budgetary impact of H.R. 1309 is shown in Table 1. The costs of this legislation fall within budget function 450 (community and regional development).

TABLE 1.—CHANGES IN DIRECT SPENDING AND SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 1309

	By fiscal year in millions of dollars—						
	2012	2013	2014	2015	2016	2012–2016	2012–2021
CHANGES IN DIRECT SPENDING							
Estimated Budget Authority	0	0	0	0	0	0	0
Estimated Outlays	0	-45	-120	165	0	0	0
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
New Mapping Standards:							
Estimated Authorization Level	0	100	130	135	140	505	750
Estimated Outlays	0	20	66	100	128	314	745
Studies and Reports:							
Estimated Authorization Level	1	1	*	*	*	3	4
Estimated Outlays	1	1	*	*	*	3	4

TABLE 1.—CHANGES IN DIRECT SPENDING AND SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 1309—Continued

	By fiscal year in millions of dollars—						
	2012	2013	2014	2015	2016	2012–2016	2012–2021
Total Changes:							
Estimated Authorization Level	1	101	130	135	140	508	754
Estimated Outlays	1	21	66	100	128	317	749

Note: * = between \$0 and \$500,000.

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted by the end of fiscal year 2011 and that amounts estimated to be necessary will be appropriated for each year.

Background

Authority to Underwrite Coverage. The NFIP was established to encourage the purchase of flood insurance by property owners located in communities that adopt minimum guidelines for floodplain management and to enforce building codes designed to mitigate flood damages. Flood insurance coverage is mandatory for properties located within an area designated as 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 is financed by a federally regulated lending institution, a government-sponsored enterprise for housing, or a federal lender. Property owners not receiving financing or coverage from those entities or located outside a SFHA may purchase flood insurance coverage from a private carrier or the NFIP at their discretion. Under current law, FEMA is authorized to underwrite the sale and renewal of flood insurance policies through September 30, 2011.

Subsidized Premiums. Throughout the program's history, FEMA has charged premiums well 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, known as pre-FIRM properties, make up over 20 percent of all NFIP policies. FEMA estimates that pre-FIRM policyholders pay average premiums that are about 40 percent to 45 percent of the full-risk cost. Some post-FIRM properties also receive discounted premiums under current law; however, they are few in number (less than 1 percent of all NFIP policies) relative to pre-FIRM properties. It is unclear whether other property owners receive premium subsidies not directly specified in law.¹ For this estimate, CBO assumes that all policies not directly receiving subsidies will generate a sufficient amount of income to cover expected claims and related expenses over time.

Ability to Pay Claims and Other Expenses. The National Flood Insurance Fund (NFIF) is the sole source of claims payments and other expenses associated with the NFIP. Under current law, the fund is credited with premium and fee receipts from policyholders, annual appropriations, interest earned on fund balances, and amounts borrowed from the Treasury. As of February 2011, the

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

NFIP insured approximately 5.6 million policies with written annual premiums in force of \$3.4 billion. For fiscal year 2011, the Congress provided the fund with \$169 million in appropriations, offset by an equivalent amount of fee collections from policyholders (see Public Law 112–10). No interest income or borrowing is expected to occur this year, CBO estimates.

The majority of the NFIP's expenses consist of payments for insured claims resulting from outstanding coverage in force, which currently stands at about \$1.2 trillion. FEMA estimates that claims payments in 2011 will total about 43.5 percent of premium income, based on the historical experience of policies and coverage amounts currently insured by the program. Actual expenses for insured claims, however, have varied widely by year, ranging from less than 10 percent of premium to almost 800 percent of premium (based on calendar-year totals).

In most years, annual appropriations along with premium and fee income have been sufficient to cover the annual expenses of the NFIP. Prior to 2005, it was occasionally necessary for the program to borrow from the Treasury to meet expenses during greater-than-average-loss years; however, that borrowing was relatively small (less than \$1 billion) and was repaid with interest. Nonetheless, because of the large subsidy that exists for many policies, CBO estimates that the program will—on average—have greater annual expenses than revenue. This differential became apparent in the aftermath of Hurricanes Katrina, Rita, and Wilma in 2005. Because of the severe and widespread damages experienced during those storms, the program borrowed an unprecedented \$16.7 billion in fiscal year 2006 to cover claims and interest expenses. NFIP's current debt to the Treasury stands at \$17.8 billion. It is highly unlikely that the program will have sufficient income to repay those borrowed funds within the next 10 years.

Assuming actuarial-level losses² in 2012 and beyond, the NFIP will need to continue borrowing from the Treasury until its line of credit (currently set at \$20.7 billion) is exhausted, which CBO estimates will occur in 2014 under current law. At that point, because expenses of the program may only be paid to the extent that resources in the NFIP are available, net spending would be zero. Payments for claims and other expenses would be delayed until sufficient resources became available to the NFIP from premium and fee income.

Direct Spending

CBO estimates that enacting H.R. 1309 would have no net impact on direct spending over the 2012–2016 or 2012–2021 periods.

Section 2 would provide FEMA with the authority to continue selling and renewing policies through fiscal year 2016. While this authority would otherwise expire at the end of the current fiscal year, the program is assumed to continue in the CBO baseline, consistent with the rules governing baseline projections for mandatory programs. Thus, extending the NFIP under this legislation would have no effect on direct spending relative to the baseline.

²Actuarial-level losses take into account the full range of possible losses, including rare catastrophic events like Hurricane Katrina.

In addition to extending the NFIP, H.R. 1309 would make a number of changes to the program. The two changes that would affect direct spending are:

- Premium increases for some pre-FIRM policyholders; and
- Temporary discounted premiums for certain properties located in such areas.

Other changes that CBO estimates would affect the amount of flood insurance coverage and the amount of premiums collected but would not affect net direct spending include:

- Increasing the minimum-policy deductible;
- Increasing the average annual limit on premium growth;
- Increasing the maximum coverage for structure and contents policies; and
- Introducing new lines of insurance for additional living expense and business interruption.

The estimated aggregate effects of those changes are listed in Table 2.

TABLE 2.—CHANGE IN NET INCOME TO THE NFIP UNDER H.R. 1309 OVER SELECTED TIME PERIODS

	By fiscal year in millions of dollars—		
	2012–2014	2012–2016	2012–2021
Income:			
Premium Increases for Some Pre-FIRMs	222	936	5,364
Temporary Discounted Premiums	-38	-84	-180
Total Changes to Revenues	184	852	5,184
Expenses:			
Increased Payments to WYO Companies	56	259	1,584
Reduced Claims Due to Dropped Policies	-37	-125	-564
Total Changes to Expenses	19	134	1,020
Change in Net Income^a	165	718	4,164
Cumulative Net Effect on Direct Spending	-165	0	0

^aAfter the NFIP's borrowing authority has been exhausted, changes in net income are reflected as a corresponding increase or decrease in the delay in claims payments expected to be experienced by NFIP policyholders and thus do not affect direct spending.

Note: FIRM = Flood Insurance Rate Map; WYO = Write-Your-Own.

Overall, CBO estimates that changes made by H.R. 1309 would increase net income to the NFIP by \$165 million through 2014. CBO expects that the flood insurance program will not have exhausted its remaining borrowing authority during this period. Therefore, additional net income earned by the NFIP over that period would reduce expected borrowing from the Treasury—a source of direct spending. However, assuming annual program deficits,³ CBO estimates that any reduction in direct spending generated by lower borrowing in those years will be offset by increased direct spending from additional borrowing in 2015, resulting in no net effect on the federal budget over the next 10 years.

After 2014, the changes made by H.R. 1309 would not affect net direct spending because CBO expects that any additional income earned by the program would be used to fulfill obligations (mostly claims payments) that would otherwise be delayed. However, enactment of the legislation would improve the financial status of the

³CBO estimates that changes made by H.R. 1309 would reduce the aggregate subsidy built into premiums under current law by over 50 percent by 2021; however, because the legislation would not completely eliminate subsidies for all policies, we estimate that the program would continue to operate under an annual deficit.

program by reducing this expected “backlog” of unfulfilled payments. Under current law, CBO estimates that delayed payments would total \$3.6 billion by 2016 and \$12.6 billion by 2021. Under H.R. 1309, we estimate that the “backlog” would total \$2.9 billion in 2016 and \$8.4 billion in 2021, a reduction of about \$700 million and \$4.2 billion, respectively.

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 nonprimary residences; residences sold to new owners; or severe repetitive loss properties (defined as residences with at least four paid claims greater than \$5,000 or with two paid claims that cumulatively exceed the market value of the house). One year after enactment, all policyholders of properties fitting such categories would begin receiving premium increases of 20 percent per year⁴ until the amount collected each year covers the full cost of the insurance. New policies that fit such criteria one year after enactment would immediately pay the full-risk premium.

Based on housing data and current policy information obtained from FEMA, about 355,000 policies would initially be subject to such premium increases under the bill, CBO estimates. Those policyholders currently pay an average premium of about \$1,174 per year. Once subsidies are completely phased out, we expect that annual premiums for those policies would be, on average, about 2¼ times greater than premium that would otherwise be charged under current law. While some policyholders would reduce or eliminate coverage as a result of those increases, CBO estimates that any resulting decrease in premium receipts would be more than offset by increases from properties that remain in the program.

Additional premium receipts from pre-FIRM policyholders would total \$936 million over the 2012–2016 period and about \$5.4 billion over the next 10 years, CBO estimates. Under current agreements, Write-Your-Own (WYO) companies would receive a portion of this additional premium (about 30 percent), reflected in Table 2 as an increase in expenses. Subsidized policyholders that drop out of the NFIP would save the cost of paying claims on those policies, resulting in a decrease in expenses. Altogether, CBO estimates that implementing the premium increases outlined in the legislation would increase net income to the NFIP by \$775 million over the next five years and by about \$4.3 billion over the 2012–2021 period.

Temporary Discounted Premiums. Section 5 would direct FEMA to charge subsidized premiums for certain properties newly mapped into a SFHA after October 1, 2008. Under the bill, owners of primary residences in new SFHAs would be charged 50 percent of the premium that applies under current law during the first year following the map’s effective date (or, in the case of properties eligible for a Preferred Risk Policy Extension,⁵ during the first year fol-

⁴The 20 percent would include some increase that FEMA would have applied to the policy under current law; thus the actual increase in per policy premium attributable to this legislation would be less than 20 percent.

⁵For properties newly mapped into a SFHA after October 1, 2008, that previously qualified for a Preferred Risk Policy (PRP) premium (i.e., could not have two or more claims or disaster relief payments of \$1,000 or more, or three losses or payments of any kind), FEMA currently offers a discount equal to the premium the policyholder would have paid and the PRP premium. That discount is available for two years. For properties mapped into a SFHA after October 1, 2008, and before January 1, 2011, the discounted premium is available for the two renewals between January 1, 2011, and December 31, 2012.

lowing the expiration of that extension). The legislation requires FEMA, in each successive year, to increase rates by 20 percent until the premium is equal to the amount that otherwise would be charged in the absence of this section.

That provision would create a new class of subsidized policies within the NFIP. The cost of the subsidy would be somewhat mitigated by the delay in the mandatory purchase requirement under section 3 of the bill.⁶ According to the American Institutes for Research, voluntary take-up of flood insurance within an SFHA is about 20 percent, compared to 75 percent to 80 percent if such coverage were mandatory. Because fewer property owners would purchase subsidized flood insurance if coverage is voluntary, the overall cost of the new subsidy would be lower than if coverage were mandatory.

Based on the estimated number of properties that have been or would be placed into a SFHA, CBO estimates that implementing this new subsidy would reduce premium income to the NFIP by about \$180 million over the next 10 years. The overall effect of this provision on net income would be somewhat less (about \$125 million) because it also would result in reduced payments to WYO companies.

Increase in the Minimum Policy Deductible. Section 4 would set the minimum deductible for structural coverage at \$2,000 for subsidized properties and \$1,000 for nonsubsidized properties. Under current law, FEMA has the discretion to set a minimum deductible. For the current policy year (which began October 2010), the standard deductible is \$2,000 for most subsidized properties and \$1,000 for nonsubsidized properties; however, pre-FIRM policyholders may reduce that deductible by \$1,000 in exchange for a higher premium. Under the bill, CBO expects that the standard deductible would remain unchanged but that subsidized policyholders would no longer be able to reduce their deductible. Based on information from FEMA, CBO estimates that about 250,000 policies (mostly for pre-FIRM properties) would carry a higher deductible as a result of this provision, which would reduce average insured claims for those properties by between 5 percent and 10 percent. However, increasing the deductible also would lower premium receipts by an equivalent amount. As such, CBO estimates that implementing this provision would not affect net income to the NFIP and would have no effect on the federal budget.

Increase in Average Annual Limit on Premium Growth. Section 5 would authorize the NFIP to increase premiums within a specific risk category by an average of up to 20 percent per year. Under current law, the limit is 10 percent. Based on historical experience, CBO assumes that raising this limit would not result in consistent premium increases of more than 10 percent for most subsidized policies. (Under both current law and H.R. 1309, actuarially rated policies are assumed to receive premium increases necessary to cover the full cost of the coverage.) Therefore, implementing this

⁶ Section 3 would delay the requirement to purchase flood insurance for some property owners. Upon receiving a request from a local government, property owners placed into a SFHA because of changes to a FIRM would not immediately be required to purchase flood insurance. This delay in the mandatory purchase requirement would last for a period of time to be determined by FEMA, but no longer than three years.

provision would have no net effect on the NFIP or the federal budget.

Increase in Maximum Coverage and New Lines of Insurance. Section 4 would adjust the total amount of flood insurance coverage available by increasing the current limit by the level of inflation from the end of fiscal year 1994 to enactment of the legislation. The current limit is \$350,000 (\$250,000 for structures and \$100,000 for contents) for a residential policy and \$1 million (\$500,000 for structures and \$500,000 for contents) for a non-residential policy. CBO estimates that the new coverage limits would be about \$520,000 and \$1.5 million, respectively. In addition, the legislation would direct FEMA to offer optional coverage of up to \$5,000 for living expenses incurred during the loss of use of a personal residence and up to \$20,000 for 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-risk premium. For this estimate, CBO did not estimate the total amount of new coverage that would be purchased as a result of those provisions. We expect that any additional coverage would increase premium receipts to the federal government as well as claims payments and other expenses, resulting in no net effect on the federal budget.

Spending Subject to Appropriation

CBO estimates that implementing H.R. 1309 would cost \$317 million over the 2012–2016 period and \$749 million over the 2012–2021 period, subject to appropriation of the necessary amounts.

Technical Mapping Advisory Council. Section 6 would establish a Technical Mapping Advisory Council (TMAC) to develop and recommend new mapping standards for FIRMs. The council would include representatives from FEMA, the U.S. Geological Survey, the Army Corps of Engineers, other federal agencies, state and local governments, as well as experts from private stakeholder groups. The council would submit the new standards to FEMA and the Congress within 12 months of enactment and would continue to review those standards for four additional years, at which time the council would be terminated.

Under current law, spending for floodplain management activities (which CBO assumes would include operations of the new council) are subject to future appropriation acts. FEMA is authorized to offset those costs by collecting a fee (known as the Federal Policy Fee) from policyholders. As such, CBO estimates that implementing this section would have no net effect on discretionary spending over the next five years.

New Mapping Standards. Section 7 would direct FEMA to implement new standards for FIRMs. Beginning six months after the TMAC issues its initial set of recommendations, FEMA would have five years to update all FIRMs to incorporate the new standards, subject to the availability of appropriated funds. The greatest costs likely would arise from determining the level of protection afforded by decertified levees; however, because the new standards would be based on recommendations made by the TMAC and on findings from studies required in the bill (for example, graduated risk), it is unclear how the new standards and the cost to implement them would differ from those currently in use. Based in part on the pro-

jected costs of implementing FEMA's Risk Mapping, Assessment, and Planning program (which would incorporate some of the new standards in this section), CBO estimates implementing this section would cost \$314 million over the 2012–2016 period. Because CBO expects the required map updating would continue through 2018 under the bill, we estimate that implementing this section would cost an additional \$431 million after 2016. All expenditures would be subject to appropriation of the necessary amounts.

