

Calendar No. 513108TH CONGRESS
2^D SESSION**S. 2238****[Report No. 108-262]**

To amend the National Flood Insurance Act of 1968 to reduce losses to properties for which repetitive flood insurance claim payments have been made.

IN THE SENATE OF THE UNITED STATES

MARCH 25, 2004

Mr. BUNNING (for himself, Mr. SHELBY, Mr. SARBANES, Mr. SCHUMER, Mrs. DOLE, Mr. HAGEL, Ms. MIKULSKI, Mr. MILLER, Mr. ALLARD, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

MAY 13, 2004

Reported by Mr. SHELBY, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend the National Flood Insurance Act of 1968 to reduce losses to properties for which repetitive flood insurance claim payments have been made.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Flood Insurance Reform Act of 2004”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Congressional findings.

TITLE I—AMENDMENTS TO FLOOD INSURANCE ACT OF 1968

Sec. 101. Extension of program and consolidation of authorizations.

Sec. 102. Establishment of pilot program for mitigation of severe repetitive loss
properties.

Sec. 103. Amendments to existing flood mitigation assistance program.

Sec. 104. FEMA authority to fund mitigation activities for individual repetitive
claims properties.

Sec. 105. Amendments to additional coverage for compliance with land use and
control measures.

Sec. 106. Actuarial rate properties.

Sec. 107. Geospatial digital flood hazard data.

Sec. 108. Replacement of mobile homes on original sites.

Sec. 109. Reiteration of FEMA responsibility to map mudslides.

TITLE II—MISCELLANEOUS PROVISIONS

Sec. 201. Definitions.

Sec. 202. Supplemental forms.

Sec. 203. Acknowledgement form.

Sec. 204. Flood insurance claims handbook.

Sec. 205. Appeal of decisions relating to flood insurance coverage.

Sec. 206. Study and report on use of cost compliance coverage.

Sec. 207. Minimum training and education requirements.

Sec. 208. GAO study and report.

Sec. 209. Prospective payment of flood insurance premiums.

Sec. 210. Report on changes to fee schedule or fee payment arrangements.

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7 The Congress finds that—

8 (1) the national flood insurance program—

9 (A) identifies the flood risk;

10 (B) provides flood risk information to the

11 public;

1 (C) encourages State and local govern-
2 ments to make appropriate land use adjust-
3 ments to constrict the development of land
4 which is exposed to flood damage and minimize
5 damage caused by flood losses; and

6 (D) makes flood insurance available on a
7 nationwide basis that would otherwise not be
8 available, to accelerate recovery from floods,
9 mitigate future losses, save lives, and reduce
10 the personal and national costs of flood disas-
11 ters;

12 (2) the national flood insurance program in-
13 sures approximately 4,400,000 policyholders;

14 (3) approximately 48,000 properties currently
15 insured under the program have experienced, within
16 a 10-year period, 2 or more flood losses where each
17 such loss exceeds the amount \$1,000;

18 (4) approximately 10,000 of these repetitive-
19 loss properties have experienced either 2 or 3 losses
20 that cumulatively exceed building value or 4 or more
21 losses, each exceeding \$1,000;

22 (5) repetitive-loss properties constitute a signifi-
23 cant drain on the resources of the national flood in-
24 surance program, costing about \$200,000,000 annu-
25 ally;

1 (6) repetitive-loss properties comprise approxi-
2 mately 1 percent of currently insured properties but
3 are expected to account for 25 to 30 percent of
4 claims losses;

5 (7) the vast majority of repetitive-loss prop-
6 erties were built before local community implementa-
7 tion of floodplain management standards under the
8 program and thus are eligible for subsidized flood in-
9 surance;

10 (8) while some property owners take advantage
11 of the program allowing subsidized flood insurance
12 without requiring mitigation action, others are
13 trapped in a vicious cycle of suffering flooding, then
14 repairing flood damage, then suffering flooding,
15 without the means to mitigate losses or move out of
16 harm's way;

17 (9) mitigation of repetitive-loss properties
18 through buyouts, elevations, relocations, or flood-
19 proofing will produce savings for policyholders under
20 the program and for Federal taxpayers through re-
21 duced flood insurance losses and reduced Federal
22 disaster assistance;

23 (10) a strategy of making mitigation offers
24 aimed at high-priority repetitive-loss properties and
25 shifting more of the burden of recovery costs to

1 property owners who choose to remain vulnerable to
 2 repetitive flood damage can encourage property own-
 3 ers to take appropriate actions that reduce loss of
 4 life and property damage and benefit the financial
 5 soundness of the program;

6 (11) the method for addressing repetitive-loss
 7 properties should be flexible enough to take into con-
 8 sideration legitimate circumstances that may prevent
 9 an owner from taking a mitigation action; and

10 (12) focusing the mitigation and buy-out of re-
 11 petitive loss properties upon communities and prop-
 12 erty owners that choose to voluntarily participate in
 13 a mitigation and buy-out program will maximize the
 14 benefits of such a program, while minimizing any
 15 adverse impact on communities and property owners.

