

Calendar No. 250

112TH CONGRESS
1ST SESSION

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[Report No. 112-98]

To amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 5, 2011

Mr. JOHNSON of South Dakota, from the Committee on Banking, Housing, and Urban Affairs, reported the following original bill; which was read twice and placed on the calendar

A BILL

To amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TABLE OF CONTENTS.**

4 The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—FLOOD INSURANCE REFORM AND MODERNIZATION

Sec. 101. Short title.

Sec. 102. Findings.

- Sec. 103. Definitions.
- Sec. 104. Extension of National Flood Insurance Program.
- Sec. 105. Availability of insurance for multifamily properties.
- Sec. 106. Reform of premium rate structure.
- Sec. 107. Mandatory coverage areas.
- Sec. 108. Premium adjustment.
- Sec. 109. State chartered financial institutions.
- Sec. 110. Enforcement.
- Sec. 111. Escrow of flood insurance payments.
- Sec. 112. Minimum deductibles for claims under the National Flood Insurance Program.
- Sec. 113. Considerations in determining chargeable premium rates.
- Sec. 114. Reserve fund.
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- Sec. 117. Technical mapping advisory council.
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- Sec. 122. Coordination.
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- Sec. 125. Notice of flood insurance availability under RESPA.
- Sec. 126. Participation in State disaster claims mediation programs.
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- Sec. 128. Oversight and expense reimbursements of insurance companies.
- Sec. 129. Mitigation.
- Sec. 130. Flood Protection Structure Accreditation Task Force.
- Sec. 131. Flood in progress determinations.
- Sec. 132. Clarification of residential and commercial coverage limits.
- Sec. 133. Local data requirement.
- Sec. 134. Eligibility for flood insurance for persons residing in communities that have made adequate progress on the construction, reconstruction, or improvement of a flood protection system.
- Sec. 135. Studies and reports.
- Sec. 136. Reinsurance.
- Sec. 137. GAO study on business interruption and additional living expenses coverages.
- Sec. 138. Policy disclosures.
- Sec. 139. Report on inclusion of building codes in floodplain management criteria.
- Sec. 140. Study of participation and affordability for certain policyholders.
- Sec. 141. Study and report concerning the participation of Indian tribes and members of Indian tribes in the National Flood Insurance Program.
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TITLE II—COMMISSION ON NATURAL CATASTROPHE RISK
MANAGEMENT AND INSURANCE

- Sec. 201. Short title.
- Sec. 202. Findings.
- Sec. 203. Establishment.

Sec. 204. Membership.
 Sec. 205. Duties of the commission.
 Sec. 206. Report.
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 Sec. 209. Termination.
 Sec. 210. Authorization of appropriations.

1 **TITLE I—FLOOD INSURANCE**
 2 **REFORM AND MODERNIZATION**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “Flood Insurance Re-
 5 form and Modernization Act of 2011”.

6 **SEC. 102. FINDINGS.**

7 Congress finds that—

8 (1) the flood insurance claims resulting from
 9 the hurricane season of 2005 exceeded all previous
 10 claims paid by the National Flood Insurance Pro-
 11 gram;

12 (2) in order to pay the legitimate claims of pol-
 13 icyholders from the hurricane season of 2005, the
 14 Federal Emergency Management Agency has bor-
 15 rowed \$19,000,000,000 from the Treasury;

16 (3) the interest alone on this debt has been as
 17 high as \$800,000,000 annually, and that the Fed-
 18 eral Emergency Management Agency has indicated
 19 that it will be unable to pay back this debt;

20 (4) the flood insurance program must be
 21 strengthened to ensure it can pay future claims;

1 (5) while flood insurance is mandatory in the
2 100-year floodplain, substantial flooding occurs out-
3 side of existing special flood hazard areas;

4 (6) events throughout the country involving
5 areas behind flood control structures, known as “re-
6 sidual risk” areas, have produced catastrophic
7 losses;

8 (7) although such flood control structures
9 produce an added element of safety and therefore
10 lessen the probability that a disaster will occur, they
11 are nevertheless susceptible to catastrophic loss, even
12 though such areas at one time were not included
13 within the 100-year floodplain; and

14 (8) voluntary participation in the National
15 Flood Insurance Program has been minimal and
16 many families residing outside the 100-year flood-
17 plain remain unaware of the potential risk to their
18 lives and property.

19 **SEC. 103. DEFINITIONS.**

20 (a) IN GENERAL.—In this title, the following defini-
21 tions shall apply:

22 (1) 100-YEAR FLOODPLAIN.—The term “100-
23 year floodplain” means that area which is subject to
24 inundation from a flood having a 1-percent chance
25 of being equaled or exceeded in any given year.

1 (2) 500-YEAR FLOODPLAIN.—The term “500-
2 year floodplain” means that area which is subject to
3 inundation from a flood having a 0.2-percent chance
4 of being equaled or exceeded in any given year.

5 (3) ADMINISTRATOR.—The term “Adminis-
6 trator” means the Administrator of the Federal
7 Emergency Management Agency.

8 (4) NATIONAL FLOOD INSURANCE PROGRAM.—
9 The term “National Flood Insurance Program”
10 means the program established under the National
11 Flood Insurance Act of 1968 (42 U.S.C. 4011 et
12 seq.).

13 (5) WRITE YOUR OWN.—The term “Write Your
14 Own” means the cooperative undertaking between
15 the insurance industry and the Federal Insurance
16 Administration which allows participating property
17 and casualty insurance companies to write and serv-
18 ice standard flood insurance policies.

19 (b) COMMON TERMINOLOGY.—Except as otherwise
20 provided in this title, any terms used in this title shall
21 have the meaning given to such terms under section 1370
22 of the National Flood Insurance Act of 1968 (42 U.S.C.
23 4121).

1 **SEC. 104. EXTENSION OF NATIONAL FLOOD INSURANCE**
 2 **PROGRAM.**

3 (a) FINANCING.—Section 1309(a) of the National
 4 Flood Insurance Act of 1968 (42 U.S.C. 4016(a)) is
 5 amended by striking “2011” and inserting “2016”

6 (b) PROGRAM EXPIRATION.—Section 1319 of the Na-
 7 tional Flood Insurance Act of 1968 (42 U.S.C. 4026), is
 8 amended by striking “2011” and inserting “2016”.

9 **SEC. 105. AVAILABILITY OF INSURANCE FOR MULTIFAMILY**
 10 **PROPERTIES.**

11 Section 1305 of the National Flood Insurance Act of
 12 1968 (42 U.S.C. 4012) is amended—

13 (1) in subsection (b)(2)(A), by inserting “not
 14 described in subsection (a) or (d)” after “prop-
 15 erties”; and

16 (2) by adding at the end the following:

17 “(d) AVAILABILITY OF INSURANCE FOR MULTI-
 18 FAMILY PROPERTIES.—

19 “(1) IN GENERAL.—The Administrator shall
 20 make flood insurance available to cover residential
 21 properties of more than 4 units. Notwithstanding
 22 any other provision of law, the maximum coverage
 23 amount that the Administrator may make available
 24 under this subsection to such residential properties
 25 shall be equal to the coverage amount made avail-
 26 able to commercial properties.

1 “(2) RULE OF CONSTRUCTION.—Nothing in
 2 this subsection shall be construed to limit the ability
 3 of individuals residing in residential properties of
 4 more than 4 units to obtain insurance for the con-
 5 tents and personal articles located in such resi-
 6 dences.”.

7 **SEC. 106. REFORM OF PREMIUM RATE STRUCTURE.**

8 (a) TO EXCLUDE CERTAIN PROPERTIES FROM RE-
 9 CEIVING SUBSIDIZED PREMIUM RATES.—

10 (1) IN GENERAL.—Section 1307 of the Na-
 11 tional Flood Insurance Act of 1968 (42 U.S.C.
 12 4014) is amended—

13 (A) in subsection (a)(2), by striking “;
 14 and” and inserting the following: “, except that
 15 the Administrator shall not estimate rates
 16 under this paragraph for—

17 “(A) any property which is not the pri-
 18 mary residence of an individual;

19 “(B) any severe repetitive loss property;

20 “(C) any property that has incurred flood-
 21 related damage in which the cumulative
 22 amounts of payments under this title equaled or
 23 exceeded the fair market value of such property;

24 “(D) any business property; or

1 “(E) any property which on or after the
2 date of the enactment of the Flood Insurance
3 Reform and Modernization Act of 2011 has ex-
4 perienced or sustained—

5 “(i) substantial damage exceeding 50
6 percent of the fair market value of such
7 property; or

8 “(ii) substantial improvement exceed-
9 ing 30 percent of the fair market value of
10 such property; and”;

11 (B) by adding at the end the following:

12 “(g) NO EXTENSION OF SUBSIDY TO NEW POLICIES
13 OR LAPSED POLICIES.—The Administrator shall not pro-
14 vide flood insurance to prospective insureds at rates less
15 than those estimated under subsection (a)(1), as required
16 by paragraph (2) of that subsection, for—

17 “(1) any property not insured by the flood in-
18 surance program as of the date of the enactment of
19 the Flood Insurance Reform and Modernization Act
20 of 2011;

21 “(2) any policy under the flood insurance pro-
22 gram that has lapsed in coverage, as a result of the
23 deliberate choice of the holder of such policy; or

24 “(3) any prospective insured who refuses to ac-
25 cept any offer for mitigation assistance by the Ad-

1 administrator (including an offer to relocate), including
2 an offer of mitigation assistance—

3 “(A) following a major disaster, as defined
4 in section 102 of the Robert T. Stafford Dis-
5 aster Relief and Emergency Assistance Act (42
6 U.S.C. 5122); or

7 “(B) in connection with—

8 “(i) a repetitive loss property; or

9 “(ii) a severe repetitive loss property.

10 “(h) DEFINITION.—In this section, the term ‘severe
11 repetitive loss property’ has the following meaning:

12 “(1) SINGLE-FAMILY PROPERTIES.—In the case
13 of a property consisting of 1 to 4 residences, such
14 term means a property that—

15 “(A) is covered under a contract for flood
16 insurance made available under this title; and

17 “(B) has incurred flood-related damage—

18 “(i) for which 4 or more separate
19 claims payments have been made under
20 flood insurance coverage under this chap-
21 ter, with the amount of each such claim
22 exceeding \$5,000, and with the cumulative
23 amount of such claims payments exceeding
24 \$20,000; or

1 “(ii) for which at least 2 separate
2 claims payments have been made under
3 such coverage, with the cumulative amount
4 of such claims exceeding the value of the
5 property.

6 “(2) MULTIFAMILY PROPERTIES.—In the case
7 of a property consisting of more than 4 units, such
8 term shall have such meaning as the Director shall
9 by regulation provide.”.

10 (2) EFFECTIVE DATE.—The amendments made
11 by paragraph (1) shall become effective 90 days
12 after the date of the enactment of this Act.

13 (b) ESTIMATES OF PREMIUM RATES.—Section
14 1307(a)(1)(B) of the National Flood Insurance Act of
15 1968 (42 U.S.C. 4014(a)(1)(B)) is amended—

16 (1) in clause (ii), by striking “and” at the end;

17 (2) in clause (iii), by adding “and” at the end;

18 and

19 (3) by inserting after clause (iii) the following:

20 “(iv) all costs, as prescribed by prin-
21 ciples and standards of practice in rate-
22 making adopted by the American Academy
23 of Actuaries and the Casualty Actuarial
24 Society, including—

1 “(I) an estimate of the expected
2 value of future costs,

3 “(II) all costs associated with the
4 transfer of risk, and

5 “(III) the costs associated with
6 an individual risk transfer with re-
7 spect to risk classes, as defined by the
8 Administrator.”.

9 (c) INCREASE IN ANNUAL LIMITATION ON PREMIUM
10 INCREASES.—Section 1308(e) of the National Flood In-
11 surance Act of 1968 (42 U.S.C. 4015(e)) is amended—

12 (1) by striking “under this title for any prop-
13 erties within any single” and inserting the following:

14 “under this title for any properties—

15 “(1) within any single”;

16 (2) by striking “10 percent” and inserting “15
17 percent”; and

18 (3) by striking the period at the end and insert-
19 ing the following: “; and

20 “(2) described in subparagraphs (A) through
21 (E) of section 1307(a)(2) shall be increased by 25
22 percent each year, until the average risk premium
23 rate for such properties is equal to the average of
24 the risk premium rates for properties described
25 under paragraph (1).”.

1 (d) PREMIUM PAYMENT FLEXIBILITY FOR NEW AND
2 EXISTING POLICYHOLDERS.—Section 1308 of the Na-
3 tional Flood Insurance Act of 1968 (42 U.S.C. 4015) is
4 amended by adding at the end the following:

5 “(g) FREQUENCY OF PREMIUM COLLECTION.—With
6 respect to any chargeable premium rate prescribed under
7 this section, the Administrator shall provide policyholders
8 that are not required to escrow their premiums and fees
9 for flood insurance as set forth under section 102 of the
10 Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a)
11 with the option of paying their premiums either annually
12 or in more frequent installments.”.

13 **SEC. 107. MANDATORY COVERAGE AREAS.**

14 (a) SPECIAL FLOOD HAZARD AREAS.—Not later
15 than 90 days after the date of the enactment of this Act,
16 the Administrator shall issue final regulations establishing
17 a revised definition of areas of special flood hazards for
18 purposes of the National Flood Insurance Program.

19 (b) RESIDUAL RISK AREAS.—The regulations re-
20 quired by subsection (a) shall require the expansion of
21 areas of special flood hazards to include areas of residual
22 risk that are located behind levees or near dams or other
23 flood control structures, as determined by the Adminis-
24 trator.

1 (c) MANDATORY PARTICIPATION IN NATIONAL
2 FLOOD INSURANCE PROGRAM.—

3 (1) IN GENERAL.—Any area described in sub-
4 section (b) shall be subject to the mandatory pur-
5 chase requirements of sections 102 and 202 of the
6 Flood Disaster Protection Act of 1973 (42 U.S.C.
7 4012a, 4106).

8 (2) LIMITATION.—The mandatory purchase re-
9 quirement under paragraph (1) shall have no force
10 or effect until the mapping of all residual risk areas
11 in the United States that the Administrator deter-
12 mines essential in order to administer the National
13 Flood Insurance Program, as required under section
14 118, are in the maintenance phase.

15 (3) ACCURATE PRICING.—In carrying out the
16 mandatory purchase requirement under paragraph
17 (1), the Administrator shall ensure that the price of
18 flood insurance policies in areas of residual risk ac-
19 curately reflects the level of flood protection provided
20 by any levee, dam, or other flood control structure
21 in such area, regardless of the certification status of
22 the flood control structure.

23 (d) DECERTIFICATION.—Upon decertification of any
24 levee, dam, or flood control structure under the jurisdic-
25 tion of the Army Corps of Engineers, the Corps shall im-

1 mediate provide notice to the Administrator of the Na-
2 tional Flood Insurance Program.

3 **SEC. 108. PREMIUM ADJUSTMENT.**

4 Section 1308 of the National Flood Insurance Act of
5 1968 (42 U.S.C. 4015), as amended by section 106(c),
6 is further amended by adding at the end the following:

7 “(h) PREMIUM ADJUSTMENT TO REFLECT CURRENT
8 RISK OF FLOOD.—Notwithstanding subsection (f), upon
9 the effective date of any revised or updated flood insurance
10 rate map under this Act, the Flood Disaster Protection
11 Act of 1973, or the Flood Insurance Reform and Mod-
12 ernization Act of 2011, any property located in an area
13 that is participating in the national flood insurance pro-
14 gram shall have the risk premium rate charged for flood
15 insurance on such property adjusted to accurately reflect
16 the current risk of flood to such property, subject to any
17 other provision of this Act. Any increase in the risk pre-
18 mium rate charged for flood insurance on any property
19 that is covered by a flood insurance policy on the effective
20 date of such an update that is a result of such updating
21 shall be phased in over a 4-year period, at the rate of 40
22 percent for the first year following such effective date and
23 20 percent for each of the second, third, and fourth years
24 following such effective date. In the case of any area that
25 was not previously designated as an area having special

1 flood hazards and that, pursuant to any issuance, revision,
2 updating, or other change in a flood insurance map, be-
3 comes designated as such an area, the chargeable risk pre-
4 mium rate for flood insurance under this title that is pur-
5 chased on or after the date of enactment of this subsection
6 with respect to any property that is located within such
7 area shall be phased in over a 4-year period, at the rate
8 of 40 percent for the first year following the effective date
9 of such issuance, revision, updating, or change and 20 per-
10 cent for each of the second, third, and fourth years fol-
11 lowing such effective date.”.