Studies and Reports. H.R. 1309 would direct FEMA and the Government Accountability Office (GAO) to conduct studies and issue reports on a number of topics, including limiting the percentage of policies directly managed by FEMA, community-based flood insurance, building codes, varying risk behind levees, privatization of the NFIP, and the financial status and claims-paying ability of the program. Based on the cost of similar studies, CBO estimates that producing the reports required under the legislation would cost about \$3 million over the next five years, subject to appropriation of the necessary funds.

Other Discretionary Changes. H.R. 1309 would make a number of other changes to current law, including authorizing FEMA to make flood mitigation grants directly to property owners (under current law, funding is provided through communities), authorizing the use of Community Development Block Grant funds for building code enforcement and flood program outreach, and authorizing the reimbursement of costs incurred by homeowners that obtain a Letter of Map Amendment (LOMA). CBO does not expect that changes made to mitigation or community development grants under the bill would significantly alter the pace of expenditures under either program. Based on information from FEMA, reimbursements of expenses related to LOMAs could total as much as \$15 million annually; however, those costs would likely be recouped through increases in premiums or fees paid by policyholders, resulting in no net effect on the federal budget.

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 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. 1309 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON FINANCIAL SERVICES ON MAY 17, 2011

	By fiscal year, in millions of dollars 2011—												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011– 2016	2011– 2021
Statutory Pay-As-You-Go Impact	0	0	.45	-.120	165	0	0	0	0	0	0	0	0
NET INCREASE OR DECREASE (·) IN THE DEFICIT	0	0	.45	-.120	165	0	0	0	0	0	0	0	0

Intergovernmental and private-sector impact: H.R. 1309 would impose intergovernmental and private-sector mandates, as defined in UMRA, on public and private mortgage lenders. Because the mandates would require only small changes in existing industry practice, CBO expects that the cost to comply with the mandates would be small relative to the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$71 million and \$142 million in 2011, respectively, adjusted annually for inflation).

Flood Insurance

Current law prohibits lenders from making loans for real estate in areas at high risk for flood damage unless the property is covered by flood insurance. This bill would require lenders to accept flood insurance from a private company if the policy fulfills all federal requirements for flood insurance. Under current law, lenders also are required to purchase flood insurance on behalf of the homeowner if, at any time during the life of a loan, they determine that a homeowner does not have a current policy in place. The bill would require lenders to terminate those policies within 30 days of being notified that the homeowner has purchased another policy. Lenders also would have to refund any premium payments and fees made by the homeowner for the time when both policies were in effect. Based on information from industry sources on current practice, CBO estimates that the cost of complying with those mandates would be small.

Disclosure Requirements

Current law requires mortgage lenders that make federally related mortgages (as defined in title 12, U.S.C. 2602) to provide a good-faith estimate of the amount or range of charges the borrower is likely to incur for specific settlement services. (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 also would impose intergovernmental mandates.) The bill would require such mortgage lenders to include specific information about the availability of flood insurance in each good-faith estimate. 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.

Other Impacts

State, local, and tribal governments would benefit if funds authorized to be appropriated for mitigation and outreach activities related to flood hazards were made available in the future. 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.

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 the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 1309 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 section establishes the short title of the bill, the Flood Insurance Reform Act of 2011.

Section 2. Extensions

This section reauthorizes the NFIP and its financing for five years from October 1, 2011, through September 30, 2016.

Section 3. Mandatory purchase

To ease the burden on newly mapped communities, this section establishes criteria for the temporary suspension of the mandatory purchase requirement for one year (with the possibility of two additional one-year suspensions) that the requirement may be suspended if the Federal Emergency Management Agency (FEMA) makes a finding, with respect to flood risk mapping on a community-by-community basis and pursuant to a formal request submitted by a local governing authority, that one or more of the following conditions are met: (1) the community has never been mapped as a high-risk area; (2) the community is taking specific steps to rebuild or repair a dam or a levee that has not been certified, or is required to be certified, as providing adequate protection from a 100-year flood, and the community is making adequate progress in completing the construction work and securing the financial commitments needed to complete the flood control project; or (3) the community has challenged the accuracy of a dam or levee decertification or disaccreditation, or a new or revised flood risk map, and has filed a formal appeal.

This section also establishes that a mortgage lender or servicer must terminate the "force-placed" insurance and refund any premiums or fees paid for the period of coverage overlap within 30 days of receiving confirmation in writing (e.g., an insurance policy

declarations page) that a property owner has obtained flood insurance coverage.

Additionally, this section clarifies and codifies longstanding practices that allow lenders and servicers to collect premiums and fees incurred for coverage beginning on the date an existing flood insurance policy lapsed or did not provide sufficient coverage. In this circumstance, the lender can collect fees and premiums for “force-placed” insurance during the 45-day notification period.

To encourage greater private sector participation, this section further requires lenders to accept non-NFIP backed flood insurance coverage provided by a private entity if that coverage meets all the same requirements as NFIP-backed flood insurance.

This section also clarifies that private sector flood insurance products are acceptable where they meet the requirements of the NFIP. Like other property-casualty insurance products, private-sector flood products and the companies that offer them would be subject to state regulation. This section does not create preferences either for government or private-sector flood products; it does confirm, however, that private sector flood insurance products could replace Federal government products.

Section 4. Reforms of coverage terms

This section sets the minimum deductible levels at \$1,000 for properties with full-risk rates and \$2,000 for properties with discounted rates. It also establishes that the maximum coverage limits will be indexed for inflation, starting in 2012.

This section also authorizes FEMA to offer optional coverage for additional living expenses, up to a maximum of \$5,000, as well as to offer optional coverage for the interruption of business operations up to a maximum of \$20,000, provided that FEMA: (1) charges full-risk rates for such coverage; (2) makes a finding that a competitive private market for such coverage does not exist; and (3) certifies that the NFIP has the capacity to offer such coverage without the need to borrow additional funds from Treasury.

Additionally, this section directs FEMA to offer policyholders the option of paying their premiums for one-year policies in installments, and authorizes FEMA to impose higher rates or surcharges, or to deny future access to NFIP coverage, if property owners attempt to limit their coverage to coincide only with the annual storm season by neglecting to pay their premiums on schedule.

Section 5. Reforms of premium rates

This section increases the annual cap on premium rate increases from 10 percent to 20 percent. It also provides for a phase-in of full-risk rates for newly-mapped areas. For properties mapped into a high-risk area, initial rates are set at a 50 percent discount from full-risk rates, with annual rate increases thereafter limited by the aforementioned 20 percent annual cap. For areas eligible for the lower-cost Preferred Risk Policy (PRP) rates, the phase-in begins after the expiration of their PRP rates. For all properties, the phase-in of rates only applies to residential properties occupied by their owner or a bona fide tenant as a primary residence.

Additionally, beginning one year after enactment, the premium rate subsidies (pre-FIRM discounts) for certain properties in the following categories are phased-out, with annual rate increases lim-

ited by a 20 percent annual cap: commercial properties, second and vacation homes (i.e., residential properties not occupied by any individual as a primary residence), homes sold to new owners, homes damaged or improved (substantial flood damage exceeding 50 percent or substantial improvement exceeding 30 percent of the fair market value of the property), and properties with multiple flood claims (i.e., statutorily defined severe repetitive loss properties).

This section removes the eligibility of property owners who allow their policies to lapse by choice to receive discounted rates on those properties. Furthermore, the section updates the standards by which FEMA evaluates a community's eligibility for special flood insurance rates by considering: (1) state and local funding, in addition to federal funding, of flood control projects; (2) reconstruction and improvements, in addition to construction, of flood control projects; (3) the standard of "present value" in evaluating the progress of work completed on a flood control system; (4) riverine, in addition to coastal, flood hazard areas; and (5) the assessment of qualified private entities, instead of a federal agency, to determine if a flood protection system is restorable.

Section 6. Technical Mapping Advisory Council

This section re-establishes the Technical Mapping Advisory Council (Council), which operated from 1995 to 2000. The Council would bring together the FEMA Administrator as well as representatives of Federal agencies with mapping responsibilities, representatives of state governments, representatives of local governments, and private sector experts to review and propose new mapping standards within one year. FEMA then would be required, within six months, to revise its criteria for updating flood hazard maps based on the Council's recommendations. The Council also would assist FEMA in addressing mapping issues as they arise.

Section 7. FEMA incorporation of new mapping protocols

This section requires FEMA to update flood insurance rate maps according to revised standards recommended by the Technical Mapping Advisory Council within six months, or to submit a report to Congress with an explanation for any recommendations it did not implement. This section also provides for a temporary suspension of the existing flood insurance mandatory purchase requirement until the new mapping protocols are implemented for any property the owner of which submits an elevation study documenting that the lowest level of the property is at least 3 feet higher than the elevation of the 100-year flood plain.

Section 8. Treatment of levees

This section prohibits FEMA from issuing or updating flood insurance maps that do not factor in the actual protection afforded by existing levees regardless of their accreditation status. FEMA's former "without levees" policy assumed that an existing levee or other flood control structure that does not meet FEMA certification levels does not exist for the purposes of mapping flood hazard areas. This section codifies FEMA's new policy, which takes into consideration the existence of levees and flood control structures for maps and flood insurance rates. Therefore, FEMA's previous "all or

nothing” approach for mapping flood hazard areas is eliminated and allows for “partial credit.”

Section 9. Privatization initiatives

This section directs FEMA and GAO each to assess a broad range of options to begin privatizing the NFIP over time and to report to Congress with recommendations in 18 months. Also, in reviewing the full range of risks associated with flooding, the FEMA Administrator is authorized to carry out initiatives to determine the capacity of private insurers, reinsurers, and financial markets to assume a portion the flood risk exposure in the United States. These provisions also clarify the FEMA Administrator’s authority to use private market reinsurance capacity to minimize the likelihood that the program would need to borrow additional Treasury funds. In addition, FEMA is directed to assess the capacity of the private reinsurance market by seeking proposals to assume a portion of the program’s risk, and to submit a report on such assessment within six months of enactment. Finally, this section requires FEMA each year to assess the capacity of the NFIP to pay claims without having to borrow from the Treasury, including its use of private sector reinsurance, and report that assessment to Congress.

Section 10. FEMA annual report on insurance program

This section replaces the required biennial report of FEMA to the President with an annual report to Congress including detailed information about the financial status of the program.

Section 11. Actuarial rates for severe repetitive loss properties refusing mitigation or purchase offers

This section requires owners of severe repetitive loss properties who refuse government offers of mitigation or purchase assistance for their properties to forfeit their subsidized rates and pay full actuarial rates.

Section 12. Mitigation assistance

This section clarifies that the demolition and rebuilding of flood-damaged properties should be considered by FEMA as an eligible activity for the purpose of mitigation assistance, which must be cost-effective.

Section 13. Grants for direct funding of mitigation activities for individual repetitive claims properties

This section allows for mitigation grants for repetitive flood loss properties to be provided directly to homeowners.

Section 14. Notification to homeowners regarding mandatory purchase requirement applicability and rate phase-ins

This section directs FEMA to establish an annual notification process to inform individuals who reside in an area having special flood hazards: (1) that they live in a such an area; (2) what the geographical boundaries of that area are; (3) if they are subject to the prohibition on the extension of subsidized rates for lapsed policies; (4) that they are subject to the existing flood insurance mandatory purchase requirement; and (5) what other homeowners in similar areas pay (on an estimated basis) for flood insurance.

Section 15. Notification of establishment of flood elevations

This section requires that FEMA notify Members of the House and Senate whose districts or states would be affected when there are changes or updates to a floodplain area or flood risk zones.

Section 16. Notification to tenants of the availability of contents insurance

This section requires FEMA to develop and distribute a notice to landlords and building managers that informs tenants: (1) if they live in an area having special flood hazards; (2) that NFIP offers insurance for the contents of the apartment; (3) the maximum level of that coverage; and (4) where to find information about obtaining such coverage.

Section 17. Notification to policy holders regarding direct management of policy by FEMA

This section requires FEMA to annually notify all holders of policies transferred to FEMA's NFIP Direct policy servicing program of their options to purchase flood insurance directly from another Write-Your-Own (WYO) insurance company.

Section 18. Notice of the availability of flood insurance and escrow in RESPA good faith estimate

This section amends the Real Estate Settlement Procedures Act (RESPA) to disclose as part of RESPA's good faith estimate: (1) that flood insurance is generally available from the NFIP for homes located both in and out of a special flood hazard area; (2) the contact information for the NFIP; and (3) that the escrowing of flood insurance payments is required for many loans and may be an option available under other loans.

Section 19. Reimbursement for costs incurred by homeowners obtaining Letters of Map Amendment

This section allows homeowners to be reimbursed for certain costs associated with a successful challenge to a bona fide mapping error made by FEMA resulting in a Letter of Map Amendment (LOMA), not including legal fees.

Section 20. Treatment of swimming pool enclosures outside of hurricane season

This section allows certain properties with swimming pools that are enclosed with non-supporting breakaway walls outside of hurricane season (November 20 through June 1) to be eligible for participation in the NFIP.

Section 21. CDBG eligibility for flood insurance outreach activities and community building code administration grants

To give local communities more flexibility to reduce the potential for property losses caused by flooding events, this section permits funds awarded under the Community Development Block Grant (CDBG) program to be used for local building code enforcement, as long as local matching funds are provided. It also allows CDBG funds to be used by local governments for flood risk outreach and education activities.

Section 22. Technical corrections

This section contains a technical correction to the underlying National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 to update references in those statutes to the head of FEMA as its “Administrator” rather than its “Director.”

Section 23. Report on write-your-own program

To address the rapid increase in the number of policies administered under the FEMA’s NFIP Direct policy servicing program, this section requires FEMA to report on the policies and procedures that it can implement to limit the size of the NFIP Direct to less than 10 percent of all flood insurance policies. Last year, a WYO carrier decided to no longer participate in NFIP and placed the administration and servicing rights of all 800,000 of its policies with FEMA’s NFIP Direct program. Prior to this, only about 250,000 policies were administered by NFIP Direct; now, FEMA is responsible for administering approximately 1,000,000 NFIP Direct policies. Having a large number of WYO carriers (there are currently 88) ensures that the ability to effectively administer the program is spread among many firms and is not overly concentrated in the Federal government.

Section 24. Studies of voluntary community-based flood insurance options

This section requires FEMA and GAO each to conduct a study to assess options, methods, and strategies for offering voluntary community-based flood insurance policy options, and report their findings to Congress within 18 months.

Section 25. Report on inclusion of building codes in floodplain management criteria

This section directs FEMA to study the impact, effectiveness, and feasibility of including widely used and nationally recognized building codes as part of its floodplain management criteria and report its findings to Congress within 18 months. It is the intent of this provision that FEMA would examine only the use of the International Building Code[®] and/or International Residential Code[®], which contain relevant provisions covering flood plain management and are consistent with the current NFIP. Such “impact” studies, including those designed to examine building code requirements in rural communities and on Indian reservations, must address cost impacts, including upfront costs to consumers for buildings covered by such codes, and include in the “feasibility and effectiveness” assessment of the use of “innovative materials and systems for flood-resistant construction.”

The report must include language specifying that FEMA is required to abide by the standard regulatory process in considering the inclusion and application of building codes in these criteria. This section does not authorize FEMA to establish regulatory guidance that may be used in any enforcement action brought by the agency.

Section 26. Study on graduated risk

This section requires the National Academy of Sciences to study methods for understanding graduated risk for properties and resi-

dential and commercial structures behind levees and report its findings to Congress within one year.

Section 27. No cause of action

In an effort to ensure that individuals living in areas subject to flooding are aware of the potential risks that they face and insurance options available to them, various provisions of H.R. 1309 place certain notification requirements on FEMA. These requirements—particularly those in Section 14 regarding “Notification to Homeowners Regarding Mandatory Purchase Requirement Applicability and Rate Phase-Ins,” Section 15 regarding “Notification of Establishment of Flood Elevations,” Section 16 regarding “Notification to Tenants of the Availability of Contents Insurance,” Section 17 regarding “Notification to Policy Holders Regarding Direct Management of Policy by FEMA,” and Section 18 regarding “Notice of the Availability of Flood Insurance and Escrow in RESPA Good Faith Estimate”—were designed to serve a strictly informational purpose for various stakeholders.