16 **TITLE I—AMENDMENTS TO**
 17 **FLOOD INSURANCE ACT OF 1968**

18 **SEC. 101. EXTENSION OF PROGRAM AND CONSOLIDATION**
 19 **OF AUTHORIZATIONS.**

20 (a) BORROWING AUTHORITY.—The first sentence of
 21 section 1309(a) of the National Flood Insurance Act of
 22 1968 (42 U.S.C. 4016(a)), is amended by striking
 23 “through December” and all that follows through “, and”
 24 and inserting “through the date specified in section 1319,
 25 and”.

1 (b) AUTHORITY FOR CONTRACTS.—Section 1319 of
2 the National Flood Insurance Act of 1968 (42 U.S.C.
3 4026), is amended by striking “after” and all that follows
4 and inserting “after September 30, 2008.”.

5 (c) EMERGENCY IMPLEMENTATION.—Section
6 1336(a) of the National Flood Insurance Act of 1968 (42
7 U.S.C. 4056(a)), is amended by striking “during the pe-
8 riod” and all that follows through “in accordance” and
9 inserting “during the period ending on the date specified
10 in section 1319, in accordance”.

11 (d) AUTHORIZATION OF APPROPRIATIONS FOR STUD-
12 IES.—Section 1376(c) of the National Flood Insurance
13 Act of 1968 (42 U.S.C. 4127(c)), is amended by striking
14 “through” and all that follows and inserting “through the
15 date specified in section 1319, for studies under this
16 title.”.

17 **SEC. 102. ESTABLISHMENT OF PILOT PROGRAM FOR MITI-**
18 **GATION OF SEVERE REPETITIVE LOSS PROP-**
19 **ERTIES.**

20 (a) IN GENERAL.—The National Flood Insurance
21 Act of 1968 is amended by inserting after section 1361
22 (42 U.S.C. 4102) the following:

1 **“SEC. 1361A. PILOT PROGRAM FOR MITIGATION OF SEVERE**
 2 **REPETITIVE LOSS PROPERTIES.**

3 “(a) **AUTHORITY.**—To the extent amounts are made
 4 available for use under this section, the Director may, sub-
 5 ject to the limitations of this section, provide financial as-
 6 sistance to States and communities for taking actions with
 7 respect to severe repetitive loss properties (as such term
 8 is defined in subsection (b)) to mitigate flood damage to
 9 such properties and losses to the National Flood Insur-
 10 ance Fund from such properties.

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

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

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

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

20 “(i) for which 3 or more separate
 21 claims payments have been made under
 22 flood insurance coverage under this title,
 23 with the amount of each such claim ex-
 24 ceeding \$3,000, and with the cumulative
 25 amount of such claims payments exceeding
 26 \$15,000; *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 5 or more residences,
8 such term shall have such meaning as the Director
9 shall by regulation provide.

10 “(c) ELIGIBLE ACTIVITIES.—Amounts provided
11 under this section to a State or community may be used
12 only for the following activities:

13 “(1) MITIGATION ACTIVITIES.—To carry out
14 mitigation activities that reduce flood damages to se-
15 vere repetitive loss properties, including elevation,
16 relocation, demolition, and floodproofing of struc-
17 tures, and minor physical localized flood control
18 projects, and the demolition and rebuilding of prop-
19 erties to at least 1 foot above Base Flood Elevation
20 or greater, if required by any local ordinance.

21 “(2) PURCHASE.—To purchase severe repetitive
22 loss properties, subject to subsection (f).

23 “(d) MATCHING REQUIREMENT.—

24 “(1) IN GENERAL.—Except as provided in para-
25 graph (2), in any 1-year period the Director may not

1 provide assistance under this section to a State or
2 community in an amount exceeding 3 times the
3 amount that the State or community certifies, as the
4 Director shall require, that the State or community
5 will contribute from non-Federal funds for carrying
6 out the eligible activities to be funded with such as-
7 sistance amounts.

8 “(2) REDUCED COMMUNITY MATCH.—With re-
9 spect to any 1-year period in which assistance is
10 made available under this section, the Director may
11 adjust the contribution required under paragraph
12 (1) by any State, and for the communities located
13 in that State, to not less than 10 percent of the cost
14 of the activities for each severe repetitive loss prop-
15 erty for which grant amounts are provided if, for
16 such year—

17 “(A) the State has an approved State miti-
18 gation plan meeting the requirements for haz-
19 ard mitigation planning under section 322 of
20 the Robert T. Stafford Disaster Relief and
21 Emergency Assistance Act (42 U.S.C. 5165)
22 that specifies how the State intends to reduce
23 the number of severe repetitive loss properties;
24 and

1 “(B) the Director determines, after con-
2 sultation with the State, that the State has
3 taken actions to reduce the number of such
4 properties.

5 “(3) NON-FEDERAL FUNDS.—For purposes of
6 this subsection, the term ‘non-Federal funds’ in-
7 cludes State or local agency funds, in-kind contribu-
8 tions, any salary paid to staff to carry out the eligi-
9 ble activities of the recipient, the value of the time
10 and services contributed by volunteers to carry out
11 such activities (at a rate determined by the Direc-
12 tor), and the value of any donated material or build-
13 ing and the value of any lease on a building.