12 **SEC. 109. STATE CHARTERED FINANCIAL INSTITUTIONS.**

13 Section 1305(c) of the National Flood Insurance Act
14 of 1968 (42 U.S.C. 4012(c)) is amended—

15 (1) in paragraph (1), by striking “, and” and
16 inserting a semicolon;

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

19 (3) by adding at the end the following:

20 “(3) given satisfactory assurance that by the
21 date that is 6 months after the date of enactment
22 of the Flood Insurance Reform and Modernization
23 Act of 2011, lending institutions chartered by a
24 State, and not insured by the Federal Deposit Insur-
25 ance Corporation or the National Credit Union Ad-

1 ministration, shall be subject to regulations by that
2 State that are consistent with the requirements of
3 section 102 of the Flood Disaster Protection Act of
4 1973 (42 U.S.C. 4012a).”.

5 **SEC. 110. ENFORCEMENT.**

6 Section 102(f)(5) of the Flood Disaster Protection
7 Act of 1973 (42 U.S.C. 4012a(f)(5)) is amended—

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

10 (2) by striking the second sentence.

11 **SEC. 111. ESCROW OF FLOOD INSURANCE PAYMENTS.**

12 (a) IN GENERAL.—Section 102(d) of the Flood Dis-
13 aster Protection Act of 1973 (42 U.S.C. 4012a(d)) is
14 amended—

15 (1) by amending paragraph (1) to read as fol-
16 lows:

17 “(1) REGULATED LENDING INSTITUTIONS.—

18 “(A) FEDERAL ENTITIES RESPONSIBLE
19 FOR LENDING REGULATIONS.—Each Federal
20 entity for lending regulation (after consultation
21 and coordination with the Federal Financial In-
22 stitutions Examination Council) shall, by regu-
23 lation, direct that any premiums and fees for
24 flood insurance under the National Flood Insur-
25 ance Act of 1968, on any property for which a

1 loan has been made for acquisition or construc-
2 tion purposes, shall be paid to the mortgage
3 lender, with the same frequency as payments on
4 the loan are made, for the duration of the loan.
5 Upon receipt of any premiums or fees, the lend-
6 er shall deposit such premiums and fees in an
7 escrow account on behalf of the borrower. Upon
8 receipt of a notice from the Administrator or
9 the provider of the flood insurance that insur-
10 ance premiums are due, the remaining balance
11 of an escrow account shall be paid to the pro-
12 vider of the flood insurance.

13 “(B) STATE ENTITIES RESPONSIBLE FOR
14 LENDING REGULATIONS.—In order to continue
15 to participate in the flood insurance program,
16 each State shall direct that its entity or agency
17 with primary responsibility for the supervision
18 of lending institutions in that State require that
19 premiums and fees for flood insurance under
20 the National Flood Insurance Act of 1968, on
21 any property for which a loan has been made
22 for acquisition or construction purposes shall be
23 paid to the mortgage lender, with the same fre-
24 quency as payments on the loan are made, for
25 the duration of the loan. Upon receipt of any

1 premiums or fees, the lender shall deposit such
 2 premiums and fees in an escrow account on be-
 3 half of the borrower. Upon receipt of a notice
 4 from such State entity or agency, the Adminis-
 5 trator, or the provider of the flood insurance
 6 that insurance premiums are due, the remain-
 7 ing balance of an escrow account shall be paid
 8 to the provider of the flood insurance.”; and
 9 (2) by adding at the end the following:

10 “(6) NOTICE UPON LOAN TERMINATION.—Upon
 11 final payment of the mortgage, a regulated lending
 12 institution shall provide notice to the policyholder
 13 that flood insurance coverage may cease with such
 14 final payment. The regulated lending institution
 15 shall also provide direction as to how the homeowner
 16 may continue flood insurance coverage after the life
 17 of the loan.”.

18 (b) APPLICABILITY.—The amendment made by sub-
 19 section (a)(1) shall apply to any mortgage outstanding or
 20 entered into on or after the expiration of the 2-year period
 21 beginning on the date of the enactment of this Act.

22 **SEC. 112. MINIMUM DEDUCTIBLES FOR CLAIMS UNDER THE**
 23 **NATIONAL FLOOD INSURANCE PROGRAM.**

24 Section 1312 of the National Flood Insurance Act of
 25 1968 (42 U.S.C. 4019) is amended—

1 (1) by striking “The Director is” and inserting
2 the following:

3 “(a) IN GENERAL.—The Administrator is”; and

4 (2) by adding at the end the following:

5 “(b) MINIMUM ANNUAL DEDUCTIBLE.—

6 “(1) PRE-FIRM PROPERTIES.—For any struc-
7 ture which is covered by flood insurance under this
8 title, and on which construction or substantial im-
9 provement occurred on or before December 31,
10 1974, or before the effective date of an initial flood
11 insurance rate map published by the Administrator
12 under section 1360 for the area in which such struc-
13 ture is located, the minimum annual deductible for
14 damage to such structure shall be—

15 “(A) \$1,500, if the flood insurance cov-
16 erage for such structure covers loss of, or phys-
17 ical damage to, such structure in an amount
18 equal to or less than \$100,000; and

19 “(B) \$2,000, if the flood insurance cov-
20 erage for such structure covers loss of, or phys-
21 ical damage to, such structure in an amount
22 greater than \$100,000.

23 “(2) POST-FIRM PROPERTIES.—For any struc-
24 ture which is covered by flood insurance under this
25 title, and on which construction or substantial im-

1 provement occurred after December 31, 1974, or
 2 after the effective date of an initial flood insurance
 3 rate map published by the Administrator under sec-
 4 tion 1360 for the area in which such structure is lo-
 5 cated, the minimum annual deductible for damage to
 6 such structure shall be—

7 “(A) \$1,000, if the flood insurance cov-
 8 erage for such structure covers loss of, or phys-
 9 ical damage to, such structure in an amount
 10 equal to or less than \$100,000; and

11 “(B) \$1,250, if the flood insurance cov-
 12 erage for such structure covers loss of, or phys-
 13 ical damage to, such structure in an amount
 14 greater than \$100,000.”.

15 **SEC. 113. CONSIDERATIONS IN DETERMINING CHARGE-**
 16 **ABLE PREMIUM RATES.**

17 Section 1308 of the National Flood Insurance Act of
 18 1968 (42 U.S.C. 4015), as amended by this Act, is amend-
 19 ed—

20 (1) in subsection (a), by striking “, after con-
 21 sultation with” and all that follows through “by reg-
 22 ulation” and inserting “prescribe, after providing
 23 notice”;

24 (2) in subsection (b)—

1 (A) in paragraph (1), by striking the pe-
2 riod at the end and inserting a semicolon;

3 (B) in paragraph (2), by striking the
4 comma at the end and inserting a semicolon;

5 (C) in paragraph (3), by striking “, and”
6 and inserting a semicolon;

7 (D) in paragraph (4), by striking the pe-
8 riod and inserting “; and”; and

9 (E) by adding at the end the following:

10 “(5) adequate, on the basis of accepted actu-
11 arial principles, to cover the average historical loss
12 year obligations incurred by the National Flood In-
13 surance Fund.”; and

14 (3) by adding at the end the following:

15 “(i) **RULE OF CONSTRUCTION.**—For purposes of this
16 section, the calculation of an ‘average historical loss
17 year’—

18 “(1) includes catastrophic loss years; and

19 “(2) shall be computed in accordance with gen-
20 erally accepted actuarial principles.”.

21 **SEC. 114. RESERVE FUND.**

22 Chapter I of the National Flood Insurance Act of
23 1968 (42 U.S.C. 4011 et seq.) is amended by inserting
24 after section 1310 (42 U.S.C. 4017) the following:

1 **“SEC. 1310A. RESERVE FUND.**

2 “(a) ESTABLISHMENT OF RESERVE FUND.—In car-
 3 rying out the flood insurance program authorized by this
 4 chapter, the Administrator shall establish in the Treasury
 5 of the United States a National Flood Insurance Reserve
 6 Fund (in this section referred to as the ‘Reserve Fund’)
 7 which shall—

8 “(1) be an account separate from any other ac-
 9 counts or funds available to the Administrator; and

10 “(2) be available for meeting the expected fu-
 11 ture obligations of the flood insurance program.

12 “(b) RESERVE RATIO.—Subject to the phase-in re-
 13 quirements under subsection (d), the Reserve Fund shall
 14 maintain a balance equal to—

15 “(1) 1 percent of the sum of the total potential
 16 loss exposure of all outstanding flood insurance poli-
 17 cies in force in the prior fiscal year; or

18 “(2) such higher percentage as the Adminis-
 19 trator determines to be appropriate, taking into con-
 20 sideration any circumstance that may raise a signifi-
 21 cant risk of substantial future losses to the Reserve
 22 Fund.

23 “(c) MAINTENANCE OF RESERVE RATIO.—

24 “(1) IN GENERAL.—The Administrator shall
 25 have the authority to establish, increase, or decrease

1 the amount of aggregate annual insurance premiums
2 to be collected for any fiscal year necessary—

3 “(A) to maintain the reserve ratio required
4 under subsection (b); and

5 “(B) to achieve such reserve ratio, if the
6 actual balance of such reserve is below the
7 amount required under subsection (b).

8 “(2) CONSIDERATIONS.—In exercising the au-
9 thority granted under paragraph (1), the Adminis-
10 trator shall consider—

11 “(A) the expected operating expenses of
12 the Reserve Fund;

13 “(B) the insurance loss expenditures under
14 the flood insurance program;

15 “(C) any investment income generated
16 under the flood insurance program; and

17 “(D) any other factor that the Adminis-
18 trator determines appropriate.

19 “(3) LIMITATIONS.—In exercising the authority
20 granted under paragraph (1), the Administrator
21 shall be subject to all other provisions of this Act,
22 including any provisions relating to chargeable pre-
23 mium rates or annual increases of such rates.

24 “(d) PHASE-IN REQUIREMENTS.—The phase-in re-
25 quirements under this subsection are as follows:

1 “(1) IN GENERAL.—Beginning in fiscal year
2 2012 and not ending until the fiscal year in which
3 the ratio required under subsection (b) is achieved,
4 in each such fiscal year the Administrator shall
5 place in the Reserve Fund an amount equal to not
6 less than 7.5 percent of the reserve ratio required
7 under subsection (b).

8 “(2) AMOUNT SATISFIED.—As soon as the ratio
9 required under subsection (b) is achieved, and except
10 as provided in paragraph (3), the Administrator
11 shall not be required to set aside any amounts for
12 the Reserve Fund.

13 “(3) EXCEPTION.—If at any time after the
14 ratio required under subsection (b) is achieved, the
15 Reserve Fund falls below the required ratio under
16 subsection (b), the Administrator shall place in the
17 Reserve Fund for that fiscal year an amount equal
18 to not less than 7.5 percent of the reserve ratio re-
19 quired under subsection (b).

20 “(e) LIMITATION ON RESERVE RATIO.—In any given
21 fiscal year, if the Administrator determines that the re-
22 serve ratio required under subsection (b) cannot be
23 achieved, the Administrator shall submit a report to Con-
24 gress that—

1 “(1) describes and details the specific concerns
2 of the Administrator regarding the consequences of
3 the reserve ratio not being achieved;

4 “(2) demonstrates how such consequences
5 would harm the long-term financial soundness of the
6 flood insurance program; and

7 “(3) indicates the maximum attainable reserve
8 ratio for that particular fiscal year.”.

9 **SEC. 115. REPAYMENT PLAN FOR BORROWING AUTHORITY.**

10 Section 1309 of the National Flood Insurance Act of
11 1968 (42 U.S.C. 4016) is amended by adding at the end
12 the following:

13 “(c) Upon the exercise of the authority established
14 under subsection (a), the Administrator shall transmit a
15 schedule for repayment of such amounts to—

16 “(1) the Secretary of the Treasury;

17 “(2) the Committee on Banking, Housing, and
18 Urban Affairs of the Senate; and

19 “(3) the Committee on Financial Services of
20 the House of Representatives.

21 “(d) In connection with any funds borrowed by the
22 Administrator under the authority established in sub-
23 section (a), the Administrator, beginning 6 months after
24 the date on which such funds are borrowed, and con-
25 tinuing every 6 months thereafter until such borrowed

1 funds are fully repaid, shall submit a report on the
2 progress of such repayment to—

3 “(1) the Secretary of the Treasury;

4 “(2) the Committee on Banking, Housing, and
5 Urban Affairs of the Senate; and

6 “(3) the Committee on Financial Services of
7 the House of Representatives.”.

8 **SEC. 116. PAYMENT OF CONDOMINIUM CLAIMS.**

9 Section 1312 of the National Flood Insurance Act of
10 1968 (42 U.S.C. 4019), as amended by section 112, is
11 amended by adding at the end the following:

12 “(c) PAYMENT OF CLAIMS TO CONDOMINIUM OWN-
13 ERS.—The Administrator may not deny payment for any
14 damage to or loss of property which is covered by flood
15 insurance to condominium owners who purchased such
16 flood insurance separate and apart from the flood insur-
17 ance purchased by the condominium association in which
18 such owner is a member, based solely, or in any part, on
19 the flood insurance coverage of the condominium associa-
20 tion or others on the overall property owned by the condo-
21 minium association.”.

22 **SEC. 117. TECHNICAL MAPPING ADVISORY COUNCIL.**

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

1 (b) MEMBERSHIP.—

2 (1) IN GENERAL.—The Council shall consist of
3 the Administrator, or the designee thereof, and 17
4 additional members to be appointed by the Adminis-
5 trator or the designee of the Administrator, who
6 shall be—

7 (A) the Under Secretary of Commerce for
8 Oceans and Atmosphere (or the designee there-
9 of);

10 (B) a member of a recognized professional
11 surveying association or organization;

12 (C) a member of a recognized professional
13 mapping association or organization;

14 (D) a member of a recognized professional
15 engineering association or organization;

16 (E) a member of a recognized professional
17 association or organization representing flood
18 hazard determination firms;

19 (F) a representative of the United States
20 Geological Survey;

21 (G) a representative of a recognized profes-
22 sional association or organization representing
23 State geographic information;

24 (H) a representative of State national flood
25 insurance coordination offices;

1 (I) a representative of the Corps of Engi-
2 neers;

3 (J) the Secretary of the Interior (or the
4 designee thereof);

5 (K) the Secretary of Agriculture (or the
6 designee thereof);

7 (L) a member of a recognized regional
8 flood and storm water management organiza-
9 tion;

10 (M) a representative of a State agency that
11 has entered into a cooperating technical part-
12 nership with the Administrator and has dem-
13 onstrated the capability to produce flood insur-
14 ance rate maps;

15 (N) a representative of a local government
16 agency that has entered into a cooperating
17 technical partnership with the Administrator
18 and has demonstrated the capability to produce
19 flood insurance rate maps;

20 (O) a member of a recognized floodplain
21 management association or organization;

22 (P) a member of a recognized risk manage-
23 ment association or organization; and

24 (Q) a State mitigation officer.

1 (2) QUALIFICATIONS.—Members of the Council
2 shall be appointed based on their demonstrated
3 knowledge and competence regarding surveying, car-
4 tography, remote sensing, geographic information
5 systems, or the technical aspects of preparing and
6 using flood insurance rate maps.

7 (c) DUTIES.—The Council shall—

8 (1) recommend to the Administrator how to im-
9 prove in a cost-effective manner the—

10 (A) accuracy, general quality, ease of use,
11 and distribution and dissemination of flood in-
12 surance rate maps and risk data; and

13 (B) performance metrics and milestones
14 required to effectively and efficiently map flood
15 risk areas in the United States;

16 (2) recommend to the Administrator mapping
17 standards and guidelines for—

18 (A) flood insurance rate maps; and

19 (B) data accuracy, data quality, data cur-
20 rency, and data eligibility;

21 (3) recommend to the Administrator how to
22 maintain, on an ongoing basis, flood insurance rate
23 maps and flood risk identification;

24 (4) recommend procedures for delegating map-
25 ping activities to State and local mapping partners;

1 (5) recommend to the Administrator and other
2 Federal agencies participating in the Council—

3 (A) methods for improving interagency and
4 intergovernmental coordination on flood map-
5 ping and flood risk determination; and

6 (B) a funding strategy to leverage and co-
7 ordinate budgets and expenditures across Fed-
8 eral agencies; and

9 (6) submit an annual report to the Adminis-
10 trator that contains—

11 (A) a description of the activities of the
12 Council;

13 (B) an evaluation of the status and per-
14 formance of flood insurance rate maps and
15 mapping activities to revise and update flood in-
16 surance rate maps, as required under section
17 118; and

18 (C) a summary of recommendations made
19 by the Council to the Administrator.

20 (d) FUTURE CONDITIONS RISK ASSESSMENT AND
21 MODELING REPORT.—

22 (1) IN GENERAL.—The Council shall consult
23 with scientists and technical experts, other Federal
24 agencies, States, and local communities to—

25 (A) develop recommendations on how to—

1 (i) ensure that flood insurance rate
2 maps incorporate the best available climate
3 science to assess flood risks; and

4 (ii) ensure that the Federal Emer-
5 gency Management Agency uses the best
6 available methodology to consider the im-
7 pact of—

8 (I) the rise in the sea level; and

9 (II) future development on flood
10 risk; and

11 (B) not later than 1 year after the date of
12 the enactment of this Act, prepare written rec-
13 ommendations in a future conditions risk as-
14 sessment and modeling report and to submit
15 such recommendations to the Administrator.