The Committee intended for these notification requirements to educate individuals living in flood zones about flood risks, explain options to existing NFIP policyholders, and inform policymakers about pertinent mapping changes. Because the Committee did not intend for these requirements to give rise to private rights of action against the NFIP, FEMA, or any other agency of the United States for failure to meet the obligations imposed by the bill or the underlying statute, this section specifies that no cause of action against the federal government exists for violations of any notification requirement under this Act. Furthermore, this language was designed to codify existing judicial interpretations regarding similar notice requirements. *See, e.g., Paul v. Landsafe Flood Determination, Inc.*, 550 F.3d 511 (5th Cir. 2008); *Wentwood Woodside I, LP v. GMAC Commercial Mortgage Corp.*, 419 F.3d 310 (5th Cir. 2005); *Till v. Unifirst Fed. Sav. & Loan Ass’n.*, 653 F.2d 152 (5th Cir. 1981); *Barras v. Cmty. Home Loan, LLC*, No. 06–2000, 2007 WL 2156558, 2007 U.S. Dist. LEXIS 53534 (W.D.La. July 24, 2007); *Clade v. Stone Ins., Inc.*, No. CIV.A.06–2304–F, 2006 WL 2366373, 2006 U.S. Dist. LEXIS 57152 (E.D.La. Aug. 14, 2006).

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

SHORT TITLE

SEC. 1301. This title may be cited as the “National Flood Insurance Act of 1968”.

* * * * *

CHAPTER I—THE NATIONAL FLOOD INSURANCE PROGRAM
BASIC AUTHORITY

SEC. 1304. (a) To carry out the purposes of this title, the ζ Director *Administrator* of the Federal Emergency Management Agency is authorized to establish and carry out a national flood insurance program which will enable interested persons to purchase insurance against loss resulting from physical damage to or loss of real property or personal property related thereto arising from any flood occurring in the United States.

(b) ADDITIONAL COVERAGE FOR COMPLIANCE WITH LAND USE AND CONTROL MEASURES.—The national flood insurance program established pursuant to subsection (a) shall enable the purchase of insurance to cover the cost of implementing measures that are consistent with land use and control measures established by the community under section 1361 for—

(1) * * *

* * * * *

(3) properties that have sustained flood damage on multiple occasions, if the ζ Director *Administrator* determines that it is cost-effective and in the best interests of the National Flood Insurance Fund to require compliance with the land use and control measures.

* * * * *

The ζ Director *Administrator* shall impose a surcharge on each insured of not more than \$75 per policy to provide cost of compliance coverage in accordance with the provisions of this subsection.

(c) In carrying out the flood insurance program the ζ Director *Administrator* shall, to the maximum extent practicable, encourage and arrange for—

(1) * * *

* * * * *

SCOPE OF PROGRAM AND PRIORITIES

SEC. 1305. (a) In carrying out the flood insurance program the ζ Director *Administrator* shall afford a priority to making flood insurance available to cover residential properties which are designed for the occupancy of from one to four families, church properties, and business properties which are owned or leased and operated by small business concerns.

(b) If on the basis of—

(1) * * *

* * * * *

the ζ Director *Administrator* determines that it would be feasible to extend the flood insurance program to cover other properties, he may take such action under this title as from time to time may be necessary in order to make flood insurance available to cover, on such basis as may be feasible, any types and classes of—

(A) * * *

* * * * *

(c) The εDirector Administrator shall make flood insurance available in only those States or areas (or subdivisions thereof) which he has determined have—

(1) * * *

* * * * *

NATURE AND LIMITATION OF INSURANCE COVERAGE

SEC. 1306. (a) The εDirector Administrator 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, provide by regulation for general terms and conditions of insurability which shall be applicable to properties eligible for flood insurance coverage under section 1305, including—

(1) * * *

* * * * *

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

(1) any flood insurance coverage based on chargeable premium rates under section 1308 which are less than the estimated premium rates under section 1307(a)(1) shall not exceed—

(A) * * *

(B) in the case of business properties which are owned or leased and operated by small business concerns, an aggregate liability with respect to any single structure, including any contents thereof related to premises of small business occupants (as term is defined by the εDirector Administrator), which shall be equal to (i) \$100,000 plus (ii) \$100,000 multiplied by the number of such occupants and shall be allocated among such occupants (or among the occupant or occupants and the owner) under regulations prescribed by the εDirector Administrator; except that the aggregate liability for the structure itself may in no case exceed \$100,000; and

* * * * *

(2) εin the case of any residential property in the case of any residential building designed for the occupancy of from one to four families 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) εshall be made available to every insured upon renewal and every applicant for 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 shall be made available, with respect to any single such building, up to an aggregate liability (including such limits specified in paragraph (1)(A)(i) of \$250,000,

* * * * *

(4) εin the case of any nonresidential property, including churches, in the case of any nonresidential building, including

a church, 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 for each structure and \$500,000 for any contents related to each structure shall be made available with respect to any single such building, up to an aggregate liability (including such limits specified in subparagraph (B) or (C) of paragraph (1), as applicable) of \$500,000, and coverage shall be made available up to a total of \$500,000 aggregate liability for contents owned by the building owner and \$500,000 aggregate liability for each unit within the building for contents owned by the tenant; and

(5) the Administrator may provide that, in the case of any residential property, each renewal or new contract for flood insurance coverage may provide not more than \$5,000 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, except that—

(A) purchase of such coverage shall be at the option of the insured;

(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); and

(C) the Administrator may make such coverage available only if the Administrator makes a determination and causes notice of such determination to be published in the Federal Register that—

(i) a competitive private insurance market for such coverage does not exist; and

(ii) the national flood insurance program has the capacity to make such coverage available without borrowing funds from the Secretary of the Treasury under section 1309 or otherwise;

(6) the Administrator may provide that, in the case of any commercial property or other residential property, including multifamily rental property, 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 may be made available to every insured upon renewal and every applicant, up to a total amount of \$20,000 per property, except that—

(A) purchase of such coverage shall be at the option of the insured;

(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); and

(C) the Administrator may make such coverage available only if the Administrator makes a determination and

causes notice of such determination to be published in the Federal Register that—

(i) a competitive private insurance market for such coverage does not exist; and

(ii) the national flood insurance program has the capacity to make such coverage available without borrowing funds from the Secretary of the Treasury under section 1309 or otherwise;

(5) (7) any flood insurance coverage 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; and

(8) each of the dollar amount limitations under paragraphs (2), (3), (4), (5), and (6) shall be adjusted effective on the date of the enactment of the Flood Insurance Reform Act of 2011, such adjustments shall be calculated using the percentage change, over the period beginning on September 30, 1994, and ending on such date of enactment, in such inflationary index as the Administrator shall, by regulation, specify, and the dollar amount of such adjustment shall be rounded to the next lower dollar; and the Administrator shall cause to be published in the Federal Register the adjustments under this paragraph to such dollar amount limitations; except that in the case of coverage for a property that is made available, pursuant to this paragraph, in an amount that exceeds the limitation otherwise applicable to such coverage as specified in paragraph (2), (3), (4), (5), or (6), the total of 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).

* * * * *

(d) PAYMENT OF PREMIUMS IN INSTALLMENTS FOR RESIDENTIAL PROPERTIES.—

(1) AUTHORITY.—In addition to any other terms and conditions under subsection (a), such regulations shall provide that, in the case of any residential property, premiums for flood insurance coverage made available under this title for such property may be paid in installments.

(2) LIMITATIONS.—In implementing the authority under paragraph (1), the Administrator may establish increased chargeable premium rates and surcharges, and deny coverage and establish such other sanctions, as the Administrator considers necessary to ensure that insureds purchase, pay for, and maintain coverage for the full term of a contract for flood insurance coverage or to prevent insureds from purchasing coverage only for periods during a year when risk of flooding is comparatively higher or canceling coverage for periods when such risk is comparatively lower.

ESTIMATES OF PREMIUM RATES

SEC. 1307. (a) The ζ Director *Administrator* is authorized to undertake and carry out such studies and investigations and receive or exchange such information as may be necessary to estimate, and shall from time to time estimate, on an area, subdivision, or other appropriate basis—

(1) * * *

* * * * *

(b) In carrying out subsection (a), the ζ Director *Administrator* shall, to the maximum extent feasible and on a reimbursable basis, utilize the services of the Department of the Army, the Department of the Interior, The Department of Agriculture, the Department of Commerce, and the Tennessee Valley Authority, and, as appropriate, other Federal departments or agencies, and for such purposes may enter into agreements or other appropriate arrangements with any persons.

(c) The ζ Director *Administrator* shall give priority to conducting studies and investigations and making estimates under this section in those States or areas (or subdivisions thereof) which he has determined have evidenced a positive interest in securing flood insurance coverage under the flood insurance program.

(d) Notwithstanding any other provision of law, any structure existing on the date of enactment of the Flood Disaster Protection Act of 1973 and located within Avoyelles, Evangeline, Rapides, or Saint Landry Parish in the State of Louisiana, which the ζ Director *Administrator* determines is subject to additional flood hazards as a result of the construction or operation of the Atchafalaya Basin Levee System, 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 that shall not exceed those which would be applicable if such additional hazards did not exist.

(e) Notwithstanding any other provision of law, any community that has made adequate progress, acceptable to the ζ Director *Administrator*, on the ζ 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 ζ Director *Administrator*, 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 ζ Director *Administrator* shall find that adequate progress on the ζ 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 Administrator 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 Administrator 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;

* * * * *

Communities that the ¿Director Administrator of the Federal Emergency Management Agency determines to meet the criteria set forth in paragraphs (1) and (2) as of January 1, 1992, shall not be subject to revised Flood Insurance Rate Maps that contravene the intent of this subsection. Such communities shall remain eligible for C zone rates for properties located in zone AR for any policy written prior to promulgation of final regulations for this section. Floodplain management criteria for such communities shall not require the elevation of improvements to existing structures and shall not exceed 3 feet above existing grade for new construction, provided the base flood elevation based on the disaccredited flood control system does not exceed five feet above existing grade, or the remaining new construction in such communities is limited to infill sites, rehabilitation of existing structures, or redevelopment of previously developed areas.

The ¿Director Administrator of the Federal Emergency Management Agency shall develop and promulgate regulations to implement this subsection, including minimum floodplain management criteria, within 24 months after the date of enactment of this subsection.

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 Administrator 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), 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 Administrator determines has been started after December 31, 1974, or started after the effective date of the initial rate map published by the Director Administrator 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) COMMERCIAL PROPERTIES.—Any nonresidential property.

(3) SECOND HOMES AND VACATION HOMES.—Any residential property that is not the primary residence of any individual.

(4) HOMES SOLD TO NEW OWNERS.—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 Administrator, before December 31, 1974, or before the effective date of the initial rate map published by the Administrator under paragraph (2) of section 1360(a) for the area in which such property is located, whichever is later; and

(B) is purchased after the effective date of this paragraph, pursuant to section 5(c)(3)(A) of the Flood Insurance Reform Act of 2011.

(5) HOMES DAMAGED OR IMPROVED.—Any property that, on or after the date of the enactment of the Flood Insurance Reform Act of 2011, has experienced or sustained—

(A) substantial flood 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.

(6) HOMES WITH MULTIPLE CLAIMS.—Any severe repetitive loss property (as such term is defined in section 1361A(b)).

(7) CERTAIN LEASED COASTAL AND RIVER PROPERTIES.—Any property leased from the Federal Government (including residential and nonresidential properties) that the Director Administrator 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.

(d) With respect to any chargeable premium rate prescribed under this section, a sum equal to the portion of the rate that covers any administrative expenses of carrying out the flood insurance and floodplain management programs which have been estimated under paragraphs (1)(B)(ii) and (1)(B)(iii) of section 1307(a) or paragraph (2) of such section (including the fees under such paragraphs), shall be paid to the Director Administrator. The Director Administrator shall deposit the sum in the National Flood Insurance Fund established under section 1310.

(e) ANNUAL LIMITATION ON PREMIUM INCREASES.—Except with respect to properties described under ζ paragraph (2) or (3) *paragraph (7)* of subsection (c) or subsection (h), 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 ζ 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.

(f) ADJUSTMENT OF PREMIUM.—Notwithstanding any other provision of law, if the ζ Director *Administrator* determines that the holder of a flood insurance policy issued under this Act is paying a lower premium than is required under this section due to an error in the flood plain determination, the ζ Director *Administrator* may only prospectively charge the higher premium rate.

(g) 5-YEAR PHASE-IN OF FLOOD INSURANCE RATES FOR CERTAIN PROPERTIES IN NEWLY MAPPED AREAS.—

(1) 50 PERCENT RATE FOR INITIAL YEAR.—*Notwithstanding subsection (c) or 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 12-month period that begins, except as provided in paragraph (2), upon the date that such maps, as issued, revised, updated, or otherwise changed, become effective, the chargeable premium rate for flood insurance under this title with respect to any covered property that is located within such area shall be 50 percent of the chargeable risk premium rate otherwise applicable under this title to the property.*

(2) APPLICABILITY TO PREFERRED RISK RATE AREAS.—*In the case of any area described in paragraph (1) that consists of or includes an area that, as of date of the effectiveness of the flood insurance maps for such area referred to in paragraph (1) as so issued, revised, updated, or changed, is eligible for any reason for preferred risk rate method premiums for flood insurance coverage and was eligible for such premiums as of the enactment of the Flood Insurance Reform Act of 2011, the 12-month period referred to in paragraph (1) for such area eligible for preferred risk rate method premiums shall begin upon the expiration of the period during which such area is eligible for such preferred risk rate method premiums.*

(3) PHASE-IN OF FULL ACTUARIAL RATES.—*With respect to any area described in paragraph (1), upon the expiration of the 12-month period under paragraph (1) or (2), as applicable, for such area, the Administrator shall increase the chargeable risk premium rates for flood insurance under this title for covered properties in such area by 20 percent, and by 20 percent upon the expiration of each successive 12-month period thereafter until the chargeable risk premium rates comply with subsection (c).*

(4) *COVERED PROPERTIES.*—For purposes of the subsection, the term “covered property” means any residential property occupied by its owner or a bona fide tenant as a primary residence.

(h) *PROHIBITION OF EXTENSION OF SUBSIDIZED RATES TO LAPSED POLICIES.*—Notwithstanding any other provision of law relating to chargeable risk premium rates for flood insurance coverage under this title, the Administrator shall not provide flood insurance coverage under this title for any property for which a policy for such coverage for the property has previously lapsed in coverage as a result of the deliberate choice of the holder of such policy, at a rate less than the applicable estimated risk premium rates for the area (or subdivision thereof) in which such property is located.

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

(a) *IN GENERAL.*—The Administrator 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 Administrator 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~~ Administrator 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 ~~Director~~ Administrator 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, 2011~~ September 30, 2016, clause (2) of this sentence shall be applied by substituting “\$20,725,000,000” for “\$1,500,000,000”. The

¿Director *Administrator* 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.

(b) Any funds borrowed by the ¿Director *Administrator* under this authority shall, from time to time, be deposited in the National Flood Insurance Fund established under section 1310.

NATIONAL FLOOD INSURANCE FUND

SEC. 1310. (a) To carry out the flood insurance program authorized by this title, the ¿Director *Administrator* shall establish in the Treasury of the United States a National Flood Insurance Fund (hereinafter referred to as the "fund") which shall be an account separate from any other accounts or funds available to the ¿Director *Administrator* and shall be available as described in subsection (f), without fiscal year limitation (except as otherwise provided in this section)—

(1) * * *

* * * * *

(9) for funding, not to exceed \$10,000,000 in any fiscal year, which shall remain available until expended, for mitigation actions under section 1323, except that, notwithstanding any other provision of this title, amounts made available pursuant to this paragraph shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.

(b) The fund shall be credited with—

(1) * * *

* * * * *

(5) such sums as are required to be paid to the ¿Director *Administrator* under section 1308(d); and

* * * * *

(c) If, after—

(1) * * *

* * * * *

the ¿Director *Administrator* determines that the moneys of the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

(d) In the event the ¿Director *Administrator* makes a determination in accordance with the provisions of section 1340 that operation of the flood insurance program, in whole or in part, should be carried out through the facilities of the Federal Government, the fund shall be available for all purposes incident thereto, including—

(1) * * *

* * * * *

for so long as the program is so carried out, and in such event any premiums paid shall be deposited by the ¿Director *Administrator* to the credit of the fund.