14 “(e) STANDARDS FOR MITIGATION OFFERS.—The
15 program under this section for providing assistance for eli-
16 gible activities for severe repetitive loss properties shall be
17 subject to the following limitations:

18 “(1) PRIORITY.—In determining the properties
19 for which to provide assistance for eligible activities
20 under subsection (c), the Director shall provide as-
21 sistance for properties in the order that will result
22 in the greatest amount of savings to the National
23 Flood Insurance Fund in the shortest period of time.

24 “(2) OFFERS.—The Director shall provide as-
25 sistance in a manner that permits States and com-

1 munities to make offers to owners of severe repet-
2 itive loss properties to take eligible activities under
3 subsection (c) as soon as practicable.

4 “(3) NOTICE.—Upon making an offer to pro-
5 vide assistance with respect to a property for any eli-
6 gible activity under subsection (c), the State or com-
7 munity shall notify each holder of a recorded inter-
8 est on the property of such offer and activity.

9 “(f) PURCHASE OFFERS.—A State or community
10 may take action under subsection (c)(2) to purchase a se-
11 vere repetitive loss property only if the following require-
12 ments are met:

13 “(1) USE OF PROPERTY.—The State or com-
14 munity enters into an agreement with the Director
15 that provides assurances that the property pur-
16 chased will be used in a manner that is consistent
17 with the requirements of section 404(b)(2)(B) of the
18 Robert T. Stafford Disaster Relief and Emergency
19 Assistance Act (42 U.S.C. 5170c(b)(2)(B)) for prop-
20 erties acquired, accepted, or from which a structure
21 will be removed pursuant to a project provided prop-
22 erty acquisition and relocation assistance under such
23 section 404(b).

24 “(2) OFFERS.—The Director shall provide as-
25 sistance in a manner that permits States and com-

1 munities to make offers to owners of severe repet-
2 itive loss properties and of associated land to engage
3 in eligible activities as soon as possible.

4 “(3) PURCHASE PRICE.—The amount of pur-
5 chase offer is not less than the greatest of—

6 “(A) the amount of the original purchase
7 price of the property, when purchased by the
8 holder of the current policy of flood insurance
9 under this title;

10 “(B) the total amount owed, at the time
11 the offer to purchase is made, under any loan
12 secured by a recorded interest on the property;
13 and

14 “(C) an amount equal to the fair market
15 value of the property immediately before the
16 most recent flood event affecting the property,
17 *or an amount equal to the current fair market*
18 *value of the property.*

19 “(4) COMPARABLE HOUSING PAYMENT.—*If a*
20 *purchase offer made under paragraph (2) is less than*
21 *the cost of the homeowner-occupant to purchase a*
22 *comparable replacement dwelling outside the flood*
23 *hazard area in the same community, the Director*
24 *shall make available an additional relocation pay-*

1 *ment to the homeowner-occupant to apply to the dif-*
 2 *ference.*

3 “(g) INCREASED PREMIUMS IN CASES OF REFUSAL
 4 TO MITIGATE.—

5 “(1) IN GENERAL.—In any case in which the
 6 owner of a severe repetitive loss property refuses an
 7 offer to take action under paragraph (1) or (2) of
 8 subsection (c) with respect to such property, the Di-
 9 rector shall—

10 “(A) notify each holder of a recorded inter-
 11 est on the property of such refusal; and

12 “(B) notwithstanding subsections (a)
 13 through (c) of section 1308, thereafter the
 14 chargeable premium rate with respect to the
 15 property shall be the amount equal to 150 per-
 16 cent of the chargeable rate for the property at
 17 the time that the offer was made, as adjusted
 18 by any other premium adjustments otherwise
 19 applicable to the property and any subsequent
 20 increases pursuant to paragraph (2) and sub-
 21 ject to the limitation under paragraph (3).

22 “(2) INCREASED PREMIUMS UPON SUBSEQUENT
 23 FLOOD DAMAGE.—Notwithstanding subsections (a)
 24 through (c) of section 1308, if the owner of a severe
 25 repetitive loss property does not accept an offer to

1 take action under paragraph (1) or (2) of subsection
2 (c) with respect to such property and a claim pay-
3 ment exceeding \$1,500 is made under flood insur-
4 ance coverage under this title for damage to the
5 property caused by a flood event occurring after
6 such offer is made, thereafter the chargeable pre-
7 mium rate with respect to the property shall be the
8 amount equal to 150 percent of the chargeable rate
9 for the property at the time of such flood event, as
10 adjusted by any other premium adjustments other-
11 wise applicable to the property and any subsequent
12 increases pursuant to this paragraph and subject to
13 the limitation under paragraph (3).

14 “(3) LIMITATION ON INCREASED PREMIUMS.—
15 In no case may the chargeable premium rate for a
16 severe repetitive loss property be increased pursuant
17 to this subsection to an amount exceeding the appli-
18 cable estimated risk premium rate for the area (or
19 subdivision thereof) under section 1307(a)(1).

20 “(4) TREATMENT OF DEDUCTIBLES.—Any in-
21 crease in chargeable premium rates required under
22 this subsection for a severe repetitive loss property
23 may be carried out, to the extent appropriate, as de-
24 termined by the Director, by adjusting any deduct-

1 ible charged in connection with flood insurance cov-
2 erage under this title for the property.