16 (2) RESPONSIBILITY OF THE ADMINIS-
17 TRATOR.—The Administrator, as part of the ongoing
18 program to review and update National Flood Insur-
19 ance Program rate maps under section 118, shall in-
20 corporate any future risk assessment submitted
21 under paragraph (1)(B) in any such revision or up-
22 date.

23 (e) CHAIRPERSON.—The members of the Council
24 shall elect 1 member to serve as the chairperson of the
25 Council (in this section referred to as the “Chairperson”).

1 (f) COORDINATION.—To ensure that the Council’s
2 recommendations are consistent, to the maximum extent
3 practicable, with national digital spatial data collection
4 and management standards, the Chairperson shall consult
5 with the Chairperson of the Federal Geographic Data
6 Committee (established pursuant to Office of Management
7 and Budget Circular A–16).

8 (g) COMPENSATION.—Members of the Council shall
9 receive no additional compensation by reason of their serv-
10 ice on the Council.

11 (h) MEETINGS AND ACTIONS.—

12 (1) IN GENERAL.—The Council shall meet not
13 less frequently than twice each year at the request
14 of the Chairperson or a majority of its members,
15 and may take action by a vote of the majority of the
16 members.

17 (2) INITIAL MEETING.—The Administrator, or
18 a person designated by the Administrator, shall re-
19 quest and coordinate the initial meeting of the Coun-
20 cil.

21 (i) OFFICERS.—The Chairperson may appoint offi-
22 cers to assist in carrying out the duties of the Council
23 under subsection (c).

24 (j) STAFF.—

1 (1) STAFF OF FEMA.—Upon the request of the
2 Chairperson, the Administrator may detail, on a
3 nonreimbursable basis, personnel of the Federal
4 Emergency Management Agency to assist the Coun-
5 cil in carrying out its duties.

6 (2) STAFF OF OTHER FEDERAL AGENCIES.—
7 Upon request of the Chairperson, any other Federal
8 agency that is a member of the Council may detail,
9 on a nonreimbursable basis, personnel to assist the
10 Council in carrying out its duties.

11 (k) POWERS.—In carrying out this section, the Coun-
12 cil may hold hearings, receive evidence and assistance, pro-
13 vide information, and conduct research, as it considers ap-
14 propriate.

15 (l) REPORT TO CONGRESS.—The Administrator, on
16 an annual basis, shall report to the Committee on Bank-
17 ing, Housing, and Urban Affairs of the Senate, the Com-
18 mittee on Financial Services of the House of Representa-
19 tives, and the Office of Management and Budget on the—

20 (1) recommendations made by the Council;

21 (2) actions taken by the Federal Emergency
22 Management Agency to address such recommenda-
23 tions to improve flood insurance rate maps and flood
24 risk data; and

1 (3) any recommendations made by the Council
2 that have been deferred or not acted upon, together
3 with an explanatory statement.

4 **SEC. 118. NATIONAL FLOOD MAPPING PROGRAM.**

5 (a) REVIEWING, UPDATING, AND MAINTAINING
6 MAPS.—The Administrator, in coordination with the
7 Technical Mapping Advisory Council established under
8 section 117, shall establish an ongoing program under
9 which the Administrator shall review, update, and main-
10 tain National Flood Insurance Program rate maps in ac-
11 cordance with this section.

12 (b) MAPPING.—

13 (1) IN GENERAL.—In carrying out the program
14 established under subsection (a), the Administrator
15 shall—

16 (A) identify, review, update, maintain, and
17 publish National Flood Insurance Program rate
18 maps with respect to—

19 (i) all populated areas and areas of
20 possible population growth located within
21 the 100-year floodplain;

22 (ii) all populated areas and areas of
23 possible population growth located within
24 the 500-year floodplain;

1 (iii) areas of residual risk, including
2 areas that are protected by levees, dams,
3 and other flood control structures;

4 (iv) areas that could be inundated as
5 a result of the failure of a levee, dam, or
6 other flood control structure; and

7 (v) the level of protection provided by
8 flood control structures;

9 (B) establish or update flood-risk zone
10 data in all such areas, and make estimates with
11 respect to the rates of probable flood caused
12 loss for the various flood risk zones for each
13 such area; and

14 (C) use, in identifying, reviewing, updat-
15 ing, maintaining, or publishing any National
16 Flood Insurance Program rate map required
17 under this section or under the National Flood
18 Insurance Act of 1968 (42 U.S.C. 4011 et
19 seq.), the most accurate topography and ele-
20 vation data available.

21 (2) MAPPING ELEMENTS.—Each map updated
22 under this section shall—

23 (A) assess the accuracy of current ground
24 elevation data used for hydrologic and hydraulic
25 modeling of flooding sources and mapping of

1 the flood hazard and wherever necessary ac-
2 quire new ground elevation data utilizing the
3 most up-to-date geospatial technologies in ac-
4 cordance with guidelines and specifications of
5 the Federal Emergency Management Agency;
6 and

7 (B) develop National Flood Insurance Pro-
8 gram flood data on a watershed basis—

9 (i) to provide the most technically ef-
10 fective and efficient studies and hydrologic
11 and hydraulic modeling; and

12 (ii) to eliminate, to the maximum ex-
13 tent possible, discrepancies in base flood
14 elevations between adjacent political sub-
15 divisions.

16 (3) OTHER INCLUSIONS.—In updating maps
17 under this section, the Administrator shall include—

18 (A) any relevant information on coastal in-
19 undation from—

20 (i) an applicable inundation map of
21 the Corps of Engineers; and

22 (ii) data of the National Oceanic and
23 Atmospheric Administration relating to
24 storm surge modeling;

1 (B) any relevant information of the United
2 States Geological Survey on stream flows, wa-
3 tershed characteristics, and topography that is
4 useful in the identification of flood hazard
5 areas, as determined by the Administrator;

6 (C) any relevant information on land sub-
7 sidence, coastal erosion areas, and other floor-
8 related hazards;

9 (D) any relevant information or data of
10 the National Oceanic and Atmospheric Admin-
11 istration and the United States Geological Sur-
12 vey relating to the best available climate science
13 and the potential for future inundation from
14 sea level rise, increased precipitation, and in-
15 creased intensity of hurricanes due to global
16 warming; and

17 (E) any other relevant information as may
18 be recommended by the Technical Mapping Ad-
19 visory Committee.

20 (c) STANDARDS.—In updating and maintaining maps
21 under this section, the Administrator shall—

22 (1) establish standards to—

23 (A) ensure that maps are adequate for—

24 (i) flood risk determinations; and

1 (ii) use by State and local govern-
2 ments in managing development to reduce
3 the risk of flooding; and

4 (B) facilitate identification and use of con-
5 sistent methods of data collection and analysis
6 by the Administrator, in conjunction with State
7 and local governments, in developing maps for
8 communities with similar flood risks, as deter-
9 mined by the Administrator; and

10 (2) publish maps in a format that is—

11 (A) digital geospatial data compliant;

12 (B) compliant with the open publishing
13 and data exchange standards established by the
14 Open Geospatial Consortium; and

15 (C) aligned with official data defined by
16 the National Geodetic Survey.

17 (d) COMMUNICATION AND OUTREACH.—

18 (1) IN GENERAL.—The Administrator shall—

19 (A) work to enhance communication and
20 outreach to States, local communities, and
21 property owners about the effects—

22 (i) of any potential changes to Na-
23 tional Flood Insurance Program rate maps
24 that may result from the mapping program
25 required under this section; and

1 (ii) that any such changes may have
2 on flood insurance purchase requirements;
3 and

4 (B) engage with local communities to en-
5 hance communication and outreach to the resi-
6 dents of such communities on the matters de-
7 scribed under subparagraph (A).

8 (2) REQUIRED ACTIVITIES.—The communica-
9 tion and outreach activities required under para-
10 graph (1) shall include—

11 (A) notifying property owners when their
12 properties become included in, or when they are
13 excluded from, an area covered by the manda-
14 tory flood insurance purchase requirement
15 under section 102 of the Flood Disaster Protec-
16 tion Act of 1973 (42 U.S.C. 4012a);

17 (B) educating property owners regarding
18 the flood risk and reduction of this risk in their
19 community, including the continued flood risks
20 to areas that are no longer subject to the flood
21 insurance mandatory purchase requirement;

22 (C) educating property owners regarding
23 the benefits and costs of maintaining or acquir-
24 ing flood insurance, including, where applicable,
25 lower-cost preferred risk policies under the Na-

1 tional Flood Insurance Act of 1968 (42 U.S.C.
2 4011 et seq.) for such properties and the con-
3 tents of such properties;

4 (D) educating property owners about flood
5 map revisions and the process available to such
6 owners to appeal proposed changes in flood ele-
7 vations through their community; and

8 (E) encouraging property owners to main-
9 tain or acquire flood insurance coverage.

10 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
11 authorized to be appropriated to the Administrator to
12 carry out this section \$400,000,000 for each of fiscal
13 years 2012 through 2016.

14 **SEC. 119. SCOPE OF APPEALS.**

15 Section 1363 of the National Flood Insurance Act of
16 1968 (42 U.S.C. 4104) is amended—

17 (1) in subsection (a)—

18 (A) in the heading, by inserting “AND
19 DESIGNATIONS OF SPECIAL FLOOD HAZARD
20 AREAS” after “ELEVATION DETERMINATIONS”;

21 (B) by inserting “and designating special
22 flood hazard areas” after “flood elevations”;
23 and

1 (C) by striking “such determinations” and
 2 inserting “such determinations and designa-
 3 tions”; and

4 (2) in subsection (b)—

5 (A) in the heading, by inserting “AND
 6 DESIGNATIONS OF SPECIAL FLOOD HAZARD
 7 AREAS” after “ELEVATION DETERMINATIONS”;

8 (B) in the first sentence, by inserting “and
 9 designation of special flood hazard areas” after
 10 “flood elevation determinations”; and

11 (C) by amending the third sentence to read
 12 as follows: “The sole grounds for appeal shall
 13 be the possession of knowledge or information
 14 indicating that (1) the elevations being pro-
 15 posed by the Administrator with respect to an
 16 identified area having special flood hazards are
 17 scientifically or technically incorrect, or (2) the
 18 designation of an identified special flood hazard
 19 area is scientifically or technically incorrect.”

20 **SEC. 120. SCIENTIFIC RESOLUTION PANEL.**

21 (a) ESTABLISHMENT.—The National Flood Insur-
 22 ance Act of 1968 (42 U.S.C. 4011 et seq.) is amended
 23 by inserting after section 1363 (42 U.S.C. 4104) the fol-
 24 lowing:

1 **“SEC. 1363A. SCIENTIFIC RESOLUTION PANEL.**

2 “(a) AVAILABILITY.—

3 “(1) IN GENERAL.—Pursuant to the authority
4 provided under section 1363(e), the Administrator
5 shall make available an independent review panel, to
6 be known as the Scientific Resolution Panel, to any
7 community—

8 “(A) that has—

9 “(i) filed a timely map appeal in ac-
10 cordance with section 1363;

11 “(ii) completed 60 days of consulta-
12 tion with the Federal Emergency Manage-
13 ment Agency on the appeal; and

14 “(iii) not allowed more than 120 days,
15 or such longer period as may be provided
16 by the Administrator by waiver, to pass
17 since the end of the appeal period; or

18 “(B) that has received an unsatisfactory
19 ruling under the map revision process estab-
20 lished pursuant to section 1360(f).

21 “(2) APPEALS BY OWNERS AND LESSEES.—If a
22 community and an owner or lessee of real property
23 within the community appeal a proposed determina-
24 tion of a flood elevation under section 1363(b), upon
25 the request of the community—

1 “(A) the owner or lessee shall submit sci-
2 entific and technical data relating to the ap-
3 peals to the Scientific Resolution Panel; and

4 “(B) the Scientific Resolution Panel shall
5 make a determination with respect to the ap-
6 peals in accordance with subsection (c).

7 “(3) DEFINITION.—For purposes of paragraph
8 (1)(B), an ‘unsatisfactory ruling’ means that a com-
9 munity—

10 “(A) received a revised Flood Insurance
11 Rate Map from the Federal Emergency Man-
12 agement Agency, via a Letter of Final Deter-
13 mination, after September 30, 2008 and prior
14 to the date of enactment of this section;

15 “(B) has subsequently applied for a Letter
16 of Map Revision or Physical Map Revision with
17 the Federal Emergency Management Agency;
18 and

19 “(C) has received an unfavorable ruling on
20 their request for a map revision.

21 “(b) MEMBERSHIP.—The Scientific Resolution Panel
22 made available under subsection (a) shall consist of 5
23 members with expertise that relate to the creation and
24 study of flood hazard maps and flood insurance. The Sci-
25 entific Resolution Panel may include representatives from

1 Federal agencies not involved in the mapping study in
2 question and from other impartial experts. Employees of
3 the Federal Emergency Management Agency may not
4 serve on the Scientific Resolution Panel.

5 “(c) DETERMINATION.—

6 “(1) IN GENERAL.—Following deliberations,
7 and not later than 90 days after its formation, the
8 Scientific Resolution Panel shall issue a determina-
9 tion of resolution of the dispute. Such determination
10 shall set forth recommendations for the base flood
11 elevation determination or the determination of an
12 area having special flood hazards that shall be re-
13 flected in the Flood Insurance Rate Maps.

14 “(2) BASIS.—The determination of the Sci-
15 entific Resolution Panel shall be based on—

16 “(A) data previously provided to the Ad-
17 ministrator by the community, and, in the case
18 of a dispute submitted under subsection (a)(2),
19 an owner or lessee of real property in the com-
20 munity; and

21 “(B) data provided by the Administrator.

22 “(3) NO ALTERNATIVE DETERMINATIONS PER-
23 MISSIBLE.—The Scientific Resolution Panel—

24 “(A) shall provide a determination of reso-
25 lution of a dispute that—

1 “(i) is either in favor of the Adminis-
2 trator or in favor of the community on
3 each distinct element of the dispute; or

4 “(ii) in the case of a dispute sub-
5 mitted under subsection (a)(2), is in favor
6 of the Administrator, in favor of the com-
7 munity, or in favor of the owner or lessee
8 of real property in the community on each
9 distinct element of the dispute; and

10 “(B) may not offer as a resolution any
11 other alternative determination.

12 “(4) EFFECT OF DETERMINATION.—

13 “(A) BINDING.—The recommendations of
14 the Scientific Resolution Panel shall be binding
15 on all appellants and not subject to further ju-
16 dicial review unless the Administrator deter-
17 mines that implementing the determination of
18 the panel would—

19 “(i) pose a significant threat due to
20 failure to identify a substantial risk of spe-
21 cial flood hazards; or

22 “(ii) violate applicable law.

23 “(B) WRITTEN JUSTIFICATION NOT TO
24 ENFORCE.—If the Administrator elects not to
25 implement the determination of the Scientific

1 Resolution Panel pursuant to subparagraph
2 (A), then not later than 60 days after the
3 issuance of the determination, the Adminis-
4 trator shall issue a written justification explain-
5 ing such election.

6 “(C) APPEAL OF DETERMINATION NOT TO
7 ENFORCE.—If the Administrator elects not to
8 implement the determination of the Scientific
9 Resolution Panel pursuant to subparagraph
10 (A), the community may appeal the determina-
11 tion of the Administrator as provided for under
12 section 1363(g).

13 “(d) MAPS USED FOR INSURANCE AND MANDATORY
14 PURCHASE REQUIREMENTS.—With respect to any com-
15 munity that has a dispute that is being considered by the
16 Scientific Resolution Panel formed pursuant to this sub-
17 section, the Federal Emergency Management Agency shall
18 ensure that for each such community that—

19 “(1) the Flood Insurance Rate Map described
20 in the most recently issued Letter of Final Deter-
21 mination shall be in force and effect with respect to
22 such community; and

23 “(2) flood insurance shall continue to be made
24 available to the property owners and residents of the
25 participating community.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) ADMINISTRATIVE REVIEW.—Section
3 1363(e) of the National Flood Insurance Act of
4 1968 (42 U.S.C. 4104(e)) is amended by striking
5 “an independent scientific body or appropriate Fed-
6 eral agency for advice” and inserting “the Scientific
7 Resolution Panel provided for in section 1363A”.

8 (2) JUDICIAL REVIEW.—The first sentence of
9 section 1363(g) of the National Flood Insurance Act
10 of 1968 (42 U.S.C. 4104(g)) is amended by striking
11 “Any appellant” and inserting “Except as provided
12 in section 1363A, any appellant”.

13 **SEC. 121. REMOVAL OF LIMITATION ON STATE CONTRIBU-**
14 **TIONS FOR UPDATING FLOOD MAPS.**

15 Section 1360(f)(2) of the National Flood Insurance
16 Act of 1968 (42 U.S.C. 4101(f)(2)) is amended by striking
17 “, but which may not exceed 50 percent of the cost of
18 carrying out the requested revision or update”.