* * * * *

OPERATING COSTS AND ALLOWANCES

SEC. 1311. (a) The εDirector Administrator shall from time to time negotiate with appropriate representatives of the insurance industry for the purpose of establishing—

(1) * * *

* * * * *

(b) For purposes of subsection (a)—

(1) the term “operating costs” shall (without limiting such term) include—

(A) * * *

* * * * *

(D) other direct, actual, and necessary expenses which the εDirector Administrator finds are incurred in connection with selling or servicing flood insurance coverage; and
(2) the term “operating allowances” shall (without limiting such term) include amounts for profit and contingencies which the εDirector Administrator finds reasonable and necessary to carry out the purposes of this title.

PAYMENT OF CLAIMS

SEC. 1312. εThe Director is (a) IN GENERAL.—The Administrator 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) SUBSIDIZED RATE PROPERTIES.—For any structure that is covered by flood insurance under this title, and for which the chargeable rate for such coverage is less than the applicable estimated risk premium rate under section 1307(a)(1) for the area (or subdivision thereof) in which such structure is located, the minimum annual deductible for damage to or loss of such structure shall be \$2,000.

(2) ACTUARIAL RATE PROPERTIES.—For any structure that is covered by flood insurance under this title, for which the chargeable rate for such coverage is not less than the applicable estimated risk premium rate under section 1307(a)(1) for the area (or subdivision thereof) in which such structure is located, the minimum annual deductible for damage to or loss of such structure shall be \$1,000.

DISSEMINATION OF FLOOD INSURANCE INFORMATION

SEC. 1313. The εDirector Administrator shall from time to time take such action as may be necessary in order to make information and data available to the public, and to any State or local agency or official, with regard to—

(1) * * *

* * * * *

STATE AND LOCAL LAND USE CONTROLS

SEC. 1315. (a) REQUIREMENT FOR PARTICIPATION IN FLOOD INSURANCE PROGRAM.—

(1) IN GENERAL.—After December 31, 1971, no new flood insurance coverage shall be provided under this title in any area (or subdivision thereof) unless an appropriate public body shall have adopted adequate land use and control measures (with effective enforcement provisions) which the *Director Administrator* finds are consistent with the comprehensive criteria for land management and use under section 1361.

(2) AGRICULTURAL STRUCTURES.—

(A) * * *

(B) PREMIUM RATES AND COVERAGE.—To the extent applicable, an agricultural structure repaired or restored pursuant to subparagraph (A) shall pay chargeable premium rates established under section 1308 at the estimated risk premium rates under section 1307(a)(1). If resources are available, the *Director Administrator* shall provide technical assistance and counseling, upon request of the owner of the structure, regarding wet flood-proofing and other flood damage reduction measures for agricultural structures. The *Director Administrator* shall not be required to make flood insurance coverage available for such an agricultural structure unless the structure is wet flood-proofed through permanent or contingent measures applied to the structure or its contents that prevent or provide resistance to damage from flooding by allowing flood waters to pass through the structure, as determined by the *Director Administrator*.

(C) PROHIBITION ON DISASTER RELIEF.—Notwithstanding any other provision of law, any agricultural structure repaired or restored pursuant to subparagraph (A) shall not be eligible for disaster relief assistance under any program administered by the *Director Administrator* or any other Federal agency.

* * * * *

(b) COMMUNITY RATING SYSTEM AND INCENTIVES FOR COMMUNITY FLOODPLAIN MANAGEMENT.—

(1) AUTHORITY AND GOALS.—The *Director Administrator* shall carry out a community rating system program, under which communities participate voluntarily—

(A) * * *

* * * * *

(2) INCENTIVES.—The program shall provide incentives in the form of credits on premium rates for flood insurance coverage in communities that the *Director Administrator* determines have adopted and enforced measures that reduce the risk of flood and erosion damage that exceed the criteria set forth in section 1361. In providing incentives under this paragraph, the *Director Administrator* may provide for credits to flood insurance premium rates in communities that the *Director Administrator* determines have implemented measures that protect natural and beneficial floodplain functions.

(3) CREDITS.—The credits on premium rates for flood insurance coverage shall be based on the estimated reduction in flood and erosion damage risks resulting from the measures adopted by the community under this program. If a community has received mitigation assistance under section 1366, the credits shall be phased in a manner, determined by the *Director Administrator*, to recover the amount of such assistance provided for the community.

(4) REPORTS.—Not later than 2 years after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and not less than every 2 years thereafter, the *Director Administrator* shall submit a report to the Congress regarding the program under this subsection. Each report shall include an analysis of the cost-effectiveness of the program, any other accomplishments or shortcomings of the program, and any recommendations of the *Director Administrator* for legislation regarding the program.

PROPERTIES IN VIOLATION OF STATE AND LOCAL LAW

SEC. 1316. No new flood insurance coverage shall be provided under this title for any property which the *Director Administrator* finds has been declared by a duly constituted State or local zoning authority, or other authorized public body, to be in violation of State or local laws, regulations or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

COORDINATION WITH OTHER PROGRAMS

SEC. 1317. In carrying out this title, the *Director Administrator* shall consult with other departments and agencies of the Federal Government, and with interstate, State, and local agencies having responsibilities for flood control, flood forecasting, or flood damage prevention, in order to assure that the programs of such agencies and the flood insurance program authorized under this title are mutually consistent.

ADVISORY COMMITTEE

SEC. 1318. (a) The *Director Administrator* shall appoint a flood insurance advisory committee without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such committee shall advise the *Director Administrator* in the preparation of any regulations prescribed in accordance with this title and with respect to policy matters arising in the administration of this title, and shall perform such other responsibilities as the *Director Administrator* may, from time to time, assign to such committee.

* * * * *

(c) Members of the committee shall, while attending conferences or meetings thereof, be entitled to receive compensation at a rate fixed by the *Director Administrator* but not exceeding \$100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized

under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

PROGRAM EXPIRATION

SEC. 1319. No new contract for flood insurance under this title shall be entered into after September 30, 2011 *September 30, 2016.*

REPORT TO THE PRESIDENT *ANNUAL REPORT TO CONGRESS*

SEC. 1320. (a) IN GENERAL.—The Director *Administrator* shall biennially submit a report of operations under this title to the President for submission to the Congress *not later than June 30 of each year.*

(b) EFFECTS OF FLOOD INSURANCE PROGRAM.—The Director *Administrator* shall include, as part of the biennial *annual* report submitted under subsection (a), a chapter reporting on the effects on the flood insurance program observed through implementation of requirements under the Riegle Community Development and Regulatory Improvement Act of 1994.

(c) *FINANCIAL STATUS OF PROGRAM.*—*The report under this section for each year shall include information regarding the financial status of the national flood insurance program under this title, including a description of the financial status of the National Flood Insurance Fund and current and projected levels of claims, premium receipts, expenses, and borrowing under the program.*

* * * * *

SEC. 1323. **DIRECT GRANTS FOR REPETITIVE INSURANCE CLAIMS PROPERTIES.**

(a) IN GENERAL.—The Director *Administrator* may provide funding, *to owners of such properties*, for mitigation actions that reduce flood damages to individual properties for which 1 *two* or more claim payments for losses have been made under flood insurance coverage under this title, but only if the Director *Administrator* determines that—

(1) * * *

* * * * *

(b) PRIORITY FOR WORST-CASE PROPERTIES.—In determining the properties for which funding is to be provided under this section, the Director *Administrator* shall consult with the States in which such properties are located and provide assistance for properties in the order that will result in the greatest amount of savings to the National Flood Insurance Fund in the shortest period of time.

* * * * *

SEC. 1325. **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 estab-

lished pursuant to this title, if the pool is enclosed with non-supporting breakaway walls.

CHAPTER II—ORGANIZATION AND ADMINISTRATION OF THE FLOOD INSURANCE PROGRAM

ORGANIZATION AND ADMINISTRATION

SEC. 1330. Following such consultation with representatives of the insurance industry as may be necessary, the *Director Administrator* shall implement the flood insurance program authorized under chapter I in accordance with the provision of part A of this chapter and, if a determination is made by him under section 1340, under part B of this chapter.

PART A—INDUSTRY PROGRAM WITH FEDERAL FINANCIAL ASSISTANCE

INDUSTRY FLOOD INSURANCE POOL

SEC. 1331. (a) The *Director Administrator* is authorized to encourage and otherwise assist any insurance companies and other insurers which meet the requirements prescribed under subsection (b) to form, as associate, or otherwise join together in a pool—

(1) * * *

(2) for the purpose of assuming, *including as reinsurance of insurance coverage provided by the flood insurance program*, on such terms and conditions as may be agreed upon, such financial responsibility as will enable such companies and other insurers, with the Federal financial and other assistance available under this title, to assure a reasonable proportion of responsibility for the adjustment and payment of claims for losses under the flood insurance program.

(b) In order to promote the effective administration of the flood insurance program under this part, and to assure that the objectives of this title are furthered, the *Director Administrator* is authorized to prescribe appropriate requirements for insurance companies and other insurers participating in such pool including, but not limited to, minimum requirements for capital or surplus or assets.

AGREEMENTS WITH FLOOD INSURANCE POOL

SEC. 1332. (a) The *Director Administrator* is authorized to enter into such agreements with the pool formed or otherwise created under this part as he deems necessary to carry out the purposes of this title.

(b) Such agreements shall specify—

(1) * * *

(3) the maximum amount of profit, established by the *Director Administrator* and set forth in the schedules prescribed under section 1311, which may be realized by such pool (and the companies and other insurers participating therein),

* * * * *

(c) In addition, such agreements shall contain such provisions as the *Director Administrator* finds necessary to assure that—

(1) * * *

(2) the insurance companies and other insurers participating in the pool will take whatever action may be necessary to provide continuity of flood insurance coverage *or reinsurance* by the pool, and

* * * * *

PREMIUM EQUALIZATION PAYMENTS

SEC. 1334. (a) The ζ Director *Administrator*, on such terms and conditions as he may from time to time prescribe, shall make periodic payments to the pool formed or otherwise created under section 1331, in recognition of such reductions in chargeable premium rates under section 1308 below estimated premium rates under section 1307(a)(1) as are required in order to make flood insurance available on reasonable terms and conditions.

(b) Designated periods under this section and the methods for determining the sum of premiums paid or payable during such periods shall be established by the ζ Director *Administrator*.

REINSURANCE COVERAGE

SEC. 1335. (a)(1) The ζ Director *Administrator* is authorized to take such action as may be necessary in order to make available, to the pool formed or otherwise created under section 1331, reinsurance for losses (due to claims for proved and approved losses covered by flood insurance) which are in excess of losses assumed by such pool in accordance with the excess loss agreement entered into under subsection (c).

(2) *The Administrator is authorized to secure reinsurance coverage of coverage provided by the flood insurance program from private market insurance, reinsurance, and capital market sources at rates and on terms determined by the Administrator to be reasonable and appropriate in an amount sufficient to maintain the ability of the program to pay claims and that minimizes the likelihood that the program will utilize the borrowing authority provided under section 1309.*

(b) Such reinsurance shall be made available pursuant to contract, agreement, or any other arrangement, in consideration of such payment of a premium, fee, or other charge as the ζ Director *Administrator* finds necessary to cover anticipated losses and other costs of providing such reinsurance.

(c) The ζ Director *Administrator* is authorized to negotiate an excess loss agreement, from time to time, under which the amount of flood insurance retained by the pool, after ceding reinsurance, shall be adequate to further the purposes of this title, consistent with the objective of maintaining appropriate financial participation and risk sharing to the maximum extent practicable on the part of participating insurance companies and other insurers.

(d) All reinsurance claims for losses in excess of losses assumed by the pool shall be submitted on a portfolio basis by such pool in accordance with terms and conditions established by the ζ Director *Administrator*.

EMERGENCY IMPLEMENTATION OF PROGRAM

SEC. 1336. (a) Notwithstanding any other provisions of this title, for the purpose of providing flood insurance coverage at the earliest possible time, the εDirector Administrator shall carry out the flood insurance program authorized under chapter I during the period ending on the date specified in section 1319, in accordance with the provisions of this part and the other provision of this title insofar as they relate to this part but subject to the modifications made by or under subsection (b).

(b) In carrying out the flood insurance program pursuant to subsection (a), the εDirector Administrator—

(1) * * *

* * * * *

PART B—GOVERNMENT PROGRAM WITH INDUSTRY ASSISTANCE

FEDERAL OPERATION OF THE PROGRAM

SEC. 1340. (a) If at any time, after consultation with representatives of the insurance industry, the εDirector Administrator determines that operation of the flood insurance program as provided under part A cannot be carried out, or that such operation, in itself, would be assisted materially by the Federal Government's assumption, in whole or in part, of the operational responsibility for flood insurance under this title (on a temporary or other basis) he shall promptly undertake any necessary arrangements to carry out the program of flood insurance authorized under chapter I through the facilities of the Federal Government, utilizing, for purposes of providing flood insurance coverage, either—

(1) * * *

(2) such other officers and employees of any executive agency (as defined in section 105 of title 5 of the United States Code) as the εDirector Administrator and the head of any such agency may from time to time, agree upon, on a reimbursement or other basis, or

* * * * *

(b) Upon making the determination referred to in subsection (a), the εDirector Administrator shall make a report to the Congress and, at the same time, to the private insurance companies participating in the National Flood Insurance Program pursuant to section 1310 of this Act. Such report shall—

(1) * * *

* * * * *

(4) contain such recommendations as the εDirector Administrator deems advisable.

The εDirector Administrator shall not implement the program of flood insurance authorized under chapter I through the facilities of the Federal Government until 9 months after the date of submission of the report under this subsection unless it would be impossible to continue to effectively carry out the National Flood Insurance Program operations during this time.

ADJUSTMENT AND PAYMENT OF CLAIMS AND JUDICIAL REVIEW

SEC. 1341. In the event the program is carried out as provided in section 1340, the *Director Administrator* shall be authorized to adjust and make payment of any claims for proved and approved losses covered by flood insurance, and upon the disallowance by the *Director Administrator* of any such claims, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant, within one year after the date of mailing of notice of disallowance or partial disallowance by the *Director Administrator*, may institute an action against the *Director Administrator* on such claim in the United States district court for the district in which the insured property or the major part thereof shall have been situated, and original exclusive jurisdiction is hereby conferred upon such court to hear and determine such action without regard to the amount in controversy.

PART C—PROVISIONS OF GENERAL APPLICABILITY
SERVICES BY INSURANCE INDUSTRY

SEC. 1345. (a) In administering the flood insurance program under this chapter, the *Director Administrator* is authorized to enter into any contracts, agreements, or other appropriate arrangements which may, from time to time, be necessary for the purpose of utilizing, on such terms and conditions as may be agreed upon, the facilities and services of any insurance companies or other insurers, insurance agents and brokers, or insurance adjustment organizations; and such contracts, agreements, or arrangements may include provision for payment of applicable operating costs and allowances for such facilities and services as set forth in the schedules prescribed under section 1311.

* * * * *

(c) The *Director Administrator* of the Federal Emergency Management Agency shall hold any agent or broker selling or undertaking to sell flood insurance under this title harmless from any judgment for damages against such agent or broker as a result of any court action by a policyholder or applicant arising out of an error or omission on the part of the Federal Emergency Management Agency, and shall provide any such agent or broker with indemnification, including court costs and reasonable attorney fees, arising out of and caused by an error or omission on the part of the Federal Emergency Management Agency and its contractors. The *Director Administrator* of the Federal Emergency Management Agency may not hold harmless or indemnify an agent or broker for his or her error or omission.