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

9 “(6) APPEALS.—

10 “(A) IN GENERAL.—Any owner of a severe
11 repetitive loss property may appeal a deter-
12 mination of the Director to take action under
13 paragraph (1)(B) or (2) with respect to such
14 property, based only upon the following
15 grounds:

16 “(i) As a result of such action, the
17 owner of the property will not be able to
18 purchase a replacement primary residence
19 of comparable value and that is function-
20 ally equivalent.

21 “(ii) Based on independent informa-
22 tion, such as contractor estimates or ap-
23 praisals, the property owner believes that
24 the price offered for purchasing the prop-
25 erty is not an accurate estimation of the

1 value of the property, or the amount of
2 *Federal funds* offered for mitigation activi-
3 ties, *when combined with funds from non-*
4 *Federal sources*, will not cover the actual
5 cost of mitigation.

6 “(iii) As a result of such action, the
7 preservation or maintenance of any pre-
8 historic or historic district, site, building,
9 structure, or object included in, or eligible
10 for inclusion in, the National Register of
11 historic places will be interfered with, im-
12 paired, or disrupted.

13 “(iv) The flooding that resulted in the
14 flood insurance claims described in sub-
15 section (b)(2) for the property resulted
16 from significant actions by a third party in
17 violation of Federal, State, or local law, or-
18 dinance, or regulation.

19 “(v) In purchasing the property, the
20 owner relied upon flood insurance rate
21 maps of the Federal Emergency Manage-
22 ment Agency that were current at the time
23 and did not indicate that the property was
24 located in an area having special flood haz-
25 ards.

1 “(B) PROCEDURE.—An appeal under this
2 paragraph of a determination of the Director
3 shall be made by filing, with the Director, a re-
4 quest for an appeal within 90 days after receiv-
5 ing notice of such determination. Upon receiv-
6 ing the request, the Director shall select, from
7 a list of independent third parties compiled by
8 the Director for such purpose, a party to hear
9 such appeal. Within 90 days after filing of the
10 request for the appeal, such third party shall
11 review the determination of the Director and
12 shall set aside such determination if the third
13 party determines that the grounds under sub-
14 paragraph (A) exist. During the pendency of an
15 appeal under this paragraph, the Director shall
16 stay the applicability of the rates established
17 pursuant to paragraph (1)(B) or (2), as appli-
18 cable.

19 “(C) EFFECT OF FINAL DETERMINA-
20 TION.—In an appeal under this paragraph—

21 “(i) if a final determination is made
22 that the grounds under subparagraph (A)
23 exist, the third party hearing such appeal
24 shall make a determination of how much to
25 reduce the chargeable risk premium rate

1 for flood insurance coverage for the prop-
2 erty involved in the appeal from the
3 amount required under paragraph (1)(B)
4 or (2) and the Director shall promptly re-
5 duce the chargeable risk premium rate for
6 such property by such amount; and

7 “(ii) if a final determination is made
8 that the grounds under subparagraph (A)
9 do not exist, the Director shall promptly
10 increase the chargeable risk premium rate
11 for such property to the amount estab-
12 lished pursuant to paragraph (1)(B) or
13 (2), as applicable, and shall collect from
14 the property owner the amount necessary
15 to cover the stay of the applicability of
16 such increased rates during the pendency
17 of the appeal.

18 “(D) COSTS.—If the third party hearing
19 an appeal under this paragraph is compensated
20 for such service, the costs of such compensation
21 shall be borne—

22 “(i) by the owner of the property re-
23 questing the appeal, if the final determina-
24 tion in the appeal is that the grounds
25 under subparagraph (A) do not exist; and

1 “(ii) by the National Flood Insurance
2 Fund, if such final determination is that
3 the grounds under subparagraph (A) do
4 exist.

5 “(E) REPORT.—Not later than 6 months
6 after the date of the enactment of the Flood In-
7 surance Reform Act of 2004, the Director shall
8 submit a report describing the rules, proce-
9 dures, and administration for appeals under
10 this paragraph to—

11 “(i) the Committee on Banking,
12 Housing, and Urban Affairs of the Senate;
13 and

14 “(ii) the Committee on Financial
15 Services of the House of Representatives.

16 “(h) DISCRETIONARY ACTIONS IN CASES OF FRAUD-
17 ULENT CLAIMS.—If the Director determines that a fraud-
18 ulent claim was made under flood insurance coverage
19 under this title for a severe repetitive loss property, the
20 Director may—

21 “(1) cancel the policy and deny the provision to
22 such policyholder of any new flood insurance cov-
23 erage under this title for the property; or

24 “(2) refuse to renew the policy with such policy-
25 holder upon expiration and deny the provision of any

1 new flood insurance coverage under this title to such
2 policyholder for the property.

3 “(i) FUNDING.—

4 “(1) IN GENERAL.—Pursuant to section
5 1310(a)(8), the Director may use amounts from the
6 National Flood Insurance Fund to provide assist-
7 ance under this section in each of fiscal years 2004,
8 2005, 2006, 2007, and 2008, except that the
9 amount so used in each such fiscal year may not ex-
10 ceed \$40,000,000 and shall remain available until
11 expended. Notwithstanding any other provision of
12 this title, amounts made available pursuant to this
13 subsection shall not be subject to offsetting collec-
14 tions through premium rates for flood insurance cov-
15 erage under this title.