19 **SEC. 122. COORDINATION.**

20 (a) INTERAGENCY BUDGET CROSSCUT AND COORDI-
21 NATION REPORT.—

22 (1) IN GENERAL.—The Secretary of Homeland
23 Security, the Administrator, the Director of the Of-
24 fice of Management and Budget, and the heads of
25 each Federal department or agency carrying out ac-

1 tivities under sections 118 and 119 shall work to-
2 gether to ensure that flood risk determination data
3 and geospatial data are shared among Federal agen-
4 cies in order to coordinate the efforts of the Nation
5 to reduce its vulnerability to flooding hazards.

6 (2) REPORT.—Not later than 30 days after the
7 submission of the budget of the United States Gov-
8 ernment by the President to Congress, the Director
9 of the Office of Management and Budget, in coordi-
10 nation with the Federal Emergency Management
11 Agency, the United States Geological Survey, the
12 National Oceanic and Atmospheric Administration,
13 the Army Corps of Engineers, and other Federal
14 agencies, as appropriate, shall submit to the appro-
15 priate authorizing and appropriating committees of
16 the Senate and the House of Representatives an
17 interagency budget crosscut and coordination report,
18 certified by the Secretary or head of each such agen-
19 cy, that—

20 (A) contains an interagency budget cross-
21 cut report that displays relevant sections of the
22 budget proposed for each of the Federal agen-
23 cies working on flood risk determination data
24 and digital elevation models, including any

1 planned interagency or intra-agency transfers;
2 and

3 (B) describes how the efforts aligned with
4 such sections complement one another.

5 (b) DUTIES OF THE ADMINISTRATOR.—In carrying
6 out sections 118 and 119, the Administrator shall—

7 (1) participate, pursuant to section 216 of the
8 E–Government Act of 2002 (44 U.S.C. 3501 note),
9 in the establishment of such standards and common
10 protocols as are necessary to assure the interoper-
11 ability of geospatial data for all users of such infor-
12 mation;

13 (2) coordinate with, seek assistance and co-
14 operation of, and provide a liaison to the Federal
15 Geographic Data Committee pursuant to the Office
16 of Management and Budget Circular A–16 and Ex-
17 ecutive Order 12906 (43 U.S.C. 1457 note; relating
18 to the National Spatial Data Infrastructure) for the
19 implementation of and compliance with such stand-
20 ards;

21 (3) integrate with, leverage, and coordinate
22 funding of, to the maximum extent practicable, the
23 current flood mapping activities of each unit of
24 State and local government;

1 (4) integrate with, leverage, and coordinate, to
2 the maximum extent practicable, the current
3 geospatial activities of other Federal agencies and
4 units of State and local government; and

5 (5) develop a funding strategy to leverage and
6 coordinate budgets and expenditures, and to main-
7 tain or establish joint funding and other agreement
8 mechanisms with other Federal agencies and units
9 of State and local government to share in the collec-
10 tion and utilization of geospatial data among all gov-
11 ernmental users.

12 **SEC. 123. INTERAGENCY COORDINATION STUDY.**

13 (a) IN GENERAL.—The Administrator shall enter
14 into a contract with the National Academy of Public Ad-
15 ministration to conduct a study on how the Federal Emer-
16 gency Management Agency—

17 (1) should improve interagency and intergovern-
18 mental coordination on flood mapping, including a
19 funding strategy to leverage and coordinate budgets
20 and expenditures; and

21 (2) can establish joint funding mechanisms with
22 other Federal agencies and units of State and local
23 government to share the collection and utilization of
24 data among all governmental users.

1 (b) TIMING.—Not later than 180 days after the date
2 of the enactment of this title, the National Academy of
3 Public Administration shall report the findings of the
4 study required under subsection (a) to—

5 (1) the Committee on Banking, Housing, and
6 Urban Affairs of the Senate;

7 (2) the Committee on Financial Services of the
8 House of Representatives;

9 (3) the Committee on Appropriations of the
10 Senate; and

11 (4) the Committee on Appropriations of the
12 House of Representatives.

13 **SEC. 124. NONMANDATORY PARTICIPATION.**

14 (a) NONMANDATORY PARTICIPATION IN NATIONAL
15 FLOOD INSURANCE PROGRAM FOR 500-YEAR FLOOD-
16 PLAIN.—Any area located within the 500-year floodplain
17 shall not be subject to the mandatory purchase require-
18 ments of sections 102 or 202 of the Flood Disaster Protec-
19 tion Act of 1973 (42 U.S.C. 4012a and 4106).

20 (b) NOTICE.—

21 (1) BY ADMINISTRATOR.—In carrying out the
22 National Flood Insurance Program, the Adminis-
23 trator shall provide notice to any community located
24 in an area within the 500-year floodplain.

1 (2) TIMING OF NOTICE.—The notice required
2 under paragraph (1) shall be made not later than 6
3 months after the date of completion of the initial
4 mapping of the 500-year floodplain, as required
5 under section 118.

6 (3) LENDER REQUIRED NOTICE.—

7 (A) REGULATED LENDING INSTITU-
8 TIONS.—Each Federal or State entity for lend-
9 ing regulation (after consultation and coordina-
10 tion with the Federal Financial Institutions Ex-
11 amination Council) shall, by regulation, require
12 regulated lending institutions, as a condition of
13 making, increasing, extending, or renewing any
14 loan secured by property located in an area
15 within the 500-year floodplain, to notify the
16 purchaser or lessee (or obtain satisfactory as-
17 surances that the seller or lessor has notified
18 the purchaser or lessee) and the servicer of the
19 loan that such property is located in an area
20 within the 500-year floodplain, in a manner
21 that is consistent with, and substantially iden-
22 tical to, the notice required under section
23 1364(a)(1) of the National Flood Insurance Act
24 of 1968 (42 U.S.C. 4104a(a)(1)).

1 (B) FEDERAL OR STATE AGENCY LEND-
2 ERS.—Each Federal or State agency lender
3 shall, by regulation, require notification in the
4 same manner as provided under subparagraph
5 (A) with respect to any loan that is made by a
6 Federal or State agency lender and secured by
7 property located in an area within the 500-year
8 floodplain.

9 (C) PENALTY FOR NONCOMPLIANCE.—Any
10 regulated lending institution or Federal or
11 State agency lender that fails to comply with
12 the notice requirements established by this
13 paragraph shall be subject to the penalties pre-
14 scribed under section 102(f)(5) of the Flood
15 Disaster Protection Act of 1973 (42 U.S.C.
16 4012a(f)(5)).

17 **SEC. 125. NOTICE OF FLOOD INSURANCE AVAILABILITY**
18 **UNDER RESPA.**

19 Section 5(b) of the Real Estate Settlement Proce-
20 dures Act of 1974 (12 U.S.C. 2604(b)), as amended by
21 section 1450 of the Dodd-Frank Wall Street Reform and
22 Consumer Protection Act (Public Law 111–203; 124 Stat.
23 2174), is amended by adding at the end the following:

24 “(14) An explanation of flood insurance and the
25 availability of flood insurance under the National

1 Flood Insurance Program, whether or not the real
2 estate is located in an area having special flood haz-
3 ards.”.

4 **SEC. 126. PARTICIPATION IN STATE DISASTER CLAIMS ME-**
5 **DIATION PROGRAMS.**

6 Chapter I of the National Flood Insurance Act of
7 1968 (42 U.S.C. 4011 et seq.) is amended by inserting
8 after section 1313 (42 U.S.C. 4020) the following:

9 **“SEC. 1314. PARTICIPATION IN STATE DISASTER CLAIMS**
10 **MEDIATION PROGRAMS.**

11 “(a) REQUIREMENT TO PARTICIPATE.—In the case
12 of the occurrence of a major disaster, as defined in section
13 102 of the Robert T. Stafford Disaster Relief and Emer-
14 gency Assistance Act (42 U.S.C. 5122), that may have
15 resulted in flood damage covered under the flood insurance
16 program established under this chapter and other personal
17 lines residential property insurance coverage offered by a
18 State regulated insurer, upon a request made by the insur-
19 ance commissioner of a State (or such other official re-
20 sponsible for regulating the business of insurance in the
21 State) for the participation of representatives of the Ad-
22 ministrator in a program sponsored by such State for non-
23 binding mediation of insurance claims resulting from a
24 major disaster, the Administrator shall cause representa-
25 tives of the flood insurance program to participate in such

1 a State program where claims under the flood insurance
2 program are involved to expedite settlement of flood dam-
3 age claims resulting from such disaster.

4 “(b) EXTENT OF PARTICIPATION.—In satisfying the
5 requirements of subsection (a), the Administrator shall re-
6 quire that each representative of the Administrator—

7 “(1) be certified for purposes of the flood insur-
8 ance program to settle claims against such program
9 resulting from such disaster in amounts up to the
10 limits of policies under such program;

11 “(2) attend State-sponsored mediation meetings
12 regarding flood insurance claims resulting from such
13 disaster at such times and places as may be ar-
14 ranged by the State;

15 “(3) participate in good faith negotiations to-
16 ward the settlement of such claims with policy-
17 holders of coverage made available under the flood
18 insurance program; and

19 “(4) finalize the settlement of such claims on
20 behalf of the flood insurance program with such pol-
21 icyholders.

22 “(c) COORDINATION.—Representatives of the Admin-
23 istrator shall at all times coordinate their activities with
24 insurance officials of the State and representatives of in-
25 surers for the purposes of consolidating and expediting

1 settlement of claims under the national flood insurance
2 program resulting from such disaster.

3 “(d) QUALIFICATIONS OF MEDIATORS.—Each State
4 mediator participating in State-sponsored mediation under
5 this section shall be—

6 “(1)(A) a member in good standing of the State
7 bar in the State in which the mediation is to occur
8 with at least 2 years of practical experience; and

9 “(B) an active member of such bar for at least
10 1 year prior to the year in which such mediator’s
11 participation is sought; or

12 “(2) a retired trial judge from any United
13 States jurisdiction who was a member in good stand-
14 ing of the bar in the State in which the judge pre-
15 sided for at least 5 years prior to the year in which
16 such mediator’s participation is sought.

17 “(e) MEDIATION PROCEEDINGS AND DOCUMENTS
18 PRIVILEGED.—As a condition of participation, all state-
19 ments made and documents produced pursuant to State-
20 sponsored mediation involving representatives of the Ad-
21 ministrator shall be deemed privileged and confidential
22 settlement negotiations made in anticipation of litigation.

23 “(f) LIABILITY, RIGHTS, OR OBLIGATIONS NOT AF-
24 FECTED.—Participation in State-sponsored mediation, as
25 described in this section does not—

1 “(1) affect or expand the liability of any party
2 in contract or in tort; or

3 “(2) affect the rights or obligations of the par-
4 ties, as established—

5 “(A) in any regulation issued by the Ad-
6 ministrator, including any regulation relating to
7 a standard flood insurance policy;

8 “(B) under this Act; and

9 “(C) under any other provision of Federal
10 law.

11 “(g) EXCLUSIVE FEDERAL JURISDICTION.—Partici-
12 pation in State-sponsored mediation shall not alter,
13 change, or modify the original exclusive jurisdiction of
14 United States courts, as set forth in this Act.

15 “(h) COST LIMITATION.—Nothing in this section
16 shall be construed to require the Administrator or a rep-
17 resentative of the Administrator to pay additional medi-
18 ation fees relating to flood insurance claims associated
19 with a State-sponsored mediation program in which such
20 representative of the Administrator participates.

21 “(i) EXCEPTION.—In the case of the occurrence of
22 a major disaster that results in flood damage claims under
23 the national flood insurance program and that does not
24 result in any loss covered by a personal lines residential
25 property insurance policy—

1 “(1) this section shall not apply; and

2 “(2) the provisions of the standard flood insur-
3 ance policy under the national flood insurance pro-
4 gram and the appeals process established under sec-
5 tion 205 of the Bunning-Bereuter-Blumenauer
6 Flood Insurance Reform Act of 2004 (42 U.S.C.
7 4011 note) and the regulations issued pursuant to
8 such section shall apply exclusively.

9 “(j) REPRESENTATIVES OF THE ADMINISTRATOR.—
10 For purposes of this section, the term ‘representatives of
11 the Administrator’ means representatives of the national
12 flood insurance program who participate in the appeals
13 process established under section 205 of the Bunning-Be-
14 reuter-Blumenauer Flood Insurance Reform Act of 2004
15 (42 U.S.C. 4011 note).”.

16 **SEC. 127. ADDITIONAL AUTHORITY OF FEMA TO COLLECT**
17 **INFORMATION ON CLAIMS PAYMENTS.**

18 (a) IN GENERAL.—The Administrator shall collect,
19 from property and casualty insurance companies that are
20 authorized by the Administrator to participate in the
21 Write Your Own program any information and data need-
22 ed to determine the accuracy of the resolution of flood
23 claims filed on any property insured with a standard flood
24 insurance policy obtained under the program that was
25 subject to a flood.

1 (b) TYPE OF INFORMATION TO BE COLLECTED.—

2 The information and data to be collected under subsection

3 (a) may include—

4 (1) any adjuster estimates made as a result of
5 flood damage, and if the insurance company also in-
6 sures the property for wind damage—

7 (A) any adjuster estimates for both wind
8 and flood damage;

9 (B) the amount paid to the property owner
10 for wind and flood claims;

11 (C) the total amount paid to the policy-
12 holder for damages as a result of the event that
13 caused the flooding and other losses;

14 (2) any amounts paid to the policyholder by the
15 insurance company for damages to the insured prop-
16 erty other than flood damages; and

17 (3) the total amount paid to the policyholder by
18 the insurance company for all damages incurred to
19 the insured property as a result of the flood.

20 **SEC. 128. OVERSIGHT AND EXPENSE REIMBURSEMENTS OF**
21 **INSURANCE COMPANIES.**

22 (a) SUBMISSION OF BIENNIAL REPORTS.—

23 (1) TO THE ADMINISTRATOR.—Not later than
24 20 days after the date of the enactment of this Act,
25 each property and casualty insurance company that

1 is authorized by the Administrator to participate in
2 the Write Your Own program shall submit to the
3 Administrator any biennial report required by the
4 Federal Emergency Management Agency to be pre-
5 pared in the prior 5 years by such company.

6 (2) TO GAO.—Not later than 10 days after the
7 submission of the biennial reports under paragraph
8 (1), the Administrator shall submit all such reports
9 to the Comptroller General of the United States.

10 (3) NOTICE TO CONGRESS OF FAILURE TO COM-
11 PLY.—The Administrator shall notify and report to
12 the Committee on Banking, Housing, and Urban Af-
13 fairs of the Senate and the Committee on Financial
14 Services of the House of Representatives on any
15 property and casualty insurance company partici-
16 pating in the Write Your Own program that failed
17 to submit its biennial reports as required under
18 paragraph (1).

19 (4) FAILURE TO COMPLY.—A property and cas-
20 ualty insurance company that is authorized by the
21 Administrator to participate in the Write Your Own
22 program which fails to comply with the reporting re-
23 quirement under this subsection or the requirement
24 under section 62.23(j)(1) of title 44, Code of Fed-
25 eral Regulations (relating to biennial audit of the

1 flood insurance financial statements) shall be subject
2 to a civil penalty in an amount equal to \$1,000 per
3 day for each day that the company remains in non-
4 compliance with either such requirement.

5 (b) METHODOLOGY TO DETERMINE REIMBURSED
6 EXPENSES.—Not later than 180 days after the date of
7 the enactment of this Act, the Administrator shall develop
8 a methodology for determining the appropriate amounts
9 that participating property and casualty insurance compa-
10 nies should be reimbursed for selling, writing, and serv-
11 icing flood insurance policies and adjusting flood insur-
12 ance claims on behalf of the National Flood Insurance
13 Program. The methodology shall be developed using actual
14 expense data for the flood insurance line and can be de-
15 rived from—

16 (1) flood insurance expense data produced by
17 participating property and casualty insurance com-
18 panies;

19 (2) flood insurance expense data collected by
20 the National Association of Insurance Commis-
21 sioners; or

22 (3) a combination of the methodologies de-
23 scribed in paragraphs (1) and (2).

24 (c) SUBMISSION OF EXPENSE REPORTS.—To develop
25 the methodology established under subsection (b), the Ad-

1 administrator may require each property and casualty insur-
2 ance company participating in the Write Your Own pro-
3 gram to submit a report to the Administrator, in a format
4 determined by the Administrator and within 60 days of
5 the request, that details the expense levels of each such
6 company for selling, writing, and servicing standard flood
7 insurance policies and adjusting and servicing claims.

8 (d) FEMA RULEMAKING ON REIMBURSEMENT OF
9 EXPENSES UNDER THE WYO PROGRAM.—Not later than
10 12 months after the date of the enactment of this Act,
11 the Administrator shall conduct a rulemaking proceeding
12 to formulate revised expense reimbursements to property
13 and casualty insurance companies participating in the
14 Write Your Own program for their expenses (including
15 their operating and administrative expenses for adjust-
16 ment of claims) in selling, writing, and servicing standard
17 flood insurance policies, including how such companies
18 shall be reimbursed in both catastrophic and noncata-
19 strophic years. Such reimbursements shall be structured
20 to ensure reimbursements track the actual expenses, in-
21 cluding standard business costs and operating expenses,
22 of such companies as close as practicably possible.