USE OF INSURANCE POOL, COMPANIES, OR OTHER PRIVATE
ORGANIZATIONS FOR CERTAIN PAYMENTS

SEC. 1346. (a) In order to provide for maximum efficiency in the administration of the flood insurance program and in order to facilitate the expeditious payment of any Federal funds under such program, the *Director Administrator* may enter into contracts with a pool formed or otherwise created under section 1331, or any insurance company or other private organization, for the purpose of securing performance by such pool, company, or organization, or

for purposes of securing reinsurance of insurance coverage provided by the program, of any or all of the following responsibilities:

- (1) *estimating* *Estimating* and later determining any amounts of payments to be made;
- (2) *receiving* *Receiving* from the *Director Administrator*, disbursing, and accounting for funds in making such payments;
- (3) *making* *Making* such audits of the records of any insurance company or other insurer, insurance agent or broker, or insurance adjustment organization as may be necessary to assure that proper payments are made; and
- (4) *Placing reinsurance coverage on insurance provided by such program.*
- (5) *Otherwise* assisting in such manner as the contract may provide to further the purposes of this title.

(b) Any contract with the pool or an insurance company or other private organization under this section may contain such terms and conditions at the *Director Administrator* finds necessary or appropriate for carrying out responsibilities under subsection (a), and may provide for payment of any costs which the *Director Administrator* determines are incidental to carrying out such responsibilities which are covered by the contract.

* * * * *

(d) No contract may be entered into under this section unless the *Director Administrator* finds that the pool, company, or organization will perform its obligations under the contract efficiently and effectively, and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

(e)(1) Any such contract may require the pool, company, or organization or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the *Director Administrator* may deem appropriate.

* * * * *

(f) Any contract entered into under this section shall be for a term of one year, and may be made automatically renewable from term to term in the absence of notice by either party of an intention to terminate at the end of the current term; except that the *Director Administrator* may terminate any such contract at any time (after reasonable notice to the pool, company, or organization involved) if he finds that the pool, company, or organization has failed substantially to carry out the contract, or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the flood insurance program authorized under this title.

SETTLEMENT AND ARBITRATION

SEC. 1347. (a) The *Director Administrator* is authorized to make final settlement of any claims or demands which may arise as a result of any financial transactions which he is authorized to carry out under this chapter, and may, to assist him in making any

such settlement, refer any disputes relating to such claims or demands to arbitration, with the consent of the parties concerned.

(b) Such arbitration shall be advisory in nature, and any award, decision, or recommendation which may be made shall become final only upon the approval of the *Director Administrator*.

RECORDS AND AUDITS

SEC. 1348. (a) The flood insurance pool formed or otherwise created under part A of this chapter, and any insurance company or other private organization executing any contract, agreement, or other appropriate arrangement with the *Director Administrator* under part B of this chapter or this part, shall keep such records as the *Director Administrator* shall prescribe, including records which fully disclose the total costs of the program undertaken or the services being rendered, and such other records as will facilitate an effective audit.

(b) The *Director Administrator* and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers and any such insurance company or other private organization that are pertinent to the costs of the program undertaken or the services being rendered.

SEC. 1349. NOTIFICATION TO POLICY HOLDERS REGARDING DIRECT MANAGEMENT OF POLICY BY FEMA.

(a) *NOTIFICATION.*—Not later than 60 days before the date on which a transferred flood insurance policy expires, and annually thereafter until such time as the Federal Emergency Management Agency is no longer directly administering such policy, the Administrator shall notify the holder of such policy that—

(1) the Federal Emergency Management Agency is directly administering the policy;

(2) such holder may purchase flood insurance that is directly administered by an insurance company; and

(3) purchasing flood insurance offered under the National Flood Insurance Program that is directly administered by an insurance company will not alter the coverage provided or the premiums charged to such holder that otherwise would be provided or charged if the policy was directly administered by the Federal Emergency Management Agency.

(b) *DEFINITION.*—In this section, the term “transferred flood insurance policy” means a flood insurance policy that—

(1) was directly administered by an insurance company at the time the policy was originally purchased by the policy holder; and

(2) at the time of renewal of the policy, direct administration of the policy was or will be transferred to the Federal Emergency Management Agency.

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

IDENTIFICATION OF FLOOD-PRONE AREAS

SEC. 1360. (a) The *Director Administrator* is authorized to consult with, receive information from, and enter into any agreements or other arrangements with the Secretaries of the Army, the Inte-

rior, Agriculture, and Commerce, the Tennessee Valley Authority, and the heads of other Federal departments or agencies, on a reimbursement basis, or with the head of any State or local agency, or enter into contracts with any persons or private firms, in order that he may—

(1) * * *

* * * * *

(b) The ζ Director *Administrator* is directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, as provided by subsection (a)(2) of this section, in order to make known the degree of hazard within each such zone at the earliest possible date. To accomplish this objective, the ζ Director *Administrator* is authorized, without regard to subsections (a) and (b) of section 3324 of title 31, United States Code, and section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants, provide technical assistance, and enter into contracts, cooperative agreements, or other transactions, on such terms as he may deem appropriate, or consent to modifications thereof, and to make advance or progress payments in connection therewith.

(c) The Secretary of Defense (through the Army Corps of Engineers), the Secretary of the Interior (through the United States Geological Survey), the Secretary of Agriculture (through the Soil Conservation Service), the Secretary of Commerce (through the National Oceanic and Atmospheric Administration), the head of the Tennessee Valley Authority, and the heads of all other Federal agencies engaged in the identification or delineation of flood-risk zones within the several States shall, in consultation with the ζ Director *Administrator*, give the highest practicable priority in the allocation of available manpower and other available resources to the identification and mapping of flood hazard areas and flood-risk zones, in order to assist the ζ Director *Administrator* to meet the deadline established by this section.

(d) The ζ Director *Administrator* shall, not later than September 30, 1984, submit to the Congress a plan for bringing all communities containing flood-risk zones into full program status by September 30, 1987.

(e) REVIEW OF FLOOD MAPS.—Once during each 5-year period (the 1st such period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994) or more often as the ζ Director *Administrator* determines necessary, the ζ Director *Administrator* shall assess the need to revise and update all floodplain areas and flood risk zones identified, delineated, or established under this section, based on an analysis of all natural hazards affecting flood risks.

(f) UPDATING FLOOD MAPS.—The ζ Director *Administrator* shall revise and update any floodplain areas and flood-risk zones—

(1) upon the determination of the ζ Director *Administrator*, according to the assessment under subsection (e), that revision and updating are necessary for the areas and zones; or

(2) upon the request from any State or local government stating that specific floodplain areas or flood-risk zones in the State or locality need revision or updating, if sufficient technical data justifying the request is submitted and the unit of government making the request agrees to provide funds in an amount determined by the ζ Director *Administrator*, but

which may not exceed 50 percent of the cost of carrying out the requested revision or update.

(g) AVAILABILITY OF FLOOD MAPS.—To promote compliance with the requirements of this title, the ζ Director *Administrator* shall make flood insurance rate maps and related information available free of charge to the Federal entities for lending regulation, Federal agency lenders, State agencies directly responsible for coordinating the national flood insurance program, and appropriate representatives of communities participating in the national flood insurance program, and at a reasonable cost to all other persons. Any receipts resulting from this subsection shall be deposited in the National Flood Insurance Fund, pursuant to section 1310(b)(6).

(h) NOTIFICATION OF FLOOD MAP CHANGES.—The ζ Director *Administrator* 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 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.

(i) COMPENDIA OF FLOOD MAP CHANGES.—Every 6 months, the ζ Director *Administrator* shall publish separately in their entirety within a compendium, all changes and revisions to flood insurance map panels and all letters of map amendment and letters of map revision for which notice was published in the Federal Register or otherwise provided during the preceding 6 months. The ζ Director *Administrator* shall make such compendia available, free of charge, to Federal entities for lending regulation, Federal agency lenders, and States and communities participating in the national flood insurance program pursuant to section 1310 and at cost to all other parties. Any receipts resulting from this subsection shall be deposited in the National Flood Insurance Fund, pursuant to section 1310(b)(6).

(j) PROVISION OF INFORMATION.—In the implementation of revisions to and updates of flood insurance rate maps, the ζ Director *Administrator* shall share information, to the extent appropriate, with the Under Secretary of Commerce for Oceans and Atmosphere and representatives from State coastal zone management programs.

(k) TREATMENT OF LEVEES.—*The Administrator may not issue flood insurance maps, or make effective updated flood insurance maps, that omit or disregard the actual protection afforded by an existing levee, floodwall, pump or other flood protection feature, regardless of the accreditation status of such feature.*

(l) 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*

Administrator 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.

(m) REIMBURSEMENT.—

(1) REQUIREMENT UPON BONA FIDE OFFER.—If an owner of any property located in an area described in section 102(i)(3) of the Flood Disaster Protection Act of 1973 obtains a letter of map amendment due to a bona fide error on the part of the Administrator of the Federal Emergency Management Agency, the Administrator shall reimburse such owner, or such entity or jurisdiction acting on such owner's behalf, for any reasonable costs incurred in obtaining such letter.

(2) REASONABLE COSTS.—The Administrator shall, by regulation or notice, determine a reasonable amount of costs to be reimbursed under paragraph (1), except that such costs shall not include legal or attorneys fees. In determining the reasonableness of costs, the Administrator shall only consider the actual costs to the owner of utilizing the services of an engineer, surveyor, or similar services.

CRITERIA FOR LAND MANAGEMENT AND USE

SEC. 1361. (a) The *Administrator* is authorized to carry out studies and investigations, utilizing to the maximum extent practicable the existing facilities and services of other Federal departments or agencies, and State and local governmental agencies, and any other organizations, with respect to the adequacy of State and local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention, and may enter into any contracts, agreements or other appropriate arrangements to carry out such authority.

* * * * *

(c) On the basis of such studies and investigations, and such other information as he deems necessary, the *Administrator* shall from time to time develop comprehensive criteria designed to encourage, where necessary, the adoption of adequate State and local measures which, to the maximum extent feasible, will—

(1) * * *

* * * * *

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

(a) **AUTHORITY.**—To the extent amounts are made available for use under this section, the *Administrator* may, subject to the limitations of this section, provide financial assistance to States and communities that decide to participate in the pilot program established under this section for taking actions with respect to severe repetitive loss properties (as such term is defined in subsection (b)) to mitigate flood damage to such properties and losses to the National Flood Insurance Fund from such properties.

(b) **SEVERE REPETITIVE LOSS PROPERTY.**—For purposes of this section, the term “severe repetitive loss property” has the following meaning:

(1) * * *

(2) MULTIFAMILY PROPERTIES.—In the case of a property consisting of 5 or more residences, such term shall have such meaning as the *Director Administrator* shall by regulation provide.

* * * * *

(d) MATCHING REQUIREMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), in any fiscal year the *Director Administrator* may not provide assistance under this section to a State or community in an amount exceeding 3 times the amount that the State or community certifies, as the *Director Administrator* shall require, that the State or community will contribute from non-Federal funds for carrying out the eligible activities to be funded with such assistance amounts.

(2) REDUCED COMMUNITY MATCH.—With respect to any 1-year period in which assistance is made available under this section, the *Director Administrator* may adjust the contribution required under paragraph (1) by any State, and for the communities located in that State, to not less than 10 percent of the cost of the activities for each severe repetitive loss property for which grant amounts are provided if, for such year—

(A) * * *

(B) the *Director Administrator* determines, after consultation with the State, that the State has taken actions to reduce the number of such properties.

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

(e) NOTICE OF MITIGATION PROGRAM.—

(1) IN GENERAL.—Upon selecting a State or community to receive assistance under subsection (a) to carry out eligible activities, the *Director Administrator* shall notify the owners of a severe repetitive loss property, in plain language, within that State or community—

(A) * * *

* * * * *

(2) IDENTIFICATION OF SEVERE REPETITIVE LOSS PROPERTIES.—The *Director Administrator* shall take such steps as are necessary to identify severe repetitive loss properties, and submit that information to the relevant States and communities.

(f) STANDARDS FOR MITIGATION OFFERS.—The program under this section for providing assistance for eligible activities for severe repetitive loss properties shall be subject to the following limitations:

(1) PRIORITY.—In determining the properties for which to provide assistance for eligible activities under subsection (c), the *Director Administrator* shall provide assistance for properties in the order that will result in the greatest amount of

savings to the National Flood Insurance Fund in the shortest period of time, in a manner consistent with the allocation formula under paragraph (5).

(2) OFFERS.—The *Director Administrator* shall provide assistance in a manner that permits States and communities to make offers to owners of severe repetitive loss properties to take eligible activities under subsection (c) as soon as practicable.

* * * * *

(4) DEFERENCE TO LOCAL MITIGATION DECISIONS.—The *Director Administrator* shall not, by rule, regulation, or order, establish a priority for funding eligible activities under this section that gives preference to one type or category of eligible activity over any other type or category of eligible activity.

(5) ALLOCATION.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), of the total amount made available for assistance under this section in any fiscal year, the *Director Administrator* shall allocate assistance to a State, and the communities located within that State, based upon the percentage of the total number of severe repetitive loss properties located within that State.

(B) REDISTRIBUTION.—Any funds allocated to a State, and the communities within the State, under subparagraph (A) that have not been obligated by the end of each fiscal year shall be redistributed by the *Director Administrator* to other States and communities to carry out eligible activities in accordance with this section.

(C) EXCEPTION.—Of the total amount made available for assistance under this section in any fiscal year, 10 percent shall be made available to communities that—

(i) * * *

(ii) are located in States that receive little or no assistance, as determined by the *Director Administrator*, under the allocation formula under subparagraph (A).

* * * * *

(g) PURCHASE OFFERS.—A State or community may take action under subsection (c)(2) to purchase a severe repetitive loss property only if the following requirements are met:

(1) USE OF PROPERTY.—The State or community enters into an agreement with the *Director Administrator* that provides assurances that the property purchased will be used in a manner that is consistent with the requirements of section 404(b)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(b)(2)(B)) for properties acquired, accepted, or from which a structure will be removed pursuant to a project provided property acquisition and relocation assistance under such section 404(b).

(2) OFFERS.—The *Director Administrator* shall provide assistance in a manner that permits States and communities to make offers to owners of severe repetitive loss properties and

of associated land to engage in eligible activities as soon as possible.

* * * * *

(4) COMPARABLE HOUSING PAYMENT.—If a purchase offer made under paragraph (2) is less than the cost of the homeowner-occupant to purchase a comparable replacement dwelling outside the flood hazard area in the same community, the ζ Director Administrator shall make available an additional relocation payment to the homeowner-occupant to apply to the difference.

(h) INCREASED PREMIUMS IN CASES OF REFUSAL TO MITIGATE.—

(1) IN GENERAL.—In any case in which the owner of a severe repetitive loss property refuses an offer to take action under paragraph (1) or (2) of subsection (c) with respect to such property, the ζ Director Administrator shall—

(A) * * *

(B) notwithstanding subsections (a) through (c) of section 1308, thereafter the chargeable premium rate with respect to the property shall be the amount equal to ζ 150 percent of the chargeable rate for the property at the time that the offer was made, as adjusted by any other premium adjustments otherwise applicable to the property and any subsequent increases pursuant to paragraph (2) and subject to the limitation under paragraph (3) *the applicable estimated risk premium rate for such coverage for the area (or subdivision thereof) determined in accordance with section 1307(a), subject to phase-in of such rates in the same manner provided under paragraph (2) of section 1308(g) for properties described in paragraph (1) of such section.*

An offer to take action under paragraph (1) or (2) of subsection (c) shall be considered to be made for purposes of this paragraph with respect to a severe repetitive loss property regardless of the time that the offer was made and regardless of whether the Administrator has transferred financial assistance under this section to the State or community making the offer for funding such action, but only if the owner of the property is provided a reasonable period of time, not to exceed 15 days, to respond to the offer.

ζ (2) INCREASED PREMIUMS UPON SUBSEQUENT FLOOD DAMAGE.—Notwithstanding subsections (a) through (c) of section 1308, if the owner of a severe repetitive loss property does not accept an offer to take action under paragraph (1) or (2) of subsection (c) with respect to such property and a claim payment exceeding \$1,500 is made under flood insurance coverage under this title for damage to the property caused by a flood event occurring after such offer is made, thereafter the chargeable premium rate with respect to the property shall be the amount equal to 150 percent of the chargeable rate for the property at the time of such flood event, as adjusted by any other premium adjustments otherwise applicable to the property and any subsequent increases pursuant to this paragraph and subject to the limitation under paragraph (3).