16 “(2) ADMINISTRATIVE EXPENSES.—Of the
17 amounts made available under this subsection, the
18 Director may use up to 5 percent for expenses asso-
19 ciated with the administration of section 1361A.

20 “(j) TERMINATION.—The Director may not provide
21 assistance under this section to any State or community
22 after September 30, 2008.”.

23 (b) AVAILABILITY OF NATIONAL FLOOD INSURANCE
24 FUND AMOUNTS.—Section 1310(a) of the National Flood
25 Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

1 (1) in paragraph (7), by striking “and” at the
2 end; and

3 (2) by striking paragraph (8) and inserting the
4 following:

5 “(8) for financial assistance under section
6 1361A to States and communities for taking actions
7 under such section with respect to severe repetitive
8 loss properties, but only to the extent provided in
9 section 1361A(i); and”.

10 **SEC. 103. AMENDMENTS TO EXISTING FLOOD MITIGATION**
11 **ASSISTANCE PROGRAM.**

12 (a) **STANDARD FOR APPROVAL OF MITIGATION**
13 **PLANS.**—Section 1366(e)(3) of the National Flood Insur-
14 ance Act of 1968 (42 U.S.C. 4104c) is amended by adding
15 at the end the following new sentence: “The Director may
16 approve only mitigation plans that give priority for fund-
17 ing to such properties, or to such subsets of properties,
18 as are in the best interest of the National Flood Insurance
19 Fund.”.

20 (b) **PRIORITY FOR MITIGATION ASSISTANCE.**—Sec-
21 tion 1366(e) of the National Flood Insurance Act of 1968
22 (42 U.S.C. 4104c) is amended by striking paragraph (4)
23 and inserting the following:

24 “(4) **PRIORITY FOR MITIGATION ASSISTANCE.**—
25 In providing grants under this subsection for mitiga-

1 tion activities, the Director shall give first priority
2 for funding to such properties, or to such subsets of
3 such properties as the Director may establish, that
4 the Director determines are in the best interests of
5 the National Flood Insurance Fund and for which
6 matching amounts under subsection (f) are avail-
7 able.”.

8 (c) COORDINATION WITH STATES AND COMMU-
9 NITIES.—Section 1366 of the National Flood Insurance
10 Act of 1968 (42 U.S.C. 4104c) is amended by adding at
11 the end the following:

12 “(m) COORDINATION WITH STATES AND COMMU-
13 NITIES.—The Director shall, in consultation and coordina-
14 tion with States and communities take such actions as are
15 appropriate to encourage and improve participation in the
16 national flood insurance program of owners of properties,
17 including owners of properties that are not located in
18 areas having special flood hazards ~~but are located within~~
19 ~~the 100-year floodplain~~ *(the 100-year floodplain), but are*
20 *located within flood prone areas.”.*

21 (d) FUNDING.—Section 1367(b) of the National
22 Flood Insurance Act of 1968 (42 U.S.C. 4104d(b)) is
23 amended by striking paragraph (1) and inserting the fol-
24 lowing:

1 “(1) in each fiscal year, amounts from the Na-
2 tional Flood Insurance Fund not exceeding
3 \$40,000,000, to remain available until expended;”.

4 (e) REDUCED COMMUNITY MATCH.—Section 1366(g)
5 of the National Flood Insurance Act of 1968 (42 U.S.C.
6 4104c(g)), is amended—

7 (2) by redesignating paragraph (2) as para-
8 graph (3); and

9 (3) by inserting after paragraph (1) the fol-
10 lowing:

11 “(2) REDUCED COMMUNITY MATCH.—With re-
12 spect to any 1-year period in which assistance is
13 made available under this section, the Director may
14 adjust the contribution required under paragraph
15 (1) by any State, and for the communities located
16 in that State, to not less than 10 percent of the cost
17 of the activities for each severe repetitive loss prop-
18 erty for which grant amounts are provided if, for
19 such year—

20 “(A) the State has an approved State miti-
21 gation plan meeting the requirements for haz-
22 ard mitigation planning under section 322 of
23 the Robert T. Stafford Disaster Relief and
24 Emergency Assistance Act (42 U.S.C. 5165)
25 that specifies how the State intends to reduce

1 the number of severe repetitive loss properties;
2 and

3 “(B) the Director determines, after con-
4 sultation with the State, that the State has
5 taken actions to reduce the number of such
6 properties.”.

7 (f) NATIONAL FLOOD MITIGATION FUND.—Section
8 1366(b)(2) of the National Flood Insurance Act of 1968
9 (42 U.S.C. 4104c(b)(2)), is amended by striking
10 “\$1,500,000” and inserting “7.5 percent of the available
11 funds under this section”.