23 (e) REPORT OF THE ADMINISTRATOR.—Not later
24 than 60 days after the effective date of any final rule es-
25 tablished pursuant to subsection (d), the Administrator

1 shall submit to the Committee on Banking, Housing, and
2 Urban Affairs of the Senate and the Committee on Finan-
3 cial Services of the House of Representatives a report con-
4 taining—

5 (1) the specific rationale and purposes of such
6 rule;

7 (2) the reasons for the adoption of the policies
8 contained in such rule; and

9 (3) the degree to which such rule accurately
10 represents the true operating costs and expenses of
11 property and casualty insurance companies partici-
12 pating in the Write Your Own program.

13 (f) GAO STUDY AND REPORT ON EXPENSES OF
14 WYO PROGRAM.—

15 (1) STUDY.—Not later than 180 days after the
16 effective date of the final rule established pursuant
17 to subsection (d), the Comptroller General of the
18 United States shall—

19 (A) conduct a study on the efficacy, ade-
20 quacy, and sufficiency of the final rules estab-
21 lished pursuant to subsection (d); and

22 (B) report to the Committee on Banking,
23 Housing, and Urban Affairs of the Senate and
24 the Committee on Financial Services of the

1 House of Representatives on the findings of the
2 study conducted under subparagraph (A).

3 (2) GAO AUTHORITY.—In conducting the study
4 and report required under paragraph (1), the Comp-
5 troller General—

6 (A) may use any previous findings, studies,
7 or reports that the Comptroller General pre-
8 viously completed on the Write Your Own pro-
9 gram;

10 (B) shall determine if—

11 (i) the final rules established pursuant
12 to subsection (d) allow the Federal Emer-
13 gency Management Agency to access ade-
14 quate information regarding the actual ex-
15 penses of property and casualty insurance
16 companies participating in the Write Your
17 Own program; and

18 (ii) the actual reimbursements paid
19 out under the final rule established in sub-
20 section (d) accurately reflect the expenses
21 reported by property and casualty insur-
22 ance companies participating in the Write
23 Your Own program, including the standard
24 business costs and operating expenses of
25 such companies; and

1 (C) shall analyze the effect of such rules
2 on the level of participation of property and
3 casualty insurers in the Write Your Own pro-
4 gram.

5 **SEC. 129. MITIGATION.**

6 (a) **MITIGATION ASSISTANCE GRANTS.**—Section
7 1366 of the National Flood Insurance Act of 1968 (42
8 U.S.C. 4104c) is amended—

9 (1) by striking subsections (b), (d), (f), (g), (h),
10 (k), and (m);

11 (2) by redesignating subsections (c), (e), (i),
12 and (j) as subsections (b), (c), (e), and (f), respec-
13 tively;

14 (3) in subsection (a), by striking the last sen-
15 tence and inserting the following: “Such financial
16 assistance shall be made available—

17 “(1) to States and communities in the form of
18 grants under this section for carrying out mitigation
19 activities;

20 “(2) to States and communities in the form of
21 grants under this section for carrying out mitigation
22 activities that reduce flood damage to severe repet-
23 itive loss structures; and

24 “(3) to property owners in the form of direct
25 grants under this section for carrying out mitigation

1 activities that reduce flood damage to individual
2 structures for which 2 or more claim payments for
3 losses have been made under flood insurance cov-
4 erage under this title if the Administrator, after con-
5 sultation with the State and community, determines
6 that neither the State nor community in which such
7 a structure is located has the capacity to manage
8 such grants.”;

9 (4) in subsection (b), as so redesignated, in the
10 first sentence—

11 (A) by striking “and provides protection
12 against” and inserting “provides for reduction
13 of”; and

14 (B) by inserting before the period at the
15 end the following: “, and may be included in a
16 multi-hazard mitigation plan”;

17 (5) in subsection (c), as so redesignated—

18 (A) in paragraph (1), by striking “(1) USE
19 OF AMOUNTS.—” and all that follows through
20 the end of the first sentence and inserting the
21 following:

22 “(1) REQUIREMENT OF CONSISTENCY WITH AP-
23 PROVED MITIGATION PLAN.—Amounts provided
24 under this section may be used only for mitigation
25 activities that are consistent with mitigation plans

1 that are approved by the Administrator and identi-
2 fied under paragraph (4).”;

3 (B) by striking paragraphs (2), (3), and
4 (4) and inserting the following new paragraphs:

5 “(2) REQUIREMENTS OF TECHNICAL FEASI-
6 BILITY, COST EFFECTIVENESS, AND INTEREST OF
7 NFIF.—The Administrator may approve only mitiga-
8 tion activities that the Administrator determines are
9 technically feasible and cost-effective and in the in-
10 terest of, and represent savings to, the National
11 Flood Insurance Fund. In making such determina-
12 tions, the Administrator shall take into consideration
13 recognized ancillary benefits.

14 “(3) PRIORITY FOR MITIGATION ASSISTANCE.—
15 In providing grants under this section for mitigation
16 activities, the Administrator shall give priority for
17 funding to activities that the Administrator deter-
18 mines will result in the greatest savings to the Na-
19 tional Flood Insurance Fund, including activities
20 for—

21 “(A) severe repetitive loss structures;

22 “(B) repetitive loss structures; and

23 “(C) other subsets of structures as the Ad-
24 ministrator may establish.”;

1 (C) by redesignating paragraph (5) as
2 paragraph (4);

3 (D) in paragraph (4), as so redesignated—

4 (i) in the matter preceding subpara-
5 graph (A), by striking “The Director” and
6 all that follows through “Such activities
7 may” and inserting “Eligible activities
8 under a mitigation plan may”;

9 (ii) by striking subparagraphs (E) and
10 (H);

11 (iii) by redesignating subparagraphs
12 (D), (F), and (G) as subparagraphs (E),
13 (G), and (H), respectively;

14 (iv) by inserting after subparagraph
15 (C) the following new subparagraph:

16 “(D) elevation, relocation, or floodproofing
17 of utilities (including equipment that serve
18 structures);”;

19 (v) by inserting after subparagraph
20 (E), as so redesignated, the following new
21 subparagraph:

22 “(F) the development or update of mitiga-
23 tion plans by a State or community which meet
24 the planning criteria established by the Admin-
25 istrator, except that the amount from grants

1 under this section that may be used under this
2 subparagraph may not exceed \$50,000 for any
3 mitigation plan of a State or \$25,000 for any
4 mitigation plan of a community;”;

5 (vi) in subparagraph (H); as so reded-
6 icated, by striking “and” at the end; and

7 (vii) by adding at the end the fol-
8 lowing new subparagraphs:

9 “(I) other mitigation activities not de-
10 scribed in subparagraphs (A) through (G) or
11 the regulations issued under subparagraph (H),
12 that are described in the mitigation plan of a
13 State or community; and

14 “(J) without regard to the requirements
15 under subsections (d)(1) and (d)(2), and if the
16 State applied for and was awarded at least
17 \$1,000,000 in grants available under this sec-
18 tion in the prior fiscal year, technical assistance
19 to communities to identify eligible activities, to
20 develop grant applications, and to implement
21 grants awarded under this section, not to ex-
22 ceed \$50,000 to any one State in any fiscal
23 year.”;

24 (E) by adding at the end the following new
25 paragraph:

1 “(5) ELIGIBILITY OF DEMOLITION AND RE-
2 BUILDING OF PROPERTIES.—The Administrator
3 shall consider as an eligible activity the demolition
4 and rebuilding of properties to at least base flood
5 elevation or greater, if required by the Administrator
6 or if required by any State regulation or local ordi-
7 nance, and in accordance with criteria established by
8 the Administrator.”; and

9 (6) by inserting after subsection (c), as so re-
10 designated, the following new subsection:

11 “(d) MATCHING REQUIREMENT.—The Administrator
12 may provide grants for eligible mitigation activities as fol-
13 lows:

14 “(1) SEVERE REPETITIVE LOSS STRUCTURES.—
15 In the case of mitigation activities to severe repet-
16 itive loss structures, in an amount up to 100 percent
17 of all eligible costs.

18 “(2) REPETITIVE LOSS STRUCTURES.—In the
19 case of mitigation activities to repetitive loss struc-
20 tures, in an amount up to 90 percent of all eligible
21 costs.

22 “(3) OTHER MITIGATION ACTIVITIES.—In the
23 case of all other mitigation activities, in an amount
24 up to 75 percent of all eligible costs.”;

25 (7) in subsection (e)(2), as so redesignated—

1 (A) by striking “certified under subsection
2 (g)” and inserting “required under subsection
3 (d)”; and

4 (B) by striking “3 times the amount” and
5 inserting “the amount”;

6 (8) in subsection (f)(1), as so redesignated, by
7 striking “Riegle Community Development and Regu-
8 latory Improvement Act of 1994” and inserting
9 “Flood Insurance Reform and Modernization Act of
10 2011”; and

11 (9) by adding at the end the following new sub-
12 sections:

13 “(g) FAILURE TO MAKE GRANT AWARD WITHIN 5
14 YEARS.—For any application for a grant under this sec-
15 tion for which the Administrator fails to make a grant
16 award within 5 years of the date of the application, the
17 grant application shall be considered to be denied and any
18 funding amounts allocated for such grant applications
19 shall remain in the National Flood Mitigation Fund under
20 section 1367 of this title and shall be made available for
21 grants under this section.

22 “(h) DEFINITIONS.—For purposes of this section, the
23 following definitions shall apply:

24 “(1) COMMUNITY.—The term ‘community’
25 means—

1 “(A) a political subdivision that—

2 “(i) has zoning and building code ju-
3 risdiction over a particular area having
4 special flood hazards; and

5 “(ii) is participating in the national
6 flood insurance program; or

7 “(B) a political subdivision of a State, or
8 other authority, that is designated by political
9 subdivisions, all of which meet the requirements
10 of subparagraph (A), to administer grants for
11 mitigation activities for such political subdivi-
12 sions.

13 “(2) REPETITIVE LOSS STRUCTURE.—The term
14 ‘repetitive loss structure’ has the meaning given
15 such term in section 1370.

16 “(3) SEVERE REPETITIVE LOSS STRUCTURE.—
17 The term ‘severe repetitive loss structure’ means a
18 structure that—

19 “(A) is covered under a contract for flood
20 insurance made available under this title; and

21 “(B) has incurred flood-related damage—

22 “(i) for which 4 or more separate
23 claims payments have been made under
24 flood insurance coverage under this title,
25 with the amount of each such claim ex-

1 ceeding \$5,000, and with the cumulative
2 amount of such claims payments exceeding
3 \$20,000; or

4 “(ii) for which at least 2 separate
5 claims payments have been made under
6 such coverage, with the cumulative amount
7 of such claims exceeding the value of the
8 insured structure.”.

9 (b) ELIMINATION OF GRANTS PROGRAM FOR REPET-
10 ITIVE INSURANCE CLAIMS PROPERTIES.—Chapter I of
11 the National Flood Insurance Act of 1968 is amended by
12 striking section 1323 (42 U.S.C. 4030).

13 (c) ELIMINATION OF PILOT PROGRAM FOR MITIGA-
14 TION OF SEVERE REPETITIVE LOSS PROPERTIES.—Chap-
15 ter III of the National Flood Insurance Act of 1968 is
16 amended by striking section 1361A (42 U.S.C. 4102a).

17 (d) NATIONAL FLOOD INSURANCE FUND.—Section
18 1310(a) of the National Flood Insurance Act of 1968 (42
19 U.S.C. 4017(a)) is amended—

20 (1) in paragraph (6), by inserting “and” after
21 the semicolon;

22 (2) in paragraph (7), by striking the semicolon
23 and inserting a period; and

24 (3) by striking paragraphs (8) and (9).

1 (e) NATIONAL FLOOD MITIGATION FUND.—Section
2 1367 of the National Flood Insurance Act of 1968 (42
3 U.S.C. 4104d) is amended—

4 (1) in subsection (b)—

5 (A) by striking paragraph (1) and insert-
6 ing the following new paragraph:

7 “(1) in each fiscal year, amounts from the Na-
8 tional Flood Insurance Fund not to exceed
9 \$90,000,000 and to remain available until expended,
10 of which—

11 “(A) not more than \$40,000,000 shall be
12 available pursuant to subsection (a) of this sec-
13 tion for assistance described in section
14 1366(a)(1);

15 “(B) not more than \$40,000,000 shall be
16 available pursuant to subsection (a) of this sec-
17 tion for assistance described in section
18 1366(a)(2); and

19 “(C) not more than \$10,000,000 shall be
20 available pursuant to subsection (a) of this sec-
21 tion for assistance described in section
22 1366(a)(3);” and

23 (B) in paragraph (3), by striking “section
24 1366(i)” and inserting “section 1366(e)”;

1 (2) in subsection (c), by striking “sections 1366
2 and 1323” and inserting “section 1366”;

3 (3) by redesignating subsections (d) and (e) as
4 subsections (f) and (g), respectively; and

5 (4) by inserting after subsection (c) the fol-
6 lowing new subsections:

7 “(d) PROHIBITION ON OFFSETTING COLLECTIONS.—
8 Notwithstanding any other provision of this title, amounts
9 made available pursuant to this section shall not be sub-
10 ject to offsetting collections through premium rates for
11 flood insurance coverage under this title.

12 “(e) CONTINUED AVAILABILITY AND REALLOCA-
13 TION.—Any amounts made available pursuant to subpara-
14 graph (A), (B), or (C) of subsection (b)(1) that are not
15 used in any fiscal year shall continue to be available for
16 the purposes specified in such subparagraph of subsection
17 (b)(1) pursuant to which such amounts were made avail-
18 able, unless the Administrator determines that realloca-
19 tion of such unused amounts to meet demonstrated need
20 for other mitigation activities under section 1366 is in the
21 best interest of the National Flood Insurance Fund.”.

22 (f) INCREASED COST OF COMPLIANCE COVERAGE.—
23 Section 1304(b)(4) of the National Flood Insurance Act
24 of 1968 (42 U.S.C. 4011(b)(4)) is amended—

25 (1) by striking subparagraph (B); and

1 (2) by redesignating subparagraphs (C), (D),
2 and (E) as subparagraphs (B), (C), and (D), respec-
3 tively.

4 **SEC. 130. FLOOD PROTECTION STRUCTURE ACCREDITA-**
5 **TION TASK FORCE.**

6 (a) DEFINITIONS.—In this section—

7 (1) the term “flood protection structure accredi-
8 tation requirements” means the requirements estab-
9 lished under section 65.10 of title 44, Code of Fed-
10 eral Regulations, for levee systems to be recognized
11 on maps created for purposes of the National Flood
12 Insurance Program;

13 (2) the term “National Committee on Levee
14 Safety” means the Committee on Levee Safety es-
15 tablished under section 9003 of the National Levee
16 Safety Act of 2007 (33 U.S.C. 3302); and

17 (3) the term “task force” means the Flood Pro-
18 tection Structure Accreditation Task Force estab-
19 lished under subsection (b).

20 (b) ESTABLISHMENT.—

21 (1) IN GENERAL.—The Administrator and the
22 Secretary of the Army, acting through the Chief of
23 Engineers, in cooperation with the National Com-
24 mittee on Levee Safety, shall jointly establish a

1 Flood Protection Structure Accreditation Task
2 Force.

3 (2) DUTIES.—

4 (A) DEVELOPING PROCESS.—The task
5 force shall develop a process to better align the
6 information and data collected by or for the
7 United States Army Corps of Engineers under
8 the Inspection of Completed Works Program
9 with the flood protection structure accreditation
10 requirements so that—

11 (i) information and data collected for
12 either purpose can be used interchange-
13 ably; and

14 (ii) information and data collected by
15 or for the United States Army Corps of
16 Engineers under the Inspection of Com-
17 pleted Works Program is sufficient to sat-
18 isfy the flood protection structure accredi-
19 tation requirements.

20 (B) GATHERING RECOMMENDATIONS.—

21 The task force shall gather, and consider in the
22 process developed under subparagraph (A), rec-
23 ommendations from interested persons in each
24 region relating to the information, data, and ac-

1 creditation requirements described in subpara-
2 graph (A).

3 (3) CONSIDERATIONS.—In developing the proc-
4 ess under paragraph (2), the task force shall con-
5 sider changes to—

6 (A) the information and data collected by
7 or for the United States Army Corps of Engi-
8 neers under the Inspection of Completed Works
9 Program; and

10 (B) the flood protection structure accredi-
11 tation requirements.

12 (4) RULE OF CONSTRUCTION.—Nothing in this
13 section shall be construed to require a reduction in
14 the level of public safety and flood control provided
15 by accredited levees, as determined by the Adminis-
16 trator for purposes of this section.