ζ (3) LIMITATION ON INCREASED PREMIUMS.—In no case may the chargeable premium rate for a severe repetitive loss property be increased pursuant to this subsection to an amount ex-

ceeding the applicable estimated risk premium rate for the area (or subdivision thereof) under section 1307(a)(1).

¿(4) (2) TREATMENT OF DEDUCTIBLES.—Any increase in chargeable premium rates required under this subsection for a severe repetitive loss property may be carried out, to the extent appropriate, as determined by the ¿Director *Administrator*, by adjusting any deductible charged in connection with flood insurance coverage under this title for the property.

¿(5) (3) NOTICE OF CONTINUED OFFER.—Upon each renewal or modification of any flood insurance coverage under this title for a severe repetitive loss property, the ¿Director *Administrator* shall notify the owner that the offer made pursuant to subsection (c) is still open.

¿(6) (4) APPEALS.—

(A) IN GENERAL.—Any owner of a severe repetitive loss property may appeal a determination of the ¿Director *Administrator* to take action under paragraph (1)(B) or (2) with respect to such property, based only upon the following grounds:

(i) * * *

* * * * *

(B) PROCEDURE.—An appeal under this paragraph of a determination of the ¿Director *Administrator* shall be made by filing, with the ¿Director *Administrator*, a request for an appeal within 90 days after receiving notice of such determination. Upon receiving the request, the ¿Director *Administrator* shall select, from a list of independent third parties compiled by the ¿Director *Administrator* for such purpose, a party to hear such appeal. Within 90 days after filing of the request for the appeal, such third party shall review the determination of the ¿Director *Administrator* and shall set aside such determination if the third party determines that the grounds under subparagraph (A) exist. During the pendency of an appeal under this paragraph, the ¿Director *Administrator* shall stay the applicability of the rates established pursuant to paragraph (1)(B) or (2), as applicable.

(C) EFFECT OF FINAL DETERMINATION.—In an appeal under this paragraph—

(i) if a final determination is made in favor of the property owner under subparagraph (A) exist, the third party hearing such appeal shall require the ¿Director *Administrator* to reduce the chargeable risk premium rate for flood insurance coverage for the property involved in the appeal from the amount required under paragraph (1)(B) or (2) to the amount paid prior to the offer to take action under paragraph (1) or (2) of subsection (c); and

(ii) if a final determination is made that the grounds under subparagraph (A) do not exist, the ¿Director *Administrator* shall promptly increase the chargeable risk premium rate for such property to the amount established pursuant to paragraph (1)(B) or (2), as applicable, and shall collect from the property owner the amount necessary to cover the stay of the applicability

of such increased rates during the pendency of the appeal.

* * * * *

(E) REPORT.—Not later than 6 months after the date of the enactment of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, the *Director Administrator* shall submit a report describing the rules, procedures, and administration for appeals under this paragraph to—

(i) * * *

* * * * *

(i) DISCRETIONARY ACTIONS IN CASES OF FRAUDULENT CLAIMS.—If the *Director Administrator* determines that a fraudulent claim was made under flood insurance coverage under this title for a severe repetitive loss property, the *Director Administrator* may—

(1) * * *

* * * * *

(j) RULES.—

(1) IN GENERAL.—The *Director Administrator* shall, by rule—

(A) * * *

(B) ensure that the procedures developed under paragraph (1)—

(i) require the *Director Administrator* to notify States and communities of the availability of funding under this section, and that participation in the pilot program under this section is optional;

(ii) provide that the *Director Administrator* may assist States and communities in identifying severe repetitive loss properties within States or communities;

* * * * *

(iv) require each State or community to submit a list of severe repetitive loss properties to the *Director Administrator* that the State or community would like to be the subject of eligible activities under this section.

(2) CONSULTATION.—Not later than 90 days after the date of enactment of this Act, the *Director Administrator* shall consult with State and local officials in carrying out paragraph (1)(A), and provide an opportunity for an oral presentation, on the record, of data and arguments from such officials.

(k) FUNDING.—

(1) IN GENERAL.—Pursuant to section 1310(a)(8), the *Director Administrator* 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, 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.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts made available under this subsection, the ζ Director *Administrator* may use up to 5 percent for expenses associated with the administration of this section.

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

APPEALS

SEC. 1363. (a) In establishing projected flood elevations for land use purposes with respect to any community pursuant to section 1361, the ζ Director *Administrator* shall first propose such determinations by publication for comment in the Federal Register, by direct notification to the chief executive officer of the community, and by publication in a prominent local newspaper.

(b) The ζ Director *Administrator* shall publish notification of flood elevation determinations in a prominent local newspaper at least twice during the ten-day period following notification to the local government. During the ninety-day period following the second publication, any owner or lessee of real property within the community who believes his property rights to be adversely affected by the ζ Director's *Administrator's* proposed determination may appeal such determination to the local government. The sole basis for such appeal shall be the possession of knowledge or information indicating that elevations being proposed by the ζ Director *Administrator* with respect to an identified area having special flood hazards are scientifically or technically incorrect, and the sole relief which shall be granted under the authority of this section in the event that such appeal is sustained in accordance with subsection (e) or (f) is a modification of the ζ Director's *Administrator's* proposed determination accordingly.

(c) Appeals by private persons shall be made to the chief executive officer of the community, or to such agency as he shall publicly designate, and shall set forth the data that tend to negate or contradict the ζ Director's *Administrator's* finding in such form as the chief executive officer may specify. The community shall review and consolidate all such appeals and issue a written opinion stating whether the evidence presented is sufficient to justify an appeal on behalf of such persons by the community in its own name. Whether or not the community decides to appeal the ζ Director's *Administrator's* determination, copies of individual appeals shall be sent to the ζ Director *Administrator* as they are received by the community, and the community's appeal or a copy of its decision not to appeal shall be filed with the ζ Director *Administrator* not later than ninety days after the date of the second newspaper publication of the ζ Director's *Administrator's* notification.

(d) In the event the ζ Director *Administrator* does not receive an appeal from the community within the ninety days provided he shall consolidate and review on their own merits, in accordance with the procedures set forth in subsection (e), the appeals filed within the community by private persons and shall make such modifications of his proposed determinations as may be appropriate, taking into account the written opinion, if any, issued by the community in not supporting such appeals. The ζ Director's *Administrator's* decision shall be in written form, and copies there-

of shall be sent both to the chief executive officer of the community and to each individual appellant.

(e) Upon appeal by any community, as provided by this section, the ζ Director *Administrator* shall review and take fully into account any technical or scientific data submitted by the community that tend to negate or contradict the information upon which his proposed determination is based. The ζ Director *Administrator* shall resolve such appeal by consultation with officials of the local government involved, by administrative hearing, or by submission of the conflicting data to an independent scientific body or appropriate Federal agency for advice. Until the conflict in data is resolved, and the ζ Director *Administrator* makes a final determination on the basis of his findings in the Federal Register, and so notifies the governing body of the community, flood insurance previously available within the community shall continue to be available, and no person shall be denied the right to purchase such insurance at chargeable rates. The ζ Director *Administrator* shall make his determination within a reasonable time. The community shall be given a reasonable time after the ζ Director's *Administrator's* final determination in which to adopt local land use and control measures consistent with the ζ Director's *Administrator's* determination. The reports and other information used by the ζ Director *Administrator* in making his final determination shall be made available for public inspection and shall be admissible in a court of law in the event the community seeks judicial review as provided by this section.

(f) When, incident to any appeal under subsection (b) or (c), the owner or lessee of real property or the community, as the case may be, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal which is successful in whole or in part, the ζ Director *Administrator* shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the ζ Director *Administrator* in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. There is authorized to be appropriated for purposes of implementing this subsection, not to exceed \$250,000.

(g) Any appellant aggrieved by any final determination of the ζ Director *Administrator* upon administrative appeal, as provided by this section, may appeal such determination to the United States district court for the district within which the community is located not more than sixty days after receipt of notice of such determination. The scope of review by the court shall be as provided by chapter 7 of title 5, United States Code. During the pendency of any such litigation, all final determinations of the ζ Director *Administrator* shall be effective for the purposes of this title unless stayed by the court for good cause shown.

NOTICE REQUIREMENTS

SEC. 1364. (a) NOTIFICATION OF SPECIAL FLOOD HAZARDS.—

(1) REGULATED LENDING INSTITUTIONS.—Each Federal entity for lending regulation (after consultation and coordination with

the Financial Institutions Examination Council) shall by regulation require regulated lending institutions, as a condition of making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home that the regulated lending institution determines is located or is to be located in an area that has been identified by the ζ Director *Administrator* under this title or the Flood Disaster Protection Act of 1973 as an area having special flood hazards, to notify the purchaser or lessee (or obtain satisfactory assurances that the seller or lessor has notified the purchaser or lessee) and the servicer of the loan of such special flood hazards, in writing, a reasonable period in advance of the signing of the purchase agreement, lease, or other documents involved in the transaction. The regulations shall also require that the regulated lending institution retain a record of the receipt of the notices by the purchaser or lessee and the servicer.

(2) FEDERAL AGENCY LENDERS.—Each Federal agency lender shall by regulation require notification in the manner provided under paragraph (1) with respect to any loan that is made by the Federal agency lender and secured by improved real estate or a mobile home located or to be located in an area that has been identified by the ζ Director *Administrator* under this title or the Flood Disaster Protection Act of 1973 as an area having special flood hazards. Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1).

(3) CONTENTS OF NOTICE.—Written notification required under this subsection shall include—

(A) a warning, in a form to be established by the ζ Director *Administrator*, stating that the building on the improved real estate securing the loan is located, or the mobile home securing the loan is or is to be located, in an area having special flood hazards;

* * * * *

(D) any other information that the ζ Director *Administrator* considers necessary to carry out the purposes of the national flood insurance program.

(b) NOTIFICATION OF CHANGE OF SERVICER.—

(1) LENDING INSTITUTIONS.—Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require regulated lending institutions, in connection with the making, increasing, extending, renewing, selling, or transferring any loan described in subsection (a)(1), to notify the ζ Director *Administrator* (or the designee of the ζ Director *Administrator*) in writing during the term of the loan of the servicer of the loan. Such institutions shall also notify the ζ Director *Administrator* (or such designee) of any change in the servicer of the loan, not later than 60 days after the effective date of such change. The regulations under this subsection shall provide that upon any change in the servicing of a loan, the duty to provide notification under this subsection shall transfer to the transferee servicer of the loan.

* * * * *

(c) NOTIFICATION OF EXPIRATION OF INSURANCE.—The *Director Administrator* (or the designee of the *Director Administrator*) shall, not less than 45 days before the expiration of any contract for flood insurance under this title, issue notice of such expiration by first class mail to the owner of the property covered by the contract, the servicer of any loan secured by the property covered by the contract, and (if known to the *Director Administrator*) the owner of the loan.

STANDARD HAZARD DETERMINATION FORMS

SEC. 1365. (a) DEVELOPMENT.—The *Director Administrator*, in consultation with representatives of the mortgage and lending industry, the Federal entities for lending regulation, the Federal agency lenders, and any other appropriate individuals, shall develop a standard form for determining, in the case of a loan secured by improved real estate or a mobile home, whether the building or mobile home is located in an area identified by the *Director Administrator* as an area having special flood hazards and in which flood insurance under this title is available. The form shall be established by regulations issued not later than 270 days after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.

(b) DESIGN AND CONTENTS.—

(1) * * *

(2) CONTENTS.—The form shall require identification of the type of flood-risk zone in which the building or mobile home is located, the complete map and panel numbers for the improved real estate or property on which the mobile home is located, the community identification number and community participation status (for purposes of the national flood insurance program) of the community in which the improved real estate or such property is located, and the date of the map used for the determination, with respect to flood hazard information on file with the *Director Administrator*. If the building or mobile home is not located in an area having special flood hazards the form shall require a statement to such effect and shall indicate the complete map and panel numbers of the improved real estate or property on which the mobile home is located. If the complete map and panel numbers are not available because the building or mobile home is not located in a community that is participating in the national flood insurance program or because no map exists for the relevant area, the form shall require a statement to such effect. The form shall provide for inclusion or attachment of any relevant documents indicating revisions or amendments to maps.

* * * * *

(e) RELIANCE ON PREVIOUS DETERMINATION.—Any person increasing, extending, renewing, or purchasing a loan secured by improved real estate or a mobile home may rely on a previous determination of whether the building or mobile home is located in an area having special flood hazards (and shall not be liable for any error in such previous determination), if the previous determination was made not more than 7 years before the date of the trans-

action and the basis for the previous determination has been set forth on a form under this section, unless—

(1) * * *

(2) the person contacts the ϵ Director *Administrator* to determine when the most recent map revisions or updates affecting such property occurred and such revisions and updates have occurred after such previous determination.

* * * * *

MITIGATION ASSISTANCE

SEC. 1366. (a) AUTHORITY.—The ϵ Director *Administrator* shall carry out a program to provide financial assistance to States and communities, using amounts made available from the National Flood Mitigation Fund under section 1367, for planning and carrying out activities designed to reduce the risk of flood damage to structures covered under contracts for flood insurance under this title. Such financial assistance shall be made available to States and communities in the form of grants under subsection (b) for planning assistance and in the form of grants under this section for carrying out mitigation activities.

(b) PLANNING ASSISTANCE GRANTS.—

(1) IN GENERAL.—The ϵ Director *Administrator* may make grants under this subsection to States and communities to assist in developing mitigation plans under subsection (c).

(2) FUNDING.—Of any amounts made available from the National Flood Mitigation Fund for use under this section in any fiscal year, the ϵ Director *Administrator* may use not more than 7.5 percent of the available funds under this section to provide planning assistance grants under this subsection.

* * * * *

(c) ELIGIBILITY FOR MITIGATION ASSISTANCE.—To be eligible to receive financial assistance under this section for mitigation activities, a State or community shall develop, and have approved by the ϵ Director *Administrator*, a flood risk mitigation plan (in this section referred to as a “mitigation plan”), that describes the mitigation activities to be carried out with assistance provided under this section, is consistent with the criteria established by the ϵ Director *Administrator* under section 1361, and provides protection against flood losses to structures for which contracts for flood insurance are available under this title. The mitigation plan shall be consistent with a comprehensive strategy for mitigation activities for the area affected by the mitigation plan, that has been adopted by the State or community following a public hearing.

(d) NOTIFICATION OF APPROVAL AND GRANT AWARD.—

(1) IN GENERAL.—The ϵ Director *Administrator* shall notify a State or community submitting a mitigation plan of the approval or disapproval of the plan not later than 120 days after submission of the plan.

(2) NOTIFICATION OF DISAPPROVAL.—If the ϵ Director *Administrator* does not approve a mitigation plan submitted under this subsection, the ϵ Director *Administrator* shall notify, in writing, the State or community submitting the plan of the reasons for such disapproval.

(e) ELIGIBLE MITIGATION ACTIVITIES.—

(1) USE OF AMOUNTS.—Amounts provided under this section (other than under subsection (b)) may be used only for mitigation activities specified in a mitigation plan approved by the *Director Administrator* under subsection (d). The *Director Administrator* shall provide assistance under this section to the extent amounts are available in the National Flood Mitigation Fund pursuant to appropriation Acts, subject only to the absence of approvable mitigation plans.

(2) DETERMINATION OF ELIGIBLE PLANS.—The *Director Administrator* may approve only mitigation plans that specify mitigation activities that the *Director Administrator* determines are technically feasible and cost-effective and only such plans that propose activities that are cost-beneficial to the National Flood Mitigation Fund.

(3) STANDARD FOR APPROVAL.—The *Director Administrator* shall approve mitigation plans meeting the requirements for approval under paragraph (1) that will be most cost-beneficial to the National Flood Mitigation Fund. The *Director Administrator* may approve only mitigation plans that give priority for funding to such properties, or to such subsets of properties, as are in the best interest of the National Flood Insurance Fund.

(4) PRIORITY FOR MITIGATION ASSISTANCE.—In providing grants under this subsection for mitigation activities, the *Director Administrator* shall give first priority for funding to such properties, or to such subsets of such properties as the *Director Administrator* may establish, that the *Director Administrator* determines are in the best interests of the National Flood Insurance Fund and for which matching amounts under subsection (f) are available.