12 **SEC. 104. FEMA AUTHORITY TO FUND MITIGATION ACTIVI-**
13 **TIES FOR INDIVIDUAL REPETITIVE CLAIMS**
14 **PROPERTIES.**

15 (a) IN GENERAL.—Chapter I of the National Flood
16 Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amend-
17 ed by adding at the end the following:

18 **“SEC. 1323. GRANTS FOR REPETITIVE INSURANCE CLAIMS**
19 **PROPERTIES.**

20 “(a) IN GENERAL.—The Director may provide fund-
21 ing for mitigation actions that reduce flood damages to
22 individual properties for which 1 or more claim payments
23 for losses have been made under flood insurance coverage
24 under this title, but only if the Director determines that—

1 “(1) such activities are in the best interest of
2 the National Flood Insurance Fund; and

3 “(2) such activities cannot be funded under the
4 program under section 1366 because—

5 “(A) the requirements of section 1366(g)
6 are not being met by the State or community
7 in which the property is located; or

8 “(B) the State or community does not
9 have the capacity to manage such activities.

10 “(b) PRIORITY FOR WORST-CASE PROPERTIES.—In
11 determining the properties for which funding is to be pro-
12 vided under this section, the Director shall consult with
13 the States in which such properties are located and pro-
14 vide assistance for properties in the order that will result
15 in the greatest amount of savings to the National Flood
16 Insurance Fund in the shortest period of time.”.

17 (b) AVAILABILITY OF NATIONAL FLOOD INSURANCE
18 FUND AMOUNTS.—Section 1310(a) of the National Flood
19 Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended
20 by adding at the end the following:

21 “(9) for funding, not to exceed \$10,000,000 in
22 any fiscal year, for mitigation actions under section
23 1323, except that, notwithstanding any other provi-
24 sion of this title, amounts made available pursuant
25 to this paragraph shall not be subject to offsetting

1 collections through premium rates for flood insur-
2 ance coverage under this title.”.

3 **SEC. 105. AMENDMENTS TO ADDITIONAL COVERAGE FOR**
4 **COMPLIANCE WITH LAND USE AND CONTROL**
5 **MEASURES.**

6 (a) COMPLIANCE WITH LAND USE AND CONTROL
7 MEASURES.—Section 1304(b) of the National Flood In-
8 surance Act of 1968 (42 U.S.C. 4011(b)) is amended—

9 (1) in the matter preceding paragraph (1)—

10 (A) by striking “compliance” and inserting
11 “implementing measures that are consistent”;
12 and

13 (B) by inserting “by the community” after
14 “established”;

15 (2) in paragraph (2), by striking “have flood
16 damage in which the cost of repairs equals or ex-
17 ceeds 50 percent of the value of the structure at the
18 time of the flood event; and” and inserting “are sub-
19 stantially damaged structures;”

20 (3) in paragraph (3), by striking “compliance
21 with land use and control measures.” and inserting
22 “the implementation of such measures; and”; and

23 (4) by inserting after paragraph (3) and before
24 the last undesignated paragraph the following:

1 “(4) properties for which an offer of mitigation
2 assistance is made under—

3 “(A) section 1366 (Flood Mitigation As-
4 sistance Program);

5 “(B) section 1368 (Repetitive Loss Pri-
6 ority Program and Individual Priority Property
7 Program);

8 “(C) the Hazard Mitigation Grant Pro-
9 gram authorized under section 404 of the Rob-
10 ert T. Stafford Disaster Assistance and Emer-
11 gency Relief Act (42 U.S.C. 5170c);

12 “(D) the Predisaster Hazard Mitigation
13 Program under section 203 of the Robert T.
14 Stafford Disaster Assistance and Emergency
15 Relief Act (42 U.S.C. 5133); and

16 “(E) any programs authorized or for which
17 funds are appropriated to address any unmet
18 needs or for which supplemental funds are
19 made available.”.

20 (b) DEFINITIONS.—Section 1370(a) of the National
21 Flood Insurance Act of 1968 (42 U.S.C. 4121(a)) is
22 amended—

23 (1) by striking paragraph (7) and inserting the
24 following:

1 “(7) the term ‘repetitive loss structure’ means
2 a structure covered by a contract for flood insurance
3 that—

4 “(A) has incurred flood-related damage on
5 2 occasions, in which the cost of repair, on the
6 average, equaled or exceeded 25 percent of the
7 value of the structure at the time of each such
8 flood event; and

9 “(B) at the time of the second incidence of
10 flood-related damage, the contract for flood in-
11 surance contains increased cost of compliance
12 coverage.”;

13 (2) in paragraph (13), by striking “and” at the
14 end;

15 (3) in paragraph (14), by striking the period
16 and inserting “; and”; and

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

18 “(15) the term ‘substantially damaged struc-
19 ture’ means a structure covered by a contract for
20 flood insurance that has incurred damage for which
21 the cost of repair exceeds an amount specified in any
22 regulation promulgated by the Director, or by a
23 community ordinance, whichever is lower.”.