17 (c) IMPLEMENTATION.—The Administrator and the
18 Secretary of the Army, acting through the Chief of Engi-
19 neers, shall implement the process developed by the task
20 force under subsection (b).

21 (d) REPORTS.—The Administrator and the Secretary
22 of the Army, acting through the Chief of Engineers, in
23 cooperation with the National Committee on Levee Safety,
24 shall jointly submit to the Committee on Banking, Hous-
25 ing, and Urban Affairs and the Committee on Environ-

1 ment and Public Works of the Senate and the Committee
2 on Financial Services, the Committee on Transportation
3 and Infrastructure, and the Committee on Natural Re-
4 sources of the House of Representatives reports con-
5 cerning the activities of the task force and the implemen-
6 tation of the process developed by the task force under
7 subsection (b), including—

8 (1) an interim report, not later than 180 days
9 after the date of enactment of this Act; and

10 (2) a final report, not later than 1 year after
11 the date of enactment of this Act.

12 (e) **TERMINATION.**—The task force shall terminate
13 on the date of submission of the report under subsection
14 (d)(2).

15 **SEC. 131. FLOOD IN PROGRESS DETERMINATIONS.**

16 (a) **REPORT.**—

17 (1) **REVIEW.**—The Administrator shall review—

18 (A) the processes and procedures for deter-
19 mining that a flood event has commenced or is
20 in progress for purposes of flood insurance cov-
21 erage made available under the National Flood
22 Insurance Program;

23 (B) the processes and procedures for pro-
24 viding public notification that such a flood
25 event has commenced or is in progress;

1 (C) the processes and procedures regarding
 2 the timing of public notification of flood insur-
 3 ance requirements and availability; and

4 (D) the effects and implications that
 5 weather conditions, including rainfall, snowfall,
 6 projected snowmelt, existing water levels, and
 7 other conditions, have on the determination
 8 that a flood event has commenced or is in
 9 progress.

10 (2) REPORT.—Not later than 6 months after
 11 the date of enactment of this Act, the Administrator
 12 shall submit a report to Congress that describes—

13 (A) the results and conclusions of the re-
 14 view under paragraph (1); and

15 (B) any actions taken, or proposed actions
 16 to be taken, by the Administrator to provide for
 17 more precise and technical processes and proce-
 18 dures for determining that a flood event has
 19 commenced or is in progress.

20 (b) EFFECTIVE DATE OF POLICIES COVERING PROP-
 21 erties affected by flooding of the Missouri
 22 River in 2011.—

23 (1) ELIGIBLE COVERAGE.—For purposes of this
 24 subsection, the term “eligible coverage” means cov-
 25 erage under a new contract for flood insurance cov-

1 erage under the National Flood Insurance Program,
2 or a modification to coverage under an existing flood
3 insurance contract, for property damaged by the
4 flooding of the Missouri River that commenced on
5 June 1, 2011, that was purchased or made during
6 the period beginning May 1, 2011, and ending June
7 6, 2011.

8 (2) EFFECTIVE DATES.—Notwithstanding sec-
9 tion 1306(c) of the National Flood Insurance Act of
10 1968 (42 U.S.C. 4013(c)), or any other provision of
11 law, any eligible coverage shall—

12 (A) be deemed to take effect on the date
13 that is 30 days after the date on which all obli-
14 gations for the eligible coverage (including com-
15 pletion of the application and payment of any
16 initial premiums owed) are satisfactorily com-
17 pleted; and

18 (B) cover damage to property occurring
19 after the effective date described in subpara-
20 graph (A) that resulted from the flooding of the
21 Missouri River that commenced on June 1,
22 2011, if the property did not suffer damage or
23 loss as a result of such flooding before the ef-
24 fective date described in subparagraph (A).

1 **SEC. 132. CLARIFICATION OF RESIDENTIAL AND COMMERCIAL**
2 **COVERAGE LIMITS.**

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

5 (1) in paragraph (2)—

6 (A) by striking “in the case of any residen-
7 tial property” and inserting “in the case of any
8 residential building designed for the occupancy
9 of from one to four families”; and

10 (B) by striking “shall be made available to
11 every insured upon renewal and every applicant
12 for insurance so as to enable such insured or
13 applicant to receive coverage up to a total
14 amount (including such limits specified in para-
15 graph (1)(A)(i)) of \$250,000” and inserting
16 “shall be made available, with respect to any
17 single such building, up to an aggregate liability
18 (including such limits specified in paragraph
19 (1)(A)(i)) of \$250,000”; and

20 (2) in paragraph (4)—

21 (A) by striking “in the case of any nonresi-
22 dential property, including churches,” and in-
23 serting “in the case of any nonresidential build-
24 ing, including a church,”; and

25 (B) by striking “shall be made available to
26 every insured upon renewal and every applicant

1 for insurance, in respect to any single structure,
2 up to a total amount (including such limit spec-
3 ified in subparagraph (B) or (C) of paragraph
4 (1), as applicable) of \$500,000 for each struc-
5 ture and \$500,000 for any contents related to
6 each structure” and inserting “shall be made
7 available with respect to any single such build-
8 ing, up to an aggregate liability (including such
9 limits specified in subparagraph (B) or (C) of
10 paragraph (1), as applicable) of \$500,000, and
11 coverage shall be made available up to a total
12 of \$500,000 aggregate liability for contents
13 owned by the building owner and \$500,000 ag-
14 gregate liability for each unit within the build-
15 ing for contents owned by the tenant”.

16 **SEC. 133. LOCAL DATA REQUIREMENT.**

17 (a) IN GENERAL.—Notwithstanding any other provi-
18 sion of this title, no area or community participating in
19 the National Flood Insurance Program that is or includes
20 a community that is identified by the Administrator as
21 Community Identification Number 360467 and impacted
22 by the Jamaica Bay flooding source or identified by the
23 Administrator as Community Identification Number
24 360495 may be or become designated as an area of special
25 flood hazards for purposes of the National Flood Insur-

1 ance Program, unless the designation is made on the basis
2 of—

3 (1) flood hazard analyses of hydrologic, hydrau-
4 lic, or coastal flood hazards that have been properly
5 calibrated and validated, and are specific and di-
6 rectly relevant to the geographic area being studied;
7 and

8 (2) ground elevation information of sufficient
9 accuracy and precision to meet the guidelines of the
10 Administration for accuracy at the 95 percent con-
11 fidence level.

12 (b) REMAPPING.—

13 (1) REMAPPING REQUIRED.—If the Adminis-
14 trator determines that an area described in sub-
15 section (a) has been designated as an area of special
16 flood hazard on the basis of information that does
17 not comply with the requirements under subsection
18 (a), the Administrator shall revise and update any
19 National Flood Insurance Program rate map for the
20 area—

21 (A) using information that complies with
22 the requirements under subsection (a); and

23 (B) in accordance with the procedures es-
24 tablished under section 1363 of the National

1 Flood Insurance Act of 1968 (42 U.S.C. 4104)
2 for flood elevation determinations.

3 (2) DEADLINE.—The Administrator shall issue
4 a preliminary National Flood Insurance Program
5 rate map resulting from a revision and update re-
6 quired under paragraph (1) not later than 1 year
7 after the date of enactment of this Act.

8 (3) RISK PREMIUM RATE CLARIFICATION.—Any
9 increase in the risk premium rate for a property in
10 an area for which the Administrator has made a de-
11 termination under paragraph (1) shall be phased in,
12 in accordance with the schedule set forth under sec-
13 tion 1308(h) of the National Flood Insurance Act of
14 1968 (42 U.S.C. 4015(h)), as added by this Act.
15 The provisions of this paragraph terminate on the
16 effective date of the National Flood Insurance Pro-
17 gram rate map for the area revised and updated in
18 accordance with paragraph (1).

1 **SEC. 134. ELIGIBILITY FOR FLOOD INSURANCE FOR PER-**
2 **SONS RESIDING IN COMMUNITIES THAT**
3 **HAVE MADE ADEQUATE PROGRESS ON THE**
4 **CONSTRUCTION, RECONSTRUCTION, OR IM-**
5 **PROVEMENT OF A FLOOD PROTECTION SYS-**
6 **TEM.**

7 (a) ELIGIBILITY FOR FLOOD INSURANCE COV-
8 ERAGE.—

9 (1) IN GENERAL.—Notwithstanding any other
10 provision of law, a person residing in a community
11 that the Administrator determines has made ade-
12 quate progress on the reconstruction or improvement
13 of a flood protection system that will afford flood
14 protection for a 100-year floodplain (without regard
15 to the level of Federal funding of or participation in
16 the construction, reconstruction, or improvement),
17 shall be eligible for flood insurance coverage under
18 the National Flood Insurance Program—

19 (A) if the person resides in a community
20 that is a participant in the National Flood In-
21 surance Program; and

22 (B) at a risk premium rate that does not
23 exceed the risk premium rate that would be
24 chargeable if the flood protection system had
25 been completed.

26 (2) ADEQUATE PROGRESS.—

1 (A) RECONSTRUCTION OR IMPROVE-
2 MENT.—For purposes of paragraph (1), the Ad-
3 ministrators shall determine that a community
4 has made adequate progress on the reconstruc-
5 tion or improvement of a flood protection sys-
6 tem if—

7 (i) 100 percent of the project cost has
8 been authorized;

9 (ii) not less than 60 percent of the
10 project cost has been secured or appro-
11 priated;

12 (iii) not less than 50 percent of the
13 flood protection system has been assessed
14 as being without deficiencies; and

15 (iv) the reconstruction or improve-
16 ment has a project schedule that does not
17 exceed 5 years, beginning on the date on
18 which the reconstruction or construction of
19 the improvement commences.

20 (B) CONSIDERATIONS.—In determining
21 whether a flood protection system have been as-
22 sessed as being without deficiencies, the Admin-
23 istrator shall consider the requirements under
24 section 65.10 of chapter 44, Code of Federal
25 Regulations, or any successor thereto.

1 (b) TERMINATION OF ELIGIBILITY.—

2 (1) ADEQUATE CONTINUING PROGRESS.—The
3 Administrator shall issue rules to establish a method
4 of determining whether a community has made ade-
5 quate continuing progress on the reconstruction or
6 improvement of a flood protection system that in-
7 cludes—

8 (A) a requirement that the Administrator
9 shall—

10 (i) consult with the owner of the flood
11 protection system—

12 (I) 6 months after the date of a
13 determination under subsection (a);

14 (II) 18 months after the date of
15 a determination under subsection (a);
16 and

17 (III) 36 months after the date of
18 a determination under subsection (a);
19 and

20 (ii) after each consultation under
21 clause (i), determine whether the recon-
22 struction or improvement is reasonably
23 likely to be completed in accordance with
24 the project schedule described in sub-
25 section (a)(2)(A)(iv); and

1 (B) a requirement that, if the Adminis-
2 trator makes a determination under subpara-
3 graph (A)(ii) that reconstruction or improve-
4 ment is not reasonably likely to be completed in
5 accordance with the project schedule, the Ad-
6 ministrator shall—

7 (i) not later than 30 days after the
8 date of the determination, notify the owner
9 of the flood protection system of the deter-
10 mination and provide the rationale and evi-
11 dence for the determination; and

12 (ii) provide the owner of the flood pro-
13 tection system the opportunity to appeal
14 the determination.

15 (2) TERMINATION.—The Administrator shall
16 terminate the eligibility for flood insurance coverage
17 under the National Flood Insurance Program of per-
18 sons residing in a community with respect to which
19 the Administrator made a determination under sub-
20 section (a) if—

21 (A) the Administrator determines that the
22 community has not made adequate continuing
23 progress; or

24 (B) on the date that is 5 years after the
25 date on which the reconstruction or construc-

1 tion of the improvement commences, the project
2 has not been completed.

3 (3) WAIVER.—A person whose eligibility would
4 otherwise be terminated under paragraph (2)(B)
5 shall continue to be eligible to purchase flood insur-
6 ance coverage described in subsection (a) if the Ad-
7 ministrator determines—

8 (A) the community has made adequate
9 continuing progress on the reconstruction or
10 improvement of a flood protection system; and

11 (B) there is a reasonable expectation that
12 the reconstruction or improvement of the flood
13 protection system will be completed not later
14 than 1 year after the date of the determination
15 under this paragraph.

16 (4) RISK PREMIUM RATE.—If the Administrator
17 terminates the eligibility of persons residing in a
18 community to purchase flood insurance coverage de-
19 scribed in subsection (a), the Administrator shall es-
20 tablish an appropriate risk premium rate for flood
21 insurance coverage under the National Flood Insur-
22 ance Program for persons residing in the community
23 that purchased flood insurance coverage before the
24 date on which the termination of eligibility takes ef-

1 fect, taking into consideration the then-current state
2 of the flood protection system.

3 **SEC. 135. STUDIES AND REPORTS.**

4 (a) REPORT ON EXPANDING THE NATIONAL FLOOD
5 INSURANCE PROGRAM.—Not later than 1 year after the
6 date of the enactment of this Act, the Comptroller General
7 of the United States shall conduct a study and submit a
8 report to the Committee on Banking, Housing, and Urban
9 Affairs of the Senate and the Committee on Financial
10 Services of the House of Representatives, on—

11 (1) the number of flood insurance policy holders
12 currently insuring—

13 (A) a residential structure up to the max-
14 imum available coverage amount, as established
15 in section 61.6 of title 44, Code of Federal Reg-
16 ulations, of—

17 (i) \$250,000 for the structure; and

18 (ii) \$100,000 for the contents of such
19 structure; or

20 (B) a commercial structure up to the max-
21 imum available coverage amount, as established
22 in section 61.6 of title 44, Code of Federal Reg-
23 ulations, of \$500,000;

24 (2) the increased losses the National Flood In-
25 surance Program would have sustained during the

1 2004 and 2005 hurricane season if the National
2 Flood Insurance Program had insured all policy-
3 holders up to the maximum conforming loan limit
4 for fiscal year 2006 of \$417,000, as established
5 under section 302(b)(2) of the Federal National
6 Mortgage Association Charter Act (12 U.S.C.
7 1717(b)(2));

8 (3) the availability in the private marketplace of
9 flood insurance coverage in amounts that exceed the
10 current limits of coverage amounts established in
11 section 61.6 of title 44, Code of Federal Regula-
12 tions; and

13 (4) what effect, if any—

14 (A) raising the current limits of coverage
15 amounts established in section 61.6 of title 44,
16 Code of Federal Regulations, would have on the
17 ability of private insurers to continue providing
18 flood insurance coverage; and

19 (B) reducing the current limits of coverage
20 amounts established in section 61.6 of title 44,
21 Code of Federal Regulations, would have on the
22 ability of private insurers to provide sufficient
23 flood insurance coverage to effectively replace
24 the current level of flood insurance coverage

1 being provided under the National Flood Insur-
2 ance Program.

3 (b) REPORT OF THE ADMINISTRATOR ON ACTIVITIES
4 UNDER THE NATIONAL FLOOD INSURANCE PROGRAM.—

5 (1) IN GENERAL.—The Administrator shall, on
6 an annual basis, submit a full report on the oper-
7 ations, activities, budget, receipts, and expenditures
8 of the National Flood Insurance Program for the
9 preceding 12-month period to the Committee on
10 Banking, Housing, and Urban Affairs of the Senate
11 and the Committee on Financial Services of the
12 House of Representatives.

13 (2) TIMING.—Each report required under para-
14 graph (1) shall be submitted to the committees de-
15 scribed in paragraph (1) not later than 3 months
16 following the end of each fiscal year.

17 (3) CONTENTS.—Each report required under
18 paragraph (1) shall include—

19 (A) the current financial condition and in-
20 come statement of the National Flood Insur-
21 ance Fund established under section 1310 of
22 the National Flood Insurance Act of 1968 (42
23 U.S.C. 4017), including—

24 (i) premiums paid into such Fund;

1 (ii) policy claims against such Fund;

2 and

3 (iii) expenses in administering such

4 Fund;

5 (B) the number and face value of all poli-

6 cies issued under the National Flood Insurance

7 Program that are in force;

8 (C) a description and summary of the

9 losses attributable to repetitive loss structures;

10 (D) a description and summary of all

11 losses incurred by the National Flood Insurance

12 Program due to—

13 (i) hurricane related damage; and

14 (ii) nonhurricane related damage;

15 (E) the amounts made available by the Ad-

16 ministrator for mitigation assistance under sec-

17 tion 1366(c)(4) of the National Flood Insur-

18 ance Act of 1968 (42 U.S.C. 4104e(c)(4) for

19 the purchase of properties substantially dam-

20 aged by flood for that fiscal year, and the ac-

21 tual number of flood damaged properties pur-

22 chased and the total cost expended to purchase

23 such properties;

1 (F) the estimate of the Administrator as to
2 the average historical loss year, and the basis
3 for that estimate;

4 (G) the estimate of the Administrator as to
5 the maximum amount of claims that the Na-
6 tional Flood Insurance Program would have to
7 expend in the event of a catastrophic year;

8 (H) the average—

9 (i) amount of insurance carried per
10 flood insurance policy;

11 (ii) premium per flood insurance pol-
12 icy; and

13 (iii) loss per flood insurance policy;

14 and

15 (I) the number of claims involving dam-
16 ages in excess of the maximum amount of flood
17 insurance available under the National Flood
18 Insurance Program and the sum of the amount
19 of all damages in excess of such amount.