(5) ELIGIBLE ACTIVITIES.—The *Director Administrator* 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) * * *

* * * * *

(C) acquisition by States and communities of properties (including public properties) located in areas having special flood hazards or other areas of flood risk and properties substantially damaged by flood, for public use, as the *Director Administrator* determines is consistent with sound land management and use in such area;

(D) minor physical mitigation efforts that do not duplicate the flood prevention activities of other Federal agencies and that lessen the frequency or severity of flooding and decrease predicted flood damages, which shall not include major flood control projects such as dikes, levees, seawalls, groins, and jetties unless the *Director Administrator* specifically determines in approving a mitigation plan that such activities are the most cost-effective mitigation activities for the National Flood Mitigation Fund;

* * * * *

(G) other activities that the ϵ Director *Administrator* considers appropriate and specifies in regulation; and

* * * * *

(6) *ELIGIBILITY OF DEMOLITION AND REBUILDING OF PROPERTIES.*—The *Administrator* shall consider as an eligible activity the demolition and rebuilding of properties to at least base flood levels or higher, if required by the *Administrator* or if required by any State or local ordinance, and in accordance with project implementation criteria established by the *Administrator*.

(f) *LIMITATIONS ON AMOUNT OF ASSISTANCE.*—

(1) * * *

* * * * *

(3) *WAIVER.*—The ϵ Director *Administrator* may waive the dollar amount limitations under paragraphs (1) and (2) for any State or community for any 5-year period during which a major disaster or emergency declared by the President (pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act) as a result of flood conditions is in effect with respect to areas in the State or community.

(g) *MATCHING REQUIREMENT.*—

(1) *IN GENERAL.*—The ϵ Director *Administrator* may not provide mitigation assistance under this section to a State or community in an amount exceeding 3 times the amount that the State or community certifies, as the ϵ Director *Administrator* shall require, that the State or community will contribute from non-Federal funds to develop a mitigation plan under subsection (c) and to carry out mitigation activities under the approved mitigation plan. In no case shall any in-kind contribution by any State or community exceed one-half of the amount of non-Federal funds contributed by the State or community.

(2) *REDUCED COMMUNITY MATCH.*—With respect to any 1-year period in which assistance is made available under this section, the ϵ Director *Administrator* may adjust the contribution required under paragraph (1) by any State, and for the communities located in that State, to not less than 10 percent of the cost of the activities for each severe repetitive loss property for which grant amounts are provided if, for such year—

(A) * * *

(B) the ϵ Director *Administrator* determines, after consultation with the State, that the State has taken actions to reduce the number of such properties.

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

(h) *OVERSIGHT OF MITIGATION PLANS.*—The ϵ Director *Administrator* shall conduct oversight of recipients of mitigation assistance under this section to ensure that the assistance is used in compliance with the approved mitigation plans of the recipients and that

matching funds certified under subsection (g) are used in accordance with such certification.

(i) RECAPTURE.—

(1) NONCOMPLIANCE WITH PLAN.—If the *Director Administrator* determines that a State or community that has received mitigation assistance under this section has not carried out the mitigation activities as set forth in the mitigation plan, the *Director Administrator* shall recapture any unexpended amounts and deposit the amounts in the National Flood Mitigation Fund under section 1367.

(2) FAILURE TO PROVIDE MATCHING FUNDS.—If the *Director Administrator* determines that a State or community that has received mitigation assistance under this section has not provided matching funds in the amount certified under subsection (g), the *Director Administrator* shall recapture any unexpended amounts of mitigation assistance exceeding 3 times the amount of such matching funds actually provided and deposit the amounts in the National Flood Mitigation Fund under section 1367.

(j) REPORTS.—Not later than 1 year after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and biennially thereafter, the *Director Administrator* shall submit a report to the Congress describing the status of mitigation activities carried out with assistance provided under this section.

* * * * *

(m) COORDINATION WITH STATES AND COMMUNITIES.—The *Director Administrator* shall, in consultation and coordination with States and communities take such actions as are appropriate to encourage and improve participation in the national flood insurance program of owners of properties, including owners of properties that are not located in areas having special flood hazards (the 100-year floodplain), but are located within flood prone areas.

NATIONAL FLOOD MITIGATION FUND

SEC. 1367. (a) ESTABLISHMENT AND AVAILABILITY.—The *Director Administrator* shall establish in the Treasury of the United States a fund to be known as the National Flood Mitigation Fund, which shall be credited with amounts described in subsection (b) and shall be available, to the extent provided in appropriation Acts, for providing assistance under section 1366.

* * * * *

(c) ADMINISTRATIVE EXPENSES.—The *Director Administrator* may use not more than 5 percent of amounts made available under subsection (b) to cover salaries, expenses, and other administrative costs incurred by the *Director Administrator* to make grants and provide assistance under sections 1366 and 1323.

(d) INVESTMENT.—If the *Director Administrator* determines that the amounts in the National Flood Mitigation Fund are in excess of amounts needed under subsection (a), the *Director Administrator* may invest any excess amounts the *Director Administrator* determines advisable in interest-bearing obligations issued or guaranteed by the United States.

(e) REPORT.—The ζ Director *Administrator* shall submit a report to the Congress not later than the expiration of the 1-year period beginning on the date of enactment of this Act and not less than once during each successive 2-year period thereafter. The report shall describe the status of the Fund and any activities carried out with amounts from the Fund.

CHAPTER IV—APPROPRIATIONS AND MISCELLANEOUS PROVISIONS

DEFINITIONS

SEC. 1370. (a) As used in this title—

(1) the term “flood” shall have such meaning as may be prescribed in regulations of the ζ Director *Administrator*, and may include inundation from rising waters or from the overflow of streams, rivers, or other bodies of water, or from tidal surges, abnormally high tidal water, tidal waves, tsunamis, hurricanes, or other severe storms or deluge;

* * * * *

(3) the terms “insurance company”, “other insurer” and “insurance agent or broker” include any organizations and persons authorized to engage in the insurance business under the laws of any State, *is subject to the reporting requirements of the Securities Exchange Act of 1934, pursuant to section 13(a) or 15(d) of such Act (15 U.S.C. 78m(a), 78o(d)), or is authorized by the Administrator to assume reinsurance on risks insured by the flood insurance program*;

* * * * *

(6) the term “ ζ Director *Administrator*” means the ζ Director *Administrator* of the Federal Emergency Management Agency;

* * * * *

(15) the term “substantially damaged structure” means a structure covered by a contract for flood insurance that has incurred damage for which the cost of repair exceeds an amount specified in any regulation promulgated by the ζ Director *Administrator*, or by a community ordinance, whichever is lower.

(b) The term “flood” shall also include inundation from mudslides which are proximately caused by accumulations of water on or under the ground; and all of the provisions of this title shall apply with respect to such mudslides in the same manner and to the same extent as with respect to floods described in subsection (a)(1), subject to and in accordance with such regulations, modifying the provisions of this title (including the provisions relating to land management and use) to the extent necessary to insure that they can be effectively so applied, as the ζ Director *Administrator* may prescribe to achieve (with respect to such mudslides) the purposes of this title and the objectives of the program.

(c) The term “flood” shall also include the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels, and all of the provisions of this title shall apply with respect to such collapse or subsidence in the

same manner and to the same extent as with respect to floods described in subsection (a)(1), subject to and in accordance with such regulations, modifying the provisions of this title (including the provisions relating to land management and use) to the extent necessary to insure that they can be effectively so applied, as the Director Administrator may prescribe to achieve (with respect to such collapse or subsidence) the purposes of this title and the objectives of the program.

STUDIES OF OTHER NATURAL DISASTERS

SEC. 1371. (a) The Director Administrator is authorized to undertake such studies as may be necessary for the purpose of determining the extent to which insurance protection against earthquakes or any other natural disaster perils, other than flood, is not available from public or private sources, and the feasibility of such insurance protection being made available.

(b) Studies under this section shall be carried out, to the maximum extent practicable, with the cooperation of other Federal departments and agencies and State and local agencies, and the Director Administrator is authorized to consult with, receive information from, and enter into any necessary agreements or other arrangements with such other Federal departments and agencies (on a reimbursement basis) and such State and local agencies.

PAYMENTS

SEC. 1372. Any payments under this title may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Director Administrator may determine.

* * * * *

EFFECTIVE DATE

SEC. 1377. This title shall take effect one hundred and twenty days following the date of its enactment, except that the Director Administrator on the basis of a finding that conditions exist necessitating the prescribing of an additional period, may prescribe a later effective date which in no event shall be more than one hundred and eighty days following such date of enactment.

FLOOD DISASTER PROTECTION ACT OF 1973

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Flood Disaster Protection Act of 1973".

DEFINITIONS

SEC. 3. (a) As used in this Act, unless the context otherwise requires, the term—

(1) * * *

* * * * *

(6) “*Director Administrator*” means the *Director Administrator* of the Federal Emergency Management Agency;

* * * * *

(b) The *Director Administrator* is authorized to define or redefine, by rules and regulations, any scientific or technical term used in this Act, insofar as such definition is not inconsistent with the purposes of this Act.

TITLE I—EXPANSION OF NATIONAL FLOOD INSURANCE PROGRAM

* * * * *

FLOOD INSURANCE PURCHASE AND COMPLIANCE REQUIREMENTS AND ESCROW ACCOUNTS

SEC. 102. (a) After the expiration of sixty days following the date of enactment of this Act, no Federal officer or agency shall approve any financial assistance for acquisition or construction purposes for use in any area that has been identified by the *Director Administrator* as an area having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property to which such financial assistance relates is covered by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less: *Provided*, That if the financial assistance provided is in the form of a loan or an insurance or guaranty of a loan, the amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan. The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property.

(b) REQUIREMENT FOR MORTGAGE LOANS.—

(1) REGULATED LENDING INSTITUTIONS.—Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council established under the Federal Financial Institutions Examination Council Act of 1974) shall by regulation direct regulated *lending institutions* not to make *lending institutions*—

(A) *not to make*, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the *Director Administrator* as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or the maximum limit of coverage made available under the Act with respect to the particular type of property, whichever is less. ; and

(B) to accept private flood insurance as satisfaction of the flood insurance coverage requirement under subparagraph (A) if the coverage provided by such private flood insurance meets the requirements for coverage under such subparagraph.

(2) FEDERAL AGENCY LENDERS.—A Federal agency lender may not make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the *Director Administrator* as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1). *Each Federal agency lender shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under the preceding sentence if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such sentence.* Each Federal agency lender shall issue any regulations necessary to carry out this paragraph. Such regulations shall be consistent with and substantially identical to the regulations issued under paragraph (1).

(3) GOVERNMENT-SPONSORED ENTERPRISES FOR HOUSING.—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall implement procedures reasonably designed to ensure that, for any loan that is—

(A) secured by improved real estate or a mobile home located in an area that has been identified, at the time of the origination of the loan or at any time during the term of the loan, by the *Director Administrator* as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968, and

* * * * *
the building or mobile home and any personal property securing the loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1). *The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under the preceding sentence if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such sentence.*

* * * * *
(5) PRIVATE FLOOD INSURANCE DEFINED.—*In this subsection, the term “private flood insurance” means a contract for flood insurance coverage allowed for sale under the laws of any State.*

(c) EXCEPTIONS TO PURCHASE REQUIREMENTS.—

(1) STATE-OWNED PROPERTY.—Notwithstanding the other provisions of this section, flood insurance shall not be required on any State-owned property that is covered under an adequate State policy of self-insurance satisfactory to the *Director Administrator*. The *Director Administrator* shall publish and

periodically revise the list of States to which this subsection applies.

* * * * *

(d) ESCROW OF FLOOD INSURANCE PAYMENTS.—

(1) REGULATED LENDING INSTITUTIONS.—Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require that, if a regulated lending institution requires the escrowing of taxes, insurance premiums, fees, or any other charges for a loan secured by residential improved real estate or a mobile home, then all premiums and fees for flood insurance under the National Flood Insurance Act of 1968 for the real estate or mobile home shall be paid to the regulated lending institution or other servicer for the loan in a manner sufficient to make payments as due for the duration of the loan. Upon receipt of the premiums, the regulated lending institution or servicer of the loan shall deposit the premiums in an escrow account on behalf of the borrower. Upon receipt of a notice from the ζ Director *Administrator* or the provider of the insurance that insurance premiums are due, the regulated lending institution or servicer shall pay from the escrow account to the provider of the insurance the amount of insurance premiums owed.

* * * * *

(e) PLACEMENT OF FLOOD INSURANCE BY LENDER.—

(1) NOTIFICATION TO BORROWER OF LACK OF COVERAGE.—If, at the time of origination or at any time during the term of a loan secured by improved real estate or by a mobile home located in an area that has been identified by the ζ Director *Administrator* (at the time of the origination of the loan or at any time during the term of the loan) as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968, the lender or servicer for the loan determines that the building or mobile home and any personal property securing the loan is not covered by flood insurance or is covered by such insurance in an amount less than the amount required for the property pursuant to paragraph (1), (2), or (3) of subsection (b), the lender or servicer shall notify the borrower under the loan that the borrower should obtain, at the borrower's expense, an amount of flood insurance for the building or mobile home and such personal property that is not less than the amount under subsection (b)(1), for the term of the loan.

(2) PURCHASE OF COVERAGE ON BEHALF OF BORROWER.—If the borrower fails to purchase such flood insurance within 45 days after notification under paragraph (1), the lender or servicer for the loan shall purchase the insurance on behalf of the borrower and may charge the borrower for the cost of premiums and fees incurred by the lender or servicer for the loan in purchasing the ζ insurance. *insurance, including premiums or fees incurred for coverage beginning on the date on which flood insurance coverage lapsed or did not provide a sufficient coverage amount.*

(3) *TERMINATION OF FORCE-PLACED INSURANCE.*—Within 30 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.*—For purposes of confirming a borrower's existing flood insurance coverage, a lender or servicer for a loan shall accept from the borrower an insurance policy declarations page that includes the existing flood insurance policy number and the identity of, and contact information for, the insurance company or agent.

§(3) (5) *REVIEW OF DETERMINATION REGARDING REQUIRED PURCHASE.*—

(A) *IN GENERAL.*—The borrower and lender for a loan secured by improved real estate or a mobile home may jointly request the §Director Administrator to review a determination of whether the building or mobile home is located in an area having special flood hazards. Such request shall be supported by technical information relating to the improved real estate or mobile home. Not later than 45 days after the §Director Administrator receives the request, the §Director Administrator shall review the determination and provide to the borrower and the lender with a letter stating whether or not the building or mobile home is in an area having special flood hazards. The determination of the §Director Administrator shall be final.

(B) *EFFECT OF DETERMINATION.*—Any person to whom a borrower provides a letter issued by the §Director Administrator pursuant to subparagraph (A), stating that the building or mobile home securing the loan of the borrower is not in an area having special flood hazards, shall have no obligation under this title to require the purchase of flood insurance for such building or mobile home during the period determined by the §Director Administrator, which shall be specified in the letter and shall begin on the date on which such letter is provided.

(C) *EFFECT OF FAILURE TO RESPOND.*—If a request under subparagraph (A) is made in connection with the origination of a loan and the §Director Administrator fails to provide a letter under subparagraph (A) before the later of (i) the expiration of the 45-day period under such subparagraph, or (ii) the closing of the loan, no person shall have an obligation under this title to require the purchase of flood insurance for the building or mobile home securing the loan until such letter is provided.

§(4) (6) *APPLICABILITY.*—This subsection shall apply to all loans outstanding on or after the date of enactment of the Rie-

gle Community Development and Regulatory Improvement Act of 1994.

* * * * *

(h) FEE FOR DETERMINING LOCATION.—Notwithstanding any other Federal or State law, any person who makes a loan secured by improved real estate or a mobile home or any servicer for such a loan may charge a reasonable fee for the costs of determining whether the building or mobile home securing the loan is located in an area having special flood hazards, but only in accordance with the following requirements:

(1) BORROWER FEE.—The borrower under such a loan may be charged the fee, but only if the determination—

(A) * * *

(B) is made pursuant to a revision or updating under section 1360(f) of the floodplain areas and flood-risk zones or publication of a notice or compendia under subsection (h) or (i) of section 1360 that affects the area in which the improved real estate or mobile home securing the loan is located or that, in the determination of the Administrator, may reasonably be considered to require a determination under this subsection; or

* * * * *

(i) AUTHORITY TO TEMPORARILY SUSPEND MANDATORY PURCHASE REQUIREMENT.—

(1) FINDING BY ADMINISTRATOR THAT AREA IS AN ELIGIBLE AREA.—For any area, upon a request submitted to the Administrator by a local government authority having jurisdiction over any portion of the area, the Administrator shall make a finding of whether the area is an eligible area under paragraph (3). If the Administrator finds that such area is an eligible area, the Administrator shall, in the discretion of the Administrator, designate a period during which such finding shall be effective, which shall not be longer in duration than 12 months.