1 **SEC. 106. ACTUARIAL RATE PROPERTIES.**

2 (a) IN GENERAL.—Section 1308 of the National
3 Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended
4 by striking subsection (c) and inserting the following:

5 “(c) ACTUARIAL RATE PROPERTIES.—Subject only
6 to the limitations provided under paragraphs (1) and (2),
7 the chargeable rate shall not be less than the applicable
8 estimated risk premium rate for such area (or subdivision
9 thereof) under section 1307(a)(1) with respect to the fol-
10 lowing properties:

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

21 “(2) CERTAIN LEASED COASTAL AND RIVER
22 PROPERTIES.—Any property leased from the Federal
23 Government (including residential and nonresidential
24 properties) that the Director determines is located
25 on the river-facing side of any dike, levee, or other

1 riverine flood control structure, or seaward of any
2 seawall or other coastal flood control structure.”.

3 (b) INAPPLICABILITY OF ANNUAL LIMITATIONS ON
4 PREMIUM INCREASES.—Section 1308(e) of the National
5 Flood Insurance Act of 1968 (42 U.S.C. 4015(e)) is
6 amended by striking “Notwithstanding” and inserting
7 “Except with respect to properties described under para-
8 graph (2) or (3) of subsection (c), and notwithstanding”.

9 **SEC. 107. GEOSPATIAL DIGITAL FLOOD HAZARD DATA.**

10 For the purposes of flood insurance and floodplain
11 management activities conducted pursuant to the National
12 Flood Insurance Program under the National Flood In-
13 surance Act of 1968 (42 U.S.C. 4001 et seq.), geospatial
14 digital flood hazard data distributed by the Federal Emer-
15 gency Management Agency, or its designee, or the printed
16 products derived from that data, are interchangeable and
17 legally equivalent for the determination of the location of
18 1 in 100 year and 1 in 500 year flood planes, provided
19 that all other geospatial data shown on the printed prod-
20 uct meets or exceeds any accuracy standard promulgated
21 by the Federal Emergency Management Agency.

1 **SEC. 108. REPLACEMENT OF MOBILE HOMES ON ORIGINAL**
2 **SITES.**

3 Section 1315 of the National Flood Insurance Act of
4 1968 (42 U.S.C. 4022) is amended by adding at the end
5 the following:

6 “(c) REPLACEMENT OF MOBILE HOMES ON ORIGI-
7 NAL SITES.—

8 “(1) COMMUNITY PARTICIPATION.—The place-
9 ment of any mobile home on any site shall not affect
10 the eligibility of any community to participate in the
11 flood insurance program under this title and the
12 Flood Disaster Protection Act of 1973 (notwith-
13 standing that such placement may fail to comply
14 with any elevation or flood damage mitigation re-
15 quirements), if—

16 “(A) such mobile home was previously lo-
17 cated on such site;

18 “(B) such mobile home was relocated from
19 such site because of flooding that threatened or
20 affected such site; and

21 “(C) such replacement is conducted not
22 later than the expiration of the 180-day period
23 that begins upon the subsidence (in the area of
24 such site) of the body of water that flooded to
25 a level considered lower than flood levels.

1 “(2) DEFINITION.—For purposes of this sub-
 2 section, the term ‘mobile home’ has the meaning
 3 given such term in the law of the State in which the
 4 mobile home is located.”.

5 **SEC. 109. REITERATION OF FEMA RESPONSIBILITY TO MAP**
 6 **MUDSLIDES.**

7 As directed in section 1360(b) of the National Flood
 8 Insurance Act of 1968 (42 U.S.C. 4101(b)), the Director
 9 of the Federal Emergency Management Agency is again
 10 directed to accelerate the identification of risk zones with-
 11 in flood-prone and mudslide-prone areas, as provided by
 12 subsection (a)(2) of such section 1360, in order to make
 13 known the degree of hazard within each such zone at the
 14 earliest possible date.

15 **TITLE II—MISCELLANEOUS**
 16 **PROVISIONS**

17 **SEC. 201. DEFINITIONS.**

18 In this title, the following definitions shall apply:

19 (1) DIRECTOR.—The term “Director” means
 20 the Director of the Federal Emergency Management
 21 Agency.

22 (2) FLOOD INSURANCE POLICY.—The term
 23 “flood insurance policy” means a flood insurance
 24 policy issued under the National Flood Insurance
 25 Act of 1968 (42 U.S.C. et seq.).

1 (3) PROGRAM.—The term “Program” means
2 the National Flood Insurance Program established
3 under the National Flood Insurance Act of 1968 (42
4 U.S.C. 4001 et seq.).

5 **SEC. 202. SUPPLEMENTAL FORMS.**

6 (a) IN GENERAL.—Not later than 6 months after the
7 date of enactment of this Act, the Director shall develop
8 supplemental forms to be issued in conjunction with the
9 issuance of a flood insurance policy that set forth, in sim-
10 ple terms—

11 (1) the exact coverages being purchased by a
12 policyholder;

13 (2) any exclusions from coverage that apply to
14 the coverages purchased;

15 (3) an explanation, including illustrations, of
16 how lost items and damages will be valued under the
17 policy at the time of loss;

18 (4) the number and dollar value of claims filed
19 under a flood insurance policy over the life of the
20 property, and the effect, under the National Flood
21 Insurance Act of 1968 (42 U.S.C. 4001 et seq.), of
22 the filing of any further claims under a flood insur-
23 ance policy with respect to that property; and

1 (5) any other information that the Director de-
2 termines will be helpful to policyholders in under-
3 standing flood insurance coverage.