20 (c) GAO STUDY ON PRE-FIRM STRUCTURES.—Not
21 later than 1 year after the date of the enactment of this
22 Act, the Comptroller General of the United States shall
23 conduct a study and submit a report to the Committee
24 on Banking, Housing, and Urban Affairs of the Senate

1 and the Committee on Financial Services of the House of
2 Representatives, on the—

3 (1) composition of the remaining pre-FIRM
4 structures that are explicitly receiving discounted
5 premium rates under section 1307 of the National
6 Flood Insurance Act of 1968 (42 U.S.C. 4014), in-
7 cluding the historical basis for the receipt of such
8 subsidy and the extent to which pre-FIRM struc-
9 tures are currently owned by the same owners of the
10 property at the time of the original FIRM;

11 (2) number and fair market value of such struc-
12 tures;

13 (3) respective income level of the owners of
14 such structures;

15 (4) number of times each such structure has
16 been sold since 1968, including specific dates, sales
17 price, and any other information the Secretary de-
18 termines appropriate;

19 (5) total losses incurred by such structures
20 since the establishment of the National Flood Insur-
21 ance Program compared to the total losses incurred
22 by all structures that are charged a nondiscounted
23 premium rate;

24 (6) total cost of foregone premiums since the
25 establishment of the National Flood Insurance Pro-

1 gram, as a result of the subsidies provided to such
2 structures;

3 (7) annual cost as a result of the subsidies pro-
4 vided to such structures;

5 (8) the premium income collected and the losses
6 incurred by the National Flood Insurance Program
7 as a result of such explicitly subsidized structures
8 compared to the premium income collected and the
9 losses incurred by such Program as a result of struc-
10 tures that are charged a nondiscounted premium
11 rate, on a State-by-State basis; and

12 (9) the options for eliminating the subsidy to
13 such structures.

14 (d) GAO REVIEW OF FEMA CONTRACTORS.—The
15 Comptroller General of the United States, in conjunction
16 with the Office of the Inspector General of the Depart-
17 ment of Homeland Security, shall—

18 (1) conduct a review of the 3 largest contrac-
19 tors the Administrator uses in administering the Na-
20 tional Flood Insurance Program; and

21 (2) not later than 18 months after the date of
22 the enactment of this Act, submit a report on the
23 findings of such review to the Administrator, the
24 Committee on Banking, Housing, and Urban Affairs

1 of the Senate, and the Committee on Financial Serv-
2 ices of the House of Representatives.

3 **SEC. 136. REINSURANCE.**

4 (a) REINSURANCE ASSESSMENT.—

5 (1) PRIVATE MARKET PRICING ASSESSMENT.—

6 Not later than 12 months after the date of the en-
7 actment of this Act, the Administrator shall submit
8 to Congress a report that—

9 (A) assesses the capacity of the private re-
10 insurance, capital, and financial markets to as-
11 sist communities, on a voluntary basis, in man-
12 aging the full range of financial risks associated
13 with flooding by requesting proposals to assume
14 a portion of the insurance risk of the National
15 Flood Insurance Program;

16 (B) describes any responses to the request
17 for proposals under subparagraph (A);

18 (C) assesses whether the rates and terms
19 contained in any proposals received by the Ad-
20 ministrator are—

21 (i) reasonable and appropriate; and

22 (ii) in an amount sufficient to main-
23 tain the ability of the National Flood In-
24 surance Program to pay claims;

1 (D) describes the extent to which carrying
2 out the proposals received by the Administrator
3 would minimize the likelihood that the Adminis-
4 trator would use the borrowing authority under
5 section 1309 of the National Flood Insurance
6 Act of 1968 (42 U.S.C. 4016);

7 (E) describes fluctuations in historical re-
8 insurance rates; and

9 (F) includes an economic cost-benefit anal-
10 ysis of the impact on the National Flood Insur-
11 ance Program if the Administrator were to ex-
12 ercise the authority under section 1335(a)(2) of
13 the National Flood Insurance Act of 1968 (42
14 U.S.C. 4055(a)(2)), as added by this section, to
15 secure reinsurance of coverage provided by the
16 National Flood Insurance Program from the
17 private market.

18 (2) PROTOCOL FOR RELEASE OF DATA.—The
19 Administrator shall develop a protocol, including
20 adequate privacy protections, to provide for the re-
21 lease of data sufficient to conduct the assessment re-
22 quired under paragraph (1).

23 (b) REINSURANCE.—The National Flood Insurance
24 Act of 1968 (42 U.S.C. 4011 et seq.) is amended—

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

5 (2) in section 1332(c)(2) (42 U.S.C.
6 4052(c)(2)), by inserting “or reinsurance” after
7 “flood insurance coverage”;

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

9 (A) by striking “The Director” and insert-
10 ing the following:

11 “(1) IN GENERAL.—The Administrator”; and

12 (B) by adding at the end the following:

13 “(2) PRIVATE REINSURANCE.—The Adminis-
14 trator is authorized to secure reinsurance of cov-
15 erage provided by the flood insurance program from
16 the private market at rates and on terms determined
17 by the Administrator to be reasonable and appro-
18 priate, in an amount sufficient to maintain the abil-
19 ity of the program to pay claims.”;

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

21 (A) in the matter preceding paragraph (1),
22 by inserting after “for the purpose of” the fol-
23 lowing: “securing reinsurance of insurance cov-
24 erage provided by the program or for the pur-
25 pose of”;

1 (B) in paragraph (1)—

2 (i) by striking “estimating” and in-
3 serting “Estimating”; and

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

6 (C) in paragraph (2)—

7 (i) by striking “receiving” and insert-
8 ing “Receiving”; and

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

11 (D) in paragraph (3)—

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

14 (ii) (ii) by striking “; and’” and in-
15 serting a period;

16 (E) by redesignating paragraph (4) as
17 paragraph (5);

18 (F) in paragraph (5), as so redesignated,
19 by striking “otherwise” and inserting “Other-
20 wise”; and

21 (G) by inserting after paragraph (3) the
22 following new paragraph:

23 “(4) Placing reinsurance coverage on insurance
24 provided by such program;” and

1 (5) in section 1370(a)(3) (42 U.S.C.
2 4121(a)(3)), by striking “include any” and all that
3 follows and inserting the following: “include any or-
4 ganization or person that is authorized to engage in
5 the business of insurance under the laws of any
6 State, subject to the reporting requirements of the
7 Securities Exchange Act of 1934 pursuant to section
8 13(a) or 15(d) of such Act (15 U.S.C. 78m(a) and
9 78o(d)), or authorized by the Administrator to as-
10 sume reinsurance on risks insured by the flood in-
11 surance program;”.

12 (c) ASSESSMENT OF CLAIMS-PAYING ABILITY.—

13 (1) ASSESSMENT.—

14 (A) ASSESSMENT REQUIRED.—

15 (i) IN GENERAL.—Not later than Sep-
16 tember 30 of each year, the Administrator
17 shall conduct an assessment of the ability
18 of the National Flood Insurance Program
19 to pay claims.

20 (ii) PRIVATE MARKET REINSUR-
21 ANCE.—The assessment under this para-
22 graph for any year in which the Adminis-
23 trator exercises the authority under section
24 1335(a)(2) of the National Flood Insur-
25 ance Act of 1968 (42 U.S.C. 4055(a)(2)),

1 as added by this section, to secure reinsur-
2 ance of coverage provided by the National
3 Flood Insurance Program from the private
4 market shall include information relating
5 the use of private sector reinsurance and
6 reinsurance equivalents by the Adminis-
7 trator, whether or not the Administrator
8 used the borrowing authority under section
9 1309 of the National Flood Insurance Act
10 of 1968 (42 U.S.C. 4016).

11 (iii) FIRST ASSESSMENT.—The Ad-
12 ministrator shall conduct the first assess-
13 ment required under this paragraph not
14 later than September 30, 2012.

15 (B) CONSIDERATIONS.—In conducting an
16 assessment under subparagraph (A), the Ad-
17 ministrator shall take into consideration re-
18 gional concentrations of coverage written by the
19 National Flood Insurance Program, peak flood
20 zones, and relevant mitigation measures.

21 (2) ANNUAL REPORT OF THE ADMINISTRATOR
22 OF ACTIVITIES UNDER THE NATIONAL FLOOD IN-
23 SURANCE PROGRAM.—The Administrator shall—

1 (A) include the results of each assessment
2 in the report required under section 135(b);
3 and

4 (B) not later than 30 days after the date
5 on which the Administrator completes an as-
6 sessment required under paragraph (1), make
7 the results of the assessment available to the
8 public.

9 **SEC. 137. GAO STUDY ON BUSINESS INTERRUPTION AND**
10 **ADDITIONAL LIVING EXPENSES COVERAGES.**

11 (a) STUDY.—The Comptroller General of the United
12 States shall conduct a study concerning—

13 (1) the availability of additional living expenses
14 and business interruption coverage in the private
15 marketplace for flood insurance;

16 (2) the feasibility of allowing the National
17 Flood Insurance Program to offer such coverage at
18 the option of the consumer;

19 (3) the estimated cost to consumers if the Na-
20 tional Flood Insurance Program priced such optional
21 coverage at true actuarial rates;

22 (4) the impact such optional coverage would
23 have on consumer participation in the National
24 Flood Insurance Program; and

1 (5) the fiscal impact such optional coverage
2 would have upon the National Flood Insurance
3 Fund if such optional coverage were included in the
4 National Flood Insurance Program, as described in
5 paragraph (2), at the price described in paragraph
6 (3).

7 (b) REPORT.—Not later than 1 year after the date
8 of the enactment of this Act, the Comptroller General shall
9 submit to the Committee on Banking, Housing, and
10 Urban Affairs of the Senate and the Committee on Finan-
11 cial Services of the House of Representatives a report con-
12 taining the results of the study under subsection (a).

13 **SEC. 138. POLICY DISCLOSURES.**

14 (a) IN GENERAL.—Notwithstanding any other provi-
15 sion of law, in addition to any other disclosures that may
16 be required, each policy under the National Flood Insur-
17 ance Program shall state all conditions, exclusions, and
18 other limitations pertaining to coverage under the subject
19 policy, regardless of the underlying insurance product, in
20 plain English, in boldface type, and in a font size that
21 is twice the size of the text of the body of the policy.

22 (b) VIOLATIONS.—Any person that violates the re-
23 quirements of this section shall be subject to a fine of not
24 more than \$50,000 at the discretion of the Administrator.

1 **SEC. 139. REPORT ON INCLUSION OF BUILDING CODES IN**
2 **FLOODPLAIN MANAGEMENT CRITERIA.**

3 Not later than 6 months after the date of the enact-
4 ment of this Act, the Administrator of the Federal Emer-
5 gency Management Agency shall conduct a study and sub-
6 mit a report to the Committee on Banking, Housing, and
7 Urban Affairs of the Senate and the Committee on Finan-
8 cial Services of the House of Representatives regarding
9 the impact, effectiveness, and feasibility of amending sec-
10 tion 1361 of the National Flood Insurance Act of 1968
11 (42 U.S.C. 4102) to include widely used and nationally
12 recognized building codes as part of the floodplain man-
13 agement criteria developed under such section, and shall
14 determine—

15 (1) the regulatory, financial, and economic im-
16 pacts of such a building code requirement on home-
17 owners, States and local communities, local land use
18 policies, and the Federal Emergency Management
19 Agency;

20 (2) the resources required of State and local
21 communities to administer and enforce such a build-
22 ing code requirement;

23 (3) the effectiveness of such a building code re-
24 quirement in reducing flood-related damage to build-
25 ings and contents;

1 (4) the impact of such a building code require-
2 ment on the actuarial soundness of the National
3 Flood Insurance Program;

4 (5) the effectiveness of nationally recognized
5 codes in allowing innovative materials and systems
6 for flood-resistant construction;

7 (6) the feasibility and effectiveness of providing
8 an incentive in lower premium rates for flood insur-
9 ance coverage under such Act for structures meeting
10 whichever of such widely used and nationally recog-
11 nized building codes or any applicable local building
12 codes provides greater protection from flood damage;

13 (7) the impact of such a building code require-
14 ment on rural communities with different building
15 code challenges than urban communities; and

16 (8) the impact of a such a building code re-
17 quirement on Indian reservations.

18 **SEC. 140. STUDY OF PARTICIPATION AND AFFORDABILITY**

19 **FOR CERTAIN POLICYHOLDERS.**

20 (a) **FEMA STUDY.**—The Administrator shall conduct
21 a study of—

22 (1) methods to encourage and maintain partici-
23 pation in the National Flood Insurance Program;

1 (2) methods to educate consumers about the
2 National Flood Insurance Program and the flood
3 risk associated with their property;

4 (3) methods for establishing an affordability
5 framework for the National Flood Insurance Pro-
6 gram, including methods to aid individuals to afford
7 risk-based premiums under the National Flood In-
8 surance Program through targeted assistance rather
9 than generally subsidized rates, including means-
10 tested vouchers; and

11 (4) the implications for the National Flood In-
12 surance Program and the Federal budget of using
13 each such method.

14 (b) NATIONAL ACADEMY OF SCIENCES ECONOMIC
15 ANALYSIS.—To inform the Administrator in the conduct
16 of the study under subsection (a), the National Academy
17 of Sciences, in consultation with the Comptroller General
18 of the United States, shall conduct and submit to the Ad-
19 ministrators an economic analysis of the costs and benefits
20 to the Federal Government of a flood insurance program
21 with full risk-based premiums, combined with means-test-
22 ed Federal assistance to aid individuals who cannot afford
23 coverage, through an insurance voucher program. The
24 analysis shall compare the costs of a program of risk-
25 based rates and means-tested assistance to the current

1 system of subsidized flood insurance rates and federally
2 funded disaster relief for people without coverage.

3 (c) REPORT.—Not later than 270 days after the date
4 of enactment of this Act, the Administrator shall submit
5 to the Committee on Banking, Housing, and Urban Af-
6 fairs of the Senate and the Committee on Financial Serv-
7 ices of the House of Representatives a report that contains
8 the results of the study and analysis under this section.

9 (d) FUNDING.—Notwithstanding section 1310 of the
10 National Flood Insurance Act of 1968 (42 U.S.C. 4017),
11 there shall be available to the Administrator from the Na-
12 tional Flood Insurance Fund, of amounts not otherwise
13 obligated, not more than \$750,000 to carry out this sec-
14 tion.

15 **SEC. 141. STUDY AND REPORT CONCERNING THE PARTICI-**
16 **PATION OF INDIAN TRIBES AND MEMBERS OF**
17 **INDIAN TRIBES IN THE NATIONAL FLOOD IN-**
18 **SURANCE PROGRAM.**

19 (a) DEFINITION.—In this section, the term “Indian
20 tribe” has the meaning given that term in section 4 of
21 the Indian Self-Determination and Education Assistance
22 Act (25 U.S.C. 450b).

23 (b) FINDINGS.—Congress finds that participation by
24 Indian tribes in the National Flood Insurance Program

1 is low. Only 45 of 565 Indian tribes participate in the Na-
2 tional Flood Insurance Program.

3 (c) STUDY.—The Comptroller General of the United
4 States, in coordination and consultation with Indian tribes
5 and members of Indian tribes throughout the United
6 States, shall carry out a study that examines—

7 (1) the factors contributing to the current rates
8 of participation by Indian tribes and members of In-
9 dian tribes in the National Flood Insurance Pro-
10 gram; and

11 (2) methods of encouraging participation by In-
12 dian tribes and members of Indian tribes in the Na-
13 tional Flood Insurance Program.

14 (d) REPORT.—Not later than 6 months after the date
15 of enactment of this Act, the Comptroller General shall
16 submit to Congress a report that—

17 (1) contains the results of the study carried out
18 under subsection (c);

19 (2) describes the steps that the Administrator
20 should take to increase awareness and encourage
21 participation by Indian tribes and members of In-
22 dian tribes in the National Flood Insurance Pro-
23 gram; and

24 (3) identifies any legislative changes that would
25 encourage participation by Indian tribes and mem-

1 bers of Indian tribes in the National Flood Insur-
2 ance Program.

3 **SEC. 142. TECHNICAL CORRECTIONS.**

4 (a) FLOOD DISASTER PROTECTION ACT OF 1973.—
5 The Flood Disaster Protection Act of 1973 (42 U.S.C.
6 4002 et seq.) is amended—

7 (1) by striking “Director” each place that term
8 appears, except in section 102(f)(3) (42 U.S.C.
9 4012a(f)(3)), and inserting “Administrator”; and

10 (2) in section 201(b) (42 U.S.C. 4105(b)), by
11 striking “Director’s” and inserting “Administra-
12 tor’s”.