(2) SUSPENSION OF MANDATORY PURCHASE REQUIREMENT.—If the Administrator makes a finding under paragraph (1) that an area is an eligible area under paragraph (3), during the period specified in the finding, the designation of such eligible area as an area having special flood hazards shall not be effective for purposes of subsection (a), (b), and (e) of this section, and section 202(a) of this Act. Nothing in this paragraph may be construed to prevent any lender, servicer, regulated lending institution, Federal agency lender, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, at the discretion of such entity, from requiring the purchase of flood insurance coverage in connection with the making, increasing, extending, or renewing of a loan secured by improved real estate or a mobile home located or to be located in such eligible area during such period or a lender or servicer from purchasing coverage on behalf of a borrower pursuant to subsection (e).

(3) ELIGIBLE AREAS.—An eligible area under this paragraph is an area that is designated or will, pursuant to any issuance, revision, updating, or other change in flood insurance maps that takes effect on or after the date of the enactment of the

Flood Insurance Reform Act of 2011, become designated as an area having special flood hazards and that meets any one of the following 3 requirements:

(A) AREAS WITH NO HISTORY OF SPECIAL FLOOD HAZARDS.—The area does not include any area that has ever previously been designated as an area having special flood hazards.

(B) AREAS WITH FLOOD PROTECTION SYSTEMS UNDER IMPROVEMENTS.—The area was intended to be protected by a flood protection system—

(i) that has been decertified, or is required to be certified, as providing protection for the 100-year frequency flood standard;

(ii) that is being improved, constructed, or reconstructed; and

(iii) for which the Administrator has determined measurable progress toward completion of such improvement, construction, reconstruction is being made and toward securing financial commitments sufficient to fund such completion.

(C) AREAS FOR WHICH APPEAL HAS BEEN FILED.—An area for which a community has appealed—

(i) designation of the area as having special flood hazards in a timely manner under section 1363; or

(ii) any decertification or deaccreditation of a dam, levee, or other flood protection system or the level of protection afforded by a dam, levee, or system.

(4) EXTENSION OF DELAY.—Upon a request submitted by a local government authority having jurisdiction over any portion of the eligible area, the Administrator may extend the period during which a finding under paragraph (1) shall be effective, except that—

(A) each such extension under this paragraph shall not be for a period exceeding 12 months; and

(B) for any area, the cumulative number of such extensions may not exceed 2.

(5) RULE OF CONSTRUCTION.—Nothing in this subsection 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 (2).

(6) REPORTS.—The Administrator shall, in each annual report submitted pursuant to section 1320, include information identifying each finding under paragraph (1) by the Administrator during the preceding year that an area is an area having special flood hazards, the basis for each such finding, any extensions pursuant to paragraph (4) of the periods of effectiveness of such findings, and the reasons for such extensions.

TITLE II—DISASTER MITIGATION REQUIREMENTS

NOTIFICATION TO FLOOD-PRONE AREAS

SEC. 201. (a) Not later than six months following the enactment of this title, the ζ Director *Administrator* shall publish information in accordance with subsection 1360(1) of the National Flood Insurance Act of 1968, and shall notify the chief executive officer of each known flood-prone community not already participating in the national flood insurance program of its tentative identification as a community containing one or more areas having special flood hazards.

(b) After such notification, each tentatively identified community shall either (1) promptly make proper application to participate in the national flood insurance program or (2) within six months submit technical data sufficient to establish to the satisfaction of the ζ Director *Administrator* that the community either is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The ζ Director *Administrator* may, in his discretion, grant a public hearing to any community with respect to which conflicting data exist as to the nature and extent of a flood hazard. If the ζ Director *Administrator* decides not to hold a hearing, the community shall be given an opportunity to submit written and documentary evidence. Whether or not such hearing is granted, the ζ Director's *Administrator's* final determination as to the existence or extent of a flood hazard area in a particular community shall be deemed conclusive for the purposes of this Act if supported by substantial evidence in the record considered as a whole.

(c) As information becomes available to the ζ Director *Administrator*, concerning the existence of flood hazards in communities not known to be flood prone at the time of the initial notification provided for by subsection (a) of this section he shall provide similar notifications to the chief executive officers of such additional communities, which shall then be subject to the requirements of subsection (b) of this section.

* * * * *

(e) The ζ Director *Administrator* is authorized to establish administrative procedures whereby the identification under this section of one or more areas in the community as having special flood hazards may be appealed to the ζ Director *Administrator* by the community or any owner or lessee of real property within the community who believes his property has been inadvertently included in a special flood hazard area by the identification. When, incident to any appeal under this subsection, the owner or lessee of real property or the community, as the case may be, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal which is successful in whole or part, the ζ Director *Administrator* shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the ζ Director *Administrator* in respect to any fee or expense payment, the payment of which was agreed to be contingent

upon the result of the appeal. There is authorized to be appropriated for purposes of implementing this subsection not to exceed \$250,000.

(f) ANNUAL NOTIFICATION.—*The Administrator, 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;*
- (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.*

EFFECT OF NONPARTICIPATION IN FLOOD INSURANCE PROGRAM

SEC. 202. (a) No Federal officer or agency shall approve any financial assistance for acquisition or construction purposes on and after July 1, 1975, for use in any area that has been identified by the ϵ Director *Administrator* as an area having special flood hazards unless the community in which such area is situated is then participating in the national flood insurance program.

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AUTHORITY TO ISSUE REGULATIONS

SEC. 205. (a) The ϵ Director *Administrator* is authorized to issue such regulations as may be necessary to carry out the purpose of this Act.

(b) The head of each Federal agency that administers a program of financial assistance relating to the acquisition, construction, reconstruction, repair, or improvement of publicly or privately owned land or facilities, and each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions, shall, in cooperation with the ϵ Director *Administrator*, issue appropriate rules and regulations to govern the carrying out of the agency's responsibilities under this Act.

CONSULTATION WITH LOCAL OFFICIALS

SEC. 206. In carrying out his responsibilities under the provisions of this title and the National Flood Insurance Act of 1968 which relate to notification to and identification of flood-prone areas and the application of criteria for land management and use, including criteria derived from data reflecting new developments that may indicate the desirability of modifying elevations based on previous flood studies, the ϵ Director *Administrator* shall establish procedures assuring adequate consultation with the appropriate elected officials of general purpose local governments, including but not limited to those local governments whose prior eligibility under the

program has been suspended. Such consultations shall include, but not be limited to, fully informing local officials at the commencement of any flood elevation study or investigation undertaken by any agency on behalf of the Director Administrator concerning the nature and purpose of the study, the areas involved, the manner in which the study is to be undertaken, the general principles to be applied, and the use to be made of the data obtained. The Director Administrator shall encourage local officials to disseminate information concerning such study widely within the community, so that interested persons will have an opportunity to bring all relevant facts and technical data concerning the local flood hazard to the attention of the agency during the course of the study.

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REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

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SPECIAL INFORMATION BOOKLETS

SEC. 5. (a) * * *

* * * * *

(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 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.*

* * * * *

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

TITLE I—COMMUNITY DEVELOPMENT

* * * * *

ELIGIBLE ACTIVITIES

SEC. 105. (a) Activities assisted under this title may include only—

(1) * * *

* * * * *

(24) the construction or improvement of tornado-safe shelters for residents of manufactured housing, and the provision of as-

sistance (including loans and grants) to nonprofit and for-profit entities (including owners of manufactured housing parks) for such construction or improvement, except that—

(A) * * *

* * * * *

(D) amounts may not be used for a shelter as provided under this paragraph unless there is located, within the neighborhood in which the shelter is located (or, in the case of a shelter located in a manufactured housing park, within 1,500 feet of such park), a warning siren that is operated in accordance with such local, regional, or national disaster warning programs or systems as the Secretary, after consultation with the Director of the Federal Emergency Management Agency, considers appropriate to ensure adequate notice of occupants of manufactured housing located in such neighborhood or park of a tornado; and (25) lead-based paint hazard evaluation and reduction, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

(26) *supplementing existing State or local funding for administration of building code enforcement by local building code enforcement departments, including for increasing staffing, providing staff training, increasing staff competence and professional qualifications, and supporting individual certification or departmental accreditation, and for capital expenditures specifically dedicated to the administration of the building code enforcement department, except that, to be eligible to use amounts as provided in this paragraph—*

(A) a building code enforcement department shall provide matching, non-Federal funds to be used in conjunction with amounts used under this paragraph in an amount—

(i) in the case of a building code enforcement department serving an area with a population of more than 50,000, equal to not less than 50 percent of the total amount of any funds made available under this title that are used under this paragraph;

(ii) in the case of a building code enforcement department serving an area with a population of between 20,001 and 50,000, equal to not less than 25 percent of the total amount of any funds made available under this title that are used under this paragraph; and

(iii) in the case of a building code enforcement department serving an area with a population of less than 20,000, equal to not less than 12.5 percent of the total amount of any funds made available under this title that are used under this paragraph;

except that the Secretary may waive the matching fund requirements under this subparagraph, in whole or in part, based upon the level of economic distress of the jurisdiction in which is located the local building code enforcement department that is using amounts for purposes under this paragraph, and shall waive such matching fund requirements in whole for any recipient jurisdiction that has dedicated all building code permitting fees to the conduct of local building code enforcement; and

(B) any building code enforcement department using funds made available under this title for purposes under this paragraph shall empanel a code administration and enforcement team consisting of at least 1 full-time building code enforcement officer, a city planner, and a health planner or similar officer; and

(27) provision of assistance 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 the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), only for carrying out outreach activities to encourage and facilitate the purchase of flood insurance protection under such Act by owners and renters of properties in such communities and to promote educational activities that increase awareness of flood risk reduction; except that—

(A) amounts used as provided under this paragraph shall be used only for activities designed to—

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

(ii) 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;

(iii) 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;

(iv) 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;

(v) encourage such owners and renters to maintain or acquire such coverage;

(vi) 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 Administrator of the Federal Emergency Management Agency (in this paragraph referred to as the "Administrator") where such information is available; and

(vii) 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 the National Flood Insurance Act of 1968 and increase awareness of flood risk reduction;

(B) in any fiscal year, a local governmental agency may not use an amount under this paragraph that exceeds 3 times the amount that the agency certifies, as the Secretary, in consultation with the Administrator, shall require, that the agency will contribute from non-Federal funds to be used with such amounts used under this paragraph only for carrying out activities described in subparagraph (A); and for purposes of this subparagraph, 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 local governmental agency involved, the value of the time and services contributed by volunteers to carry out such services (at a rate determined by the Secretary), and the value of any donated material or building and the value of any lease on a building;

(C) a local governmental agency that uses amounts as provided under this paragraph 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 subparagraph (A) with respect to such populations or constituencies; and

(D) each local government agency that uses amounts as provided under this paragraph shall submit a report to the Secretary and the Administrator, not later than 12 months after such amounts are first received, which shall include such information as the Secretary and the Administrator jointly consider appropriate to describe the activities conducted using such amounts and the effect of such activities on the retention or acquisition of flood insurance coverage.

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FEDERAL FLOOD INSURANCE ACT OF 1956

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FUNDS AND TREASURY BORROWING

SEC. 15. * * *

(e) The ϵ Director Administrator of the Federal Emergency Management Agency is authorized to issue to the Secretary of the Treasury from time to time and have outstanding at any one time, in an amount not exceeding \$500,000,000 (or such greater amount as may be approved by the President) notes or other obligations in such forms and denominations bearing such maturities, and subject to such terms and conditions as may be prescribed by the ϵ Director Administrator of the Federal Emergency Management Agency, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the

Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations to be issued hereunder and for such purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such notes and obligations.

The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY,
Washington, DC, June 2, 2011.

The Hon. SPENCER BACHUS,
*Chairman, Committee on Financial Services,
Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN BACHUS: I am writing to you concerning the jurisdictional interest of the Committee on Science, Space, and Technology in H.R. 1309, the Flood Insurance Reform Act of 2011. H.R. 1309 has been marked up by the Committee on Financial Services. The amended version of the bill contains provisions that fall within the jurisdiction of the Committee on Science, Space, and Technology.

Based on discussions that the staff of our two committees have had regarding this legislation and in the interest of permitting your Committee to proceed expeditiously to floor consideration of this important legislation, I am willing to waive consideration of this bill. However, agreeing to waive consideration of this bill should not be construed as waiving, reducing, or affecting the jurisdiction of the Committee on Science, Space, and Technology.

Additionally, the Committee on Science, Space, and Technology expressly reserves its authority to seek conferees on any provision within its jurisdiction during any House-Senate conference that may be convened on this, or any similar legislation. I ask for your commitment to support any request by the Committee for conferees on H.R. 1309, as well as any similar or related legislation.

I ask that a copy of this letter and your response be included in the report on H.R. 1309 and in the *Congressional Record* during consideration of this bill.

I look forward to working with you as this important measure moves through the legislative process.

Sincerely,

RALPH M. HALL,
Chairman, Committee on Science, Space, and Technology.

HOUSE OF REPRESENTATIVES,
 COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, June 2, 2011.

The Hon. RALPH M. HALL,
*Chairman, Committee on Science, Space, and Technology,
 Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN HALL: Thank you for your letter regarding H.R. 1309, the Flood Insurance Reform Act of 2011. I agree that the section requiring a study on graduated risk in this important legislation falls under the jurisdiction of both the Committee on Financial Services and the Committee on Science, Space, and Technology. I am most appreciative of your decision not to request a referral in the interest of expediting consideration of H.R. 1309.

Further, I agree that by foregoing a sequential referral, the Committee on Science, Space, and Technology is not waiving its jurisdiction. I will include this exchange of letters in our Committee Report on H.R. 1309 and in the *Congressional Record* during consideration of this bill.

Thank you for your attention to these matters.

Sincerely,

SPENCER BACHUS,
Chairman.

HOUSE OF REPRESENTATIVES,
 COMMITTEE ON THE JUDICIARY,
Washington, DC, June 2, 2011.

Hon. SPENCER BACHUS:
*Chairman, Committee on Financial Services
 Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN BACHUS: I am writing concerning H.R. 1309, the "Flood Insurance Reform Act of 2011," which is scheduled for floor consideration soon. As a result of your having consulted with us on provisions in H.R. 1309 that fall within the Rule X jurisdiction of the Committee on the Judiciary, we are able to agree to forego action on this bill in order that it may proceed expeditiously to the House floor for consideration.

The Judiciary Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 1309 at this time, we do not waive any jurisdiction over subject matter contained in this or similar legislation, and that our Committee will be appropriately consulted and involved as the bill or similar legislation moves forward so that we may address any remaining issues in our jurisdiction. Our Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation, and requests your support for any such request.

I would appreciate your response to this letter confirming this understanding with respect to H.R. 1309, and would ask that a copy of our exchange of letters on this matter be included in the *Congressional Record* during floor consideration.

Sincerely,

LAMAR SMITH,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, June 2, 2011.

Hon. LAMAR SMITH,
*Chairman, Committee on the Judiciary,
Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN SMITH: Thank you for your letter regarding H.R. 1309, the Flood Insurance Reform Act of 2011. I agree that there are provisions in the legislation that fall under the jurisdiction of the Committee on the Judiciary. I am most appreciative of your decision not to request a referral in the interest of expediting Floor consideration of H.R. 1309.

Further, I agree that by foregoing a sequential referral, the Committee on Judiciary is not waiving its jurisdiction. I will include this exchange of letters in our Committee Report on H.R. 1309 and the *Congressional Record* during Floor consideration.

Thank you for your attention to these matters.

Sincerely,

SPENCER BACHUS,
Chairman.