4 (b) DISTRIBUTION.—The forms developed under sub-
5 section (a) shall be given to—

6 (1) all holders of a flood insurance policy at the
7 time of purchase and renewal; and

8 (2) insurance companies and agents that are
9 authorized to sell flood insurance policies.

10 **SEC. 203. ACKNOWLEDGEMENT FORM.**

11 (a) IN GENERAL.—Not later than 6 months after the
12 date of enactment of this Act, the Director shall develop
13 an acknowledgement form to be signed by the purchaser
14 of a flood insurance policy that contains—

15 (1) an acknowledgement that the purchaser has
16 received a copy of the standard flood insurance pol-
17 icy, and any forms developed under section 202; and

18 (2) an acknowledgement that the purchaser has
19 been told that the contents of a property or dwelling
20 are not covered under the terms of the standard
21 flood insurance policy, and that the policyholder has
22 the option to purchase additional coverage for such
23 contents.

1 (b) DISTRIBUTION.—Copies of an acknowledgement
2 form executed under subsection (a) shall be made available
3 to the purchaser and the Director.

4 **SEC. 204. FLOOD INSURANCE CLAIMS HANDBOOK.**

5 (a) IN GENERAL.—Not later than 6 months after the
6 date of enactment of this Act, the Director shall develop
7 a flood insurance claims handbook that contains—

8 (1) a description of the procedures to be fol-
9 lowed to file a claim under the Program, including
10 how to pursue a claim to completion;

11 (2) how to file supplementary claims, proof of
12 loss, and any other information relating to the filing
13 of claims under the Program; and

14 (3) detailed information regarding the appeals
15 process established under section 205.

16 (b) DISTRIBUTION.—The handbook developed under
17 subsection (a) shall be made available to—

18 (1) each insurance company and agent author-
19 ized to sell flood insurance policies; and

20 (2) each purchaser, at the time of purchase and
21 renewal, of a flood insurance policy, and at the time
22 of any flood loss sustained by such purchaser.

1 **SEC. 205. APPEAL OF DECISIONS RELATING TO FLOOD IN-**
2 **SURANCE COVERAGE.**

3 Not later than 6 months after the date of enactment
4 of this Act, the Director shall, by regulation, establish an
5 appeals process through which holders of a flood insurance
6 policy may appeal the decisions, with respect to claims,
7 proofs of loss, and loss estimates relating to such flood
8 insurance policy, of—

9 (1) any insurance agent or adjuster, or insur-
10 ance company; or

11 (2) any employee or contractor of the Federal
12 Emergency Management Agency.

13 **SEC. 206. STUDY AND REPORT ON USE OF COST COMPLI-**
14 **ANCE COVERAGE.**

15 Not later than 1 year after the date of enactment
16 of this Act, the Director of the Federal Emergency Man-
17 agement Agency shall submit to Congress a report that
18 sets forth—

19 (1) the use of cost of compliance coverage
20 under section 1304(b) of the National Flood Insur-
21 ance Act of 1968 (42 U.S.C. 4011(b)) in connection
22 with flood insurance policies;

23 (2) any barriers to policyholders using the
24 funds provided by cost of compliance coverage under
25 that section 1304(b) under a flood insurance policy,
26 and recommendations to address those barriers; and

1 (2) the adequacy of payments to flood victims
2 under flood insurance policies; and

3 (3) the practices of the Federal Emergency
4 Management Agency and insurance adjusters in esti-
5 mating losses incurred during a flood, and how such
6 practices affect the adequacy of payments to flood
7 victims.

8 (b) REPORT.—Not later than 1 year after the date
9 of enactment of this Act, the Comptroller General shall
10 submit to Congress a report regarding the results of the
11 study under subsection (a).

12 **SEC. 209. PROSPECTIVE PAYMENT OF FLOOD INSURANCE**
13 **PREMIUMS.**

14 Section 1308 of the National Flood Insurance Act of
15 1968 (42 U.S.C. 4015) is amended by adding at the end
16 the following:

17 “(f) ADJUSTMENT OF PREMIUM.—Notwithstanding
18 any other provision of law, if the Director determines that
19 the holder of a flood insurance policy issued under this
20 Act is paying a lower premium than is required under this
21 section due to an error in the flood plain determination,
22 the Director may only prospectively charge the higher pre-
23 mium rate.”.

1 **SEC. 210. REPORT ON CHANGES TO FEE SCHEDULE OR FEE**
2 **PAYMENT ARRANGEMENTS.**

3 Not later than 3 months after the date of enactment
4 of this Act, the Director shall submit a report on any
5 changes or modifications made to the fee schedule or fee
6 payment arrangements between the Federal Emergency
7 Management Agency and insurance adjusters who provide
8 services with respect to flood insurance policies to—

9 (1) the Committee on Banking, Housing, and
10 Urban Affairs of the Senate; and

11 (2) the Committee on Financial Services of the
12 House of Representatives.

Calendar No. 513

108TH CONGRESS
2^D SESSION

S. 2238

[Report No. 108-262]

A BILL

To amend the National Flood Insurance Act of 1968 to reduce losses to properties for which repetitive flood insurance claim payments have been made.

MAY 13, 2004

Reported with amendments