13 (b) NATIONAL FLOOD INSURANCE ACT OF 1968.—
14 The National Flood Insurance Act of 1968 (42 U.S.C.
15 4001 et seq.) is amended—

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

18 (2) in sections 1363 (42 U.S.C. 4104), by strik-
19 ing “Director’s” each place that term appears and
20 inserting “Administrator’s”.

21 (c) FEDERAL FLOOD INSURANCE ACT OF 1956.—
22 Section 15(e) of the Federal Flood Insurance Act of 1956
23 (42 U.S.C. 2414(e)) is amended by striking “Director”
24 each place that term appears and inserting “Adminis-
25 trator”.

1 **TITLE II—COMMISSION ON NAT-**
2 **URAL CATASTROPHE RISK**
3 **MANAGEMENT AND INSUR-**
4 **ANCE**

5 **SEC. 201. SHORT TITLE.**

6 This title may be cited as the “Commission on Nat-
7 ural Catastrophe Risk Management and Insurance Act of
8 2011”.

9 **SEC. 202. FINDINGS.**

10 Congress finds that—

11 (1) Hurricanes Katrina, Rita, and Wilma,
12 which struck the United States in 2005, caused, by
13 some estimates, in excess of \$200,000,000,000 in
14 total economic losses;

15 (2) many meteorologists predict that the United
16 States is in a period of increased hurricane activity;

17 (3) the Federal Government and State govern-
18 ments have provided billions of dollars to pay for
19 losses from natural catastrophes, including hurri-
20 canes, earthquakes, volcanic eruptions, tsunamis,
21 tornados, flooding, wildfires, droughts, and other
22 natural catastrophes;

23 (4) many Americans are finding it increasingly
24 difficult to obtain and afford property and casualty
25 insurance coverage;

1 (5) some insurers are not renewing insurance
2 policies, are excluding certain risks, such as wind
3 damage, and are increasing rates and deductibles in
4 some markets;

5 (6) the inability of property and business own-
6 ers in vulnerable areas to obtain and afford property
7 and casualty insurance coverage endangers the na-
8 tional economy and public health and safety;

9 (7) almost every State in the United States is
10 at risk of a natural catastrophe, including hurri-
11 canes, earthquakes, volcanic eruptions, tsunamis,
12 tornados, flooding, wildfires, droughts, and other
13 natural catastrophes;

14 (8) building codes and land use regulations play
15 an indispensable role in managing catastrophe risks,
16 by preventing building in high risk areas and ensur-
17 ing that appropriate mitigation efforts are completed
18 where building has taken place;

19 (9) several proposals have been introduced in
20 Congress to address the affordability and availability
21 of natural catastrophe insurance across the United
22 States, but there is no consensus on what, if any,
23 role the Federal Government should play; and

24 (10) an efficient and effective approach to as-
25 sessing natural catastrophe risk management and in-

1 surance is to establish a nonpartisan commission to
2 study the management of natural catastrophe risk,
3 and to require such commission to timely report to
4 Congress on its findings.

5 **SEC. 203. ESTABLISHMENT.**

6 There is established a nonpartisan Commission on
7 Natural Catastrophe Risk Management and Insurance (in
8 this title referred to as the “Commission”).

9 **SEC. 204. MEMBERSHIP.**

10 (a) APPOINTMENT.—The Commission shall be com-
11 posed of 16 members, of whom—

12 (1) 2 members shall be appointed by the major-
13 ity leader of the Senate;

14 (2) 2 members shall be appointed by the minor-
15 ity leader of the Senate;

16 (3) 2 members shall be appointed by the Speak-
17 er of the House of Representatives;

18 (4) 2 members shall be appointed by the minor-
19 ity leader of the House of Representatives;

20 (5) 2 members shall be appointed by the Chair-
21 man of the Committee on Banking, Housing, and
22 Urban Affairs of the Senate;

23 (6) 2 members shall be appointed by the Rank-
24 ing Member of the Committee on Banking, Housing,
25 and Urban Affairs of the Senate;

1 (7) 2 members shall be appointed by the Chair-
2 man of the Committee on Financial Services of the
3 House of Representatives; and

4 (8) 2 members shall be appointed by the Rank-
5 ing Member of the Committee on Financial Services
6 of the House of Representatives.

7 (b) QUALIFICATION OF MEMBERS.—

8 (1) IN GENERAL.—Members of the Commission
9 shall be appointed under subsection (a) from among
10 persons who—

11 (A) have expertise in insurance, reinsur-
12 ance, insurance regulation, policyholder con-
13 cerns, emergency management, risk manage-
14 ment, public finance, financial markets, actu-
15 arial analysis, flood mapping and planning,
16 structural engineering, building standards, land
17 use planning, natural catastrophes, meteor-
18 ology, seismology, environmental issues, or
19 other pertinent qualifications or experience; and

20 (B) are not officers or employees of the
21 United States Government or of any State or
22 local government.

23 (2) DIVERSITY.—In making appointments to
24 the Commission—

1 (A) every effort shall be made to ensure
2 that the members are representative of a broad
3 cross section of perspectives within the United
4 States; and

5 (B) each member of Congress described in
6 subsection (a) shall appoint not more than 1
7 person from any single primary area of exper-
8 tise described in paragraph (1)(A) of this sub-
9 section.

10 (c) PERIOD OF APPOINTMENT.—

11 (1) IN GENERAL.—Each member of the Com-
12 mission shall be appointed for the duration of the
13 Commission.

14 (2) VACANCIES.—A vacancy on the Commission
15 shall not affect its powers, but shall be filled in the
16 same manner as the original appointment.

17 (d) QUORUM.—

18 (1) MAJORITY.—A majority of the members of
19 the Commission shall constitute a quorum, but a
20 lesser number, as determined by the Commission,
21 may hold hearings.

22 (2) APPROVAL ACTIONS.—All recommendations
23 and reports of the Commission required by this title
24 shall be approved only by a majority vote of all of
25 the members of the Commission.

1 (e) CHAIRPERSON.—The Commission shall, by ma-
2 jority vote of all of the members, select 1 member to serve
3 as the Chairperson of the Commission (in this title re-
4 ferred to as the “Chairperson”).

5 (f) MEETINGS.—The Commission shall meet at the
6 call of its Chairperson or a majority of the members.

7 **SEC. 205. DUTIES OF THE COMMISSION.**

8 The Commission shall examine the risks posed to the
9 United States by natural catastrophes, and means for
10 mitigating those risks and for paying for losses caused by
11 natural catastrophes, including assessing—

12 (1) the condition of the property and casualty
13 insurance and reinsurance markets prior to and in
14 the aftermath of Hurricanes Katrina, Rita, and
15 Wilma in 2005, and the 4 major hurricanes that
16 struck the United States in 2004;

17 (2) the current condition of, as well as the out-
18 look for, the availability and affordability of insur-
19 ance in all regions of the country;

20 (3) the current ability of States, communities,
21 and individuals to mitigate their natural catastrophe
22 risks, including the affordability and feasibility of
23 such activities;

24 (4) the ongoing exposure of the United States
25 to natural catastrophes, including hurricanes, earth-

1 quakes, volcanic eruptions, tsunamis, tornados,
2 flooding, wildfires, droughts, and other natural ca-
3 tastrophes;

4 (5) the catastrophic insurance and reinsurance
5 markets and the relevant practices in providing in-
6 surance protection to different sectors of the Amer-
7 ican population;

8 (6) implementation of a catastrophic insurance
9 system that can resolve key obstacles currently im-
10 peding broader implementation of catastrophic risk
11 management and financing with insurance;

12 (7) the financial feasibility and sustainability of
13 a national, regional, or other pooling mechanism de-
14 signed to provide adequate insurance coverage and
15 increased underwriting capacity to insurers and rein-
16 surers, including private-public partnerships to in-
17 crease insurance capacity in constrained markets;

18 (8) methods to promote public or private insur-
19 ance policies to reduce losses caused by natural ca-
20 tastrophes in the uninsured sectors of the American
21 population;

22 (9) approaches for implementing a public or
23 private insurance scheme for low-income commu-
24 nities, in order to promote risk reduction and insur-
25 ance coverage in such communities;

1 (10) the impact of Federal and State laws, reg-
2 ulations, and policies (including rate regulation,
3 market access requirements, reinsurance regulations,
4 accounting and tax policies, State residual markets,
5 and State catastrophe funds) on—

6 (A) the affordability and availability of ca-
7 tastrophe insurance;

8 (B) the capacity of the private insurance
9 market to cover losses inflicted by natural ca-
10 tastrophes;

11 (C) the commercial and residential develop-
12 ment of high-risk areas; and

13 (D) the costs of natural catastrophes to
14 Federal and State taxpayers;

15 (11) the present and long-term financial condi-
16 tion of State residual markets and catastrophe funds
17 in high-risk regions, including the likelihood of insol-
18 vency following a natural catastrophe, the concentra-
19 tion of risks within such funds, the reliance on post-
20 event assessments and State funding, and the ade-
21 quacy of rates;

22 (12) the role that innovation in financial serv-
23 ices could play in improving the affordability and
24 availability of natural catastrophe insurance, specifi-
25 cally addressing measures that would foster the de-

1 velopment of financial products designed to cover
2 natural catastrophe risk, such as risk-linked securi-
3 ties;

4 (13) the need for strengthened land use regula-
5 tions and building codes in States at high risk for
6 natural catastrophes, and methods to strengthen the
7 risk assessment and enforcement of structural miti-
8 gation and vulnerability reduction measures, such as
9 zoning and building code compliance;

10 (14) the benefits and costs of proposed Federal
11 natural catastrophe insurance programs (including
12 the Federal Government’s provision of reinsurance
13 to State catastrophe funds, private insurers, or other
14 entities), specifically addressing the costs to tax-
15 payers, tax equity considerations, and the record of
16 other government insurance programs (particularly
17 with regard to charging actuarially sound prices);

18 (15) the ability of the United States private in-
19 surance market—

20 (A) to cover insured losses caused by nat-
21 ural catastrophes, including an estimate of the
22 maximum amount of insured losses that could
23 be sustained during a single year and the prob-
24 ability of natural catastrophes occurring in a
25 single year that would inflict more insured

1 losses than the United States insurance and re-
2 insurance markets could sustain; and

3 (B) to recover after covering substantial
4 insured losses caused by natural catastrophes;

5 (16) the impact that demographic trends could
6 have on the amount of insured losses inflicted by fu-
7 ture natural catastrophes;

8 (17) the appropriate role, if any, for the Fed-
9 eral Government in stabilizing the property and cas-
10 uality insurance and reinsurance markets; and

11 (18) the role of the Federal, State, and local
12 governments in providing incentives for feasible risk
13 mitigation efforts.

14 **SEC. 206. REPORT.**

15 (a) IN GENERAL.—Not later than 9 months after the
16 date of the enactment of this Act, the Commission shall
17 submit to the Committee on Banking, Housing, and
18 Urban Affairs of the Senate and the Committee on Finan-
19 cial Services of the House of Representatives a final report
20 containing—

21 (1) a detailed statement of the findings and as-
22 sessments conducted by the Commission pursuant to
23 section 205; and

24 (2) any recommendations for legislative, regu-
25 latory, administrative, or other actions at the Fed-

1 eral, State, or local levels that the Commission con-
2 siders appropriate, in accordance with the require-
3 ments of section 205.

4 (b) **EXTENSION OF TIME.**—The Commission may re-
5 quest Congress to extend the period of time for the sub-
6 mission of the report required under subsection (a) for an
7 additional 3 months.

8 **SEC. 207. POWERS OF THE COMMISSION.**

9 (a) **MEETINGS; HEARINGS.**—The Commission may
10 hold such hearings, sit and act at such times and places,
11 take such testimony, and receive such evidence as the
12 Commission considers necessary to carry out the purposes
13 of this title. Members may attend meetings of the Commis-
14 sion and vote in person, via telephone conference, or via
15 video conference.

16 (b) **AUTHORITY OF MEMBERS OR AGENTS OF THE**
17 **COMMISSION.**—Any member or agent of the Commission
18 may, if authorized by a vote of the Commission, take any
19 action which the Commission is authorized to take by this
20 title.

21 (c) **OBTAINING OFFICIAL DATA.**—

22 (1) **AUTHORITY.**—Notwithstanding any provi-
23 sion of section 552a of title 5, United States Code,
24 the Commission may secure directly from any de-
25 partment or agency of the United States any infor-

1 mation necessary to enable the Commission to carry
2 out this title.

3 (2) PROCEDURE.—Upon the request of the
4 Chairperson, the head of such department or agency
5 shall furnish to the Commission the information re-
6 quested.

7 (d) POSTAL SERVICES.—The Commission may use
8 the United States mails in the same manner and under
9 the same conditions as other departments and agencies of
10 the Federal Government.

11 (e) ADMINISTRATIVE SUPPORT SERVICES.—Upon
12 the request of the Commission, the Administrator of Gen-
13 eral Services shall provide to the Commission, on a reim-
14 bursable basis, any administrative support services nec-
15 essary for the Commission to carry out its responsibilities
16 under this title.

17 (f) ACCEPTANCE OF GIFTS.—The Commission may
18 accept, hold, administer, and utilize gifts, donations, and
19 bequests of property, both real and personal, for the pur-
20 poses of aiding or facilitating the work of the Commission.
21 The Commission shall issue internal guidelines governing
22 the receipt of donations of services or property.

23 (g) VOLUNTEER SERVICES.—Notwithstanding the
24 provisions of section 1342 of title 31, United States Code,
25 the Commission may accept and utilize the services of vol-

1 unteers serving without compensation. The Commission
2 may reimburse such volunteers for local travel and office
3 supplies, and for other travel expenses, including per diem
4 in lieu of subsistence, as authorized by section 5703 of
5 title 5, United States Code.

6 (h) FEDERAL PROPERTY AND ADMINISTRATIVE
7 SERVICES ACT OF 1949.—Subject to the Federal Property
8 and Administrative Services Act of 1949, the Commission
9 may enter into contracts with Federal and State agencies,
10 private firms, institutions, and individuals for the conduct
11 of activities necessary to the discharge of its duties and
12 responsibilities.

13 (i) LIMITATION ON CONTRACTS.—A contract or other
14 legal agreement entered into by the Commission may not
15 extend beyond the date of the termination of the Commis-
16 sion.

17 **SEC. 208. COMMISSION PERSONNEL MATTERS.**

18 (a) TRAVEL EXPENSES.—The members of the Com-
19 mission shall be allowed travel expenses, including per
20 diem in lieu of subsistence, at rates authorized for employ-
21 ees of agencies under subchapter I of chapter 57 of title
22 5, United States Code, while away from their homes or
23 regular places of business in the performance of services
24 for the Commission.

1 (b) SUBCOMMITTEES.—The Commission may estab-
2 lish subcommittees and appoint members of the Commis-
3 sion to such subcommittees as the Commission considers
4 appropriate.

5 (c) STAFF.—Subject to such policies as the Commis-
6 sion may prescribe, the Chairperson may appoint and fix
7 the pay of such additional personnel as the Chairperson
8 considers appropriate to carry out the duties of the Com-
9 mission. The Commission shall confirm the appointment
10 of the executive director by majority vote of all of the
11 members of the Commission.

12 (d) APPLICABILITY OF CERTAIN CIVIL SERVICE
13 LAWS.—Staff of the Commission may be—

14 (1) appointed without regard to the provisions
15 of title 5, United States Code, governing appoint-
16 ments in the competitive service; and

17 (2) paid without regard to the provisions of
18 chapter 51 and subchapter III of chapter 53 of that
19 title relating to classification and General Schedule
20 pay rates, except that an individual so appointed
21 may not receive pay in excess of the annual rate of
22 basic pay prescribed for GS-15 of the General
23 Schedule under section 5332 of that title.

24 (e) EXPERTS AND CONSULTANTS.—In carrying out
25 its objectives, the Commission may procure temporary and

1 intermittent services of consultants and experts under sec-
2 tion 3109(b) of title 5, United States Code, at rates for
3 individuals which do not exceed the daily equivalent of the
4 annual rate of basic pay prescribed for GS-15 of the Gen-
5 eral Schedule under section 5332 of that title.

6 (f) **DETAIL OF GOVERNMENT EMPLOYEES.**—Upon
7 request of the Chairperson, any Federal Government em-
8 ployee may be detailed to the Commission to assist in car-
9 rying out the duties of the Commission—

10 (1) on a reimbursable basis; and

11 (2) such detail shall be without interruption or
12 loss of civil service status or privilege.

13 **SEC. 209. TERMINATION.**

14 The Commission shall terminate 90 days after the
15 date on which the Commission submits its report under
16 section 206.

17 **SEC. 210. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated to the Com-
19 mission, such sums as may be necessary to carry out this
20 title, to remain available until expended.

Calendar No. 250

112TH CONGRESS
1ST Session

S. 1940

[Report No. 112-98]

A BILL

To amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes.

DECEMBER 5, 2011

Read twice and placed on the calendar